

Appendix 3B

New issue announcement, application for quotation of additional securities and agreement

Information or documents not available now must be given to ASX as soon as available. Information and documents given to ASX become ASX's property and may be made public.

Introduced 01/07/96 Origin: Appendix 5 Amended 01/07/98, 01/09/99, 01/07/00, 30/09/01, 11/03/02, 01/01/03, 24/10/05, 01/08/12, 04/03/13

Name of entity

Hot Chili Limited

ABN

91 130 955 725

We (the entity) give ASX the following information.

Part 1 - All issues

You must complete the relevant sections (attach sheets if there is not enough space).

- | | | |
|---|---|--|
| 1 | +Class of +securities issued or to be issued | Unsecured convertible notes with a face value of \$100 each (Notes), on the terms set out in Annexure 2 to this Appendix 3B. |
| 2 | Number of +securities issued or to be issued (if known) or maximum number which may be issued | 109,175 Notes |

<p>3 Principal terms of the ⁺securities (e.g. if options, exercise price and expiry date; if partly paid ⁺securities, the amount outstanding and due dates for payment; if ⁺convertible securities, the conversion price and dates for conversion)</p>	<p>The Notes are unsecured convertible debt obligations of the Company.</p> <p>A summary of the terms of the Notes is as follows:</p> <ul style="list-style-type: none"> • Interest of 8% per annum to be paid to Note holders on a quarterly basis, payable in cash or fully paid ordinary shares in the capital of the Company (Shares) at the election of the Company. • Mature five years after the Closing Date, being 20 June 2022 (Maturity Date). • Convert into Shares at a conversion price of A\$0.03333 per Share (Conversion Price). • Convert into Shares at the earlier of conversion by the Note holder or on the Maturity Date. • Redeemable by the Company at A\$100 for each Note held, plus accrued and unpaid interest from the 2nd anniversary of their issue date provided that the VWAP traded on ASX for the 20 consecutive trading days preceding the date on which the notice of redemption is given is not less than 300% of the Conversion Price, the Notes may be redeemed by the Company.
<p>4 Do the ⁺securities rank equally in all respects from the ⁺issue date with an existing ⁺class of quoted ⁺securities?</p> <p>If the additional ⁺securities do not rank equally, please state:</p> <ul style="list-style-type: none"> • the date from which they do • the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment • the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment 	<p>The Notes do not rank equally with an existing class of quoted security.</p> <p>The Shares issued on the conversion of the Notes will rank equally in all respects with the Shares then on issue.</p>
<p>5 Issue price or consideration</p>	<p>The Notes have an issue price of \$100 each.</p>

⁺ See chapter 19 for defined terms.

6	Purpose of the issue (If issued as consideration for the acquisition of assets, clearly identify those assets)	The funds raised from the issue of the Notes will be applied to the repayment of the Company's outstanding secured US\$6.5 million loan facility with Sprott Resource Lending Partnership (eliminating all prior finance encumbrances over Hot Chili, its subsidiaries and their assets), and to provide for exploration and general working capital requirements.
6a	Is the entity an ⁺ eligible entity that has obtained security holder approval under rule 7.1A? If Yes, complete sections 6b – 6h <i>in relation to the ⁺securities the subject of this Appendix 3B</i> , and comply with section 6i	No
6b	The date the security holder resolution under rule 7.1A was passed	N/A
6c	Number of ⁺ securities issued without security holder approval under rule 7.1	Nil
6d	Number of ⁺ securities issued with security holder approval under rule 7.1A	Nil
6e	Number of ⁺ securities issued with security holder approval under rule 7.3, or another specific security holder approval (specify date of meeting)	109,175 Notes
6f	Number of ⁺ securities issued under an exception in rule 7.2	Nil
6g	If ⁺ securities issued under rule 7.1A, was issue price at least 75% of 15 day VWAP as calculated under rule 7.1A.3? Include the ⁺ issue date and both values. Include the source of the VWAP calculation.	N/A
6h	If ⁺ securities were issued under rule 7.1A for non-cash consideration, state date on which valuation of consideration was released to ASX Market Announcements	N/A

6i	Calculate the entity's remaining issue capacity under rule 7.1 and rule 7.1A – complete Annexure 1 and release to ASX Market Announcements	Remaining LR 7.1 capacity – 81,477,041 Remaining LR 7.1A capacity – N/A									
7	<p>⁺Issue dates</p> <p>Note: The issue date may be prescribed by ASX (refer to the definition of issue date in rule 19.12). For example, the issue date for a pro rata entitlement issue must comply with the applicable timetable in Appendix 7A.</p> <p>Cross reference: item 33 of Appendix 3B.</p>	22 June 2017									
8	Number and ⁺ class of all ⁺ securities quoted on ASX (<i>including</i> the ⁺ securities in section 2 if applicable)	<table><tr><th>Number</th><th>⁺Class</th></tr><tr><td>543,080,278</td><td>Ordinary shares – fully paid</td></tr></table>	Number	⁺ Class	543,080,278	Ordinary shares – fully paid					
Number	⁺ Class										
543,080,278	Ordinary shares – fully paid										
9	Number and ⁺ class of all ⁺ securities not quoted on ASX (<i>including</i> the ⁺ securities in section 2 if applicable)	<table><tr><th>Number</th><th>⁺Class</th></tr><tr><td>11,000,000</td><td>Options exercisable at \$0.30 each on or before 27 June 2019.</td></tr><tr><td>8,000,000</td><td>Options exercisable at \$0.10 each on or before 6 September 2018.</td></tr><tr><td>109,175</td><td>Notes (as described in Section 3 above).</td></tr></table>	Number	⁺ Class	11,000,000	Options exercisable at \$0.30 each on or before 27 June 2019.	8,000,000	Options exercisable at \$0.10 each on or before 6 September 2018.	109,175	Notes (as described in Section 3 above).	
Number	⁺ Class										
11,000,000	Options exercisable at \$0.30 each on or before 27 June 2019.										
8,000,000	Options exercisable at \$0.10 each on or before 6 September 2018.										
109,175	Notes (as described in Section 3 above).										
10	Dividend policy (in the case of a trust, distribution policy) on the increased capital (interests)	N/A									

+ See chapter 19 for defined terms.

Part 2 - Pro rata issue

11	Is security holder approval required?	N/A
12	Is the issue renounceable or non-renounceable?	N/A
13	Ratio in which the ⁺ securities will be offered	N/A
14	⁺ Class of ⁺ securities to which the offer relates	N/A
15	⁺ Record date to determine entitlements	N/A
16	Will holdings on different registers (or subregisters) be aggregated for calculating entitlements?	N/A
17	Policy for deciding entitlements in relation to fractions	N/A
18	Names of countries in which the entity has security holders who will not be sent new offer documents <small>Note: Security holders must be told how their entitlements are to be dealt with.</small> <small>Cross reference: rule 7.7.</small>	N/A
19	Closing date for receipt of acceptances or renunciations	N/A
20	Names of any underwriters	N/A
21	Amount of any underwriting fee or commission	N/A
22	Names of any brokers to the issue	N/A
23	Fee or commission payable to the broker to the issue	N/A
24	Amount of any handling fee payable to brokers who lodge acceptances or renunciations on behalf of security holders	N/A

25	If the issue is contingent on security holders' approval, the date of the meeting	N/A
26	Date entitlement and acceptance form and offer documents will be sent to persons entitled	N/A
27	If the entity has issued options, and the terms entitle option holders to participate on exercise, the date on which notices will be sent to option holders	N/A
28	Date rights trading will begin (if applicable)	N/A
29	Date rights trading will end (if applicable)	N/A
30	How do security holders sell their entitlements <i>in full</i> through a broker?	N/A
31	How do security holders sell <i>part</i> of their entitlements through a broker and accept for the balance?	N/A
32	How do security holders dispose of their entitlements (except by sale through a broker)?	N/A
33	⁺ Issue date	N/A

Part 3 - Quotation of securities

You need only complete this section if you are applying for quotation of securities

34 Type of ⁺securities
(tick one)

(a) ☐ ⁺Securities described in Part 1

(b) ☐ All other ⁺securities

Example: restricted securities at the end of the escrowed period, partly paid securities that become fully paid, employee incentive share securities when restriction ends, securities issued on expiry or conversion of convertible securities

Entities that have ticked box 34(a)

⁺ See chapter 19 for defined terms.

