

Form 604
Corporations Act 2001
Section 671B

Notice of change of interests of substantial holder

To Company Name/Scheme Heron Resources Limited

ACN/ARSN 068 263 098

1. Details of substantial holder (1)

Name CL V Investment Solutions LLC (**Castlake V**), Castlake III, L.P. (**Castlake III**), Castlake IV, L.P. (**Castlake IV**) and each of the related bodies corporate in the Castlake group worldwide (for more details please visit www.castlake.com), including the major subsidiaries and associated companies listed in Annexure A

ACN/ARSN (if applicable) N/A

There was a change in the interests of the
substantial holder on 28/10/2019

The previous notice was given to the company on 23/10/2019

The previous notice was dated 23/10/2019

2. Previous and present voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Ordinary Shares	88,880,568	28.74%	105,971,173	28.10%

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
28/10/2019	Castlake V	Subscription for ordinary shares under Underwriting Agreement attached at Annexure B.	A\$3,418,121	17,090,605 ORD	17,090,605

4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities (post consolidation)	Person's votes (post consolidation)
Castlake V	Castlake V	Castlake V	Registered holder	42,210,430 ORD	42,210,430

Castlelake III	Castlelake III	Castlelake III	Registered holder	23,335,069 ORD	23,335,069
Castlelake IV	Castlelake IV	Castlelake IV	Registered holder	40,425,674 ORD	40,425,674
Castlelake V, Castlelake III and Castlelake IV's related bodies corporate	Castlelake V, Castlelake III and Castlelake IV	Castlelake V, Castlelake III and Castlelake IV	Entities controlling Castlelake V, Castlelake III and Castlelake IV are deemed to have the same relevant interests as those entities, and other group entities are associates	105,971,173 ORD	105,971,173

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
N/A	N/A

6. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Castlelake V	The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, Delaware 19801 United States of America
Castlelake III	4600 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402 United States of America
Castlelake IV	4600 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402 United States of America
Castlelake V, Castlelake III and Castlelake IV's related bodies corporate	4600 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402 United States of America

Signature

print name William Stephen Venable Jr, for Castlelake, L.P., Investment Manager for and on behalf of CL V Investment Solutions LLC, Castlelake III, L.P. and Castlelake IV, LP. capacity Vice President

sign here

date

October 2019

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 6 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
 - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (7) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included on any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

Annexure A

This is Annexure A of 2 pages referred to in Form 604 Notice of change of interests of substantial holder by CL V Investment Solutions LLC, Castl lake III, L.P., Castl lake IV, L.P. and their related corporate bodies.

Signed:



Name: William Stephen Venable Jr.

Capacity: Vice President for Castl lake, L.P., Investment Manager for and on behalf of CL V Investment Solutions LLC, Castl lake III, L.P. and Castl lake IV, L.P.

Date: October 2019

CL V Investment Solutions LLC is associated with Castl lake L.P. (its investment manager) and Castl lake V, L.P. (its parent).

The following entities are major associated companies of CL V Investment Solutions LLC:

1. Castl lake III, L.P.;
2. Castl lake IV, L.P.;
3. CL V Investment Solutions TE (Offshore) LLC;
4. CL V Ventures Offshore LLC;
5. CL V Debt Solutions LLC;
6. CL V Investments Offshore LLC;
7. CL V Investments USA LLC; and
8. CL V Funding LLC.

Castl lake III, L.P. is associated with Castl lake III GP, L.P. (its General Partner) and Castl lake L.P. (its investment manager).

The following entities are major subsidiaries and associated companies of Castl lake III, L.P.:

1. CL III ES USA, LLC;
2. CL III Debt Solutions (Offshore) LLC;
3. CL III Debt Solutions 2 (Offshore) LLC;
4. CL III Investment Holding Company (Offshore) LLC;
5. CL III USA Investment Holding Company LLC;
6. CL III REO USA LLC;
7. CL III Funding Holding Company;
8. HFET REO USA, LLC; and
9. CL III REO (Offshore) LLC.

Castl lake IV, L.P. is associated with Castl lake IV GP, L.P. (its General Partner) and Castl lake L.P. (its investment manager).

The following entities are major subsidiaries and associated companies of Castlake IV, L.P.:

1. CL IV ES USA, LLC;
2. CL IV REO (Offshore) LLC;
3. CL IV REO USA, LLC;
4. CL IV Debt Solutions (Offshore) LLC;
5. CL IV Debt Solutions 2 (Offshore) LLC;
6. CL IV Funding Holding Company LLC;
7. CL IV Investment Holding Company (Offshore) LLC; and
8. CL IV USA Investment Holding Company LLC.

Annexure B – Underwriting Agreement

This is Annexure B of 68 pages referred to in Form 604 Notice of change of interests of substantial holder by CL V Investment Solutions LLC, Castl lake III, L.P., Castl lake IV, L.P. and their related corporate bodies.

Signed:

A handwritten signature in blue ink, appearing to read 'WMSV', with a large checkmark-like flourish at the end.

Name:

William Stephen Venable Jr.

Capacity:

Vice President for Castl lake, L.P., Investment Manager for and on behalf of CL V Investment Solutions LLC, Castl lake III, L.P. and Castl lake IV, L.P.

Date:

October 2019

Heron Resources Limited

CL V Investment Solutions LLC

Underwriting Agreement

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Date **4 October 2019**

Parties

Heron Resources Limited ABN 30 068 263 098 of Suite 2, Level 8, 309 Kent Street, Sydney, NSW 2000 (**Company**)

CL V Investment Solutions LLC of C/- Castlelake L.P., 4600 Wells Fargo Center, 90 South Seventh Street, Minneapolis, USA (**Underwriter**)

Background

- A The Company proposes to conduct an accelerated non-renounceable pro-rata Entitlement Offer to raise approximately A\$35.4 million.
 - B The Entitlement Offer will be made under the Prospectus. A copy of the Prospectus will be lodged with ASIC and given to ASX.
 - C The Company has requested the Underwriter to underwrite the subscription of Rights Shares under the Entitlement Offer up to the Underwritten Amount, which the Underwriter has agreed to do on the terms and conditions set out in this document.
-

Agreed terms

1 Definitions

In this document these terms have the following meanings:

Affiliate	Includes in respect of a person, any other person that is a Related Body Corporate of the person or who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person; and control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of a person, whether through the ownership of securities, by contract or agency or otherwise.
Announcement Date	The proposed date of announcement of the Entitlement Offer specified in the Timetable.
Applicable Laws	Includes the Corporations Act (including the requirements of any applicable ASIC class orders, regulatory guidance and policies including the guidance of the Takeovers

	Panel), the Listing Rules (except where compliance has been waived or modified by the ASX) and all other applicable laws, policies and regulation relevant to a fact, matter or thing.
Application	An application to subscribe for Rights Shares duly made in accordance with the Prospectus (which may include an application for Rights Shares in excess of the applicant's Entitlements on the terms and conditions set out in the Prospectus) accompanied by payment of the Rights Price in respect of each Rights Share for which an application is made.
ASIC	The Australian Securities and Investments Commission.
ASIC Modifications	Any exemptions from, modifications (including class orders) of or declarations under the Corporations Act which are necessary in relation to the Offer Materials or to enable the Company to make the Entitlement Offer.
Associate	The meaning given to 'associate' as defined in section 12 of the Corporations Act.
ASX	ASX Limited ABN 98 008 624 691 and, as the context requires, the market it operates or its Related Bodies Corporate.
ASX Settlement	ASX Settlement Pty Limited ABN 49 008 504 532.
ASX Settlement Operating Rules	The settlement rules made by ASX Settlement and the provisions of the Corporations Act and Listing Rules concerning the electronic share registration and transfer system as and to the extent they apply to the Company.
ASX Waiver	Any waiver of the Listing Rules which is necessary or desirable to enable the Company to make the Entitlement Offer, obtain Official Quotation or issue the Rights Shares.
Authorisation	Any approval, authorisation, consent, declaration, exemption, notarisation, concession, licence, permit, order, registration, qualification, decree or waiver, however described, and any condition attaching to it, including any renewal, consolidation, replacement, extension or amendment of any of them.
Business Day	The meaning given to 'business day' as defined in the Listing Rules.
Castlelake Allocated Shortfall Shares	Has the meaning given to that term in clause 5.3 .

Castlelake Parties	The Underwriter, Castlelake III, L.P., and Castlelake IV, L.P..
Castlelake Rights Entitlement Shortfall	The Entitlements of Castlelake III, L.P. that are not taken up under the Entitlements Offer.
Castlelake Rights Shortfall Notice	A notice from the Company to the Underwriter under clause 5.1 setting out the number of Shortfall Shares the subject of the Castlelake Rights Entitlement Shortfall.
Certificate	<p>A certificate signed on behalf of the Company which certifies to the Underwriter as at the date of the certificate that:</p> <ul style="list-style-type: none"> (a) the Company has complied with all obligations on its part to be performed as at the date of the certificate: <ul style="list-style-type: none"> (i) under this document; and (ii) under statute or otherwise in respect of the Entitlement Offer; (b) the condition in clause 3.1(f) ('no default or breach') of each of the documents referred to in the definition of Debt Restructure Documents has not been triggered on or before the Underwriting Settlement Date; (c) other than as previously notified to the Underwriter in writing, none of the Termination Events have occurred; and (d) other than as previously notified to the Underwriter in writing, the representations and warranties set out in schedule 1 are true and correct.
Claim	In relation to any person, any allegation, debt, cause of action, liability, claim, investigation or proceeding, suit or demand of any nature made against the person howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.
Commitment Letter	The letter agreement in the agreed form dated on or before the date of this document between Orion and the Company pursuant to which Orion agrees to subscribe for not less than A\$5,974,842 worth of Rights Shares pursuant to its Entitlement under the Entitlement Offer.

Completion	The time when all of the Rights Shares (including any Shortfall Shares) have been allotted and issued by the Company in accordance with the Entitlement Offer and the terms of this document.
Confirmation Letter	The confirmation letter sent by or on behalf of the Company to Institutional Shareholders who subscribe for Rights Shares under the Institutional Entitlement Offer, incorporating relevant representations, warranties and agreements from the Master ECM Terms dated 31 August 2019 and available on the AFMA website (http://www.afma.com.au).
Constitution	The constitution of the Company as may be amended from time to time.
Convertible Note Agreements	<p>Each of:</p> <ul style="list-style-type: none">(a) the Convertible Note Subscription Agreement in the agreed form between the Company and the Castlelake Parties dated on or about the date of this document pursuant to which the Castlelake Parties agree to provide funding of USD15,469,927 to the Company by way of convertible notes;(b) the Convertible Note Subscription Agreement in the agreed form between the Company and each of the Greenstone Parties and other investors introduced by the Greenstone Parties (amongst others) on or about the date of this document pursuant to which the subscribers agree to provide aggregate funding of USD16,581,016 to the Company by way of a convertible note;(c) the Convertible Note Subscription Agreement in the agreed form between the Company and Orion dated on or about the date of this document pursuant to which Orion agrees to provide funding of an amount equal to USD7,000,000 less the amount subscribed for by Orion under the Entitlement Offer (converted into USD at the Exchange Rate on the day of subscription) to the Company by way of a convertible note;(d) the documents titled "Convertible Note Deed Poll" entered into on or about the date of this document by the Company, and each convertible note issued thereunder, pursuant to the Convertible Note Subscription Agreements referred to in (a), (b) and (c) above; and

	(e) all and any other documents designated as a "Transaction Documents" in the documents contemplated in (a), (b), (c) or (d) above.
Corporations Act	The <i>Corporations Act 2001</i> (Cth).
Costs	Any costs, charges or expenses.
Debt Facilities	Any external debt facility or similar financial accommodation provided to the Company or its Subsidiaries or any part thereof.
Debt Restructure Documents	Each of: <ul style="list-style-type: none"> (a) the document titled "Amending deed – Loan facility agreement entered into on or about the date of this document between TOP, OMF Fund II (H) Ltd as lender and the parties named therein as guarantors annexing the document titled "Loan facility agreement" entered into on or about the date of this document between TOP, Orion and the parties named therein as guarantors; and (b) the document titled "Deed of Amendment - Purchase and Sale Agreement (Silver)" entered into on or about the date of this document between, among others, OMF Fund II (Li) L.P. and TOP annexing the document titled "Purchase and Sale Agreement (Silver)" entered into on or about the date of this document between, among others, Orion and TOP.
Designated Bank Account	The account established by the Company for the sole purpose of receiving the application money on trust for applicants until the Rights Shares are issued or transferred, or the money is returned to the applicants.
Despatch Date	The date referred to as the Despatch Date in the Timetable.
Due Diligence Committee	The due diligence committee formed by the Company in connection with the Entitlement Offer.
Due Diligence Committee Report	The report of the Due Diligence Committee to the Company, its directors and the Underwriter including all annexures.
Due Diligence Investigations	The activities referred to in clause 6.2 .
Due Diligence Planning Memorandum	The memorandum including its schedules, annexures and attachments setting out the responsibilities and purpose of the Due Diligence Committee, the final form of which is annexed to the Due Diligence Committee Report.

Due Diligence Program	The legal, accounting, commercial and other investigations of the assets and liabilities, financial position and performance, profits and losses and prospects of the Company and each of its Subsidiaries (including its future business plans, production targets and financial forecasts) conducted in the period up to Completion, as implemented by the Due Diligence Planning Memorandum.
DvP	Delivery versus payment basis of settlement according to the ASX Settlement Operating Rules.
Encumbrance	Any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.
Entitlement and Acceptance Form	A personalised entitlement and acceptance form included in or accompanying the Prospectus and the disclosures therein.
Entitlements	The right to subscribe for that number of Rights Shares determined by the Offer Ratio, at the Rights Price, on the terms and conditions contained in the Prospectus.
Entitlement Offer	The accelerated non-renounceable pro rata offer of Entitlements to registered Shareholders as at 5.00pm on the Record Date pursuant to the Institutional Entitlement Offer and the Retail Entitlement Offer.
Exchange Rate	On any date, the mid-rate which appears on the Bloomberg Screen "AUSUSD" on or about 11:00am Sydney time on that day.
Excluded Institutional Shareholders	<p>A Shareholder that:</p> <ul style="list-style-type: none"> (a) is, or the person for whom it holds Shares is, outside the Permitted Jurisdictions and is an Institutional Investor; (b) is located in the United States or is acting for the account or benefit of any person in the United States (to the extent they hold Securities for the account or benefit of a person in the United States); or (c) the Company otherwise determines will be an Excluded Institutional Shareholder for the purposes of the Entitlement Offer.
Excluded Retail Shareholders	A Shareholder that is not a Retail Shareholder, Institutional Shareholder or Excluded Institutional Shareholder.

