
Converting Notes Trust Deed

Lakes Oil NL

Equity Trustees Limited

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Title	Converting Notes Trust Deed
Date	27 June 2016
Parties	<p>Lakes Oil NL (ABN 62 004 247 214) of Level 14, 500 Collins Street, Melbourne Victoria 3000 (Company)</p> <p>Equity Trustees Limited (ABN 46 004 031 298) of Level 2, 575 Bourke Street, Melbourne, Victoria 3000 (Trustee)</p>

Operative provisions

1. Definitions and interpretation

Definitions

1.1 In this Deed, unless the context requires another meaning:

ASIC means Australian Securities & Investments Commission.

ASX means ASX Limited or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Settlement means ASX Settlement Pty Ltd, the body which administers the CHES system in Australia.

ASX Settlement Operating Rules means the settlement operating rules of ASX Settlement.

Authorised Officer means:

- (a) for the Company, a director or a secretary of the Company or any other person nominated by the Company by notice to the Trustee to be an Authorised Officer, the notice to be accompanied by a certified copy of the signature of any person nominated; and
- (b) for the Trustee, a director or a secretary of the Trustee, or any employee of the Trustee whose title includes the word "Manager" "Executive" or "Head of" or any other person nominated by the Trustee, and includes any person acting in any of those capacities.

Bank means:

- (a) an authorised deposit-taking institution authorised by the Australian Prudential Regulation Authority to carry on banking business under the *Banking Act 1959* (Cth); or
- (b) a bank authorised to carry on banking business under the laws of a state of Australia.

Business Day means a day on which Banks are open for business in Melbourne other than a Saturday, a Sunday or a public holiday.

Claim means any claim, cost, damages, debt, expense, liability, loss, allegation, judgment, suit, action, demand, cause of action or proceeding of any kind irrespective of:

- (a) how or when it arises;
- (b) whether it is actual or contingent;
- (c) whether or not it is in respect of legal or other costs, damages, expenses, fees or losses;
- (d) whether or not it is in respect of a breach of trust or of a fiduciary or other duty or obligation; and
- (e) whether or not it arises at law or in any other way.

Conditions of Issue means the conditions of issue for a Note.

Controller has the meaning given to "controller" in section 9 of the Corporations Act.

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

Directors means the Board of Directors of the Company.

Dollars and \$ means the lawful currency of Australia.

Event of Default means an event of default (however described) under any Transaction Document, including:

- (a) a failure by the Company to make a payment as and when required under a Transaction Document;
- (b) if the Company becomes Insolvent; or
- (c) if the Company does not comply with any provision of the Transaction Documents.

GST means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means a guarantee, indemnity, letter of credit, performance bond, letter of comfort or other assurance or assumption of responsibility, however it is described, given for a debt or liability of another person or the solvency or financial condition of another person.

Insolvent means the happening of any of these events:

- (a) an order is made that a person be wound up, or an application is made to a court for such an order (other than an application which is frivolous or vexatious, or which is refused, withdrawn, dismissed or stayed indefinitely within 14 days);
- (b) an administrator, a liquidator or provisional liquidator is appointed in respect of a person, or an application is made to a court for such an order (other than an application which is frivolous or vexatious, or which is refused, withdrawn, dismissed or stayed indefinitely within 14 days); or
- (c) a person is wound up or dissolved or resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent.

Issuance Document means any agreement pursuant to which the Company agrees to issue Notes, offering memorandum or prospectus each of which may contain the terms and conditions upon which such Notes are issued, including as to whether the Notes are to have the benefit of any Security.

Listing Rules means the Official Listing Rules of the ASX as amended from time to time.

Material Adverse Effect means, in relation to the Company, a material adverse effect on the Company's ability to perform any of its obligations under any Transaction Document.

Meeting means a meeting of Note Holders convened in accordance with clause 8.

Note means the notes or debentures issued by the Company pursuant to the Prospectus.

Note Holder means, in respect of a Note, the person who is entered on the Register as the holder of the Note.

Note Statement means a Note statement issued by the Company to a Note Holder.

Paying Trustee means Equity Trustees Limited ABN 46 004 031 298 as trustee of the Lakes Oil Converting Notes Paying Trust (No.3).

Paying Trustee Agreement means the Paying Trustee Agreement dated on or about the date of this Deed between the Company, the Trustee and the Paying Trustee.

Principal Monies means the principal monies owing pursuant to a Note from time to time.

Prospectus means any Issuance Document including any Conditions of Issue.

Protected Person means any director, officer, employee, agent, delegate, attorney, Related Body Corporate, shareholder or other controlling person of the Trustee.

Receiver means any receiver or receiver and manager or similar official appointed by the Trustee under any Transaction Document.

Recovered Monies means all money received or recovered by the Trustee under the Transaction Documents from or for the account of the Company, whether or not it represents the proceeds of enforcement or sale, other than money paid by a Note Holder as subscription for any Note.

Register means the register of Note Holders maintained by the Company in accordance with clause 6.

Related Body Corporate of a body corporate means another body corporate which is related to the first body corporate within the meaning of section 50 of the Corporations Act.

Security means any Guarantee, Security Interest or other document entered into by any person the benefit of which the Trustee holds for the Note Holders.

Security Interest means a right, interest, power or arrangement in relation to an asset which provides security for, or protects against default by a person in, the payment or satisfaction of a debt, obligation or liability, and includes a security interest, mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, arrangement for the retention of title or any arrangement under which money or claims to, or the benefit of, a Bank or other account may be applied, set-off or made subject to a combination of accounts.

Shares means fully paid ordinary shares in the capital of the Company.

Statement means a statement issued to a Note Holder pursuant to this Deed.

Transaction Documents means:

- (a) this Deed;
- (b) each Issuance Document;
- (c) each Security (if any);

- (d) each Note Statement;
- (e) the Paying Trustee Agreement;
- (f) each document which the Trustee and the Company agree in writing is a Transaction Document for the purposes of this Deed; or
- (g) each document entered into or provided under any of the documents described in paragraphs (a), (b), (c), (d), (e) or (f) or for the purpose of amending or novating any of those documents,

and **Transaction Document** means any of them, and when used in relation to the Company means any of those documents to which the Company is a party.

Trust means the trust created by this Deed.

Trust Fund means all property, rights and interests which the Trustee acquires on or after the date of this Deed in respect of the Trust including (without limitation):

- (a) the benefit of the Transaction Documents;
- (b) the benefit of any other document that it enters into in its capacity as trustee of the Trust; and
- (c) all property or money which represents the proceeds of enforcement, realisation or sale of any such property, rights or interests in respect of the Trust, any investment into which any of those proceeds are converted and the proceeds of any of those investments.