Additional securities forming a new class of securities

Tick to indicate you are providing the information or documents

- 35 ☐ If the ⁺securities are ⁺equity securities, the names of the 20 largest holders of the additional ⁺securities, and the number and percentage of additional ⁺securities held by those holders
- 36 ☐ If the ⁺securities are ⁺equity securities, a distribution schedule of the additional ⁺securities setting out the number of holders in the categories
1 - 1,000
1,001 - 5,000
5,001 - 10,000
10,001 - 100,000
100,001 and over
- 37 ☐ A copy of any trust deed for the additional ⁺securities

Entities that have ticked box 34(b)

- 38 Number of ⁺securities for which ⁺quotation is sought

N/A
- 39 ⁺Class of ⁺securities for which quotation is sought

N/A
- 40 Do the ⁺securities rank equally in all respects from the ⁺issue date with an existing ⁺class of quoted ⁺securities?

If the additional ⁺securities do not rank equally, please state:
 - the date from which they do
 - the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment
 - the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment

N/A
- 41 Reason for request for quotation now

Example: In the case of restricted securities, end of restriction period

(if issued upon conversion of another ⁺security, clearly identify that other ⁺security)

N/A

42 Number and ⁺class of all ⁺securities quoted on ASX (including the ⁺securities in clause 38)

Number	⁺ Class
N/A	N/A

⁺ See chapter 19 for defined terms.

Quotation agreement

1 +Quotation of our additional +securities is in ASX's absolute discretion. ASX may quote the +securities on any conditions it decides.

2 We warrant the following to ASX.

- The issue of the +securities to be quoted complies with the law and is not for an illegal purpose.
- There is no reason why those +securities should not be granted +quotation.
- An offer of the +securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.

Note: An entity may need to obtain appropriate warranties from subscribers for the securities in order to be able to give this warranty

- Section 724 or section 1016E of the Corporations Act does not apply to any applications received by us in relation to any +securities to be quoted and that no-one has any right to return any +securities to be quoted under sections 737, 738 or 1016F of the Corporations Act at the time that we request that the +securities be quoted.
- If we are a trust, we warrant that no person has the right to return the +securities to be quoted under section 1019B of the Corporations Act at the time that we request that the +securities be quoted.

3 We will indemnify ASX to the fullest extent permitted by law in respect of any claim, action or expense arising from or connected with any breach of the warranties in this agreement.

4 We give ASX the information and documents required by this form. If any information or document is not available now, we will give it to ASX before +quotation of the +securities begins. We acknowledge that ASX is relying on the information and documents. We warrant that they are (will be) true and complete.

Sign here:



22 June 2017

..... Date:
(Director/Company secretary)

Print name:

John Sendziuk

.....

== == == == ==

+ See chapter 19 for defined terms.

Appendix 3B – Annexure 1

Calculation of placement capacity under rule 7.1 and rule 7.1A for eligible entities

Introduced 01/08/12 Amended 04/03/13

Part 1

Rule 7.1 – Issues exceeding 15% of capital	
Step 1: Calculate “A”, the base figure from which the placement capacity is calculated	
Insert number of fully paid +ordinary securities on issue 12 months before the +issue date or date of agreement to issue	445,723,709
Add the following: <ul style="list-style-type: none"> Number of fully paid +ordinary securities issued in that 12 month period under an exception in rule 7.2 Number of fully paid +ordinary securities issued in that 12 month period with shareholder approval Number of partly paid +ordinary securities that became fully paid in that 12 month period <p><i>Note:</i></p> <ul style="list-style-type: none"> Include only ordinary securities here – other classes of equity securities cannot be added Include here (if applicable) the securities the subject of the Appendix 3B to which this form is annexed It may be useful to set out issues of securities on different dates as separate line items 	16,000,000 – issued on 25/08/2016; approval on 24 August 2016 39,456,569 – issued on 15/07/2016; ratified on 24 August 2016 42,000,000 – issued on 15/07/2016; ratified on 24 August 2016
Subtract the number of fully paid +ordinary securities cancelled during that 12 month period	Nil
“A”	543,180,278

+ See chapter 19 for defined terms.

Step 2: Calculate 15% of “A”	
“B”	0.15 <i>[Note: this value cannot be changed]</i>
Multiply “A” by 0.15	81,477,041
Step 3: Calculate “C”, the amount of placement capacity under rule 7.1 that has already been used	
<p>Insert number of +equity securities issued or agreed to be issued in that 12 month period <i>not counting</i> those issued:</p> <ul style="list-style-type: none"> • Under an exception in rule 7.2 • Under rule 7.1A • With security holder approval under rule 7.1 or rule 7.4 <p><i>Note:</i></p> <ul style="list-style-type: none"> • This applies to equity securities, unless specifically excluded – not just ordinary securities • Include here (if applicable) the securities the subject of the Appendix 3B to which this form is annexed • It may be useful to set out issues of securities on different dates as separate line items 	<p>Nil</p> <p>(Note: the issue of the Convertible Notes that are the subject of the Appendix 3B to which this form has been approved by shareholders. Consequently, those securities do not count towards “C”)</p>
“C”	Nil
Step 4: Subtract “C” from [“A” x “B”] to calculate remaining placement capacity under rule 7.1	
<p>“A” x 0.15</p> <p><i>Note: number must be same as shown in Step 2</i></p>	81,477,041
<p>Subtract “C”</p> <p><i>Note: number must be same as shown in Step 3</i></p>	Nil
Total [“A” x 0.15] – “C”	<p>81,477,041</p> <p><i>[Note: this is the remaining placement capacity under rule 7.1]</i></p>

+ See chapter 19 for defined terms.

Part 2

Rule 7.1A – Additional placement capacity for eligible entities	
Step 1: Calculate “A”, the base figure from which the placement capacity is calculated	
“A” <i>Note: number must be same as shown in Step 1 of Part 1</i>	N/A
Step 2: Calculate 10% of “A”	
“D”	0.10 <i>Note: this value cannot be changed</i>
Multiply “A” by 0.10	N/A
Step 3: Calculate “E”, the amount of placement capacity under rule 7.1A that has already been used	
Insert number of +equity securities issued or agreed to be issued in that 12 month period under rule 7.1A <i>Notes:</i> <ul style="list-style-type: none"> • This applies to equity securities – not just ordinary securities • Include here – if applicable – the securities the subject of the Appendix 3B to which this form is annexed • Do not include equity securities issued under rule 7.1 (they must be dealt with in Part 1), or for which specific security holder approval has been obtained • It may be useful to set out issues of securities on different dates as separate line items 	N/A
“E”	N/A

+ See chapter 19 for defined terms.