Force Majeure	Any act of God, war, revolution, or any other unlawful act against public order or authority, an industrial dispute, a governmental restraint, or any other event which is not within the control of the parties.
Good Standing	In relation to a Tenement, means that all requirements and obligations imposed by the relevant mining or minerals legislation and the regulations under the mining or minerals legislation and any other applicable statute have been complied with in relation to the Tenement and, in particular, that all required returns, notices and filings have been made and that all expenditure requirements or work commitments have been met at the relevant time on a pro rata basis such that those obligations will be met by the next anniversary or grant of that Tenement.
Government Agency	Any government or any government department, governmental, semi-governmental, administrative, fiscal, judicial, investigative, review or regulatory body, department, commission, authority, tribunal, agency, stock exchange or entity in any jurisdiction relevant to the Entitlement Offer, including ASX, ASIC and the Takeovers Panel.
Greenstone Parties	The entities listed in the "Notice of change of interests of substantial holder" in respect to the Company lodged by Greenstone Management Limited and dated 7 September 2017.
Greenstone Rights Entitlement Shortfall	The Entitlements of the Greenstone Parties that are not taken up under the Entitlements Offer.
Greenstone Sub-Underwriters	Includes: <ul style="list-style-type: none"> (a) an entity that is a Greenstone Party; and (b) any limited partner of Greenstone Resources II (Australia) Holdings L.P, as nominated by the Underwriter, provided that it has a registered address in a Permitted Jurisdiction.
Group	The Company and each Subsidiary of the Company (and Group Member means any one or more of them).
Indemnified Parties	Includes: <ul style="list-style-type: none"> (a) the Underwriter; (b) any Affiliate, successor or Related Body Corporate of the Underwriter; and

	(c) the directors, officers, agents, employees, representatives or advisers of the Underwriter or any of its Affiliates, successors or Related Bodies Corporate.
Institutional Closing Date	The date referred to as the Institutional Closing Date in the Timetable.
Institutional Entitlement Offer	The pro rata entitlement offer made to Institutional Shareholders (other than Excluded Institutional Shareholders) under the Entitlement Offer to subscribe at the Rights Price for a number of Institutional Entitlement Shares determined by reference to the Offer Ratio.
Institutional Entitlement Shares	The Rights Shares proposed to be issued to Institutional Shareholders under the Institutional Entitlement Offer.
Institutional Investor	A person whom the Company reasonably believes offers and issues of Rights Shares may lawfully be made without the need for disclosure to investors under Chapter 6D of the Corporations Act or, if that person is outside Australia, under the applicable laws of the particular foreign jurisdiction without need for any lodgement, registration, approval or filing with a Government Agency (other than one with which the Company is willing to comply).
Institutional Issue Date	The date referred to as the Institutional Issue Date in the Timetable.
Institutional Opening Date	The date referred to as the Institutional Opening Date in the Timetable.
Institutional Settlement Date	The date referred to as the Institutional Settlement Date in the Timetable.
Institutional Shareholder	A Shareholder who the Company reasonably determines has successfully received an offer from the Company to subscribe for Rights Shares under the Institutional Entitlement Offer on the basis that it is an Institutional Investor, including where the offer is made to a person for whom the Shareholder holds Shares.
Institutional Trading Date	The date referred to as the Institutional Trading Date in the Timetable.
Listing Rules	The listing rules of ASX, except as waived or modified in respect of the Company or the Entitlement Offer from time to time.
Lodgement Date	The date referred to as the Lodgement Date in the Timetable.

Losses	Any Costs, Claims, damages, liabilities or other losses or expenses of any kind (including actions or proceedings in respect thereof) and legal costs and expenses (on an indemnity basis) however arising, including penalties, Claims, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
Offer Announcement	The announcement in respect to the Entitlement Offer to be provided by the Company to ASX on the Announcement Date.
Offer Materials	<ul style="list-style-type: none"> (a) Any roadshow presentation materials in connection with the Entitlement Offer; (b) all announcements released to ASX by the Company in connection with the Entitlement Offer, including the Offer Announcement; (c) the Prospectus and any Application; (d) all correspondence delivered to Shareholders in respect of the Entitlement Offer and approved by the Company (or on its behalf with its consent); and (e) Public Information.
Offer Ratio	The ratio of 0.7324 Rights Shares for every 1 Share held by a Shareholder at the Record Date
Official List	The official list of ASX.
Official Quotation	The grant by ASX of "Official Quotation" (as that term is used in the Listing Rules).
Orion	Orion Mine Finance Fund II LP, an exempted limited partnership formed under the laws of Bermuda with its registered office at Canon's Court, 22 Victoria Street, Hamilton HM 12 Bermuda.
Permitted Jurisdiction	<p>Each of:</p> <ul style="list-style-type: none"> (a) Australia; (b) New Zealand; and (c) the United States of America (to the extent such persons are U.S. Accredited Investors).
Prescribed Occurrences	Any of the events listed in section 652C(1)(a) to (h) of the Corporations Act.
Prospectus	The prospectus for the offering of the Rights Shares, which will be issued by the Company and lodged with ASIC under section 713 of the Corporations Act by the Lodgement Date and which will be in a form approved by

	the Underwriter (as modified, to the extent applicable by any Supplementary Prospectus lodged in accordance with clause 6.6).
Public Information	Any press releases, presentation materials, or public or media statement or other public disclosure made (on or after the Lodgement Date and up to and including the Retail Settlement Date) in relation to the Group or the Entitlement Offer, including amendments or updates to or supplementary disclosure in respect of any other Offer Materials, or in relation to bids or applications received for Rights Shares or the progress or results of the Entitlement Offer, in each case by the Company (or on its behalf).
Record Date	7.00pm (Sydney time) on the date referred to as the Record Date referred to in the Timetable.
Registry	Automic Pty Ltd.
Related Body Corporate	The meaning given to 'related body corporate' as defined in the Corporations Act.
Relevant Persons	The directors, company secretary and any officers of the Company.
Retail Closing Date	The date referred to as the Retail Closing Date in the Timetable.
Retail Entitlement Offer	The pro rata entitlement offer of Retail Entitlement Shares made to Retail Shareholders pursuant to the Prospectus entitling each Retail Shareholder to subscribe at the Rights Price for a number of Retail Entitlement Shares determined by reference to the Offer Ratio.
Retail Entitlement Shares	The Rights Shares proposed to be issued to Retail Shareholders under the Retail Entitlement Offer.
Retail Issue Date	The date referred to as the Retail Issue Date in the Timetable.
Retail Opening Date	The date referred to as the Retail Opening Date in the Timetable.
Retail Settlement Date	The date referred to as the Retail Settlement Date in the Timetable.
Retail Shareholder	A Shareholder who: <ul style="list-style-type: none"> (a) as at the Record Date, has a registered address in a Permitted Jurisdiction; and (b) to the extent they are not a U.S. Accredited Investor, is not located in the United States and is not acting for the account or benefit of a person in the United States

	(to the extent that such a Shareholder holds Shares for the account or benefit of such person in the United States); and
	(c) is not an Institutional Shareholder or an Excluded Institutional Shareholder.
Retail Trading Date	The date referred to as the Retail Trading Date in the Timetable.
Rights Price	A\$0.20 (20 cents).
Rights Proceeds	The product of the total number of Rights Shares and the Rights Price, being a maximum of A\$35,399,369.
Rights Shares	Up to 176,996,847 Shares the subject of the Entitlement Offer.
Sedgman	Sedgman Pty Ltd ACN 088 471 667.
Sedgman Contract	The Engineer, Procure & Construct Contract between TOP and Sedgman dated 2 May 2017 (as amended) in connection with the Company's Woodlawn Zinc-Copper Project.
Sedgman Settlement Deed	A Deed of Settlement and Release in relation to the Sedgman Contract between the parties to that contract and the Company dated on or about the date of this document.
Share	An ordinary fully paid share in the capital of the Company.
Shareholders	The persons registered as holders of Shares as at 5.00pm on the Record Date after adjusting the share register of the Company in respect of transfer and transmissions of Shares made or lodged prior to that date and time, whose registered address is situated in a Permitted Jurisdiction.
Shortfall Application	An application to subscribe for Shortfall Shares under the Shortfall Offer duly made in accordance with the Prospectus accompanied by payment of the Rights Price in respect of each Shortfall Share for which an application is made.
Shortfall Notification Date	The date referred to as the Shortfall Notification Date in the Timetable.
Shortfall Offer	An offer to investors (including Retail Shareholders) to subscribe for Shortfall Shares at the Rights Price under the terms and conditions set out in the Prospectus.
Shortfall Offer Closing Date	The date referred to as the Shortfall Offer Closing Date in the Timetable.
Shortfall Shares	The number of Rights Shares for which Valid Applications (determined in accordance with clause 4.4) have not

	been received prior to the Retail Closing Date, up to a maximum amount equal to the Underwritten Shares.
Shortfall Valid Application	<p>In respect of the Shortfall Offer:</p> <p>(a) a duly completed Entitlement and Acceptance Form by an investor lodged with the Company or the Registry in accordance with the Prospectus prior to 7.00pm (Sydney time) on the Shortfall Offer Closing Date with payment of the Rights Price in full and cleared funds for each of the Rights Shares in respect of which application is made; or</p> <p>(b) payment of the Rights Price in full for each of the Shortfall Shares applied for by BPAY (and completion of an Entitlement and Acceptance Form is not therefore required) submitted in accordance with the Prospectus prior to 7.00pm (Sydney time) on the Shortfall Offer Closing Date.</p>
Subsidiary	In relation to an entity, has the meaning given to that term in section 9 of the Corporations Act.
Supplementary Prospectus	Any supplementary or replacement prospectus to the Prospectus lodged with ASIC in connection with the Entitlement Offer.
Takeovers Panel	The body established under the <i>Australian Securities and Investments Commission Act 2001</i> (Cth) as the primary forum for resolving disputes about takeovers.
Tenement	Any exploration or mining licence held by, or purported to be held by, any Group Member and includes all extensions, renewals, replacements and substitutions thereof and all ancillary titles.
Termination Events	The events specified in schedule 3 .
Timetable	The timetable for the Entitlement Offer set out in annexure A , as varied from time to time by written agreement of the Company and the Underwriter.
TOP	Tarago Operations Pty Ltd ACN 127 810 413, a wholly owned subsidiary of the Company.
U.S. Accredited Investors	Persons who are an investor as defined in Rule 501(a)(1), (2), (3) or (7) under the U.S. Securities Act.
U.S. Exchange Act	The U.S. Securities Exchange Act of 1934, as amended.
U.S. Investment Company Act	The U.S. Investment Company Act of 1940, as amended.

U.S. Law	The U.S. Securities Act, the U.S. Exchange Act, the rules and regulations of the United States Securities and Exchange Commission and the common law and all other applicable laws of the United States and any States and jurisdictions therein.
U.S. Person	Has the meaning given to "U.S. person" in Rule 902(k) under Regulation S.
U.S. Securities Act	The U.S. Securities Act of 1933, as amended.
Underwriter's Shortfall Notice	A notice from the Company to the Underwriter under clause 5.3 specifying the number of Shortfall Shares which have not been issued and allotted to Shareholders or investors under the Shortfall Offer, and setting out the calculations made by the Company to determine the number of Castlake Allocated Shortfall Shares.
Underwriting Settlement Date	The date referred to as the Underwriting Settlement Date in the Timetable.
Underwritten Amount	The amount equal to the Rights Price that is payable in respect to Applications for all Underwritten Shares.
Underwritten Shares	34,408,495 Rights Shares, less the number of Rights Shares taken up by Castlake Parties pursuant to their Entitlement.
Valid Application	<p>In respect of the Retail Entitlement Offer:</p> <ul style="list-style-type: none"> (a) a duly completed Entitlement and Acceptance Form by a Retail Shareholder lodged with the Company or the Registry prior to 5.00pm (AWST) on the Retail Closing Date with payment of the Rights Price in full and cleared funds for each of the Rights Shares in respect of which application is made; or (b) payment of the Rights Price in full for each of the Rights Shares applied for by BPAY (and completion of an Entitlement and Acceptance Form is not therefore required) submitted prior to 5.00pm (AWST) on the Retail Closing Date; <p>and in respect of the Institutional Entitlement Offer, a duly completed "Confirmation of Allocation and Registration Details" form, in the form attached to a Confirmation Letter or other commitment in accordance with the instructions issued by or on behalf of the Company to an Institutional Shareholder lodged with the Company prior to 6.00pm on the Institutional Closing Date, with payment of the Rights Price made or proposed to be made in</p>

immediately available funds on or before the Institutional Settlement Date.