Interpretation

1.2 In this Deed, unless the context requires another meaning, a reference:

- (a) to the singular includes the plural and vice versa;
- (b) to a gender includes all genders;
- (c) to a document (including this Deed) is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
- (d) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding in writing;
- (e) to a party means a party to this Deed;
- (f) to an item, Recital, clause, Schedule or Annexure is to an item, Recital, clause, Schedule or Annexure of or to this Deed;
- (g) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with a Transaction Document;
- (h) to a person (including a party) includes:
 - (i) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
 - (ii) the person's successors, permitted assigns, substitutes, executors and administrators;

- (i) to a law:
 - (i) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, supplemented or replaced; and
 - (iii) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation;
 - (j) to proceedings includes litigation, arbitration and investigation;
 - (k) to a judgement includes an order, injunction, decree, determination or award of any court or tribunal;
 - (l) to time is to Melbourne time; and
 - (m) to the words "including" or "includes" means "including, but not limited to" or "includes, without limitation".
- 1.3 Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- 1.4 Headings are for convenience only and do not affect interpretation of this Deed.
- 1.5 This Deed may not be interpreted adversely to a party only because that party was responsible for preparing it.

Trustee's consent

- 1.6 If under any provision in any Transaction Document, the consent, approval or opinion of the Trustee is required to be obtained or formed, the consent, approval or opinion of the Trustee is not to be considered to be unreasonably withheld or formed if it is withheld or formed because:
- (a) complete details of the subject matter of the consent, approval or opinion, and any information requested by the Trustee concerning that subject matter, have not been provided to the Trustee;
 - (b) the Trustee considers that if the subject matter of the proposed consent, approval or opinion was implemented:
 - (i) it would have an adverse effect on any right, remedy, power, authority or discretion of the Trustee or a Note Holder, or an attorney of the Trustee, under any Transaction Document or any law;
 - (ii) it would adversely affect the enforceability of any provision of a Transaction Document or result in a provision of a Transaction Document not being capable of being performed in accordance with its terms or enforced;
 - (iii) it would, or would be reasonably likely to, result in any breach of any law, regulation or official directive of any governmental agency;
 - (iv) it would have a Material Adverse Effect; or
 - (v) it would result in any other way in the occurrence of an Event of Default.

This clause 1.6 does not limit in any way the basis on which the Trustee may withhold its consent or approval or form its opinion.

Note Holders' instructions

1.7 If under any provision in any Transaction Document, the consent, approval or opinion of the Trustee, acting on the instructions of the Note Holders, is required to be obtained or formed, the consent, approval or opinion of the Note Holders or any instructions given by the Note Holders to the Trustee shall not be considered to be unreasonably withheld or formed if it is withheld or formed because:

- (a) complete details of the subject matter of the proposed consent, approval, opinion or instruction, and any information requested by the Note Holders concerning that subject matter, have not been provided to the Note Holders; or
- (b) the Note Holders consider that if the subject matter of the proposed consent, approval, opinion or instruction was implemented:
 - (i) it would have an adverse effect on any right, remedy, power, authority or discretion of Note Holders, or an attorney of those Note Holders, under any Transaction Document or any law;
 - (ii) it would adversely affect the enforceability of any provision of a Transaction Document or result in a provision of a Transaction Document not being capable of being performed in accordance with its terms or enforced;
 - (iii) it would have a Material Adverse Effect; or
 - (iv) it would result in any other way in the occurrence of an Event of Default.

This clause 1.7 does not limit in any way the basis on which Note Holders may withhold their consent or approval or instructions or form its opinion.

Instructions to be given reasonably

1.8 If under any provision in any Transaction Document:

- (a) the consent or approval of the Trustee is required to be obtained and the Transaction Document provides that the consent or approval of the Trustee may not be withheld unreasonably; or
- (b) the Trustee is required to form an opinion and the Transaction Document provides that the opinion must be a reasonable opinion,

each Note Holder agrees with the Company and the Trustee that, in giving instructions to the Trustee in respect of the subject matter of the proposed consent, approval or opinion, the Note Holder will not act unreasonably. The Trustee is not obliged to consider whether or not a Note Holder is or is not acting unreasonably.

Deed subject to Listing Rules if Notes are quoted on ASX

1.9 If Notes are quoted for trading on the ASX, the following clauses apply in respect of the Notes which are quoted:

- (a) despite anything contained in this Deed, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Deed prevents an act being done that the Listing Rules requires to be done;

- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Deed to contain a provision and it does not contain that provision, this Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Deed not to contain a provision and it contains that provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency.

Nothing in this clause 1.9 requires the Trustee to ascertain whether (d), (e) or (f) above apply.

2. Trust

Appointment

2.1 The Trustee is hereby appointed as trustee and agrees to act as trustee of the Trust.

Rights and obligations held on trust

2.2 The Trustee declares that it holds:

- (a) the right to enforce the Company's duty (if any) to repay the Note Holders;
- (b) any charge or security for repayment; and
- (c) the right to enforce any other duties that the Company and any guarantor of the Company have under any Transaction Documents or Chapter 2L of the Corporations Act; and
- (d) to the extent not covered by (a) to (c) above, the Trust Fund,

on trust in accordance with the terms of this Deed for the person or persons who from time to time before the termination of the trust created by this Deed is a Note Holder.

Term

2.3 The trust created by this Deed starts on the date of this Deed and, unless terminated earlier, ends on the day before the 80th anniversary of the date of this Deed.

Name of trust

2.4 The trust created by this Deed is known as the Lakes Oil Converting Notes Trust (No.3).

3. Indebtedness

Indebtedness of Company

3.1 The Company:

- (a) acknowledges that it is indebted to the Trustee and each Note Holder in respect of the Principal Monies represented by the Notes and interest payable in respect of the Notes from time to time and held by each such Note Holder; and

- (b) must, in respect of each Note, and until such Notes have been converted pursuant to clause 4.8 or cancelled pursuant to clause 4.10, pay to each Note Holder or the Trustee in respect of Notes held by such Note Holder:
 - (i) the Principal Monies represented by the Notes; and
 - (ii) interest on the Principal Monies in accordance with the relevant Issuance Document.

Payment to Note Holders

- 3.2 Notwithstanding clause 3.1, the payment by the Company of the Principal Monies and interest in respect of all Notes will be made to the Note Holders, unless or until the Trustee otherwise directs, and every such payment to Note Holders, or in accordance with a direction of the Trustee, shall operate in satisfaction pro tanto of the Company's obligations under clause 3.1. The Company will comply with any directions given by the Trustee under this clause 3.2.