Step 4: Subtract “E” from [“A” x “D”] to calculate remaining placement capacity under rule 7.1A	
“A” x 0.10 <i>Note: number must be same as shown in Step 2</i>	N/A
Subtract “E” <i>Note: number must be same as shown in Step 3</i>	N/A
Total [“A” x 0.10] – “E”	N/A <i>Note: this is the remaining placement capacity under rule 7.1A</i>

+ See chapter 19 for defined terms.

Appendix 3B – Annexure 2

HOT CHILI LIMITED
ACN 130 955 725

Terms and conditions of Convertible Notes

1. Form of Notes

1.1 Form

The Notes are redeemable, convertible, unsecured promissory notes of the Issuer issued under the Trust Deed. Noteholders are entitled to the benefit of and are bound by the provisions of the Transaction Documents and these Note Terms.

1.2 Face Value and Issue Price

- (a) The Notes are each issued fully paid with a Face Value of \$100.
- (b) Each Note will be issued by the Issuer at an issue price of \$100. The Issue Price must be paid in full on application.

1.3 Currency

The Notes are denominated in Australian dollars.

1.4 Clearing System

If the Notes are quoted on ASX, the rights of a person holding an interest in the Notes are subject to the rules and regulations of the Clearing System.

1.5 No certificates

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

1.6 ASX quotation of Notes

If the Notes are quoted on ASX, the Issuer must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure that until Redeemed, Converted or purchased by the Issuer and cancelled, the Notes remain quoted on ASX.

1.7 No other rights

The Notes confer no rights on a Noteholder:

- (a) to vote at any meeting of Members;
- (b) to subscribe for or participate in any new issue of securities by the Issuer; or
- (c) to otherwise participate in the profits or property of the Issuer, except as set out in these Note Terms or the Transaction Documents.

2. Interest

2.1 Interest

Each Note bears Interest from (and including) its Issue Date to (but excluding) its Maturity Date, Conversion Date or Redemption Date at the Interest Rate.

2.2 Calculation and payment of Interest

- (a) Interest is calculated daily and compounded monthly.
- (b) Interest is payable in arrears on each Interest Payment Date.
- (c) At the election of the Issuer, any amount of Interest may be paid in either cash or by the issue of Shares.

2.3 Payment of Interest by the issue of Shares

If the Issuer elects to pay Interest by issuing Shares pursuant to clause 2.2(c):

- (a) the number of Shares to be issued will be calculated by dividing the amount of accrued Interest that is to be paid, by the Interest Conversion Price; and
- (b) on the Interest Payment Date:
 - (i) the amount of Interest to be paid by the Issue of Shares will be deemed to have been paid;
 - (ii) the Noteholder will be deemed to have subscribed for Interest Shares at an issue price per Interest Share equal to the Interest Conversion Price;
 - (iii) the Issuer will issue to the Noteholder, and must register the Noteholder as the holder of, the Interest Shares;
 - (iv) the Noteholder will be deemed to have consented to be registered as the holder of the Interest Shares in the register of Members;
 - (v) a holding notice in respect of the Interest Shares shall be sent to the Noteholder at its registered address in respect of the relevant Notes;
 - (vi) the Issuer must use all reasonable endeavours to procure and maintain quotation of the Interest Shares on ASX; and
 - (vii) upon issue of the Interest Shares, all other rights conferred or restrictions imposed by the Note under these Note Terms in respect of the Interest satisfied by the issuance of the Interest Shares will no longer have effect.

2.4 Ranking of Shares

Interest Shares will be fully paid and will in all respects rank *pari passu* with all other fully paid Shares on issue on the relevant Interest Payment Date, except that they will not be entitled to any dividend or any other distribution or entitlement that has not been paid as at the Interest Payment Date but for which the Record Date was prior to the Interest Payment Date.

2.5 No fractional shares

No fractional Shares will be issued on payment of Interest by issuing Shares. If the calculation under this clause 2 results in an entitlement to a number of Shares which includes a fraction of a Share, the fraction will be disregarded.

2.6 Notification of Interest Rate, Interest payable and other items

- (a) The Issuer must notify the Trustee and ASX (and any other stock exchange or other relevant authority on which the Notes are quoted) of:
 - (i) for each Interest Period, the amount of Interest payable; and
 - (ii) any amendment to the amount referred to in clause 2.6(a)(i) arising from any extension or reduction in any Interest Period or calculation period.
- (b) The Issuer must give notice under this clause 2.4 of the amount of Interest on each Note for the Interest Period by no later than the fifth Business Day of that Interest Period.
- (c) The Issuer may amend its calculation or 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 notify the Trustee and ASX (and any other stock exchange or other relevant authority on which the Notes are quoted) promptly after doing so.

2.7 Determination final

The determination by the Issuer of all amounts, rates and dates to be calculated or determined by it under these Note Terms is, in the absence of manifest or proven error, final and binding on the Issuer, the Trustee and each Noteholder.

3. Redemption

3.1 Early Redemption by the Issuer

- (a) Subject to clauses 3.1(b) and 3.1(e), and compliance with any applicable law and the Listing Rules, the Issuer may Redeem some or all of the Notes by giving, not more than 60 days and not less than 30 days prior to the Redemption Date, Early Redemption Notice to the Trustee, the Noteholders and ASX (and any other stock exchange or other relevant authority on which the Notes are quoted) of the intention of the Issuer to Redeem the Notes.
- (b) The Issuer may not Redeem any Notes unless:
 - (i) both the date of the Early Redemption Notice and the Redemption Date are on or after the second anniversary of the Closing Date and before the Maturity Date;
 - (ii) the VWAP of the Shares for the 20 consecutive trading days preceding the date on which the Early Redemption Notice is given is not less than 300% of the Conversion Price; and

- (iii) if less than all of the Notes are proposed to be Redeemed, the Notes of all Noteholders are Redeemed in proportion to the principal amount held by each Noteholder.
- (c) The Redemption of any Notes pursuant to clause 3.1(a) must be at the Face Value, together with any Interest accrued on those Notes to (but excluding) the applicable Redemption Date.
- (d) Subject to clause 3.1(e), if an Early Redemption Notice is given by the Issuer, it will be effective (and Redemption will occur) on the Redemption Date as specified by the Issuer in the Early Redemption Notice.
- (e) If, no later than five Business Days prior to the Redemption Date specified in an Early Redemption Notice, a Noteholder delivers a Conversion Notice for some or all of its Notes, the Conversion Notice will prevail for the Notes subject to the Early Redemption Notice.

3.2 Early Redemption – Change of Control Event

- (a) As soon as practicable after the occurrence of a Change of Control Event, the Issuer must give a Change of Control Notice to the Trustee, the Noteholders and ASX (and any other stock exchange or other relevant authority on which the Notes are quoted):
 - (i) specifying the occurrence of a Change of Control Event;
 - (ii) specifying the date on which the Change of Control Event occurred; and
 - (iii) notifying each Noteholder that the Issuer will Redeem all of the Noteholder's Notes on the Redemption Date specified in the Change of Control Notice (which date must be at least 20 but not more than 30 Business Days after the date of the Change of Control Notice), at the Face Value of those Notes, together with any Interest accrued on those Notes to (but excluding) the specified Redemption Date.
- (b) Subject to clause 3.2(c), if a Change of Control Notice is given by the Issuer under clause 3.2(a), the Redemption will be effective and will occur on the Redemption Date as specified by the Issuer in the Change of Control Notice in respect of any Notes subject to the Conversion Notice given under clause 3.2(c).
- (c) If, no later than five Business Days prior to the Redemption Date specified in the Change of Control Notice, a Noteholder delivers a Conversion Notice for some or all of its Notes, the Conversion Notice will prevail for the Notes that are the subject of the Conversion Notice.