2 Conditions precedent

2.1 Conditions precedent

The obligations of the Underwriter under **clause 5.4** is conditional on:

(a) Foreign Investment Review Board approval:

- (i) the Castlelake Parties have received a written notice under the Foreign Acquisitions and Takeovers Act 1975 (Cth), by or on behalf of the Treasurer of the Commonwealth of Australia stating or to the effect that the Commonwealth Government does not object to the issue of Convertible Notes or Shares to them under this agreement or the Convertible Note Agreements, either unconditionally or on terms that do not impose unduly onerous obligations on them; or
 - (ii) the Treasurer of the Commonwealth of Australia becomes precluded from making an order in relation to the issue of securities referred to in **clause 2.1(a)(i)** under the Foreign Acquisitions and Takeovers Act 1975 (Cth); or
 - (iii) if an interim order is made under the Foreign Acquisitions and Takeovers Act 1975 (Cth) in respect of the issue of securities referred to in **clause 2.1(a)(i)**, the subsequent period for making a final order prohibiting the issue of securities referred to in **clause 2.1(a)(i)** elapses without a final order being made;
- (b) (ASIC Modifications and ASX Waivers)** the Company certifying in writing to the Underwriter (and in a form acceptable to the Underwriter) that no ASIC Modifications or ASX Waivers are required in connection with the Entitlement Offer;
- (c) (Due Diligence Investigations)** the Due Diligence Investigations being completed to the satisfaction of the Underwriter (in its absolute discretion) by 7.00am on the Lodgement Date;
- (d) (Due Diligence Committee Report)** the Underwriter receiving a copy of the Due Diligence Committee Report contemplated by the Due Diligence Planning Memorandum in a form and substance satisfactory to the Underwriter (in its absolute discretion) by 7.00am on the Lodgement Date, which is also to be addressed to, and expressed to be for the benefit of, each of the members of the Due Diligence Committee and the Underwriter and signed by each member of the Due Diligence Committee;
- (e) (legal opinion on Entitlement Offer)** an opinion from Allion Partners (counsel to the Company) in respect to the content of the Prospectus,

the adequacy of the Due Diligence Investigations and compliance with Applicable Laws dated on the Lodgement Date and addressed to, and expressed to be for the benefit of, the Company and the Underwriter, in a form and substance satisfactory to the Underwriter (in its absolute discretion) being delivered to the Underwriter by 7.00am on the Lodgement Date;

- (f) **(legal opinion regarding Sedgman Contract)** an opinion from Bradbury Legal in a form and substance satisfactory to the Underwriter (in its absolute discretion) in relation to the Sedgman Contract and the Sedgman Settlement Deed, that is addressed to, and expressed to be for the benefit of, the Underwriter, being delivered to the Underwriter by 7.00am on the Lodgement Date;
- (g) **(section 611 item 10 Corporations Act)** the Underwriter receiving a certificate in the form of **annexure B** by 7.00am on the Lodgement Date, signed on behalf of the Company;
- (h) **(Debt Restructure Documents)**: the Debt Restructure Documents being duly executed by each party to those documents prior to 7.00am on the Lodgement Date, and all of the conditions to the Debt Restructure Documents have been satisfied or waived, other than with respect to:
 - (i) clause 3.1(c) ('Authorisations') clause 3.1(c) ('Authorisations') of the document referred to in paragraph (a) of the definition of Debt Restructure Documents and the condition in clause 3.1(c) ('Authorisations') of the document referred to in paragraph (b) of the definition of Debt Restructure Documents, provided always that the only outstanding matters in relation to satisfying such clauses or conditions is that:
 - (A) the Company obtains the approval of the holders of the Company's Shares to the transactions contemplated by the Debt Restructure Documents (to the extent required); and/or
 - (B) approval under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and related regulations (provided the Company confirms on the Underwriting Settlement Date following a request from the Underwriter that such approval has not been refused and that there is no reason to believe it will not be forthcoming);
 - (ii) the condition in clause 3.1(b) ('Loan Facility Conditions Precedent') of the document referred to in paragraph (b) of the definition of Debt Restructure Documents, provided always that such condition has not become incapable of being satisfied prior to the Underwriting Settlement Date; and
 - (iii) clause 3.1(f) ('no default or breach') of the document referred to in paragraph (a) of the definition of Debt Restructure Documents and the condition in clause 3.1(f) ('no Default or breach') of the document referred to in paragraph (b) of the definition of Debt

Restructure Documents, provided always that such conditions have not been triggered on or before the Underwriting Settlement Date;

- (i) **(Greenstone Underwriting Agreement)** the Greenstone Underwriting Agreement being duly executed by each party to that document prior to 7.00am on the Lodgement Date, and all of the conditions to the Greenstone Underwriting Agreement (other than conditions in clause 2.1(h) 'Castlake Underwriting Agreement') have been satisfied or waived;
- (j) **(Commitment Letter)** the Commitment Letter being duly executed by each party to that document prior to 7.00am on the Lodgement Date;
- (k) **(consent to be named)** the Underwriter being satisfied with the form of the Prospectus (in its absolute discretion) and having given its consent to be named in the Prospectus by 7.00am on the Lodgement Date as evidence thereof;
- (l) **(Prospectus lodgement)** the Company lodging the Prospectus with ASIC prior to 9.00am on the Lodgement Date and completing the despatch of the Prospectus and Entitlement and Application Form on or before the Despatch Date in the form approved by the Underwriter (acting reasonably);
- (m) **(Orion Entitlements)** Orion subscribing for not less than A\$5,974,842 worth of Rights Shares pursuant to its Entitlement under the Entitlement Offer pursuant to its Commitment Letter;
- (n) **(ASIC approval of sale nominee)** ASIC approving the appointment by the Company of Patersons Securities Limited to act as "sale nominee" in respect of the Entitlement Offer under section 615 of the Corporations Act; and
- (o) **(Convertible Note Agreements):** the Convertible Note Agreements being duly executed by each party to those documents prior to 7.00am on the Lodgement Date and none of the conditions precedent to those Convertible Note Agreements having become incapable of being satisfied prior to the Underwriting Settlement Date.

2.2 Best endeavours

- (a) The Company must use its best endeavours to ensure or procure that the conditions in **clause 2.1** are satisfied.
- (b) The conditions in **clause 2.1** are for the benefit of the Underwriter only. The Underwriter may waive any or all of the conditions in **clause 2.1** by giving notice to the Company to that effect.
- (c) The Company must provide to the Underwriter such documents and opinions as the Underwriter may reasonably require in relation to the satisfaction of any of the conditions in **clause 2.1**.

2.3 Conditions not satisfied

- (a) The Company must promptly notify the Underwriter if it becomes aware that any condition in **clause 2.1** has failed to be satisfied or is not reasonably capable of being satisfied by the relevant deadline.
- (b) If any of the conditions in **clause 2.1** are not satisfied by their respective deadlines or waived by the Underwriter, the Underwriter (in its absolute and unfettered discretion) may terminate this document (without Loss or any liability to it) by notice in writing to the Company in which case the Underwriter will have no obligation whatsoever to subscribe for Rights Shares under the Entitlement Offer to the extent any such obligations remain outstanding at that time, other than with respect to Rights Shares forming part of the Castlelake Rights Entitlement Shortfall.

3 Appointment of Underwriter

- (a) The Company acknowledges that:
 - (i) in view of the Company's current financial position:
 - (A) the Company requires certainty that it will receive the Rights Proceeds in accordance with the Timetable; and
 - (B) the Company has requested the Underwriter to underwrite the Entitlement Offer, so as to allow the Company to market the Underwriter's participation in the Entitlement Offer and assist in increasing the level of participation by other Shareholders in the Entitlement Offer; and
 - (ii) Castlelake III L.P. is unable or unwilling to take up its Entitlements having regard to the Timetable and that such Entitlements will form part of the Shortfall Shares.
- (b) The Company appoints the Underwriter, and the Underwriter accepts its appointment, to underwrite the subscription of the Underwritten Shares under the Entitlement Offer on the terms and conditions of this document.
- (c) Unless otherwise agreed between the Company and the Underwriter, the Company must allocate Rights Shares according to the following priority:
 - (i) in the first instance, to each Shareholder who has applied under a Valid Application for Rights Shares pursuant to their Entitlement;
 - (ii) in the second instance, to the Underwriter in respect of the Castlelake Rights Entitlement Shortfall and to Greenstone and any Greenstone Sub-Underwriter in respect of the Greenstone Rights Entitlement Shortfall;
 - (iii) in the third instance, to each Shareholder who has applied for Rights Shares under a Valid Application in excess of their

Entitlements (with any scale back required to occur in accordance with the terms and conditions contained in the Prospectus);

- (iv) in the fourth instance, to any non-Shareholder investor who has applied for Shortfall Shares under a Shortfall Valid Application (with any scale back required to occur in accordance with the terms and conditions contained in the Prospectus); and
- (v) in the fifth instance and only to the extent that there remains any Shortfall Shares after the allocation of Rights Shares (including any Shortfall Shares) in accordance with paragraphs (i), (ii), (iii) and (iv) above, to the Underwriter and Greenstone pro rata in accordance with the following proportions:

(A) the Underwriter	31.9%
(B) Greenstone	68.1%

4 Conduct of Entitlement Offer

4.1 Conduct of Entitlement Offer

The Company must:

- (a) **(Timetable)** make and conduct the Entitlement Offer in accordance with the Timetable;
- (b) **(complying Prospectus)** ensure that the Prospectus complies in all respects with the Corporations Act, all relevant ASIC legislative instruments, policies and requirements, the Listing Rules and all relevant ASX policies and requirements;
- (c) **(lodge and dispatch Prospectus)** lodge the Prospectus with ASIC by the Lodgement Date and dispatch the Prospectus by the Retail Opening Date;
- (d) **(Certificates)** deliver to the Underwriter Certificates in accordance with, and by the dates and times specified in, the Timetable;
- (e) **(complying offer)** ensure that the Entitlement Offer and the issue of Rights Shares offered pursuant to the Entitlement Offer takes place in compliance with the terms of the Prospectus, the Corporations Act, the Listing Rules, any Takeovers Panel guidance and any other applicable law or regulation and any modification, exemption, declaration, waiver, direction or ruling by ASIC or ASX and complies with the regulatory requirements of the Commonwealth of Australia and all States and Territories of Australia and the laws and regulatory requirements in respect of any country in which the Prospectus is to be issued;
- (f) **(obtain Underwriter's approval)** not without the prior written consent of the Underwriter (such consent not to be unreasonably withheld) make any announcement concerning the Entitlement Offer, unless the Directors reasonably believe that an announcement is required

immediately in order for the Company to comply with its continuous disclosure requirements under the Corporations Act and the Listing Rules in which case it may make the announcement provided it has used its best endeavours to first consult with the Underwriter in relation to the form and content of the proposed announcement.

4.2 Official Quotation

The Company must:

- (a) **(ASX approval)** in accordance with the Timetable and in any event within the time specified under the Corporations Act, apply for permission for all of the Rights Shares to be listed for quotation on the Official List; and
- (b) **(quotation)** do everything reasonably necessary or desirable, including the execution of documents, to ensure that ASX grants Official Quotation to the Rights Shares so as to ensure that the Rights Shares are able to be traded on ASX on a normal settlement basis in accordance with the Timetable.

4.3 Support, access and documents

- (a) The Company will procure that the Registry and any securities analytics firm engaged by either of them provide to the Underwriter such information as is reasonably requested by the Underwriter in connection with the progress of the Entitlement Offer.
- (b) The Company must keep the Underwriter promptly and fully informed of all strategies, developments and discussions relevant to the Entitlement Offer and the Prospectus, and all material strategies and developments relevant to the Company that a reasonable investor would consider material to a decision to invest in the Rights Shares, and ensure that no initiative relevant to the Entitlement Offer or the Prospectus is undertaken without the prior consultation of the Underwriter.

4.4 Applications under Entitlement Offer

- (a) The Company must:
 - (i) accept all Valid Applications for Rights Shares;
 - (ii) promptly allot and issue, or procure the allotment and issue of, the Rights Shares in accordance with the Valid Applications and the Timetable;
 - (iii) complete the allotment of Rights Shares and the despatch or procure the dispatch of holding statements for the Rights Shares in accordance with the Timetable, the Constitution, the Listing Rules, the Corporations Act and any other Applicable Law; and
 - (iv) execute and perform all documents and things as may be necessary to ensure Official Quotation of the Rights Shares is granted by ASX and send to ASIC and ASX within the required

times the details of allotments and other information required by the Listing Rules and the Corporations Act.

- (b) All Valid Applications received by the Company, from all sources, will be deemed to have been accepted in full by the Company and will go in relief of the obligations (if any) of the Underwriter under this document.
- (c) It is the sole responsibility of the Company to obtain any Authorisation (including from ASX) which is required for the allotment of any of the Rights Shares under any Valid Application, whether the Valid Application is lodged by the Underwriter or not.
- (d) The Company must ensure that the Registry:
 - (i) is instructed and enabled to receive Applications and application monies for Rights Shares from Shareholders;
 - (ii) credits the Designated Bank Account on a daily basis during the Entitlement Offer with the application monies received, in accordance with any requirements of the Corporations Act; and
 - (iii) keeps adequate records of all Applications and application monies received (regardless of whether they are Valid Applications) during the Entitlement Offer period.
- (e) From the Business Day after the Institutional Opening Date to the Business Day following the Retail Closing Date, upon request by the Underwriter, the Company must give (or procure to be given):
 - (i) a computerised list to the Underwriter of the Valid Applications received by the Company; and
 - (ii) such information that the Underwriter may request in relation to the Entitlement Offer or the Underwriter's risks, liabilities or duties in respect of the Entitlement Offer or this document.
- (f) On the Business Day after the Retail Closing Date, the Company must:
 - (i) provide a computerised list of Valid Acceptances to the Underwriter; and
 - (ii) inform the Underwriter of the number of Applications received by the Company or the Registry which are not Valid Applications and the grounds on which the Company believes they are not valid and permit the Underwriter to review those applications. The Underwriter may re-lodge those applications which are or have become Valid Applications and the Company must accept those applications as Valid Applications.
- (g) In respect of any applications referred to in **clause 4.4(f)(ii)** which are not valid only because the application money has been paid by cheque which has not yet cleared, use reasonable efforts to maximise the clearance of such cheques by 9.00am on the second Business Day after the Retail Closing Date, and include the Rights Shares the subject of

those applications in the Shortfall Shares only if those applications have not become Valid Applications after so doing.

4.5 Shortfall Applications

- (a) On the second Business Day after the Retail Closing Date, the Company must:
 - (i) provide a computerised list of Shortfall Valid Acceptances to the Underwriter; and
 - (ii) inform the Underwriter of the number of Shortfall Applications received by the Company or the Registry which are not Shortfall Valid Applications and the grounds on which the Company believes they are not valid and permit the Underwriter to review those applications. The Underwriter may re-lodge those applications which are or have become Shortfall Valid Applications and the Company must accept those applications as Shortfall Valid Applications.
- (b) In respect of any applications referred to in **clause 4.5(a)(ii)** which are not valid only because the application money has been paid by cheque which has not yet cleared, use reasonable efforts to maximise the clearance of such cheques by 3.00pm on the second Business Day after the Retail Closing Date, and include the Shortfall Shares the subject of those applications in the Underwriter's Shortfall Notice only if those applications have not become Shortfall Valid Applications after so doing.