4. Creation and issue of Notes

Issue of Notes

- 4.1 Subject to this clause 4, the Company may issue Notes on such terms as it from time to time determines.

First Issue of Notes

- 4.2 The Company intends to offer and undertake the first issue of Notes on the Conditions of Issue set out in Annexure 1.

Notice to Trustee

- 4.3 Whenever the Company proposes to issue any Issuance Document it must notify the Trustee.

Quotation of Notes

- 4.4 If the Issuance Documents for Notes specify that the Notes are to be quoted for trading on the ASX, the Company must use all reasonable endeavours to have the Notes quoted on the ASX in accordance with the relevant Issuance Documents.

Rights of Note Holders

- 4.5 Subject to the conditions contained in a Note Statement, the issue or transfer of a Note to a Note Holder vests in the Note Holder:
- (a) the benefit of any Security if so provided in the Issuance Document;
 - (b) the benefit and the burden of the conditions applicable to the Note (including under this Deed); and
 - (c) the benefit of all warranties, representations, undertakings or obligations made, given or entered into by the Company under this Deed and the Transaction Documents.
- 4.6 The Note Holders are not entitled to exercise or enforce any of the rights referred to in this clause 4.5 other than through the Trustee.

Redemption

- 4.7 Subject to the Conditions of Issue, the Company must redeem Notes in accordance with the applicable Transaction Documents.

Conversion

- 4.8 The Company must convert Notes in accordance with and at the rate determined under the applicable Transaction Documents.

Conditions of Issue Paramount

- 4.9 To the extent of any inconsistency between the Conditions of Issue for a Note and this Deed, the Conditions of Issue will prevail.

Cancellation of Notes

- 4.10 All Notes repaid, redeemed, converted or purchased by the Company shall ipso facto be cancelled and shall not be re-issued.

5. Transfer of Notes

Transfer

- 5.1 The Notes are transferable subject to any restrictions in the applicable Transaction Documents and in accordance with the applicable Transaction Documents.

Registration requirements for transfers

- 5.2 Subject to clause 5.5 and the terms of the applicable Transaction Documents, every instrument of transfer of a Note must be:
- (a) delivered or notified to the Company or its agent for registration at the place where the Register is kept; and
 - (b) duly stamped, if necessary.

Registration of Transfers

- 5.3 The transferor shall be deemed to remain the owner of the Notes until the name of the transferee is entered in the Register in respect thereof.

Transmission

- 5.4 Any person becoming entitled to Notes in consequence of the death or bankruptcy of any holder of such Notes, may upon producing such evidence of the Note Holder's title as the Directors shall think sufficient, be registered as the holder of such Notes.

Quoted Notes

- 5.5 If Notes are quoted for trading on the ASX, the Company:
- (a) must cause transfers of Notes to be registered in accordance with the Listing Rules and ASX Settlement Operating Rules;
 - (b) must not, except as otherwise provided for in the Listing Rules and ASX Settlement Operating Rules, ask ASX Settlement to apply a holding lock to prevent a proper ASX Settlement transfer, or refuse to register a paper-based transfer, of a Note; and

- (c) must, if it refuses to register a paper-based transfer or asks ASX Settlement to apply a holding lock, tell the Note Holder in writing of the refusal or holding lock and reason for it, within 5 Business Days after the date in which the transfer was lodged or the Company asked for the holding lock.

6. Register

Register

- 6.1 Subject to the Listing Rules and ASX Settlement Operating Rules, the Company will keep or cause to be kept in Melbourne whether electronically or otherwise, a register of Note Holders and must enter in that register:
- (a) the names and addresses of all the persons to whom a Note has been issued or transferred in accordance with this Deed;
 - (b) the date on which the name of each person was entered in the Register as a Note Holder;
 - (c) the date on which any Note Holder ceases to hold Notes; and
 - (d) the date on which any Note is redeemed, converted, repaid or cancelled.

Conclusiveness of Register

- 6.2 The Register is conclusive as to the identity of Note Holders in the absence of manifest error. In the event of any inconsistency with any register kept by the Company, the Register prevails.
- 6.3 A person entered on the Register as the holder of Notes will remain a Note Holder for the purposes of this Deed until removal of that person's name from the Register with the consent of that Note Holder even if:
- (a) the Note held by that person is or proves to have been void, invalid or was improperly issued; or
 - (b) the Note held by that person has been redeemed, converted, repaid or cancelled.
- 6.4 Except as ordered by a court of competent jurisdiction or as required by law, the Company and the Trustee:
- (a) may treat the Note Holder as the absolute owner (notwithstanding any notice of ownership or writing on the Note or any notice of previous loss or theft or of any trust or any other interest);
 - (b) is not required to obtain any proof of ownership and is not required to verify the identity of any Note Holder; and
 - (c) is not required to recognise or give effect to any legal or equitable interest in any Note not entered on the Register notwithstanding that the Company may have actual or constructive notice thereof.

Register available for inspection

- 6.5 The Company must keep the Register open, or cause the Register to be kept open, during business hours for inspection by a Note Holder or the Trustee.

7. Statements

- 7.1 Subject to the requirements of the ASX Settlement Operating Rules and the Listing Rules:
- (a) each Note Holder is entitled to receive one Statement for the Notes held by that person; and
 - (b) a Statement is not a certificate of title as to Notes and the Register is the only conclusive evidence of the ownership of Notes and the entitlements thereunder.
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8. Meetings of Note Holders

Rights of Note Holders to convene Meetings to give a direction or instruction to the Trustee

- 8.1 Subject to the necessary Meeting being held and an appropriate resolution being carried in accordance with this clause 8.1, the Note Holders may direct or instruct the Trustee to take any action which the Trustee has the power to take in respect of the Trust or the Trust Fund under this Deed.
- 8.2 Promptly after a resolution is carried, the chairperson of the relevant Meeting appointed under clauses 8.22 will give the Trustee notice of the terms of the resolution in order that the Trustee may act in accordance with it.
- 8.3 Where at any time there is only one Note Holder holding Notes there is no requirement for a Meeting to be held or a resolution to be carried in order for that Note Holder to give the Trustee a direction or instruction.

Trustee convening of Meetings

- 8.4 The Trustee may at any time convene a Meeting.