4. Purchase

Subject to compliance with any applicable law or requirement of ASX (and any stock exchange or other relevant authority on which the Notes are quoted):

- (a) any of the Group (or any third party nominated by the Issuer) may, at any time, purchase Notes in the open market or otherwise, and at any price;

- (b) if purchases are made by tender for the Notes by any of the Group, tenders must be available to all Noteholders alike; and
- (c) Notes purchased under this clause 4 may be held, resold or cancelled at the discretion of the purchaser (and, if the Notes are to be cancelled, the Issuer).

5. Conversion

5.1 Scheduled Conversion on Maturity Date

- (a) Each Note will automatically be Converted on the Maturity Date unless the Note has been:
 - (i) previously Converted;
 - (ii) previously Redeemed; or
 - (iii) purchased by the Issuer and cancelled.
- (b) Each Note that is Converted pursuant to clause 5.1(a) will be converted into the number of Shares determined by dividing the Face Value of the Notes plus accrued and unpaid Interest, by 95% of the VWAP for the 10 trading day period ending on the last day prior to the Maturity Date, or by the Conversion Price, whichever is lower.

5.2 Conversion at the Noteholder's election

- (a) Each Noteholder has a Conversion Right to convert some or all of the principal and accrued but unpaid Interest due under its Notes into the number of Shares determined by dividing the Conversion Amount by the Conversion Price.
- (b) A Noteholder may only exercise its Conversion Right by giving the Registrar a Conversion Notice specifying its intention to convert some or all of the principal and accrued but unpaid Interest due under its Notes into Shares.
- (c) The Face Value of the Notes subject to a Conversion Notice must be at least the lesser of \$5,000 or the balance of the Noteholder's holding of Notes.
- (d) A Conversion Notice must:
 - (i) be in writing (in such form as the Issuer may accept or as is required by the Listing Rules);
 - (ii) specify the number of Notes to be converted; and
 - (iii) be signed by the Noteholder or an authorised representative or officer of the Noteholder.
- (e) Once a Conversion Notice has been given:
 - (i) it cannot be withdrawn without the written consent of the Issuer;
 - (ii) the Noteholder must not deal with, transfer, dispose or otherwise encumber any Notes the subject of the Conversion Notice; and

- (iii) the Noteholder must provide such evidence of title to the Notes the subject of the Conversion Notice as may be reasonably required by the Issuer and the Registrar.
- (f) Despite receipt by a Noteholder of an Early Redemption Notice under clause 3.1 or a Change of Control Notice under clause 3.2, a Noteholder may still give a Conversion Notice (for some or all of its Notes) provided the notice is given not less than five Business Days before the Redemption Date specified in the Early Redemption Notice or Change of Control Notice (as applicable).
- (g) A Conversion Notice given to the Issuer 10 or more Business Days before an Interest Payment Date will be effective on such date as may be determined by the Issuer (in its absolute discretion), provided that date is not later than the next Interest Payment Date.
- (h) If a Conversion Notice is given to the Issuer less than 10 Business Days before an Interest Payment Date (**Date 1**), the Conversion Notice will be effective on such date as may be determined by the Issuer (in its absolute discretion), provided that date is not later than the next Interest Payment Date following Date 1.
- (i) A Conversion Notice will not be effective if it is given less than 10 Business Days before the Maturity Date.

5.3 Effect of Conversion

If principal and accrued but unpaid Interest due under a Note is Converted automatically on the Maturity Date pursuant to clause 5.1, or at the Noteholder's election pursuant to clause 5.2, on the Conversion Date:

- (a) the Noteholder's Note will be deemed to have been Redeemed, and the Noteholder will be deemed to have paid the Conversion Amount to the Issuer by way of subscription for Conversion Shares at an issue price per Conversion Share specified by either clause 5.1(b) or clause 5.2(a) (as applicable);
- (b) the Issuer will issue to the Noteholder, and must register the Noteholder as the holder of, the Conversion Shares;
- (c) the Noteholder will be deemed to have consented to be registered as the holder of the Conversion Shares in the register of Members;
- (d) a holding notice in respect of the Conversion Shares shall be sent to the Noteholder at its registered address in respect of the relevant Notes;
- (e) the Issuer must use all reasonable endeavours to procure and maintain quotation of the Conversion Shares on ASX; and
- (f) upon issue of the Conversion Shares, all other rights conferred or restrictions imposed by the Note under these Note Terms will no longer have effect.

5.4 Ranking of Shares

Conversion Shares will be fully paid and will in all respects rank *pari passu* with all other fully paid Shares on issue on the relevant Conversion Date, except that they will not be entitled to any dividend or any other distribution or entitlement that has not been paid as at the Conversion Date but for which the Record Date was prior to the Conversion Date.

5.5 No fractional shares

No fractional Shares will be issued on Conversion. If the calculation under this clause 5 results in an entitlement to a number of Shares which includes a fraction of a Share, the fraction will be disregarded.

5.6 Adjustments for Bonus Issues and Reconstructions

- (a) If at any time after the Issue Date but before the earlier of the Convertible Notes being Converted, Redeemed or purchased by the Issuer and cancelled:
 - (i) the Issuer makes a Bonus Issue and issues to the holders of Shares any Bonus Securities, then the Issuer must issue to each Noteholder, that number of Bonus Securities which the Noteholder would have been entitled to receive, by way of participation in the issue of Bonus Securities, if the Convertible Notes had been Converted into Shares:
 - A. immediately before the issue of Bonus Securities; or
 - B. if before the Conversion there has been more than one issue of Bonus Securities, immediately before the first issue of Bonus Securities, and had retained all the Shares issued on Conversion together with all the Bonus Securities which would have been issued to it under these Note Terms following the first issue; or
 - (ii) there is a reconstruction (including consolidation, subdivision, reduction or return) of the issued capital of the Issuer, then subject to the Listing Rules, the basis for conversion of the Notes will be reconstructed in the same proportion as the issued capital of the Issuer is reconstructed and in a manner which will not result in any additional benefits being conferred on the Noteholders which are not conferred on Members (subject to the same provisions with respect to rounding of entitlements as sanctioned by the meeting of Members approving the reconstruction of capital) but in all other respects the terms for conversion of the Notes will remain unchanged.
- (b) Fractional entitlements are disregarded for the purposes of clause 5.6(a)(i).

6. Status, security and ranking

- (a) The Notes at all times constitute unsecured debt obligations of the Issuer.
- (b) Each Note (together with any accrued and unpaid Interest) ranks for payment in a Winding Up of the Issuer:
 - (i) after any secured Permitted New Debt of the Issuer;

- (ii) equally with each other Note;
 - (iii) equally with all present and future unsubordinated and unsecured debt obligations of the Issuer (subject to the laws and principles of equity affecting creditor rights or obligations preferred by mandatory provisions of applicable law); and
 - (iv) ahead of all Shares.
- (c) In order to give effect to the ranking specified in clause 6(b), in any Winding Up of the Issuer, the claims of Noteholders are limited to the extent necessary to ensure that Noteholders of the Notes receive payments on a pro-rata basis.
 - (d) Neither the Trustee nor any Noteholder has any right to prove in a Winding Up of the Issuer in respect of the Notes, except on the basis set out in clauses 6(b) and 6(c).
 - (e) Neither the Trustee nor any Noteholder may exercise voting rights as a creditor in respect of the Notes in a Winding Up of the Issuer to defeat the subordination in this clause.
 - (f) The ranking of Notes is not affected by the date of registration of any Noteholder in the Register.