4.6 Prompt banking of cheques and retention of moneys

- (a) The Company undertakes that it will procure that all cheques accompanying Applications from Retail Shareholders are promptly banked for collection in the Designated Bank Account.
- (b) The Company must arrange for special clearance of cheques for amounts in excess of \$50,000 in respect of Applications received on or after two Business Days prior to the Retail Closing Date.
- (c) If the Company elects to issue Rights Shares pursuant to an Application before clearance of the cheque for the subscription moneys, the Underwriter is not liable for the dishonour of the cheque and the issue will be treated as valid for the purposes of determining, and will go in relief of, the Underwriter's obligations under this document.
- (d) The Company undertakes to the Underwriter that it will retain all subscription moneys received from Retail Shareholders in trust in the Designated Bank Account for the relevant applicants for Rights Shares in accordance with section 722 of the Corporations Act, and will not permit any subscription moneys of an applicant to be withdrawn from the Designated Bank Account or committed other than immediately after or simultaneously with settlement of the Retail Entitlement Offer.
- (e) The Company will maintain (and permit the Underwriter to inspect at any reasonable time) accurate records of the receipt of Applications, the

banking of subscription moneys, the processing of Applications and the despatch of holding certificates for the Rights Shares.

4.7 Adjustment

- (a) The Company will, to the extent reasonably required by the Underwriter following consultation with the Company, take all reasonable actions to adjust:
 - (i) the number of Rights Shares allocated to any Shareholder; or
 - (ii) Entitlements treated as not exercised or accepted by any Shareholder,if at any stage it appears that the allocation to that Shareholder was on incorrect information:
 - (iii) regarding the number of Shares held by (or by nominees for) that Shareholder, on the Record Date; or
 - (iv) as to the Shareholder's response to the Entitlement Offer.
- (b) Following any such adjustment, the number of Rights Shares allocated to, or treated as not exercised or accepted by, that Shareholder, will be taken to be the adjusted number for the purposes of this document.
- (c) If appropriate adjustments are unable to be made under **clause 4.7(a)**, or if reconciliation issues or other errors arise or occur, the Underwriter may on behalf of the Company place to Shareholders up to such number of Shares as is permitted by the Listing Rules and the Constitution as are necessary to ensure that those Shareholders (or beneficial owners of Shares) receive their pro rata Entitlements under the Entitlement Offer.

5 Shortfall

5.1 Castlake Rights Entitlement Shortfall - Settlement

By no later than 2.00pm on the day immediately following the Retail Closing Date, the Company must deliver to the Underwriter a Castlake Rights Shortfall Notice, which notice must set out the number of Shortfall Shares the subject of the Castlake Rights Entitlement Shortfall.

5.2 Subscription for Castlake Rights Entitlement Shortfall

Provided that:

- (a) Orion has subscribed for not less than A\$5,974,842 worth of Rights Shares pursuant to its Entitlement under the Entitlement Offer pursuant to its Commitment Letter;
- (b) the Greenstone Parties contemporaneously subscribe for, or procure subscriptions for, Rights Shares the subject of any Greenstone Rights Entitlement Shortfall at the Retail Settlement Date in accordance with the Greenstone Underwriting Agreement,

then the Underwriter must subscribe and pay for (or procure subscriptions and payment for) the Shortfall Shares the subject of the Castlake Rights Entitlement Shortfall under Applications by 5.00pm on the Retail Settlement Date.

5.3 Settlement Certificates

On the Shortfall Notification Date, the Company must deliver to the Underwriter the Underwriter's Shortfall Notice, which notice must set out, if applicable:

- (a) the balance of any Shortfall Shares remaining after the allocation of Shortfall Shares in accordance with **clauses 3(c)(iii) and 3(c)(iv)**; and
- (b) the relevant number of Shortfall Shares to be allocated to the Underwriter in accordance with **clause 3(c)(v) (the Castlake Allocated Shortfall Shares)**.

5.4 Subscription for Shortfall Shares

Provided that:

- (a) the conditions in **clause 2.1** have been satisfied or waived in accordance with **clause 2.2**;
- (b) the Underwriter has received duly executed Certificates from the Company at the times specified in the Timetable;
- (c) the Company has issued the Institutional Entitlement Shares on the Institutional Settlement Date and the Retail Entitlement Shares on the Retail Settlement Date (excluding any Rights Shares that are to be subscribed for by the Greenstone Parties and the Underwriter on the Underwriting Settlement Date);
- (d) the Company has complied with its obligations under this document and has not breached any of the warranties or representations made by it in this document (other than a breach which is capable of remedy and which is remedied by the Company to the Underwriter's satisfaction promptly following request by the Underwriter);
- (e) this document has not been terminated by the Underwriter under **clause 11**;
- (f) Official Quotation has been duly granted for all the Rights Shares and remains in full force and effect and no further conditions have been attached to the Official Quotation which in the opinion of the Underwriter acting reasonably will have, or could be expected to have, a material adverse effect on the outcome of the Entitlement Offer, the market price of Rights Shares or the Shares or the ability of the Underwriter to market, promote or settle the Entitlement Offer (including matters likely to have an effect on a decision of an investor to invest in Rights Shares or Shares) or on the subsequent market for Underwritten Shares, and which have not been satisfied or fulfilled to the satisfaction of the Underwriter; and

- (g) the Company has validly given an Underwriter's Shortfall Notice in accordance with **clause 5.3** and the Underwriter has not notified the Company in writing prior to 5.00pm on the Underwriting Settlement Date that in the reasonable opinion of the Underwriter the Underwriter's Shortfall Notice is incorrect; and
- (h) Greenstone contemporaneously subscribes for, or procures subscriptions for, Rights Shares (for which Valid Applications have not been received prior to the Retail Closing Date) in accordance with its obligations as underwriter under the Greenstone Underwriting Agreement (including the subscription of any Rights Shares the subject of any Greenstone Rights Entitlement Shortfall at the Retail Settlement Date and the subscription of any additional Rights Shares to be allocated to Greenstone in accordance with **clause 3(c)(v)** on the Underwriting Settlement Date),

then (but not otherwise) the Underwriter must:

- (i) subscribe for or procure subscriptions for the Castlelake Allocated Shortfall Shares (if any) under Applications; and
- (j) pay, or must procure payment of, to the Company:
 - (i) the Rights Price for each such Castlelake Allocated Shortfall Share (if required); less
 - (ii) any amounts which the Underwriter is entitled to set off under **clause 9.3**,

by 5.00pm on the Underwriting Settlement Date.

5.5 Issue and allotment of Shortfall Shares

On or before 10.00am on the Underwriting Settlement Date, the Company must resolve to issue the Castlelake Allocated Shortfall Shares (if any) subject to the receipt of the subscriptions and the payments contemplated by **clauses 5.4(i)** and **5.4(j)**.

5.6 Liability extinguished

Upon **clause 5.4** being complied with by the Underwriter, the liability of the Underwriter under this document with respect to the underwriting of the Entitlement Offer ceases and is extinguished.

6 Due Diligence Investigations

6.1 Underwriter not responsible

Notwithstanding anything express or implied by this document or by the manner in which the Prospectus or any Offer Materials have been prepared, the Company acknowledges and agrees that, other than for potential statutory liability (including section 729 of the Corporations Act), it, and not the Underwriter, is solely responsible and liable for the form, contents and correctness of the Prospectus and any Offer Materials, and all advertising,

publicity, announcements, statements and reports made by it in relation to the Entitlement Offer.

6.2 Company's responsibilities

Until Completion, the Company must:

- (a) make such enquiries as are prudent and reasonable; and
- (b) exercise due diligence,

to ensure that:

- (c) there are no omissions from the Offer Materials (including the Prospectus) of material required to be included by Applicable Laws;
- (d) the content, issue and distribution of any Offer Materials does not constitute conduct by any person which is misleading or deceptive or likely to mislead or deceive (whether by reason of statements included in, or omissions from, those Offer Materials or otherwise) and that those Offer Materials do not become false or misleading in any material respect (including by omission); and
- (e) the Company becomes aware of any information or circumstances which may render the Offer Materials misleading or deceptive or need to be disclosed to ASX or incorporated into any Supplementary Prospectus as soon as such information or circumstances arise.

6.3 Due Diligence Committee

The Company must:

- (a) establish a Due Diligence Committee to assist with complying with its obligations under **clause 6.2**; and
- (b) cause the Due Diligence Program to be diligently and properly implemented until allotment of all of the securities offered under the Prospectus.

6.4 Due diligence materials

Without limiting **clause 6.5(a)**, the Company must give the Underwriter full and free access to, and on request, copies of all documents relevant to the Due Diligence Investigations or the preparation of the Prospectus or any other Offer Materials, including the Due Diligence Committee Report, on receipt of reasonable notice from the Underwriter, and must maintain those records for at least seven years from Completion for that purpose.

6.5 Access to premises, books and records

- (a) The Company agrees to allow the Underwriter and its directors, officers, employees and advisers reasonable access to the premises, books and records of the Group at all reasonable times:
 - (i) until allotment of all of the securities offered under the Prospectus;or

- (ii) during any regulatory enquiry, litigation or other proceedings in relation to the Entitlement Offer,

to enable the Underwriter to obtain any information about the Group or any matters which the Underwriter reasonably requires in relation to the Entitlement Offer or in connection with any matter referred to in subparagraph (ii) above. The Company must provide any information, assistance and facilities which the Underwriter reasonably requires for those purposes.

- (b) If the provision of any access, information, assistance or facilities contemplated by **clause 6.5(a)** would, in the reasonable opinion of legal advisers to the Company, lead to a loss of legal professional privilege, the Company must notify the Underwriter of that fact and take reasonable steps to provide any access, information, assistance or facilities in a manner which will not result in the loss of any legal professional privilege.

6.6 Supplementary disclosure

- (a) If at any time after the Lodgement Date and before the allotment of all of the securities offered under the Prospectus, the Company forms the view or becomes aware:
 - (i) there is a misleading or deceptive statement in the Prospectus or any Supplementary Prospectus;
 - (ii) there is an omission from the Prospectus or any Supplementary Prospectus of material required by the Corporations Act to be included; or
 - (iii) there is a new circumstance that:
 - (A) has arisen since the Prospectus or any Supplementary Prospectus was lodged; and
 - (B) would have been required by the Corporations Act to be included in the Prospectus or Supplementary Prospectus if it had arisen before the relevant document was lodged,

the Company must immediately notify the Underwriter of that matter, statement, omission or circumstance and, if required by the Underwriter (acting reasonably) or the Corporations Act, lodge with ASIC a Supplementary Prospectus in a form approved by the Underwriter (such approval not to be unreasonably withheld or delayed) in respect of that matter, statement, omission or circumstance within one Business Day and provide such documents and other information relied on by the Company to verify the statements made in the Supplementary Prospectus as the Underwriter requires (in its absolute discretion).

- (b) Following the lodgement of any Supplementary Prospectus, the Company must immediately take all action in respect of the Supplementary Prospectus required by the Underwriter (acting

reasonably) or the Corporations Act, including despatching copies of the Supplementary Prospectus to all recipients of the Prospectus within three Business Days of its lodgement.

- (c) Any approval given by the Underwriter under this clause is provided without prejudice to the rights, if any, of the Underwriter under **clause 11**.

6.7 No other Supplementary Prospectus

Other than pursuant to **clause 6.6**, the Company must not lodge or reissue or publish a Supplementary Prospectus without the prior written consent of the Underwriter (such consent is not to be unreasonably withheld or delayed and is without prejudice to any rights under **clause 11.1**).

7 Representations and warranties

7.1 Representations and warranties by the Company

The Company represents and warrants to the Underwriter that each of the statements in **schedule 1** is at the date of this document, and will be at all times up until Completion occurs, true and correct and not misleading by reference to the facts and circumstances existing at such times.

7.2 Representations and warranties by the Underwriter

The Underwriter represents and warrants to the Company that each of the statements in **schedule 2** is at the date of this document, and will be at all times until the earlier of Completion and the cessation of its obligations under this document, true and correct and not misleading by reference to the facts and circumstances existing at such times.

7.3 Independent construction

Each of the paragraphs in **schedules 1** and **2** will be construed independently and no paragraph or sub-paragraph will be limited by implications arising from any other paragraph or sub-paragraph.

7.4 Reliance

- (a) The Company acknowledges that the Underwriter is entering into this document in reliance on the representations and warranties referred to in **clause 7.1**.
- (b) The Underwriter acknowledges that the Company is entering into this document in reliance on the representations and warranties referred to in **clause 7.2**.