Requisition of Meeting

- 8.5 One or more Note Holders representing not less than 10% of the Principal Monies of all Note Holders on issue may requisition a Meeting in accordance with this clause 8.5, and without limiting the foregoing, the Company covenants that it will, on delivery to its registered office of an application by Note Holders holding Notes representing Principal Monies of at least 10% of the total Principal Monies of all Note Holders, by giving notice to each of the Note Holders at the Note Holders address as specified in the register of Note Holders, convene a meeting of the Note Holders:
- (a) to consider the financial statements that were laid before the last preceding annual general meeting of the Company; and
 - (b) to give to the Trustee directions or instructions in relation to the exercise of the Trustee's powers;

being a meeting to be held at a time and place specified in the notice and to be presided over by a person nominated by the Trustee or, if the Trustee does not nominate a person to preside at the meeting, by a person appointed for that purpose by the Note Holders present at the meeting.

- 8.6 A requisition of a Meeting must state the objects of that Meeting and the terms of any resolution proposed to be submitted to that Meeting.

- 8.7 A requisition of a Meeting must be signed by a duly authorised officer of the person or persons requisitioning the Meeting and be delivered to the principal office of the Trustee. The requisition may consist of several documents in the same form, each signed and delivered in the manner required by this clause.
- 8.8 On receipt of any requisition signed and delivered in the manner required by clause 8.7, the Trustee will, as soon as reasonably practical, deliver a copy of that requisition to the Company and give written notice of the Meeting to the Note Holders (each at the cost of the Company).
- 8.9 Notice of a Meeting must be given to the Note Holders not later than 14 Business Days before the date of that Meeting except in the case of a Meeting to consider a special resolution, in which case not less than 21 Business Days notice of the Meeting must be given.

Quorum for a meeting

- 8.10 A quorum at a Meeting requisitioned or convened in accordance with this clause 8.10 is formed for the purpose of passing a resolution by the presence of Note Holders holding Notes representing Principal Monies equal to at least 10% of the total Principal Monies represented by Notes held by all Note Holders.

Meeting following an initial lack of quorum

- 8.11 If a quorum for a Meeting is not present within 20 minutes of the notified starting time of that Meeting, the chairperson will adjourn that Meeting for not less than 3 days and not more than 7 days to such time on a Business Day and place as may be approved by the Trustee, unless the meeting has been requisitioned by Note Holders, in which case the chairperson may cancel the meeting.

Quorum necessary

- 8.12 No business may be transacted at any Meeting until the required quorum is formed at that Meeting.

Resolutions

- 8.13 A resolution put before a Meeting will only be carried by a vote in favour of that resolution made by the Note Holders holding Notes representing total Principal Monies equal to at least 50% of the total Principal Monies of all Note Holders who are present and voting at that Meeting, in person or by proxy (provided that if the Corporations Act requires a special resolution then the relevant percentage is 75%).

Form of notice of meeting

- 8.14 A notice of Meeting given pursuant to this clause 8.14 must specify:
- (a) the day, time and place of the proposed Meeting;
 - (b) an agenda of the business to be transacted at that Meeting; and
 - (c) that proxies may be appointed no later than 48 hours before the time fixed for the Meeting.

Appointment of proxy

- 8.15 A Note Holder is entitled to appoint a proxy for the purpose of voting on behalf of that Note Holder at a Meeting.
- 8.16 The written notification of the appointment of a proxy by a Note Holder must be delivered to the Trustee not less than 48 hours before the notified starting time for the relevant Meeting.

- 8.17 Delivery of the written notification of the appointment of a proxy to the Trustee pursuant to this clause constitutes a valid appointment of a proxy by the Note Holder for the purposes of the relevant Meeting.
- 8.18 The appointment of a proxy by a Note Holder must specify the following:
- (a) the full name, address and occupation of the proxy;
 - (b) particulars of the Meeting for which the proxy is appointed; and
 - (c) any restriction on the matters or resolutions on which the proxy is authorised to vote.
- 8.19 A duly authorised proxy need not be a Note Holder.
- 8.20 The appointment of a proxy will terminate and be of no further force and effect on:
- (a) the final closure of the Meeting for which the proxy is appointed; or
 - (b) the presence at that Meeting of the Note Holder who appointed that proxy.
- 8.21 Objection to any voter's qualification may only be raised at the Meeting or adjourned Meeting where the relevant vote is given or tendered and will be referred to the chairperson who will decide on the validity of the objection. The chairperson's decision will be final and binding.

Election of chairperson

- 8.22 The Trustee or some other person nominated in writing by the Trustee is entitled to be the chairperson.
- 8.23 If the Trustee fails to choose a chairperson for any reason, the chairperson will be appointed by the Note Holders.
- 8.24 The person appointed to be chairperson may, but need not, be a Note Holder or a proxy.

Closure

- 8.25 All Meetings will be declared closed by the chairperson at the time all matters notified as being on the agenda of business for the Meeting have been completed.

Adjournment of Meetings

- 8.26 The chairperson may, with the consent of the Note Holders entitled to vote to carry a resolution at the relevant Meeting (and must if directed by those Note Holders), adjourn that Meeting in respect of that resolution from time to time and place to place as those Note Holders agree.
- 8.27 No business may be transacted at any adjourned Meeting which was not notified as being part of the agenda of business for the Meeting which was originally adjourned.

Resolutions

- 8.28 Every resolution to be decided at a Meeting must be decided by a poll.
- 8.29 On a poll, every Note Holder or proxy who is present has the same number of votes as the total Principal Monies in Dollars of that Note Holder, or by the Note Holders for which that proxy holds a proxy. A person entitled to more than one vote on a poll need not use all those votes in the same way.
- 8.30 A poll will be taken in the manner directed by the chairperson, either at once or after an adjournment.

Binding effect of resolutions

8.31 A resolution validly passed at a Meeting is binding on all Note Holders and each of the Note Holders is bound, to the extent required by that resolution, to give effect to its terms.

Trustee to advise Company

8.32 Where the meeting is convened by the Trustee, the Trustee will, as soon as reasonably practical, give notice to the Company of the agenda or business for any Meeting and the outcome of any resolution put to the Note Holders at that meeting pursuant to this clause 8.32.

Keeping of minutes

8.33 Minutes of all resolutions and proceedings at every Meeting must be made and duly entered in books to be provided from time to time for that purpose by the Company.

8.34 Minutes of resolutions and proceedings at a Meeting, if signed by the chairperson of the Meeting at which the resolutions were passed or proceedings transacted or by the chairperson of the next succeeding Meeting, are conclusive evidence of the matters contained in those minutes.