7. Negative covenants

For so long as any of the Notes remain outstanding, the Issuer must not and must procure that its Subsidiaries must not without the approval of a Noteholders Resolution:

- (a) **(new debt)** incur any indebtedness for moneys borrowed or raised pursuant to any financial accommodation or agree to do so (including by entering into an indicative term sheet), except any Permitted New Debt;
- (b) **(sale of assets)** conduct or agree to conduct (including by entering into an indicative term sheet) any transaction or series of related transactions in which an entity in the Group sells significant assets or assets worth more than 10% of the Group's gross assets;
- (c) **(dividends)** declare or pay any dividends to Members;
- (d) **(capital reduction)** other than in respect of the Notes, redeem, purchase, cancel, reduce, return capital on or otherwise acquire any share or other securities issued by a member of the Group for repayment or return of capital in a winding-up; or
- (e) **(Security Interests)** other than in the ordinary course of business:
 - (i) create or permit to exist a Security Interest over any of its assets or attempt or agree to do so (including by entering into an indicative term sheet), except to secure any Permitted New Debt; or
 - (ii) if the creation of a Security Interest cannot by law be restricted, create such a Security Interest over any of its assets without the holder of the

Security Interest first entering into a deed of priority in form and substance acceptable to the Trustee.

8. Events of Default

8.1 Events of Default

An Event of Default occurs in relation to the Notes if:

- (a) **(non-issue of Shares)** the Issuer fails to issue Shares on Conversion in accordance with these Note Terms within five Business Days after the date on which such issue is to be made;
- (b) **(non-payment)** the Issuer fails to pay any amount payable by it under these Note Terms within 10 Business Days after the date on which it is due and, where the sole reason for the default is a technical or administrative difficulty within the banking system being used to effect payment, such default is not remedied within five Business Days;
- (c) **(breach of Negative Covenants)** a member of the Group fails to comply with clause 7 and such failure remains unremedied for a period of 10 Business Days;
- (d) **(breach of other obligations)** the Issuer fails to comply with any of its other obligations under these Note Terms or the Transaction Documents and such failure remains unremedied for a period of 10 Business Days after the earlier of (A) the Issuer receiving notice from the Trustee in respect of the failure to comply and (B) the Issuer becoming aware of the failure to comply;
- (e) **(insolvency)** an Insolvency Event occurs in respect of a member of the Group;
- (f) **(sale of business or main undertaking)** there is a sale of the business or the main undertaking of the Issuer that would require approval of the Members in accordance with Listing Rule 11.2;
- (g) **(delisting)** a Delisting Event occurs in respect of the Issuer;
- (h) **(cessation of business)** a member of the Group ceases or suspends (or threatens to cease or suspend) the conduct of all of its business or a substantial part of its business;
- (i) **(unlawfulness)** at any time, it is unlawful for the Issuer to perform any of its payment obligations under the Notes, the Trust Deed or these Note Terms;
- (j) **(Government Agency)** all or substantially all of the assets of the Group is assumed or compulsory acquired by any Government Agency; or
- (k) **(vitiation)** all or any obligations of the Issuer or rights of the Noteholders or the Trustee under the Trust Deed or these Note Terms are terminated or are or become void, illegal, invalid, unenforceable or of limited force and effect.

8.2 Notification

If an Event of Default occurs, the Issuer must, promptly after becoming aware of it but in any event no later than two Business Days after the Event of Default occurs, notify the Trustee of the occurrence of the Event of Default (specifying details of it) and use its reasonable endeavours to promptly notify the Noteholders and ASX (and any other stock exchange or other relevant authority on which the Notes are quoted) of the occurrence of the Event of Default. The Trustee is taken not to have knowledge of the occurrence of an Event of Default unless the Trustee has received notice from the Issuer or a Noteholder stating that an Event of Default has occurred and describing it.

8.3 Consequences of an Event of Default

- (a) If an Event of Default occurs and is continuing in relation to the Notes, the Trustee may:
 - (i) declare by notice to the Issuer (with a copy to the Noteholders and the Registrar) that all the Notes are to be Redeemed at their Face Value (together with any accrued and unpaid Interest) immediately (but not earlier than five Business Days after the date the Trustee gives notice under this clause) or on such other date specified in that notice; and
 - (ii) take enforcement action against the Issuer and the relevant Group member (as applicable) in relation to the Event of Default in accordance with the Transaction Documents.
- (b) The Trustee shall not be bound to take the action referred to in clause (a) above to enforce the obligations of the Issuer in respect of the Notes or any other proceedings or action pursuant to or in connection with the Transaction Documents unless:
 - (i) it shall have been so directed by a Special Resolution of the Noteholders;
 - (ii) it is indemnified, to its satisfaction, against all costs, charges, liabilities and expenses which may be incurred by it (including legal costs on a solicitor and own client basis) in connection with that action;
 - (iii) it is first placed in funds by the Issuer or Noteholders sufficient to cover the costs that it may incur as a result of doing so; and
 - (iv) it is not restricted or prohibited from taking such action by any order of any competent court or any applicable law.

If the Trustee forms the view that such action is or could be inconsistent with these Note Terms, the Transaction Documents, the Listing Rules or the Corporations Act or any applicable law, it must take steps to seek (and, if the court so determines, to obtain) as soon as reasonably practicable a court direction or order to set aside or vary the direction given by Special Resolution, and, while those steps are underway, the Trustee is not obliged to take any action or proceedings it has been directed to take by Special Resolution.

8.4 No enforcement by Noteholders

Unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and these Note Terms, fails to do so within 15 Business Days of being obliged to do so and such failure is continuing, the rights of each Noteholder to enforce the obligations of the Issuer under the Notes are limited to the exercise of its rights to enforce and seek due administration by the Trustee of the Trust Deed. In particular, unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and these Note Terms, fails to do so within 15 Business Days of being obliged to do so and such failure is continuing, no Noteholder may, with respect to payment of any amount due under the Notes held by it:

- (a) sue the Issuer;
- (b) obtain judgment against the Issuer; or
- (c) apply for or seek Winding Up of the Issuer.

9. Title and transfer of Notes

9.1 Title

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

9.2 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 Noteholder to pay principal, Interest and any other amount in accordance with these Note Terms; and
- (b) an entitlement to the other benefits given to Noteholders under these Note Terms and the Transaction Documents in respect of the Note.

For the avoidance of doubt, an entry in the Register does not make the Noteholder a Member or confer rights on a Noteholder to attend or vote at meetings of Members.

9.3 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 manifest error.

9.4 Non-recognition of interests

Except as required by law, the Issuer, the Trustee and the Registrar must treat the person whose name is entered in the Register as the holder of a Note as the absolute owner of that Note. This clause 9.4 applies whether or not a Note is overdue and despite any notice of ownership, trust or interest in the Note.

9.5 Joint holders

Where two or more persons are entered in the Register as the joint holders 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 any Note.

9.6 Transfers in whole

A Note may be transferred in whole but not in part.