8 Undertakings

8.1 Undertakings by the Company

The Company must:

- (a) **(breach)** immediately notify the Underwriter upon becoming aware of:

- (i) non-satisfaction of any of the conditions in **clauses 2.1 or 5.4** by their respective deadlines;
 - (ii) any fact, matter or development which could be expected in the opinion of the Company acting reasonably to contribute to:
 - (A) the non-satisfaction of any of the conditions in **clauses 2.1 or 5.4** by their respective deadlines;
 - (B) any Shareholder who has given a contractual commitment to the Company to subscribe for Rights Shares under the Entitlement Offer (including pursuant to a Commitment Letter) not complying with that commitment; or
 - (C) any underwriter not complying with their obligations under any underwriting agreement in relation to Entitlement Offer;
 - (iii) any breach of any warranty or undertaking given by it under this document; or
 - (iv) the occurrence of any Termination Event;
- (b) **(compliance)** not commit, be involved in or acquiesce in any activity which materially breaches the following:
 - (i) the Corporations Act;
 - (ii) any other applicable laws;
 - (iii) the Listing Rules;
 - (iv) its Constitution; or
 - (v) any legally binding requirement of ASIC or ASX;
- (c) **(withdrawal)** not withdraw the Entitlement Offer after the Lodgement Date without the Underwriter's prior written consent;
- (d) **(moratorium on issues)** ensure that it and all of its Subsidiaries do not, without the prior written consent of the Underwriter (which may be withheld in its absolute discretion), until 180 days after Completion:
 - (i) vary its capital structure;
 - (ii) make, agree to make or announce any issues of equity securities (as defined in the Listing Rules) or any securities convertible into or exchangeable for any such equity securities; or
 - (iii) make, agree to make or announce any buyback of securities; other than an issue of securities:
 - (iv) being the Rights Shares under the Entitlement Offer (including pursuant to any underwriting of the Entitlement Offer);
 - (v) being the convertible securities and the Shares issued upon the exercise of any conversion rights under the Convertible Note Agreements;

- (vi) being the Shares to be issued under the Sedgman Settlement Deed;
- (vii) in accordance with an agreement existing at the date of the Prospectus and the terms of the securities have been fully and fairly disclosed in writing to the Underwriter;
- (viii) as a result of the conversion or exercise of:
 - (A) any securities issued under and in accordance with any employee or officer incentive plan or scheme;
 - (B) any security issued with the Underwriter's prior written consent; or
 - (C) any other securities which are on issue at the date of this document;
- (e) **(moratorium on certain other actions)** ensure that it and all of its Subsidiaries until 180 days after Completion:
 - (i) **(carry on business)** carry on its business in the ordinary course of ordinary business;
 - (ii) **(no changes)** do not change the nature of its business (other than as expressly contemplated by the Prospectus);
 - (iii) **(no acquisitions or disposals)** do not acquire or dispose of (or enter any agreement to acquire or dispose of) the whole or any substantial assets or business without the prior written consent of the Underwriter;
 - (iv) **(debt facilities)** do not alter, agree to issue any debt security or amend its existing debt facilities or enter in to any new debt facilities other than as disclosed in the Prospectus (including pursuant to the Debt Restructure Documents) or with the prior written consent of the Underwriter;
 - (v) **(encumbrances)** do not charge or agree to charge the whole or a substantial part of its business or property other than in connection with the Debt Restructure Documents or as otherwise disclosed in the Prospectus;
 - (vi) **(financial assistance)** pass or take any steps to pass a resolution under section 260A of the Corporations Act; and
 - (vii) **(constitution)** do not vary any term of the Constitution or its constituent documents without the prior written consent of the Underwriter to the terms of the variation;
- (f) **(directors to maintain interests)** use its reasonable endeavours to ensure that no current or proposed director of the Company (other than any director nominated by Greenstone, the Castlake Parties or Orion) or any of its Subsidiaries or any Associates or Affiliates of those current or proposed directors will until 180 days after Completion sell, dispose or

transfer any securities in the Company held by them as at the date of the Prospectus or otherwise acquired under the Entitlement Offer;

- (g) **(confidential)** except as disclosed in the Offer Materials (including the Prospectus), the Public Information and as otherwise contemplated by **clause 16.19**, keep the terms of this document confidential except as required by law;
- (h) **(Offer Materials)** obtain the prior written consent of the Underwriter to the form and content of, and any amendments to, any Offer Materials (such consent not to be unreasonably withheld or delayed). For the avoidance of doubt, this **clause 8.1** does not prejudice the Underwriter's rights under **clause 11**;
- (i) **(announcements)** not make any statement or announcement concerning the Entitlement Offer, its progress, the results of the Entitlement Offer or the business of the Company without the prior written consent of the Underwriter (such consent not to be unreasonably withheld or delayed). If such statement or announcement is required by law or the Listing Rules, the Company must:
 - (i) use its reasonable endeavours (having regard to its obligations under such law or Listing Rules) to provide the Underwriter with a copy of the statement or announcement before it is made; and
 - (ii) consult with the Underwriter as to the form, content and timing of that statement or announcement prior to making that statement or announcement;
- (j) **(keep informed)** prior to the Retail Settlement Date, keep the Underwriter promptly and reasonably informed of all strategies, developments and discussions relevant to the Entitlement Offer, including, to the extent permitted by law, any discussions with or correspondence or materials received from any Government Agency in relation to the Entitlement Offer or from any other person in relation to any actual, threatened or potential application to or correspondence with any Government Agency in connection with the Entitlement Offer;
- (k) **(proceedings)** give notice to the Underwriter as soon as practicable and in any event no later than one Business Day after becoming aware of any of the following:
 - (i) an application being made by ASIC for an order under Part 9.5 of the Corporations Act in relation to the Entitlement Offer or any of the Offer Materials;
 - (ii) ASIC commencing, or giving notice of an intention to hold, any investigation or hearing under Part 3 of the ASIC Act in relation to the Entitlement Offer or any of the Offer Materials or prosecuting or commencing proceedings against or giving notice of an intention to prosecute or commence proceedings against the Company; or

- (iii) any application being made to the Takeovers Panel in relation to the Entitlement Offer (including any underwriting of the Entitlement Offer).

8.2 Undertaking by the Underwriter

The Underwriter must immediately notify the Company upon becoming aware of any breach of any warranty given by the Underwriter under this document.

9 Fees and expenses

9.1 Underwriting fees

- (a) The Company must pay the Underwriter in immediately available funds a fee of \$138,543 (equal to 4% of that component of the Underwritten Amount that excludes the component that relates to the underwriting of the Entitlements of the Castllake Parties) on the date that the Underwriter subscribes for or procure subscriptions for the Castllake Allocated Shortfall Shares (if any).
- (b) The Company's obligation to pay the fees under **clause 9.1(a)** (such obligation to be subject to the Underwriter's right of set-off under **clause 9.3**) is not affected by any delay in receipt by the Company of the settlement proceeds under **clause 5.4**, provided that by the time specified in those clauses the Underwriter has given valid payment instructions to its bank to effect the transfer of relevant funds.
- (c) If the Underwriter terminates its obligations under **clause 5.4** in accordance with **clause 11**, the Company will not be obliged to pay the Underwriter any fee required under this **clause 9.1**.

9.2 Other Costs

- (a) In addition to any fees referred to in **clause 9.1**, the Company must pay or procure the payment to the Underwriter (or as it directs) of:
 - (i) external legal expenses in connection with the Entitlement Offer (including any expenses incurred as a result of any review or other proceedings in relation to the Entitlement Offer or Offer Materials undertaken by ASX, ASIC, the Takeovers Panel or any other regulatory body), the Convertible Note Agreements or the Debt Restructure Documents, on a full indemnity basis;
 - (ii) any other out of pocket expenses that the Underwriter incurs in respect of the Entitlement Offer;
 - (iii) any stamp duty, transfer taxes, withholding taxes or similar taxes (but excluding any income tax of the Underwriter) in respect of this document or the Entitlement Offer and any other costs in respect of the Entitlement Offer and the allocation and issue of the Rights Shares;
 - (iv) any other expenses approved by the Company,

incurred by the Underwriter or any of its Associates or Affiliates in relation to the Entitlement Offer.

- (b) The amounts referred to in this **clause 9.2** must be paid to the Underwriter (or as it directs) as soon as reasonably practicable (and in any event within five Business Days) after a request for payment or reimbursement is made by the Underwriter.
- (c) The obligations of the Company under this **clause 9.2** are unaffected by the withdrawal of the Entitlement Offer, completion or termination of this document or Termination by the Underwriter.
- (d) The Company is responsible for:
 - (i) payment of its own legal fees, accountants' costs and costs invoiced by other appointed advisers, including share register analytics which are required for the Entitlement Offer; and
 - (ii) listing application fees payable to ASX, DvP settlement fees and other fees in relation to the Entitlement Offer or Rights Shares that are payable to ASIC, ASX or any other Government Agency.

9.3 Set-off

The Underwriter may set-off all amounts payable to it by the Company under this **clause 9** against any payment obligation owed by the Underwriter to the Company in relation to the subscription of Shortfall Shares.

9.4 Default

All amounts payable by the Company under this document shall carry interest, both before and after judgment, at a rate of 10% per annum compounded daily in arrears, which interest commences to accrue on and from the Business Day after the date for payment of the amount under this document until payment is received in full. All invoices will be in Australian dollars, unless otherwise agreed between the Underwriter and the Company.

10 Discharge of Underwriter's obligations

All obligations of the Underwriter under this document are discharged when any of the following events occurs:

- (a) on the date on which all of the Rights Shares have been subscribed and paid for;
- (b) the Underwriter lodges or causes to be lodged with the Company, applications for Shortfall Shares accompanied by payment of the Rights Price in respect to those Applications, in accordance with **clause 5**;
- (c) on the date the Underwriter terminates its obligations this document under **clauses 2.3(b)** or **11**;
- (d) the Company does not give a Certificate or Underwriter's Shortfall Notice in accordance with the Timetable;

- (e) the Official Quotation in respect of the Rights Shares has not been granted either unconditionally, on customary conditions or otherwise on conditions satisfactory to the Underwriter (acting reasonably) by the Retail Issue Date; or
- (f) if Completion has not taken place within 15 Business Days after the Retail Closing Date.

11 Termination of Underwriter's obligations to subscribe for Castlelake Allocated Shortfall Shares

11.1 Rights to terminate – Castlelake Allocated Shortfall Shares

The Underwriter may, by notice given to the Company and without Cost or liability to the Underwriter, immediately terminate its obligations under **clause 5.4** (in which case **clause 5.4** will immediately cease to have any further force or effect) if any one or more of the Termination Events occurs or has occurred on or before Completion (or such other time as specified in such event) and:

- (a) **(unqualified)** that Termination Event is not marked with an '**'; or
- (b) **(qualified)** that Termination Event is marked with an '**' and in the reasonable opinion of the Underwriter the event:
 - (i) has had, or could be expected to have, individually or in aggregate a material adverse effect on the financial position or performance, shareholder's equity, profits, losses, results, condition, operations or prospects of the Company or a Subsidiary either individually or taken as a whole;
 - (ii) has had, or could be expected to have, individually or in aggregate a material adverse effect on the tax position of:
 - (A) the Company or its Subsidiaries either individually or taken as a whole; or
 - (B) an Australian resident shareholder of the Company; or
 - (iii) leads (or is, in the Underwriter's opinion, reasonably likely to lead) to:
 - (A) a material liability for the Underwriter (when assessed in the context of the fees payable to the Underwriter under this document); or
 - (B) the contravention, or involvement in a contravention of, or a liability under the Corporations Act or any other applicable law.

11.2 Independent construction

Each of the paragraphs and sub-paragraphs in **schedule 3** must be construed independently and no paragraph or sub-paragraph is to be limited by implications arising from any other paragraph or sub-paragraph.

11.3 Effect of termination by the Underwriter

- (a) Any rights or entitlements of the Underwriter and their Indemnified Parties accrued up to the date of termination (including under **clauses 9 and 12**) survive termination of this agreement.
- (b) Nothing in this **clause 11** prejudices or nullifies any claim for damages or other right which the Underwriter or any other Indemnified Party may have against the Company for or arising out of any breach of covenant, warranty or representation or failure to observe or perform an obligation under this document.
- (c) The Underwriter may waive any of its rights under **clause 11.1** but any waiver will only affect the Underwriter's rights in relation to the particular event expressly referred to in the notice.
- (d) Without affecting its rights under **clause 11.1**, the Underwriter may require the Company to use its best endeavours to remedy the circumstances giving rise to the relevant Termination Event (if capable of remedy) to the reasonable satisfaction of the Underwriter.
- (e) If the Underwriter elects to terminate its obligations under **clause 5.4** pursuant to this **clause 11**, it and their Affiliates will have no obligations to subscribe for Rights Shares (other than any Rights Shares the subject of the Castlake Rights Entitlement Shortfall pursuant to its obligations under **clause 5.2**) under the Entitlement Offer to the extent any such obligations remain outstanding at that time.

12 Indemnities

12.1 Indemnity

Subject to **clause 12.2**, and to the maximum extent permitted by law, the Company unconditionally and irrevocably undertakes to indemnify and keep indemnified each Indemnified Party from and against, and to hold them harmless from and against, all Losses (including loss of profit or losses or costs incurred in preparation for or involvement in or otherwise in connection with any prosecution, investigation, enquiry or hearing by the ASIC, ASX, Takeovers Panel or any government agency or authority) suffered or incurred, directly or indirectly, in connection with the Entitlement Offer, the Offer Materials or the appointment of the Underwriter under this document as a result of:

- (a) **(Offer Materials)** the Offer Materials including any false or misleading or deceptive statement (including by omission) or omitting of information required to be contained in the Offer Materials; or
- (b) **(breach)** a breach or suspected breach by the Company of any applicable laws in respect of the Entitlement Offer or the Corporations Act, the Listing Rules or its obligations under this document or any other binding obligations in respect of the Offer Materials or the Entitlement

Offer, including any of the representations and warranties by the Company contained in this document not being true and correct.

Each of the paragraphs of this **clause 12.1** will be construed independently and no paragraph will be limited by implications arising from any other paragraph.

12.2 Exception

The obligations of the Company under **clause 12.1** do not apply in relation to an Indemnified Party if and to the extent that any Loss suffered by that Indemnified Party is or results from:

- (a) any penalty or fine which an Indemnified Party is required to pay for any contravention by it of the Corporations Act not resulting from or attributable to any of the matters described in **clause 12.1**;
- (b) an Indemnified Party's wilful default, fraud or recklessness or a material breach by the Underwriter of an obligation on it under this document;
- (c) any amount in respect of which the indemnity in **clause 12.1** would be illegal, void or unenforceable under any applicable laws; or
- (d) any subscription by an Underwriter to the Company under **clause 5.4(j)**.

If it is alleged that any amount to which an indemnity under **clause 12.1** applies results from the wilful default, fraud or recklessness or a breach by the Underwriter of an obligation on it under this document, the Company agrees to pay or reimburse the amount in accordance with this **clause 12** until such wilful default, fraud or recklessness or breach of contract is established by a Court of final jurisdiction, at which time such amount must be repaid to the Company by the Underwriter.

12.3 Notice of potential action

- (a) If any of the Indemnified Parties receives notice of any act, matter or thing which in the reasonable opinion of the Indemnified Party will give rise to an action or proceeding against any of them in relation to which the Company would be required to indemnify any of them under **clause 12.1**, then the relevant person must promptly notify the Company giving reasonable details so far as is practicable (and in any event within ten Business Days of it forming that opinion).
- (b) Failure on the part of an Indemnified Party to notify the Company in accordance with **clause 12.3(a)** will not release the Company from any obligation or liability which it may have pursuant to this document.

12.4 No settlement without consent

The Company must not (without the prior written consent of the Underwriter) settle, compromise or consent to the entry of any judgement in relation to any indemnified Claim or instruct the Indemnified Party to do so and must not otherwise make any admission of liability or compromise whatsoever in relation to any indemnified Claim (without the prior written consent of the Underwriter) unless that settlement includes an unconditional releasing of the Indemnified

Parties from, and holding of them harmless against, all liability arising out of the proceedings).