8.35 Until the contrary is proved, every Meeting for which minutes have been made and signed in accordance with this clause 8.35 is deemed to have been duly convened and held and all resolutions passed or proceedings transacted at that Meeting are deemed to have been duly passed and transacted.

Written Resolution

8.36 Any written notice duly executed by Note Holders who together could have passed a resolution in the terms set out in that written notice will be as effective as a resolution passed in accordance with clause 8.13.

Approval and Deemed Provision

8.37 If any clause of this Deed or any other Transaction Document is not effective to absolve the Trustee from any liability, the Note Holders may release the Trustee in respect of any such liability to the extent and in the manner contemplated by section 283DB of the Corporations Act.

8.38 Clause 8.37 shall be read into and included in any term or provision:

- (a) of the Transaction Documents; or
- (b) of any contract with Note Holders,

which, in accordance with section 283DB of the Corporations Act, would be void but for that term or provision being included in it.

9. Company's obligations

Specific obligations

9.1 The Company must, subject to the Transaction Documents and the Conditions of Issue:

- (a) promptly pay each Note Holder any interest or other payment due under the terms of the Transaction Documents, as and when it is due;

- (b) promptly pay each Note Holder any Principal Monies due under the terms of the Transaction Documents as and when due;
- (c) convert Notes which have conversion rights under the Transaction Documents as and when required and issue new securities in consequence of that conversion; and
- (d) convene where necessary or required by the Transaction Documents, meetings of Note Holders.

General covenants

9.2 The Company covenants that it will strive to carry on and conduct its business in a proper and efficient manner.

9.3 The Company covenants that it will:

- (a) make available for inspection by the Trustee, or any registered company auditor appointed by the Trustee, the whole of the financial or other records of the Company; and
- (b) give to the Trustee such information as the Trustee requires with respect to all matters relating to the financial or other records of the Company.

Company's covenants with the Trustee

9.4 The Company hereby covenants with the Trustee that it will:

- (a) execute and do all such assurances and things as shall be required for giving effect to this Deed and the other Transaction Documents and conferring the full benefit of this Deed and the other Transaction Documents upon Note Holders and the Trustee;
- (b) keep or cause to be kept proper books of account and enter into those books full particulars of all dealings and transactions in relation to its business;
- (c) duly comply with:
 - (i) the requirements of Chapter 2L of the Corporations Act; and
 - (ii) all other statutory requirements and requirements of the Listing Rules and the ASX Settlement Operating Rules with respect to the filing of reports, accounts and statements and the furnishing of reports, accounts and statements to the Trustee (or other bodies), the keeping open of registers for inspection and all other like matters;
- (d) pay or cause to be paid all rents, rates, taxes, duties, assessments, liabilities and outgoings payable as and when the same respectively become due and payable except such as may be contested in good faith or as to which a bona fide dispute may exist;
- (e) observe and perform all the covenants conditions and agreements contained or implied in any encumbrance given by it except to the extent to which the observance or performance thereof has been duly waived;
- (f) promptly give to the Trustee any information which it may reasonably require for the purpose of this Deed or compliance with the Corporations Act;
- (g) promptly advise the Trustee in writing of any default and particulars of such default by the Company or any subsidiary of the Company under any encumbrance over all or any part of its assets or undertakings;

- (h) duly and punctually observe fulfil and perform and comply with all the covenants terms conditions and obligations imposed upon it by or under the Transaction Documents and notify the Trustee in writing immediately on becoming aware that any such covenants terms conditions and obligations cannot be fulfilled or performed;
- (i) not, without the prior written consent in writing of the Trustee, reduce or attempt to reduce its capital;
- (j) notify the Trustee:
 - (i) promptly if any Security Interest is created over the Company's assets and advise the Trustee of the nature of such Security Interest and any other particulars required to be disclosed to the Trustee pursuant to clause 283BE of the Corporations Act;
 - (ii) as soon as it becomes aware that it holds any of its assets as the trustee of any trust and, if requested by the Trustee, specify which assets are subject to that trust;
- (k) provide the Trustee (at the Company's own cost) as and when reasonably requested by the Trustee such information reasonably agreed between the Trustee and the Company for the purpose of ensuring that the Trustee can comply with Chapter 2L of the Corporations Act, including a valuation of part or all of the property of the Company if such valuation is necessary for this purpose;
- (l) provide quarterly reports to the Trustee (and ASIC) in accordance with section 283BF of the Corporations Act within 1 month of the end of each quarter, including a certification by a director of the Company to the Trustee that the Company's assets are insured to the extent appropriate in accordance with usual industry practice; and
- (m) provide half yearly audit reviewed financial reports and yearly audited reports to the Trustee in accordance with, and subject to the time periods contemplated by section 318 of the Corporations Act.

Representations and Warranties

- 9.5 The Company makes the following representations and warranties in favour of the Trustee and each Note Holder:
- (a) **(Validity):** it is a corporation validly existing under the laws of the Commonwealth of Australia;
 - (b) **(Power):** it has the power to enter into and perform its obligations under the Transaction Documents to which it is expressed to be a party, to carry out the transactions contemplated by those documents and to carry on its business as now conducted or contemplated;
 - (c) **(Approval):** it has taken all necessary corporate action to authorise the entry into and performance of the Transaction Documents to which it is expressed to be a party, and to carry out the transactions contemplated by those documents;
 - (d) **(Legally binding obligations):** each Transaction Document to which it is expressed to be a party constitutes a valid and legally binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration;

- (e) **(Execution and performance):** the execution and performance by it of the Transaction Documents to which it is expressed to be a party and each transaction contemplated under those documents do not and will not violate in any respect a provisions of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a government authority binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document or agreement which is binding on it or its assets.
- (f) **(Issuance Documents):** that:
 - (i) the information contained in any Issuance Document is true and complete in all material respects and is not misleading or deceptive, or likely to mislead or deceive, in any material respect; and
 - (ii) no act, matter or thing has occurred since the date of such Issuance Document that renders such information misleading or deceptive or likely to mislead or deceive in any material respect;
- (g) **(No taxes payable):** no ad valorem stamp, transaction, registration or similar taxes are payable in connection with the execution, delivery, performance or enforcement of the Transaction Documents or the transactions contemplated by them (other than in relation to the Securities);
- (h) **(Immunity):** it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (i) **(No Event of Default):** no event has occurred which constitutes an Event of Default; and
- (j) **(Solvency):** there are no reasonable grounds to suspect that it is Insolvent or unable to pay its debts as and when they become due and payable.