9.7 Transfer

- (a) A Noteholder may, subject to this clause 9.7, transfer any Notes:
 - (i) if the Notes are quoted on ASX, by a proper ASX Settlement transfer according to the ASX Settlement Operating Rules;
 - (ii) by a proper transfer under any other computerised or electronic system recognised by the Corporations Act;
 - (iii) under any other method of transfer which operates in relation to the trading of securities on any securities exchange outside Australia on which the Notes are quoted; or
 - (iv) by any proper or sufficient instrument of transfer of marketable securities under applicable law.
- (b) The Issuer must not charge any fee on the transfer of a Note.

9.8 Market obligations

The Issuer must comply with all Applicable Regulations and any other relevant obligations imposed on it in relation to the transfer of a Note.

9.9 Issuer may request holding lock or refuse to register transfer

If the Notes are quoted on ASX, and if permitted to do so by the Listing Rules and the Corporations Act, the Issuer may:

- (a) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Notes approved by and registered on the CS Facility's electronic sub-register or Notes registered on an issuer-sponsored sub-register, as the case may be; or
- (b) refuse to register a transfer of Notes.

9.10 Issuer must request holding lock or refuse to register transfer

- (a) The Issuer must request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Notes approved by and registered on the CS Facility's electronic sub-register or Notes registered on an issuer-sponsored sub-register, as the case may be, if the Corporations Act, the Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.
- (b) The Issuer must refuse to register any transfer of Notes if the Corporations Act, the Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.

- (c) During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the Noteholder of the Restricted Securities is not entitled to any Interest (or other distribution on), or voting rights in respect of, the Restricted Securities.

9.11 Notice of holding lock and refusal to register transfer

If, in the exercise of its rights under clauses 9.9 and 9.10, the Issuer requests the application of a holding lock to prevent a transfer of Notes or refuses to register a transfer of Notes, it must, within five Business Days after the date the holding lock is requested or the refusal to register a transfer, give notice of the request or refusal to the Noteholder, to the transferee and the broker lodging the transfer, if any. Failure to give such notice does not, however, invalidate the decision of the Issuer.

9.12 Delivery of instrument

If an instrument is used to transfer the Notes according to clause 9.7, it must be delivered to the Registrar, together with such evidence (if any) as the Issuer or the Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Notes.

9.13 Refusal to register

- (a) The Issuer may only refuse to register a transfer of any Notes if such registration would contravene or is forbidden by Applicable Regulations or these Note Terms.
- (b) If the Issuer refuses to register a transfer, the Issuer must give the lodging party notice of the refusal and the reasons for it within five Business Days after the date on which the transfer was delivered to the Registrar.

9.14 Transferor to remain Noteholder until registration

A transferor of a Note remains the Noteholder in respect of that Note until the transfer is registered and the name of the transferee is entered in the Register.

9.15 Effect of transfer

Upon registration and entry of the transferee in the Register, the transferor ceases to be entitled to future benefits under the Trust Deed and these Note Terms in respect of the transferred Notes and the transferee becomes so entitled in accordance with clause 9.2.

9.16 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.

9.17 Transfer of unidentified Notes

Where the transferor executes a transfer of less than all the 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 of the Face Value of all the Notes registered as having been transferred equals the aggregate of the Face Value of all the Notes expressed to be transferred in the transfer.

9.18 Registration and restricted resale period

The Notes, Interest Shares and Conversion Shares issued to Noteholders or transferred to persons located in:

- (a) the United States – will not be registered and will be subject to restrictions on resale under applicable United States securities legislation; and
- (b) Canada – will be subject to restrictions on resale in Canada under applicable Canadian securities regulations.

10. Payments

10.1 Summary of payment provisions

Payments in respect of the Notes will be made in accordance with this clause 10.

10.2 Record Date

All payments under or in respect of a Note will be made only to those persons registered as the holder of that Note at the nominated time on the relevant Record Date.

10.3 Payments subject to law

All payments are subject to applicable law, but without prejudice to the provisions of clause 11.

10.4 Payments on Business Days

If a payment:

- (a) is due on a day which is not a Business Day then the due date for payment will be postponed to the first following day that is a Business Day; 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, the Noteholder is not entitled to any additional payment in respect of that delay.

10.5 Payments to accounts

Moneys payable by the Issuer to a Noteholder may be paid in any manner the Issuer decides, including by direct credit into a nominated account of the Noteholder at an Australian branch of a financial institution.

10.6 Payments by cheque

- (a) The Issuer may decide that payments in respect of the Notes will be made by cheque sent by prepaid post on the payment date to the Noteholder (or to the first named joint holder of the Notes) at its address appearing in the Register.
- (b) Cheques sent to the Noteholder will be at the risk of the registered Noteholder and will be deemed 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.

10.7 Unsuccessful attempts to pay

Subject to applicable law and the Listing Rules, 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 nominated an account to which amounts are to be paid by that method;
- (b) attempts to pay an amount to a Noteholder by direct credit, electronic transfer of funds 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 and, as a consequence, the Issuer has cancelled such cheque,

then, in each case:

- (e) the amount will be deemed to have been duly paid to the Noteholder and will not bear Interest; and
- (f) the amount will 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) nominates an account for payment or otherwise claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

10.8 Payment to joint Noteholders

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

11. Deductions

11.1 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 for or in respect of Taxes, unless such withholding or deduction is required by law.

11.2 Gross up

If Taxes are required by law to be deducted or withheld from any sum payable in respect of a Note, then the Issuer must make additional payments (gross up) such that the Noteholder receives the full amount as if no such Tax had been imposed.

12. Amendment of Note Terms

12.1 Amendment without the approval of the Noteholders

At any time, and from time to time, but subject to the provisions of the Trust Deed governing the amendment of the Trust Deed, these Note Terms (which, for the avoidance of doubt include this clause) may be modified, altered, cancelled, amended or added to, without the consent of the Noteholders, if:

- (a) such modification, alteration, cancellation, amendment or addition is:
 - (i) of a formal or technical nature or made to cure any ambiguity or correct any manifest error;
 - (ii) necessary or expedient for the purpose of listing the Notes on ASX or to comply with the applicable Listing Rules or the listing or quotation requirements of any other any securities exchange on which the Issuer may propose to seek a listing of the Notes;
 - (iii) necessary or expedient for the purpose of enabling the Notes to be offered for issue or for sale under the laws for the time being in force in any place;
 - (iv) necessary or expedient to comply with the provisions of any law or regulation or the requirements of any statutory authority; or
 - (v) necessary or advisable following the introduction of, or any amendment to, clarification of, or change (including any announced prospective change) in, any law or regulation of the Commonwealth of Australia or an announcement, action or decision or a proposal to introduce, amend, clarify or change any such law or regulation or any official administrative pronouncement or action or judicial decision interpreting or applying any such law or regulation which is likely to cause the Notes to cease to be treated as debt for tax or accounting purposes; and
- (b) in respect of a Modification sought by a party in reliance on:
 - (i) any one of clauses 12.1(a)(i) to 12.1(a)(iv) above – the Issuer and the Trustee have jointly obtained a legal opinion from legal advisers of recognised standing in Western Australia, which opinion is in a form satisfactory to the Issuer and the Trustee (each acting reasonably) and is addressed to or is otherwise able to be relied on by each of the Issuer and the Trustee, to the effect that such Modification (taken as a whole and in conjunction with all other Modifications) is:
 - A. a Modification within the scope of any one or more of clauses 12.1(a)(i) to 12.1(a)(iv); and
 - B. not materially prejudicial to the interests of Noteholders of the Notes (taken as a whole); or
 - (ii) clause 12.1(a)(v) above - the Issuer and the Trustee have jointly obtained an opinion from an accountancy or taxation adviser of recognised standing in Western Australia, which opinion is in a form

satisfactory to the Issuer and the Trustee (each acting reasonably) and is addressed to or is otherwise able to be relied on by each of the Issuer and the Trustee, to the effect that such Modification (taken as a whole and in conjunction with all other Modifications) is:

- A. a Modification within the scope of clause 12.1(a)(v); and
- B. not materially prejudicial to the interests of Noteholders of the Notes (taken as a whole).