12.5 Reimbursement by Company

- (a) Without limiting **clause 12.1**, the Company agrees to reimburse the Underwriter and each Indemnified Party for all Costs (including legal expenses on an indemnity basis and disbursements) as they are incurred by the Underwriter and each Indemnified Party, and pay the Underwriter and each Indemnified Party at their standard professional charge out rate for all time spent, in connection with investigating, preparing or defending any Claim or potential Claim whatsoever relating to or arising out of or in connection with the Prospectus, the Entitlement Offer, or the issue of the Rights Shares, or in connection with preparing for or being involved in or otherwise relating to any investigations, enquiries, hearings, prosecutions, or legal proceedings by the ASIC, ASX, Takeovers Panel or any governmental authority or agency in respect of or arising out of the Prospectus or the Entitlement Offer.
- (b) Without limiting the foregoing, **clause 12.5(a)** extends to all expenses relating to any time spent in court as a witness, responding to approaches by directors of the Company or the ASIC or otherwise for the purpose of defending proceedings brought or which may be brought against (or may otherwise involve) the Underwriter or an Indemnified Party.
- (c) **Clauses 12.5(a)** and **(b)** do not apply to any costs or expenses incurred by an Indemnified Party where it is established by a Court of final jurisdiction that those costs or expenses result from the Underwriter's wilful default, fraud or recklessness or a material breach by the Underwriter of an obligation on it under this document.

12.6 Benefit of indemnity

The Company acknowledges and agrees that the indemnity under **clause 12.1** is for the benefit of each of the Indemnified Parties, whether or not a party to this document, and may be enforced by the Underwriter for itself and on behalf of any Indemnified Parties, subject to the limitations and conditions stipulated in this **clause 12**.

12.7 Underwriter services

The Company acknowledges and agrees that the services under this document are provided by the Underwriter and any recourse of the Company is to the Underwriter and not to any Affiliate of the Underwriter, or the Underwriter's or its Affiliate's officers or employees involved in the Entitlement Offer.

12.8 Contribution

- (a) If for any reason the indemnities contained in this **clause 12** are unavailable or insufficient to hold harmless any Indemnified Party against any Loss against which the Indemnified Party is stated to be indemnified (other than as expressly excluded under **clause 12.2**), then the

Company agrees to contribute to that Loss such that the respective proportional contributions of the Company and the Indemnified Party or the Indemnified Parties in relation to the relevant Loss will be as agreed, or failing agreement as determined by a court of competent jurisdiction, having regard to the participation in, instigation of or other involvement of the Company and the Indemnified Party or the Indemnified Parties in the act complained of, having particular regard to relative intent, knowledge, access to information and opportunity to correct any untrue statement or omission.

- (b) The Company agrees with each of the Indemnified Parties that in no event will the Underwriter and the Indemnified Parties be required to contribute under **clause 12.8** to any Loss in an aggregate amount that exceeds the aggregate of the commission and fees paid to the Underwriter under this document.

12.9 Preservation of rights

Subject to **clause 12.2**, the rights of an Indemnified Party under this document will not in any way be prejudiced or affected by:

- (a) any involvement by that party in the preparation of the Offer Materials;
- (b) any knowledge (actual or constructive) of any failure by the Company to perform or observe any obligations under this document after the date of this document;
- (c) any termination by the Underwriter of their obligations under this document;
- (d) any inaccuracy in or breach or default of any representation, warranty or undertaking made or deemed to have been made by the Company under this document; or
- (e) any other fact, matter or thing which might otherwise constitute a waiver of or in any way prejudice or affect any right of an Indemnified Party other than a waiver in writing by the relevant Indemnified Party.

12.10 Release

The Company agrees that:

- (a) no Claim may be made by it or a Group Member against an Indemnified Party and the Company unconditionally and irrevocably releases and discharges each Indemnified Party from any Claim that may be made by it or by a Group Member, to recover from that Indemnified Party any Losses suffered or incurred by the Company or by a Group Member arising directly or indirectly as a result of the participation of that Indemnified Party in preparing the Offer Materials, or in relation to the Entitlement Offer, except in relation to matters where those Losses have resulted from:

- (i) an Indemnified Party's wilful default, fraud or recklessness or material breach by an Underwriter of an obligation on it under this document;
 - (ii) any penalty or fine which an Indemnified Party is required to pay for a contravention by it of the Corporations Act; or
 - (iii) any amount in respect of which this indemnity would be illegal, void or unenforceable under any applicable laws;
- (b) the Indemnified Party is not liable in any circumstance for any indirect or consequential loss or damage; and
- (c) in any event, no proceedings may be taken against any director, officer, employee, agent or advisor of the Underwriter or any of its Affiliates arising out of or in connection with the Offer Materials, Public Information or the Entitlement Offer.

13 GST

13.1 Construction

In this **clause 13**:

- (a) words and expressions which are not defined in this document but which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) **GST Law** has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999*; and
- (c) references to GST payable and input tax credit entitlement include GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.

13.2 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this document are exclusive of GST.

13.3 Payment of GST

If GST is payable on any supply made by a party (or any entity through which that party acts) (**Supplier**) under or in connection with this document, the recipient will pay to the Supplier an amount equal to the GST payable on the supply.

13.4 Timing of GST payment

The recipient will pay the amount referred to in **clause 13.3** in addition to and at the same time that the consideration for the supply is to be provided under this document.

13.5 Tax invoice

The Supplier must deliver a tax invoice or an adjustment note to the recipient before the Supplier is entitled to payment of an amount under **clause 13.3**.

The recipient can withhold payment of the amount until the Supplier provides a tax invoice or an adjustment note, as appropriate.

13.6 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a Supplier under this document, the amount payable by the recipient under **clause 13.3** will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

13.7 Reimbursements

Where a party is required under this document to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

13.8 No Merger

This **clause 13** does not merge in the completion or termination of this document or on the transfer of the property supplied under this document.

14 Notices

14.1 General

A notice, demand, certification, process or other communication relating to this document must be in writing in English and may be given by an agent of the sender.

14.2 How to give a communication

In addition to any other lawful means, a communication may be given by being:

- (a) personally delivered;
- (b) left at the party's current delivery address for notices;
- (c) sent to the party's current postal address for notices by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) emailed to the email address last notified by the party; or
- (e) sent by fax to the party's current fax number for notices.

14.3 Particulars for delivery of notices

- (a) The particulars for delivery of notices are initially:

Company

Delivery address: Suite 2, Level 8, 309 Kent Street, Sydney, NSW 2000
Postal address: Same as delivery address
Fax: Not applicable
Email: SSmith@HeronResources.com.au
Attention: Mr Simon Smith
Company Secretary

The Underwriter

Delivery address: 4600 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402
Postal address: Same as delivery address
Fax: Not applicable
Email: notices@castlelake.com
Attention: Middle Office

- (b) Each party may change its particulars for delivery of notices by notice to each other party.

14.4 Communications by post

Subject to **clause 14.7**, a communication is given if posted:

- (a) within Australia to an Australian postal address, three Business Days after posting; or
(b) outside of Australia to an Australian postal address or within Australia to an address outside of Australia, ten Business Days after posting.

14.5 Communications by email

Subject to **clause 14.7**, if a communication is emailed, a delivery confirmation report received by the senders, which records the time that the email was delivered to the addressee's last notified email address is prima facie evidence of its receipt by the addressee, unless the sender receives a delivery failure notification, indicating that the electronic mail has not been delivered to the addressee.

14.6 Communications by fax

Subject to **clause 14.7**, a communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

14.7 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

14.8 Process service

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 14** or in accordance with any applicable law.

15 Acknowledgments

15.1 Acknowledgments

The Company acknowledges that:

- (a) whilst the Underwriter will act as observer in relation to the Due Diligence Investigations, the Company will rely on its own expertise and on that of specialist legal, accounting and tax advisers in respect of that due diligence;
- (b) any advice, whether written or oral, given by the Underwriter to the Company or any communications between the Underwriter and the Company (including communications between their respective professional advisers) can only be used and relied on by the Company and may not be used or relied on by any third party and may not, except to the extent required by law, be disclosed to any third party without the prior written approval of the Underwriter (other than to the Company's professional advisers who may place no reliance on such advice);
- (c) the Underwriter is not obliged to disclose to the Company or utilise for the benefit of the Company, any non-public information in the Underwriter's possession or control;
- (d) no proceedings may be taken against any director, officer, employee or agent of the Underwriter or any of its Affiliates in respect of any claim that the Company may have against the Underwriter; and
- (e) it is contracting with the Underwriter on an arm's length basis to provide the services described in this document and the Underwriter has not and is not assuming any duties or obligations (fiduciary or otherwise) in respect of it other than those expressly set out in this document.

15.2 Agreements

- (a) The Company agrees that it is solely responsible for making its own independent judgements with respect to the Entitlement Offer.
- (b) The Company acknowledges and agrees that the Underwriter in providing services to the Company in connection with the Entitlement Offer, including in acting pursuant to the terms of this document, has

acted and is acting as independent contractor at arm's length to the Company and not as a fiduciary, financial adviser or agent.

- (c) The Company acknowledges and agrees that:
 - (i) it does not intend that the Underwriter act in any capacity other than independent contractor to the Company (including as a fiduciary, financial adviser or agent) or in any other position of higher trust; and
 - (ii) nothing in this document or the nature of the services whether before or after the date of this document creates a fiduciary or agency relationship between the Underwriter and the Company or its Shareholders, creditors, employees or any other party.
- (d) The Underwriter is not advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisers concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated by this document, and the Underwriter shall have no responsibility or liability to the Company with respect to such matters. Any review by the Underwriter of the Company, the transactions contemplated by this document or other matters relating to such transactions will be performed solely for the benefit of the Underwriter and not be on behalf of the Company.
- (e) The Company acknowledges that the Underwriter and its Affiliates and Associates (**Underwriter Group**) comprise various organisations that are from time to time involved in securities trading, asset management, project financing and other financial advisory related matters. In the ordinary course of these activities members of the Underwriter Group may at any time hold long or short positions, and may trade or otherwise effect transactions in debt or equity securities, hybrid or derivative products or senior loans of the Company or its Related Bodies Corporate or any other party involved in the Entitlement Offer. The Company hereby consents to each member of the Underwriter Group (including their employees and officers) undertaking such activities:
 - (i) without regard to the relationship with the Company established by this document; and
 - (ii) regardless of any conflict of interest (whether actual, perceived or potential) that may arise as a result of such activity.
- (f) To avoid doubt, any consent, agreement or approval provided by the Underwriter in respect of the Offer Materials or any amendments thereto, or any other statements, announcements or materials used, made or published by the Company in connection with the Entitlement Offer or this document, will be provided solely for the purposes of the operation of provisions of this document and does not constitute any authorisation or endorsement of such materials by the Underwriter.

16 General

16.1 Rounding

The rounding principles in the Offer Materials will be applied to any applicable calculations in relation to Entitlements or Rights Shares referred to in this document.

16.2 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this document expressly states otherwise.

16.3 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later unless this document expressly states otherwise.

16.4 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this document.

16.5 Conflict of interest

The parties' rights and remedies under this document may be exercised even if this involves a conflict of duty or a party has a personal interest in their exercise.

16.6 Remedies cumulative

The rights and remedies provided in this document are in addition to other rights and remedies given by law independently of this document.

16.7 Variation and waiver

A provision of this document or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

16.8 Further assurances

Each party agrees, at its own expense, on the request of the other parties, to do everything reasonably necessary to give effect to this document and the transactions contemplated by it, including the execution of documents.

16.9 Enforceability

For the purpose of this document, the Underwriter is taken to be acting as agent and trustee on behalf of and for the benefit of all of its Indemnified Parties and all of those persons are to this extent taken to be parties to this document.

16.10 Amendment

This document may be amended by the written agreement of the Underwriter and the Company (including in a manner that adversely affects the interests of the Indemnified Parties and without obtaining the consent of the Indemnified Parties).

16.11 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

16.12 Assignment

Unless expressly stated to the contrary in this document, a party cannot assign, novate or otherwise transfer any of its rights or obligations under this document without the prior written consent of the other parties (which consent must not be unreasonably withheld).

16.13 Counterparts

This document may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed will be the date of this document.

16.14 Governing law

This document and the transactions contemplated by this document are governed by the law in force in Western Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this document and waives any objection it may now or in the future have to the venue of any proceedings, and any Claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within that place.

16.15 Withholding taxes or deductions

All payments to be made under this document will be made without withholding or deduction for or on account of any present or future taxes, duties or governmental charges whatsoever unless the party obliged to make the payment is compelled by law to deduct or withhold such taxes, duties or charges. In that event, that party will pay such additional amounts as may be necessary in order that the net amounts received after such withholding or deduction shall equal the amounts that would have been received if no withholding or deduction had been made.

16.16 Entire agreement

This document embodies the entire agreement between the parties and to the extent of any inconsistency between those documents, the terms and conditions of this document will prevail.

16.17 Survival

The representations, warranties, undertakings and indemnities given by a party under this document will not merge upon completion of the transactions

contemplated by this document, and survive termination of this document for whatever cause.

16.18 Continuing obligations

- (a) Each representation and warranty and indemnity (and associated contribution provisions) in this document is a continuing obligation, separate and independent from other representation, warranties and obligations of the parties, and survives withdrawal of the Entitlement Offer, completion or termination of this document or Termination by the Underwriter or subscription for or acceptance of and payment for any of the Rights Shares.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this document.
- (c) A party must pay on demand any amount it is obliged to pay under an indemnity in this document.