Representations and warranties repeated

9.6 Each representation and warranty in clause 9.5 is deemed to be repeated by the Company on each day up until the day all the Notes are repaid, redeemed, converted or cancelled in accordance with the Conditions of Issue by reference to the facts and circumstances existing on that date.

10. Rights and obligations of Trustee

Scope of rights and obligations

10.1 From the date of this Deed:

- (a) the Trustee has all the rights, powers, remedies, discretions and obligations in relation to the trusts constituted by this Deed that it is legally possible for a natural person or corporation to have;
- (b) the Trustee does not have any obligations except those expressly provided for in the Transaction Documents;

- (c) the Trustee owes its obligations to the Note Holders in their capacity as Note Holders only and to no other person; and
- (d) subject to this Deed, the Trustee may exercise or omit to exercise any of its rights, remedies, powers, discretions and obligations in such manner as it thinks fit, notwithstanding that it may not have consulted the Note Holders.

Instructions to Trustee

10.2 Subject to the other provisions of this clause 10.2, the Trustee must:

- (a) use reasonable endeavours to act in accordance with any instructions or directions of the Note Holders; and
- (b) refrain from exercising a right, remedy, power or discretion granted or delegated to it in its capacity as trustee under any Transaction Document if so instructed by the Note Holders,

except in relation to amounts due to it in its own right, or where the Trustee declines to do so if the Trustee is satisfied that the action would be illegal or involve it in personal liability or the action would be unduly prejudicial to the rights of Note Holders not party to the instructions or direction unless this Deed expressly requires the Trustee to take that action or it has not been indemnified or secured to its satisfaction against all Claims, losses, liabilities, costs and expenses (including legal fees) which it might incur as a result.

10.3 The Trustee may refrain from exercising any right, remedy, power or discretion granted or delegated to it under the Transaction Documents until it has received instructions from the Note Holders as to whether it is to be exercised and, if applicable, the way in which it is to be exercised.

10.4 Subject to the other provisions of this clause 10.2, the Trustee must take action or proceedings to enforce this Deed or the Conditions of Issue where all the following conditions are satisfied:

- (a) the Trustee is directed to take the action or proceeding by the Note Holders;
- (b) the direction of the Trustee is made by a resolution of Note Holders passed in accordance with clause 8;
- (c) the Trustee is indemnified, to its satisfaction, against all Claims, losses, liabilities, costs and expenses (including legal expenses) which the Trustee may incur or render itself liable by taking such action; and
- (d) the Trustee has not obtained a court order to set aside or vary the direction.

10.5 If the Trustee forms the view that such enforcement is or could be inconsistent with this Deed, the Conditions of Issue or the Corporations Act or is or could be otherwise objectionable, it may take steps to seek as soon as reasonably practicable a court direction or order to set aside or vary the direction or instruction of Note Holders, and, while those steps are under way, the Trustee is not obliged to take action or proceedings under this clause 10.2.

10.6 Any action taken by the Trustee or which the Trustee refrains from taking in accordance with clauses 10.2 to 10.8 is binding on all of the Note Holders.

10.7 The Trustee may refrain from exercising any of its rights, remedies, powers or discretions or performing any of its obligations under the Transaction Documents until it has been indemnified or secured to its satisfaction against all Claims, losses, liabilities, costs and expenses (including legal fees) which it might incur or render itself liable to as a result.

10.8 Any instructions or directions contemplated by this Clause may be given:

- (a) by resolution passed at a Meeting;
- (b) by written resolution under clause 8.36; or
- (c) if there is only one Note Holder, by written instructions from that Note Holder.

Delegation

10.9 The Trustee may:

- (a) perform any of its obligations under the Transaction Documents through its directors, officers, employees or agents;
- (b) engage and pay for the advice or services of experts or professional advisers (such payments to be reimbursable by the Company on demand), including lawyers or accountants, as it considers appropriate, and may rely and act on that advice and the Trustee will not be responsible or liable for any loss occasioned by its acting or declining to act on any such advice or services;
- (c) place any Security (if any) and any title or other document relating to the property subject to any of the Security with any person whose business includes the safe custody of documents or any firm of lawyers without any liability for any loss incurred as a result.

Reliance

10.10 The Trustee may:

- (a) rely, as to matters of fact, on a certificate signed by or on behalf of that person;
- (b) rely on any certificate, notice or other document believed by it to be genuine and to have been signed and sent by or on behalf of the proper person or persons;
- (c) accept without enquiry or objection the title the Company has to any property which is subject to any Security (if any) and is not liable for any lack of or defect in that title, whether apparent or not, and whether capable of remedy or not; and
- (d) assume that no Event of Default has occurred and that no party is in breach of its obligations under this Deed or any Transaction Document unless it has actual knowledge to the contrary.

Trustee knowledge

10.11 The Trustee is considered to have knowledge:

- (a) of the occurrence of an Event of Default; or
- (b) that a party is in breach of its obligations under a Transaction Document, only if the Trustee has actual knowledge of the same.

Company to notify Trustee

10.12 Without limiting the operation of clause 10.11, the Company agrees to promptly notify the Trustee:

- (a) of the occurrence of an Event of Default; or

- (b) where the Company has knowledge that a party (including itself) is in breach of its obligations under a Transaction Document, the name of that party and the nature of that breach (including reasonable details of the breach).

No liability to Note Holders or Company

10.13 Neither the Trustee nor any of its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors has any liability or obligation to a Note Holder or the Company:

- (a) for any failure or delay by the Company or any other party in performing its respective obligations under any Transaction Document;
- (b) for the authorisation, execution, legality, validity, enforceability, effectiveness, genuineness, admissibility in evidence of sufficiency of any Transaction Document;
- (c) for the completeness or accuracy of any recital, representation, warranty or statement made in or in connection with a Transaction Document or any certificate or other document referred to, provided for in or received by it under a Transaction Document;
- (d) for the accuracy or completeness of any information supplied by any person, whether or not that information is circulated by the Trustee;
- (e) for acting or refraining from acting in accordance with the instructions of the Note Holders under or in connection with any Transaction Document;
- (f) for any omission or delay in giving notice to any third party, making any filing or registration, obtaining any authorisation or perfecting the security constituted by the Security in any other way;
- (g) for any absence of, or defect in the title of the Company to any asset of the Company;
- (h) for the financial condition or solvency of the Company; or
- (i) for acting upon any direction or instruction purporting to have been given by a resolution of the Note Holders passed at a meeting of the Note Holders at which minutes were made and signed even though it may subsequently be found that there was some defect in the constitution of the meeting or the passing of the resolution or that for any other reason the resolution was not valid or binding upon any of those Note Holders whom it purports to bind or upon the Trustee.