12.2 Amendment with the approval of the Noteholders

- (a) At any time, and from time to time, but subject to clauses 12.2(b), 12.2(c) and 12.3 of these Note Terms and the provisions of the Trust Deed governing the amendment of the Trust Deed, these Note Terms (which, for the avoidance of doubt includes this clause) may be Modified if such Modification is authorised by a Noteholders Resolution.
- (b) If the Trustee reasonably considers the Modification will materially and adversely affect the rights of all Noteholders, then the Modification must be authorised by a Special Resolution.
- (c) If a clause in these Note Terms provides for Noteholders to give a direction to the Trustee by a Special Resolution, then that clause may only be Modified if such Modification is authorised by a Special Resolution.

12.3 Amendment with the approval of the Noteholders but not the Trustee

If a Modification to these Note Terms (which, for the avoidance of doubt includes this clause) is proposed by the Issuer under clause 12.2 and the Trustee will not consent to the Modification, subject to compliance with the provisions of the Trust Deed governing the amendment of the Trust Deed, these Note Terms may be Modified in the manner proposed by the Issuer if such Modification is authorised by a Special Resolution.

13. General

13.1 Calculations

For the purposes of any calculations required under these Note Terms:

- (a) all figures must be rounded to five decimal places (with 0.000005 being rounded up to 0.00001); and
- (b) all amounts that are due and payable must be rounded to the nearest one Australian cent (with 0.5 of a cent being rounded up to 1 cent).

13.2 Reporting

In addition to any requirements of the Corporations Act and the Listing Rules, each Noteholder (if requested by that Noteholder) will be provided with copies of all annual and half yearly reports and financial statements provided to holders of Shares.

13.3 Time limit for claims

A claim against the Issuer for a payment under a Note is void unless made within five years from the date on which payment first became due.

13.4 Voting

The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests including certain variations of these Note Terms which require the consent of the Noteholders.

13.5 Notices

All notices given under these Note Terms must be given in writing (which shall include e-mail).

13.6 Further documents

The Issuer may require the Trustee to execute, on behalf of all Noteholders, such documents as the Issuer considers necessary or desirable (provided that the Trustee is indemnified to its satisfaction, acting reasonably, against any Taxes, fees, costs, charges, expenses or liabilities (including solicitor and client as well as party and party costs) which it may suffer or incur as a result of doing so, and provided that the Trustee will only be required to execute such documents if the Noteholders give a direction to the Trustee by a Special Resolution passed in favour of such execution to do so).

13.7 Governing law and jurisdiction

- (a) These Note Terms and the Notes are governed by the laws of Western Australia.
- (b) The Issuer and each Noteholder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia in connection with matters concerning the Notes or these Note Terms.
- (c) The Issuer and each Noteholder waives any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

14. Interpretation and definitions

14.1 Interpretation

In these Note Terms:

- (a) if there is inconsistency between these Note Terms and a Transaction Document, then, to the maximum extent permitted by law, these Note Terms will prevail;
- (b) the Directors may exercise all powers of the Issuer under these Note Terms as are not, by the Corporations Act or by the Constitution required to be exercised by the Issuer in a general meeting of Members;

- (c) calculations, elections and determinations made by the Issuer under these Note Terms are binding on Noteholders in the absence of manifest error;
- (d) if an event under these Note Terms must occur on a stipulated day which is not a Business Day, then the stipulated day will be deemed to be the next Business Day;
- (e) the singular includes the plural and vice versa, and a gender includes the other gender;
- (f) another grammatical form of a defined word or expression has a corresponding meaning;
- (g) a reference to a document includes all schedules, annexes and amendments to it;
- (h) a reference to a clause or clause is to a clause or clause of these Note Terms;
- (i) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (j) a reference to '\$', 'Australian dollars', 'A\$', 'AUS' or 'Australian cent' is a reference to the lawful currency of the Commonwealth of Australia;
- (k) a reference to time is to Perth, Western Australia time;
- (l) a reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes;
- (m) a reference to a person includes a natural person, partnership, body corporate, association, Government Agency or other entity;
- (n) a reference to a statute, ordinance, code, rule, directive or law (however described) includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (o) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (p) an Event of Default is subsisting if it has not been remedied or waived in writing; and
- (q) headings (including those in brackets at the beginning of clauses) are for convenience only and do not affect the interpretation of these Note Terms; and
- (r) terms used in the Corporations Act have the same respective meanings when used in this Deed.

14.2 Definitions

Terms defined in the Transaction Documents have the same meanings in these Note Terms. In addition, the following terms have the following meanings:

Applicable Regulations means such provisions of the Listing Rules, the ASX Settlement Operating Rules, the Corporations Act and any regulations or rules

pursuant under or pursuant to any such provisions as may be applicable to the transfer of a Note.

ASX means ASX Limited (ABN 98 003 624 691) or the securities market operated by it, as the context requires.

ASX Settlement means the ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX Settlement Operating Rules means the settlement rules of ASX Settlement as amended or replaced from time to time.

Bonus Issue means any issue of Securities by way of capitalisation of profits, reserves, share premium account or capital redemption reserve fund or otherwise, but excluding any issue of Securities made in place of a cash payment as a dividend under the Constitution.

Bonus Securities means Securities issued under a Bonus Issue.

Business Day means a day which is a business day within the meaning of the Listing Rules.

Change of Control Event means each of:

- (a) a takeover bid is made to acquire all of the Shares and the offer under the takeover bid is, or becomes, unconditional and:
 - (i) the bidder has acquired at any time during the offer period a relevant interest in more than 50% of the Shares on issue; or
 - (ii) the Directors unanimously recommend acceptance of the offer under the takeover bid, and acceptance of that offer would result in the bidder having a relevant interest in 100% of the Shares on issue; or
- (b) a court approves a proposed scheme of arrangement which, when implemented, will result in a person having a relevant interest in 100% of the Shares on issue; or
- (c) the sale, lease or other disposition of all or substantially all of the Issuer's consolidated assets, excluding a sale, merger, reorganization or other similar transaction if the previous holders of the Shares hold at least 50% of the voting control in such merged, reorganized or other continuing entity.

Change of Control Notice means a notice given in accordance with clause 3.2(a).

Clearing System means the Clearing House Electronic Sub-register System operated by ASX Settlement or any other applicable securities trading or clearance system.

Closing Date means 7 June 2017 or such other date as the Issuer and the Finders may agree.

Constitution means the constitution of the Issuer, as amended from time to time.

Conversion means the conversion of a Note in accordance with clause 5 and the words **Convert**, **Convertible**, **Converting** and **Converted** bear a corresponding meaning.

Conversion Amount means the aggregate Face Value of the total number of Notes the subject of the relevant Conversion Notice plus, at the option of the party effecting the Conversion, such amount of the Interest accrued but unpaid on those Notes (as determined by the Issuer) on the Conversion Date.

Conversion Date means the date (determined by the Issuer (in its absolute discretion) in accordance with these Note Terms) on which Shares will be issued to the Noteholder on conversion of the Notes under clause 5.