16.19 Announcements and confidentiality

- (a) Subject to **clause 16.19(b)**, no announcements made by the Company in connection with the Entitlement Offer may be made without the prior consent of the Underwriter.
- (b) If and to the extent a release or announcement is required by law or the Listing Rules and is not otherwise contemplated by the Timetable, **clause 16.19(a)** will not apply provided that:
 - (i) the Company must use its reasonable endeavours to provide the Underwriter with prompt notice of any such requirement, a copy of the statement before it is made and to consult with the Underwriter prior to making any such release or announcement and consider in good faith any comments of the Underwriter regarding the form and content of the disclosure; and
 - (ii) the Company must ensure that the release or announcement, as the case may be, will comply with all applicable laws.
- (c) The Company accepts full responsibility for the content of any announcement or any information contained in any document relating to the Entitlement Offer which the Underwriter is requested by the Company to issue or approve.
- (d) Except for information disclosed in the Public Information, the terms of this document, and any information provided by the Company to an Underwriter or their Indemnified Parties in connection with the Entitlement Offer, are strictly confidential. A party must keep such information strictly confidential unless:
 - (i) the information is or becomes public knowledge (but not because of any unauthorised disclosure by the party or its Affiliates);
 - (ii) disclosure is required by law or required or requested by a regulatory body (including any relevant stock exchange) or is

otherwise required in connection with any legal, regulatory or administrative proceedings arising out of or in connection with the Entitlement Offer;

- (iii) disclosure is made by the Underwriter to a person who is an Indemnified Party of the Underwriter and who requires such information for the purposes of performing the Underwriter's obligations under this document (provided that the Underwriter procures that such person treats the information as strictly confidential in accordance with this clause); or
- (iv) disclosure is made with the prior written consent of the other party.

16.20 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (v) a right includes a benefit, remedy, discretion or power;
 - (vi) time is to local time in Perth, Western Australia;
 - (vii) '\$' or 'dollars' is a reference to Australian currency;
 - (viii) 'USD' is a reference to U.S. currency;
 - (ix) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;

- (x) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
- (xi) this document includes all schedules and annexures to it; and
- (xii) a clause, party, schedule or annexure is a reference to a clause of, or a party, schedule or annexure to, as the case may be, this document;
- (g) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

16.21 Headings

Headings do not affect the interpretation of this document.

Schedule 1

Warranties and representations by the Company

- (a) **(Status)** The Company is validly existing under the laws of the place of its incorporation;
- (b) **(power)** The Company has full power to enter into this document and to authorise, issue and allot the Rights Shares on the terms set out in this document and otherwise to comply with and perform its obligations under this document;
- (c) **(Authorisations)** All Authorisations, corporate authorisations and other consents, approvals and authorities that may be required to permit the Company to enter into this document and perform its obligations under this document in accordance with its terms have been obtained and remain valid and subsisting, in full force and effect and not liable to be revoked or not renewed;
- (d) **(validity of obligations)** This document is a legal, valid and binding obligation on the Company, enforceable against the Company in accordance with its terms;
- (e) **(approval)** Shareholder approval of the Company is not required for the Entitlement Offer, and any and all necessary waivers and approvals from ASX have been obtained for the Entitlement Offer;
- (f) **(Constitution compliance)** The Company is entitled and empowered to issue the Rights Shares on the terms of the Entitlement Offer under the Constitution, and the Constitution complies with the Listing Rules and the requirements of ASX for the purpose of the Company being admitted to the Official List;
- (g) **(quoted)** The Company is admitted to the official list of a financial market operated by ASX, and has not and will not breach the Listing Rules in relation to the making of the Entitlement Offer or the issue of the Rights Shares;
- (h) **(Offer Materials)** In relation to the Entitlement Offer, the Offer Materials or the making of the offer of Rights Shares:
 - (i) the Entitlement Offer is and will be conducted under, and in compliance with, the Corporations Act;
 - (ii) the Prospectus complies with section 713 of the Corporations Act;
 - (iii) there are no statements in any Offer Materials that are false, misleading or deceptive (including by omission) or likely to mislead

- or deceive (including statements which are taken to be misleading under section 728(2) of the Corporations Act);
- (iv) there are no omissions from the Offer Materials of information required by the Corporations Act (including from the Prospectus as required by section 713);
 - (v) the issue and distribution of the Prospectus will not involve any conduct which is misleading or deceptive or likely to mislead or deceive; and
 - (vi) the Company has not engaged in, and will not engage in, conduct that is misleading or deceptive, or which is likely to mislead or deceive;
- (i) **(no rights to securities)** No entity in the Group will issue or agree to issue any shares, options, securities or interests other than the Rights Shares under the Prospectus or any other securities permitted to be issued by the Company pursuant to **clause 8.1(d)** and no person has or will have any right to subscribe for or to receive or be issued any shares, options, securities or interests of any entity in the Group other than the Rights Shares offered under the Prospectus or otherwise as disclosed in the Offer Materials;
 - (j) **(Uncalled capital)** No amount is unpaid in relation to any shares issued by the Company;
 - (k) **(Shares to be issued)** The Rights Shares will be duly and validly authorised, fully paid, will rank pari passu with existing Shares and will be freely tradeable (subject to any restrictions required or imposed under any applicable laws or regulations) and the investors in those Shares will acquire good marketable title to them, free and clear of any Encumbrance and will not be subject to any pre-emptive or similar rights;
 - (l) **(register of members)** The register of members kept by the Company has been diligently and properly kept by it and so far as the Company is aware after making reasonable enquiry, accurately records the share holdings of its members and their respective last known addresses;
 - (m) **(compliance)** The Group has in all material respects complied with, and the Offer Materials will comply with, any applicable provisions of the Corporations Act, any other applicable laws, its continuous disclosure obligations under the Listing Rules, or any other legally binding requirement of ASIC or ASX or other relevant Government Agency that are relevant to the Entitlement Offer and that other than information that is to be disclosed in the Offer Materials (including the Prospectus), the Company is not relying upon any exemption from its ASX continuous disclosure obligations;
 - (n) **(Certificate)** The contents of any certificate which is required to be furnished by the Company under this document (including a Certificate)

will be true and correct and not misleading or deceptive as at the date the certificate is given;

- (o) **(Public Information)** All Public Information released by or on behalf of the Company in relation to the Entitlement Offer, and any offer or other documentation issued in connection with the Entitlement Offer (including the Offer Materials):

- (i) does not and will not omit any material required by the Corporations Act or the Listing Rules; and
- (ii) is not and will not be untrue, inaccurate, false, misleading or deceptive or likely to mislead or deceive (whether by inclusion or omission) (including misleading misrepresentations within the meaning of section 769C(1)) in any material respect and to the extent that they comprise forward-looking statements are and will be based on reasonable grounds in accordance with section 728(2) of the Corporations Act;

- (p) **(opinions, beliefs and forward looking statements)** Each:

- (i) forecast and estimate or statement by the Company or its directors that relates to a future matter; and
- (ii) expression of opinion, belief, expectation, intention or policy by the Company or its directors,

in the Offer Materials is honestly held and has been made on reasonable grounds and that where applicable such statements have been made in compliance with ASIC's policy on forecasts in disclosure documents (including ASIC Regulatory Guide 170, ASIC Information Release 01/05 and ASIC Information Sheet 214) and the Listing Rules (including Chapter 5 of the Listing Rules);

- (q) **(Due Diligence Investigations)** The Due Diligence Investigations have been completed in accordance with the Due Diligence Planning Memorandum, the results of the Due Diligence Investigations are correct in all material respects and the statements contained in the Prospectus have been properly verified by appropriately qualified persons in accordance with the Due Diligence Planning Memorandum and the Company has a reasonable basis to believe that the information contained in the Prospectus is accurate and not misleading or deceptive (including by omission);

- (r) **(information)** All information provided to the Underwriter (including any announcements, advertisements and publicity made or published by the Company in relation to the Entitlement Offer) by or on behalf of the Company is true and correct in all material respects and is not misleading or deceptive or likely to mislead or deceive, and there is no information of which it is aware that has not been disclosed to the Underwriter which has or could reasonably be expected to have a material adverse effect on:

- (i) the assets and liabilities, financial position and performance, profits and losses or prospects of the Group; or
 - (ii) the outcome of the Entitlement Offer;
- (s) **(no breach)** Upon the execution of the Debt Restructure Documents, the execution, delivery and performance of this document by the Company, the offer and issue of the Rights Shares and the consummation of the transactions contemplated by this document (including pursuant to the Greenstone Underwriting Agreement, the Convertible Note Agreements and the Debt Restructure Documents) and the Offer Materials do not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under any Encumbrance, Debt Facility or other material agreement, or any instrument, judgement, decree, order, rule, regulation or law (including the Corporations Act and the Listing Rules, except where compliance has been waived or modified by ASIC or ASX, respectively) to which the Company (or any of its Subsidiaries) is a party or by which the Company (or any of its Subsidiaries) is bound, or any of the provisions of the Constitution (or similar instrument) of the Company (or any of its Subsidiaries);
- (t) **(Takeovers Panel considerations)** The Company has, in structuring the Entitlement Offer and preparing the Prospectus, had due regard to applicable Takeovers Panel guidance and reasonably believes that the making of the Entitlement Offer in the form contained in the Prospectus will not give rise to a declaration of unacceptable circumstances or other similar sanction on the part of the Takeovers Panel;
- (u) **(No Prescribed Occurrences)** No Prescribed Occurrences exist or will occur in respect of any entity in the Group after the date of this document other than the issue of Rights Shares in accordance with, and disclosed in, the Prospectus, and no such entity will have agreed to acquire a business, an asset or a company other than as disclosed in the Prospectus;
- (v) **(entire agreement)** None of the Company or any of its Subsidiaries, or any person acting on behalf of any of them (other than the Underwriter or any person acting on behalf of it, as to whom the Company makes no representation), has entered into or will enter into any contractual arrangement for the offer and issue of the Rights Shares other than in accordance with this document;
- (w) **(solvency)** Except as previously fully and fairly disclosed to ASX or to the Underwriter in writing prior to the date of this document, each Group Member has reasonable grounds to expect that by entering into this document and giving effect to the transactions contemplated in the document, including completion of the Entitlement Offer, each of them is and will remain solvent at all material times;
- (x) **(no litigation or investigations)** Except as previously fully and fairly disclosed to ASX or to the Underwriter in writing prior to the date of this

document, to the best of the knowledge, information and belief of the Relevant Persons (after making due enquiries) there are no:

- (i) existing or threatened actions, suits or proceedings against or affecting the Company or the Group or any of their projects, properties or assets; or
- (ii) inquiries or investigations (whether formal or informal) by any Government Agency against or affecting the Company or the Group,

which if determined adversely could reasonably be expected to have a material adverse effect on:

- (iii) the assets and liabilities, financial position and performance, profits and losses or prospects of the Group; or
- (iv) the outcome of the Entitlement Offer,

and to the best of the knowledge, information and belief of the Company (after making due enquiries) no such actions, suits or proceedings, inquiries or investigations are contemplated;

(y) **(prosecution):**

- (i) no director of the Company has been charged with an indictable offence;
- (ii) no Government Agency has commenced any public proceedings against any of the Directors in their capacity as a directors of the Company, or has announced that it intends to take such action; and
- (iii) no director of the Company has been disqualified from managing a corporation under Part 2D.6 of the Corporations Act;

(z) **(fraud)** Neither the Company nor any of its directors or officers (as that term is defined in the Corporations Act) has been involved in or perpetrated a fraud whether or not in connection with the Entitlement Offer;

(aa) **(Listing Rules)** The Company has procedures in place to ensure continued compliance with the requirements of the Listing Rules;

(bb) **(Tenements)** The Company or one of its Subsidiaries is the sole registered and beneficial owner of each of the Tenements that are located in New South Wales;

(cc) **(Good Standing)** The Tenements are in Good Standing and not liable to forfeiture under and there has been no breach of law that would adversely affect any Tenements in any material respect;

(dd) **(project Authorisations)** All Authorisations necessary under applicable law or regulation to permit the Group to conduct its activities in the manner conducted as at the date of this document have been obtained

and, as far as the Company is aware (after making due enquiries), are valid and subsisting;

- (ee) **(no breach of material agreements)** Except as fully and fairly disclosed to the Underwriter prior to the date of this document, no entity in the Group is or will be in breach in any material respect of any material agreement binding on it, and nothing has occurred which is, or with the giving of notice, lapse of time, satisfaction of some other condition, or any combination of the above, constitutes an event which causes or enables the acceleration of any payment to be made under, or the enforcement, termination or rescission of, any material agreement binding on any entity in the Group;
- (ff) **(post balance date events)** Except as fully and fairly disclosed to the Underwriter prior to the date of this document, since the Company's last balance date of 30 June 2019:
 - (i) the business of the Group has been carried on in the ordinary and usual course;
 - (ii) there has been no change in the assets, total liabilities or financial condition or profitability of the Group from that set out in the last reviewed accounts except for changes in the ordinary course of business, or the cause of which was notified to ASX on or before the Lodgement Date, none of which individually or in the aggregate could reasonably be expected to have a material adverse effect on the condition, financial or otherwise, of the Group; and
 - (iii) the business, assets, liabilities, financial position or prospects of the Group have not been materially or adversely affected by any matter, either financial or otherwise, except as notified to ASX on or before the Lodgement Date;
- (gg) **(financial statements):**
 - (i) The statutory financial statements of the Company and its controlled entities for the financial year ended 30 June 2019, together with the notes thereto, present fairly and accurately in all material respects the consolidated financial position of the Company and its controlled entities at the dates indicated and the consolidated statements of operations of the Company and its controlled entities for the periods specified;
 - (ii) such statements have been prepared in conformity with the Australian equivalents of International Financial Reporting Standards or generally accepted accounting principles in Australia that were in effect at the date of, or period covered by, each such statement, as applicable;
 - (iii) the pro forma historical financial information in the Offer Materials is fairly and accurately presented in all material respects and has been prepared on the basis described in the Offer Materials. The

assumptions and adjustments used in the preparation of the pro-forma historical financial information are reasonable and appropriate to give effect to the transactions and circumstances referred to in the Offer Materials; and

- (iv) the pro forma cash position included in the Offer Materials, presents such information fairly and accurately on the basis referred therein;
- (hh) **(internal accounting controls)** Each entity in the Group maintains a system of internal accounting controls sufficient to provide reasonable assurance that:
 - (i) transactions are executed in accordance with management's general or specific authorisations;
 - (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with applicable accounting standards and to maintain accountability for assets;
 - (iii) access to assets is permitted only in accordance with management's general or specific authorisation; and
 - (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect of any differences; and
- (ii) **(no stamp or transfer taxes)** No stamp or other issuance or transfer taxes or duties will be payable by any subscriber of Rights Shares to any Australian political subdivision or taxing authority in connection with the issue of the Rights Shares.