No liability to Company

10.14 The Trustee has no liability or obligation to the Company as a result of any failure or delay by any Note Holder, the Trustee or any other party in performing its respective obligations under any Transaction Document unless (in relation to an obligation of the Trustee) resulting directly from the gross negligence, wilful misconduct or fraud of the Trustee.

Exoneration

10.15 To the extent permitted by law, neither the Trustee nor any of its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors has any liability for any action taken or omitted to be taken under or in connection with the Transaction Documents unless resulting directly from its or their gross negligence, wilful misconduct or fraud.

No Claims

- 10.16 The Note Holders and the Company each release the Trustee and any director, officer, employee, agent, delegate, attorney, Related Body Corporate or successor of the Trustee from any claim it may have against any of them for any matter referred to in clauses 10.13, 10.14 or 10.15.

Indemnity

- 10.17 To the maximum extent permitted by law, the Company unconditionally and irrevocably indemnifies the Trustee and its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors, from and against all Claims (including legal costs on a full indemnity basis) made against, or incurred by, the Trustee or its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors or incurred by the Trustee in its capacity as trustee under or in connection with a Transaction Document including any Claim made or incurred as a result of any action taken or omitted to be taken by the Trustee its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors to protect or enforce the rights of the Note Holders or the Trustee.
- 10.18 The Trustee's right of indemnity under this clause 10.18 does not apply to the extent that any Claim that results directly from the Trustee's gross negligence, wilful misconduct or fraud.
- 10.19 The Trustee's right of indemnity under this clause 10.19 is in addition to any right of indemnity of the Trustee under any law.
- 10.20 The indemnities contained in this Deed in favour of the Trustee survive the retirement or removal of a Trustee and continue in force in favour of a former Trustee in respect of acts or omissions while it was Trustee.
- 10.21 The indemnities contained in this Deed apply despite any other provision of this Deed and any other Transaction Document and extend to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed and any other Transaction Document.
- 10.22 No attorney or agent appointed in accordance with this Deed and any other Transaction Document has authority to act on behalf of the Trustee in a way which exposes the Trustee to any personal liability and no act or omission of any such person will be considered gross negligence, wilful misconduct or fraud for the purpose of clause 10.18.
- 10.23 The Trustee is not obliged to do or refrain from doing anything under this Deed and any other Transaction Document (including incur any liability) unless the Trustee's liability is limited in the same manner as set out in this clause.

Acknowledgment by Note Holders

- 10.24 Each Note Holder is taken to confirm for the benefit of the Trustee that:
- (a) it has been, is and will continue to be solely responsible for:
 - (i) making its own analysis of and investigations into the creditworthiness, status, prospects, business, operations, assets and condition of the Company and any other person referred to in this Deed; and
 - (ii) making its own decisions to enter into or take or not take any action under the Transaction Documents;
 - (b) it has made its own assessment and approval of the return to be obtained by it under the Transaction Documents; and

- (c) it has not relied on any representation or statement made by the Trustee as an inducement to it entering into the Transaction Documents.

No obligation to keep informed

10.25 The Trustee has no obligation, either initially or on a continuing basis:

- (a) to determine whether an Event of Default has occurred or any party is in breach of its obligations under any Transaction Document;
- (b) to keep itself informed about the performance by any party of its obligations under the Transaction Documents;
- (c) to provide any Note Holder with any information it has or which comes into its possession concerning the Company except as provided for in clause 10.25 or
- (d) to determine whether any representation, statement or warranty made by any party in, or in connection with, a Transaction Document is true.

10.26 The Company authorises the Trustee to provide to any Note Holder any information about the Company which it has or which comes into the possession of the Trustee, but the Trustee is not required to do so.

Trustee as Note Holder

10.27 In its capacity as a Note Holder, the Trustee has the same rights and powers as any other Note Holder and may exercise those rights and powers as if it were not acting as trustee.

Engage in business

10.28 The Trustee may engage in any form of business with the Company or any of its Related Bodies Corporate as if it were not the Trustee without having to account to the Note Holders for any benefit received by it arising out of that business.

10.29 The Trustee may accept fees and other consideration and reimbursement of expenses from the Company or any of its Related Bodies Corporate for services under the Transaction Documents or any other services, without any obligation to account to the Note Holders for any money received.

Limited recourse to Trustee

10.30 Subject to this Deed:

- (a) the Trustee acts, and incurs liabilities and has undertaken or will undertake all covenants, terms and conditions on its part in relation to the Trust and the Transaction Documents solely in its capacity as trustee of the Trust; and
- (b) the Trustee is not personally liable, and the Note Holders and the Company have no recourse to the Trustee (in its personal capacity or as trustee of the Trust), for payment of:
 - (i) any amount payable by it under the Transaction Documents; or
 - (ii) any damages award for a breach of any of its obligations under the Transaction Documents,

other than to the extent that the Trustee obtains reimbursement from the Trust Fund.

- 10.31 Subject to this Deed, the Note Holders and the Company must not take any step to:
- (a) have an administrator appointed to the Trustee;
 - (b) have a Controller appointed to the Trustee, other than a receiver of only the Trust Fund or a part of it;
 - (c) appoint or have appointed a liquidator or provisional liquidator of the Trustee;
 - (d) apply to a court to propose a compromise or arrangement in respect of the Trustee;
 - (e) have the Trustee wound up, or prove in a winding up of the Trustee;
 - (f) obtain a judgment against the Trustee for the payment of money;
 - (g) carry out any distress or execution on any property of the Trustee; or
 - (h) exercise any:
 - (i) right of set-off;
 - (ii) right to combine or consolidate accounts; or
 - (iii) banker's lien,against the Trustee, other than in respect of the Trust Fund to which that Note Holder is entitled,
- in connection with the Trustee's obligations under the Transaction Documents.

- 10.32 The parties other than the Trustee acknowledge that the whole of this document is subject to this clause 10.32 and the Trustee shall in no circumstances be required to satisfy any liability of the Trustee arising under, or for non-performance or breach of any Obligations under or in respect of, this document or under or in respect of any other Transaction Document out of any funds, property or assets other than the Assets of the relevant Trust Fund under the Trustee's control and in its possession as and when they are available to the Trustee to be applied in exoneration for such liability provided that if the liability of the Trustee is not fully satisfied out of the Assets of the relevant Trust Fund as referred to in this clause 10.32, the Trustee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the relevant Trust Fund have been reduced by reason of fraud, gross negligence or wilful misconduct by the Trustee in the performance of the Trustee's duties as trustee of the relevant Trust Fund.