Conversion Notice means a notice of Conversion given in accordance with clause 5.2.

Conversion Price means \$0.03333 per Share.

Conversion Right means the right of a Noteholder to convert principal and accrued but unpaid Interest due under a Note into Shares in accordance with clause 5.2(a).

Corporations Act means the *Corporations Act 2001* (Cth).

CS Facility has the same meaning as 'prescribed CS Facility' in the Corporations Act.

CS Facility Operator means the operator of a CS Facility.

Delisting Event will occur if:

- (a) the Shares cease to be quoted on ASX; or
- (b) trading of the Shares or Notes on ASX is suspended for a period of more than 20 consecutive Business Days.

Directors means some or all of the directors of the Issuer acting as a board.

Early Redemption Notice means a notice given by the Issuer to the Trustee under clause 3.1(a).

Event of Default means the happening of any event set out in clause 8.1.

Face Value means the nominal principal amount of each Note, being \$100.

Finders means Sprott Capital Partners, a division of Sprott Private Wealth LP, and Sprott Global Resource Investments, Ltd.

Government Agency means a government, a government department or a governmental, semi-governmental, statutory, administrative, parliamentary, provincial, public, municipal, local, judicial or quasi-judicial body.

Group means the Issuer and its Related Bodies Corporate.

Insolvency Event occurs in relation to a body corporate if:

- (a) it is (or states that it is) insolvent (as defined in the Corporations Act); or
- (b) it has a controller (as defined in the Corporations Act) appointed, or is in receivership, in receivership and management, in liquidation, in provisional

liquidation, under administration or wound up or has had a receiver appointed to any part of its property; or

- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the creditors); or
- (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), (b) or (c) above; or
- (e) it is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is otherwise unable to pay its debts when they fall due; or
- (g) something having a substantially similar effect to (a) to (f) happens in connection with it under the law of any jurisdiction.

Interest means the interest payable from time to time in respect of a Note.

Interest Conversion Price means the VWAP of the Shares for the five trading day period ending on the last day prior to the Interest Payment Date.

Interest Payment Date means:

- (a) each 31 March, 30 June, 30 September and 31 December during the term of the Note, with the first Interest Payment Date being 30 June 2017;
- (b) the Conversion Date (if the Issuer or Noteholder elects not to include the Interest accrued but unpaid on the Note in the Conversion Amount);
- (c) the Maturity Date; and
- (d) any Redemption Date.

Interest Period means, for a Note, 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) its Issue Date; and
- (b) the final Interest Period ends on (but excludes) the Maturity Date, Conversion Date or the Redemption Date.

Interest Rate means, in respect of an Interest Period for a Note, 8% per annum.

Interest Shares means Shares issued in satisfaction of accrued and unpaid Interest.

Issue Date means the date on which that Note is issued.

Issue Price means the price at which each Note is issued, being \$100.

Issuer means Hot Chili Limited ACN 130 955 725.

Listing Rules means the listing rules of ASX.

Maturity Date means the date which is the fifth anniversary of the Issue Date.

Meeting Provisions means the rules relating to meetings of Noteholders to be contained the Trust Deed.

Member means a person holding Shares and entered in the register of members as a member, for the time being, of the Issuer.

Modification means any modification, alteration, cancellation or amendment of or addition to a Note and **Modified** bears a corresponding meaning.

Note means a debt obligation denominated in Australian dollars and issued, or to be issued, by the Issuer which is constituted by, and owing under, the Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register.

Note Terms means, in relation to a Note, these terms and conditions.

Noteholder means the person from time to time whose name is entered on the Register as the holder of a Note.

Noteholders Resolution means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions:
 - (i) by at least 50% of the persons voting on a show of hands (unless clause (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of at least 50% of the votes cast; or
- (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least 50% of the principal amount then outstanding of all of the Notes.

Permitted New Debt means indebtedness:

- (a) incurred by the Issuer to finance the development and placing of the Issuer's assets into commercial production
- (b) provided that the terms of the financial accommodation are commercial, at arm's length, and are not in any respect unusual or onerous.

Record Date means, in relation to any payment to be made under or in respect of the Notes:

- (a) subject to sub-clauses (b) and (c), the date which is eight calendar days before the applicable due date for payment; or
- (b) such other date as is determined by the Issuer in its absolute discretion, and communicated to ASX not less than eight calendar days before the Record Date which would have been determined under clause (a) above; or

(c) such other date as may be required by, or agreed with, ASX.

Redemption means the redemption of a Note in accordance with clause 3 and the words **Redeem**, **Redeemable** and **Redeemed** bear their corresponding meanings.

Redemption Date means the date, other than the Maturity Date, on which a Note is Redeemed.

Register means the register of Noteholders (established and maintained under the Trust Deed) and includes:

- (a) a sub-register maintained by or for the Issuer under the Corporations Act, the Listing Rules or ASX Settlement Operating Rules; and
- (b) any branch register.

Registrar means Security Transfer Australia Pty Ltd ACN 008 894 488 or any other person appointed by the Issuer (with such appointment notified to the Trustee) to maintain the Register and perform any payment and other duties as specified in that agreement.

Related Bodies Corporate has the meaning given to it in the Corporations Act.

Restriction Agreement means an agreement which is required to be concluded under Chapter 9 of the Listing Rules or in voluntarily concluded between the Issuer and one or more Noteholders.

Restricted Securities has the same meaning as in the Listing Rules and extends to Notes which are subject to voluntary restrictions by agreement between the Issuer and one or more Noteholders.

Securities includes shares, options, convertible securities, debentures, debenture stocks, notes of the Issuer and any options or rights to subscribe for any of them.

Security Interest means any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind 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, including any retention of title other than in the ordinary course of business and any charge or lien arising by operation of law.

Share means an ordinary share in the capital of the Issuer.

Special Resolution means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions:
 - (i) by at least 75% of the persons voting on a show of hands (unless clause (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least 75% of the principal amount then outstanding of all of the Notes.

Subscription Agreement means a subscription agreement for Notes entered into by the Issuer and a Noteholder.

Subsidiary has the meaning given in the Corporations Act, but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and, without limitation:

- (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and
- (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.

Tax means any tax (including goods and services tax), levy, impost, charge, rate, withholding or duty (including stamp and transaction duties) levied or imposed by any Government Agency together with any related interest, penalties, fines and expenses in connection with them.

Transaction Documents means:

- (a) the Trust Deed (including these Note Terms);
- (b) each Subscription Agreement; and
- (c) each Note.

Trust Deed means the trust deed entitled 'Convertible Notes Trust Deed for the Hot Chili Convertible Notes Trust' to be entered by the Issuer and the Trustee in accordance with the requirements of Part 2L.1 of the Corporations Act.

Trustee means the person from time to time acting as the trustee of the trust constituted by the Trust Deed (acting in that capacity), initially being Equity Trustees Limited, or such other person appointed by the Issuer who is qualified under section 283AC of the Corporations Act to act as trustee for the benefit of the Noteholders.

United States means the United States of America, its states, territories and possessions and the District of Columbia.

VWAP means the volume weighted average sale prices of the Shares sold on ASX during the period specified in these Note Terms, excluding any transaction defined in the ASX Operating Rules as 'special', crossings prior to the commencement of normal trading, crossings during the after-hours adjust phase and any overseas trades or exchange traded option exercises.

Winding Up means in respect of a person the appointment of a liquidator or provisional liquidator of that person (and where the appointment is made by a court, by a court of competent jurisdiction in Australia).