Schedule 2

Underwriter Warranties

- (a) **(Status)** The Underwriter is a body corporate duly registered and validly existing under the Corporations Act;
- (b) **(power)** The Underwriter has the power to enter into, comply with and perform its obligations under this document;
- (c) **(authorisations)** All corporate authorisations and other consents, licences, approvals and authorities that may be required to permit the Underwriter to enter into this document and to perform its obligations under this document in accordance with its terms have been obtained and remain valid and subsisting; and
- (d) **(validity of obligations)** This document is a legal, valid and binding obligation on the Underwriter.

Schedule 3

Termination Events

- (a) **(Greenstone Underwriting Agreement)** the Greenstone Underwriting Agreement is breached in a material respect by any Group Member that is a party to that agreement or it is terminated, revoked, rescinded, avoided, amended, varied, superseded or replaced in any way without the prior written consent of the Underwriter (in the Underwriter's absolute discretion);
- (b) **(Convertible Note Agreements)** the Company is in breach of any of its material obligations under the Convertible Note Agreements, or the Convertible Note Agreement to which Greenstone or Orion is a party is terminated, revoked, rescinded, avoided, amended, varied, superseded or replaced in any way without the prior written consent of the Underwriter (in the Underwriter's absolute discretion);
- (c) **(Debt Restructure Documents)** the Debt Restructure Documents are breached in a material respect by any Group Member that is a party to those documents or any of the Debt Restructure Documents is terminated, revoked, rescinded, avoided, amended, varied, superseded or replaced in any way without the prior written consent of the Underwriter (in the Underwriter's absolute discretion);
- (d) **(Debt Facility)** a Debt Facility is breached in a material respect by any Group Member that is a party to the agreement or it is revoked, rescinded, avoided, amended (including by way of any standstill arrangements), varied, superseded or replaced in any way, the lender under a Debt Facility seeks to enforce any security granted in connection with, or accelerate or otherwise require repayment of any amounts under, the Debt Facility or an event of default or potential event of default (however defined) occurs under a Debt Facility, in each case without the prior written consent of the Underwriter (in the Underwriter's absolute discretion);
- (e) **(Prospectus)** the Company does not lodge the Prospectus on the Lodgement Date or the Entitlement Offer is withdrawn by the Company without the prior written consent of the Underwriter;
- (f) **(Offer Materials)** a statement contained in the Offer Materials is or becomes false, misleading or deceptive (including by omission) or likely to mislead or deceive or the Offer Materials omit any information they are required to contain (having regard to sections 711, 713 and 716 of the Corporations Act and any other applicable requirements), or there are no reasonable grounds in accordance with section 728(2) of the

Corporations Act for the making of any statement in the Offer Materials relating to future matters;

- (g) **(listing)** ASX announces or informs the Company (including verbally) that the Company will be removed from the official list or that Shares will be delisted or suspended from quotation by ASX for any reason, for the avoidance of doubt this does not include any voluntary suspension or trading halt that has been obtained by the Company with the Underwriter's prior written consent;
- (h) **(notification)** any of the following notifications are made:
 - (i) an application is made by ASIC or another person for an order under Part 9.5 of the Corporations Act, or to any other Government Agency, in relation to the Offer Materials or the Entitlement Offer; or
 - (ii) ASIC or any other Government Agency commences or gives notice of an intention to hold, any investigation, proceedings or hearing in relation to the Entitlement Offer or any of the Offer Materials or prosecutes or commences proceedings against or gives notice of an intention to prosecute or commence proceedings against the Company,

and in either case:

- (iii) where the Government Agency is the Takeovers Panel, the application is not withdrawn or the Takeovers Panel has not declined to conduct proceedings or declined to make a declaration of unacceptable circumstances within ten Business Days after the date of the application or by the Retail Settlement Date whichever is later; or
- (iv) where the Government Agency is not the Takeovers Panel, such application, notice or proceeding becomes public or is not withdrawn within two Business Days after it is made or by the Retail Settlement Date whichever is later;
- (i) **(Authorisation):**
 - (i) *any Authorisation which is material to anything referred to in the Prospectus is repealed, revoked, or terminated or expires, or is modified or amended in a manner unacceptable to the Underwriter; or
 - (ii) any Authorisation (including pursuant to the requirements of the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*) which is required to be obtained to permit the Underwriter to comply with its obligations under this document is not obtained on terms acceptable to the Underwriter, or any Government Agency commences or gives notice of an intention to hold any investigation, inquiry, proceedings or hearing into, or prosecutes or commences proceedings against or gives notice of an intention to

prosecute or commence proceedings against, the Underwriter in relation to any transaction the subject of this document;

- (j) **(quotation)** ASX announces or informs the Company (including verbally) that unconditional approval (or approval subject to customary listing conditions) by the ASX for Official Quotation of the Rights Shares will be refused, or not granted by the Retail Settlement Date or, if granted, such approval is withdrawn on or before the Retail Settlement Date;
- (k) **(unable to issue Rights Shares)** the Company is prevented from allotting and issuing the Rights Shares in accordance with this document and the Timetable;
- (l) ***(Timetable)**
 - (i) subject to **schedule 3(l)(ii)** below, any event specified in the Timetable is delayed by the Company for more than 3 Business Days without the prior written consent of the Underwriter; or
 - (ii) the Lodgement Date, the Retail Settlement Date or the Retail Issue Date is delayed by the Company, in any way, without the prior written consent of the Underwriter;
- (b) **(ASIC or ASX action)** the Offer is prevented from proceeding (without amendment on terms acceptable to the Underwriter) by reason of:
 - (i) or in accordance with, the Listing Rules, the Corporations Act or any other applicable laws;
 - (ii) an order made by ASIC, ASX, any other government agency or a court of competent jurisdiction; or
 - (iii) an investigation or inquiry or proceedings initiated by either ASIC or ASX into the conduct of the Company;
- (m) **(withdrawal of consent)** any:
 - (i) person (other than the Underwriter) who has previously consented to the inclusion of its, his or her name in the Prospectus or any Supplementary Prospectus or to be named in the Prospectus or any Supplementary Prospectus, withdraws that consent; or
 - (ii) accounting or legal adviser to the Company refuses to give its consent or having previously consented to be named in the Prospectus, withdraws that consent;
- (n) **(supplementary prospectus):**
 - (i) the Underwriter forms the view on reasonable grounds that a supplementary or replacement prospectus should be lodged with ASIC for any of the reasons referred to in section 719 of the Corporations Act and the Company fails to lodge a supplementary or replacement prospectus in such form and content and within such time as the Underwriter may reasonably require; or

- (ii) the Company lodges a supplementary or replacement prospectus without the prior written agreement of the Underwriter;
- (o) **(Certificate)** any certificate which is required to be delivered by the Company under this document (including a Certificate to be provided in accordance with the Timetable) is not delivered when required (other than as permitted under **schedule 3(l)(i)** above) or is untrue, incorrect or misleading in a material respect;
- (p) **(insolvency)** any one of the following occurs:
 - (i) except as fully and fairly disclosed to the Underwriter prior to the date of this document or as otherwise disclosed in the Prospectus, the Company (or any of its Subsidiaries):
 - (A) being or stating that it is unable to pay its debts as and when they fall due; or
 - (B) failing to comply with a statutory demand;
 - (ii) any step being taken which will or is likely to result in any of the following:
 - (A) the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other similar official in relation to, or to any property of, the Company (or any of its Subsidiaries);
 - (B) the Company (or any of its Subsidiaries) being wound up or dissolved or entering into a scheme, moratorium, composition or other arrangement with, or to obtain protection from, its creditors or any class of them or an assignment for the benefit of its creditors or any class of them;
 - (C) circumstances existing which would permit a presumption of insolvency in relation to the Company (or any of its Subsidiaries) under section 459C(2) of the Corporations Act; or
 - (D) anything analogous or having a substantially similar effect occurring in relation to the Company (or any of its Subsidiaries);
- (q) ***(judgment against the Company)** a judgment in an amount exceeding \$100,000 is obtained against the Company and is not set aside or satisfied within 7 days;
- (r) **(conduct)** the Company or any of its directors or officers (as that term is defined in the Corporations Act) engage in any fraudulent conduct or activity whether or not in connection with the Entitlement Offer;
- (s) **(adverse change)** after the date of this agreement there is a material adverse change, or any one or more matters, events or circumstances

occurs, is announced or disclosed or becomes known to the Underwriter (whether or not it becomes public) which individually or when aggregated with any other such matters, events or circumstances is likely to give rise to a material adverse change, in the financial position or performance, shareholder's equity, profits, losses, results, condition, operations or prospects of the Group taken as a whole;

- (t) ***(litigation)** litigation, arbitration, administrative or industrial proceedings are after the date of this document commenced or threatened against the Company, other than any claims foreshadowed in the Prospectus, or Due Diligence Program or otherwise disclosed during the Due Diligence Investigations;
- (u) ***(breach of obligations)** the Company is in breach of any terms and conditions of this document;
- (v) ***(breach of representations)** any of the representations or warranties made or given by the Company in **schedule 1** is or becomes incorrect, untrue or misleading;
- (w) ***(information supplied to Underwriter)** the information supplied by or on behalf of the Company to the Underwriter including as part of the Due Diligence Program is, or the results of the Due Diligence Investigations are, in the reasonable opinion of the Underwriter, false, misleading or deceptive (including by omission);
- (x) ***(Prescribed Occurrence)** a Prescribed Occurrence occurs without the prior written consent of the Underwriter;
- (y) ***(contravention of law)** a contravention by any Group Member of the Corporations Act, its Constitution, any of the ASX Listing Rules, any other applicable law or regulation (as amended or varied) or order or request made by or on behalf of ASIC, ASX or any Government Agency;
- (z) **(compliance)** any aspect of the Entitlement Offer, including the Prospectus or the underwriting and any sub-underwriting of the Entitlement Offer, does not comply with the Corporations Act, the Listing Rules or any other applicable law or regulation, or requires an approval or other authorisation that has not been obtained at the date of this document.

Execution

Executed as an agreement.

**Executed by Heron Resources
Limited** ABN 30 068 263 098

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)



.....
Company Secretary/Director

SIMON SMITH

.....
Company Secretary

Name of Company Secretary/Director
(print)



.....
Director

STEPHEN DENNIS

.....
Director

Name of Director (print)

**Executed by CL V Investment
Solutions LLC.** by its duly authorised
representative:

)
)

.....
Signature

.....
Signature

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Name (print)

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Name (print)

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Position (print)

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Position (print)

Annexure A

Timetable

All references to time in this annexure are to Sydney time, unless otherwise indicated.

Event	Date
Announcement Date / Institutional Opening Date / Lodgement Date Company to announce the Entitlement Offer and release the Offer Announcement, Prospectus and Appendix 3B to ASX (by 10.00am) Institutional Entitlement Offer opens (following above and by 10.30am)	4 October 2019
Institutional Closing Date Institutional Entitlement Offer closes	7 October 2019
Company announces results of Institutional Entitlement Offer to ASX (before 10.00am). Suspension lifted on ASX by 10.00am (Securities trade ex-entitlements)	8 October 2019
Record Date 7.00pm	8 October 2019
Retail Opening Date Retail Entitlement Offer opens (9.00am)	11 October 2019
Despatch Date Company to complete despatch of Prospectus and Entitlement and Acceptance Forms	
Company to deliver a Certificate (by 9.00am)	14 October 2019
Institutional Settlement Date Settlement of the Institutional Entitlement Offer	
Institutional Issue Date Company to complete issue of Rights Shares under Institutional Entitlement Offer Company to despatch holding statements in respect of Rights Shares issued on the Institutional Issue Date Company to give ASX an Appendix 3B (if required by ASX)	14 October 2019
Institutional Trading Date Rights Shares issued on the Institutional Issue Date commence trading on ASX (normal basis)	15 October 2019

Event	Date
Retail Closing Date (5.00pm)	22 October 2019
Shortfall Offer Closing Date (7.00pm)	23 October 2019
Shortfall Notification Date Company to deliver the Underwriter's Shortfall Notice (by 5.00pm).	24 October 2019
Company to announce to ASX results of Retail Entitlement Offer (by 10.00am)	25 October 2019
Company to deliver a Certificate (by 9.00am)	28 October 2019
Retail Settlement Date Settlement of the Retail Entitlement Offer	
Retail Issue Date Company to complete issue of Rights Shares under the Retail Entitlement Offer (by 10.00am) Company to give ASX an Appendix 3B (if required by ASX)	29 October 2019
Retail Trading Date Rights Shares issued on the Retail Issue Date commence trading on ASX (normal basis)	30 October 2019
Company to despatch of holding statements in respect of Rights Shares issued under the Retail Entitlement Offer	31 October 2019
Underwriting Settlement Date Underwriter and Greenstone to subscribe or procure subscriptions for their respective allocated Shortfall Shares	12 November 2019

Annexure B

Form of confirmation

To: [insert Underwriter name]

We confirm, on behalf of Heron Resources Limited (**Company**) that, in respect of the proposed accelerated non-renounceable pro-rata entitlement offer of fully paid ordinary shares in the Company (**Entitlement Offer**) being the subject of a prospectus to be lodged on the date of this certificate (**Prospectus**), that:

- (c) the Company has structured and will conduct the Entitlement Offer in a manner that satisfies the conditions set out in paragraphs (a) to (e) of item 10 of section 611 of the *Corporations Act 2001 (Cth)* (**Corporations Act**) noting that ASIC approval of the "sale nominee" is required under section 615 of the Corporations Act;
- (d) subject to ASIC approval, the Company has appointed Patersons Securities Limited to act as "sale nominee" in respect of the Entitlement Offer under section 615 of the Corporations Act;
- (e) the Company requires the funds to be raised by the Entitlement Offer for the purposes set out in Prospectus; and
- (f) in the opinion of the Company (which has received legal advice from Allion Partners, legal advisers to the Company, in relation to these matters) and having regard to the Company's circumstances, the Company:
 - (A) made reasonable efforts to identify and canvass alternative funding sources before determining to raise funds pursuant to the Entitlement Offer; and
 - (B) has taken reasonable steps, consistent with the Takeover Panel's Guidance Note 17 (*Rights Issues*), to mitigate the potential control effects in relation to the Company of the Entitlement Offer.

Date: _____ 2019

Stephen Dennis

Fiona Robertson