In this clause the "Obligations" means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this document, and "Assets" includes all assets, property and rights real and personal of any value whatsoever.

- 10.33 The Note Holders and the Company have no rights against or recourse to any Protected Person in connection with the Trustee's obligations under the Transaction Documents.

Resignation and removal of Trustee

- 10.34 The Trustee may resign at any time by giving not less than 30 days' written notice to the Company.
- 10.35 On receiving notice of the resignation of the Trustee the Company may appoint a successor Trustee. If the Company does not appoint a successor Trustee within the 30 day notice period,

the retiring Trustee may do so on its behalf or, at the direction of the Trustee, the Company must apply to the Court for the appointment of a successor Trustee.

- 10.36 The Trustee may be removed by Note Holders by giving not less than 30 days' (unless the Trustee is Insolvent, in which case it may be immediate) written notice, such notice to be duly executed by Note Holders holding Notes representing at least 50% of the Principal Monies of all the Notes on issue at the relevant time. Such notice must also provide for the appointment of a successor Trustee, whose appointment must have been consented to by the Company (such consent not to be unreasonably withheld).
- 10.37 The Trustee's resignation or removal does not take effect until a successor Trustee has been appointed and the successor Trustee has:
- (a) accepted the appointment in a manner which binds it to perform the obligations of the Trustee under the Transaction Documents; and
 - (b) obtained legal title to the Trust Fund in its capacity as trustee.
- 10.38 On appointment of a successor Trustee:
- (a) the successor Trustee succeeds to and becomes vested with all the rights, powers, remedies, discretions and obligations of the retiring Trustee; and
 - (b) the retiring Trustee is discharged from any further obligations under this Deed but remains entitled to and bound by any rights and obligations that have accrued up to the date of discharge.
- 10.39 After any retiring Trustee's resignation or removal, clauses 10.13 to 10.23 and 10.30 to 10.33 continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Trustee.
- 10.40 The retiring Trustee must, at its own cost, provide to the successor Trustee such documents and assistance as it reasonably requires for the purpose of performing its functions as Trustee under the Transaction Documents.
- 10.41 The prior written consent of the Company must be obtained to the appointment of a successor Trustee. The Company must not unreasonably withhold its consent.

Protection of Trustee

- 10.42 The Trustee is not obliged to:
- (a) give any notice of this Deed or a Transaction Document to any debtor or member of the Company or to any other person; or
 - (b) enforce payment of any money payable to the Company or take any steps or proceedings for that purpose.
- 10.43 Neither the Trustee nor any of its directors, officers, employees, agents, delegate or attorneys nor any Receiver is liable to any person for:
- (a) any omission or delay in taking any action referred to in clause 10.42; or
 - (b) for any involuntary losses or irregularities which occur in or about the exercise or non-exercise of any powers, rights, remedies or discretions conferred on the Trustee or a Receiver by this Deed or a Transaction Document,

except and only to the extent that any loss is caused by the fraud, gross negligence or wilful misconduct of the Trustee or its directors, officers, employees, agents or attorneys or such Receiver.

- 10.44 A failure by the Trustee to comply with, or a breach by the Trustee of any of its obligations under any Transaction Document will not be considered to be gross negligence, wilful misconduct or fraud or breach of trust by the Trustee if the relevant failure or breach:
- (a) arose as a result of a breach by a person other than the Trustee of a Transaction Document where the performance of the action (the non-performance of which gave rise to such breach) is a precondition to the Trustee performing the said obligation;
 - (b) was in accordance with a lawful court order or direction or otherwise required by law;
 - (c) was in accordance with an instruction or direction of the Note Holders given, or purporting to have been given, at a meeting of Note Holders convened, or purporting to have been convened, in accordance with this Deed; or
 - (d) arose as a result of the failure of the Note Holders or any of them to give instructions or directions required by this Deed or as a result of incomplete or ambiguous instructions or directions.

Nothing in this clause 10.44 limits the range of circumstances in which the Trustee will not be considered to have displayed gross negligence, wilful misconduct or fraud.

Trustee function

- 10.45 For the purposes of this Deed, as between the Company, the Trustee and the Note Holders:
- (a) all demands on the Company for the payment or recovery of any money due to any Note Holder under a Transaction Document must be made by the Trustee or an Authorised Officer of the Trustee at the direction of the Note Holders;
 - (b) all documents to be given to or by the Trustee and the Note Holders under this Deed must be given to or by the Trustee or an Authorised Officer of the Trustee alone; and
 - (c) all rights conferred on the Trustee and the Note Holders under this Deed are exercisable through the Trustee or an Authorised Officer of the Trustee alone.
- 10.46 For the purposes of this Deed, the rights and duties of and to the Trustee and the Note Holders respectively as between themselves are governed by this Deed.
- 10.47 Notwithstanding anything else contained in clauses 10.45 to 10.48, the receipt of the Trustee or an Authorised Officer of the Trustee for any money payable to or receivable by the Trustee by virtue of this Deed constitutes a good and valid discharge against the Trustee and the Note Holders in respect of that money to any person dealing with the Trustee (including any attorney, any Receiver appointed by or on behalf of the Trustee and the Note Holders or any third party).
- 10.48 Notwithstanding anything else contained in clauses 10.45 to 10.48, no person dealing with the Trustee or any Authorised Officer of the Trustee, any attorney or any Receiver appointed by or on behalf of the Trustee and the Note Holders is:
- (a) bound or concerned or entitled to enquire into the validity of the exercise by the Trustee or any Authorised Officer of the Trustee of any rights by or on behalf of the Trustee or whether that exercise is in accordance with any agreement or arrangement between the Trustee and the Note Holders (whether under any Transaction Document or otherwise); or

- (b) affected by, or has its rights or obligations, whether arising under this Deed or in any other way, qualified or affected by, actual or constructive notice that any such exercise is not in accordance with any such agreement or arrangement.

Company not concerned with authority

- 10.49 The Company is not entitled or required to enquire as to whether any instructions have been given to the Trustee by the Note Holders or the extent of any instructions.
- 10.50 As between the Company and the Note Holders, all action taken by the Trustee under or in relation to the Transaction Documents is taken to be authorised by the Note Holders.

Trustee fee

- 10.51 In addition to the \$5,000 (exclusive of GST) annual fee payable by the Company to the Paying Trustee under the Paying Trustee Agreement, the Company covenants with the Trustee that it will pay to the Trustee an annual fee of \$30,000 (exclusive of GST), payable quarterly in arrears or such other amount as agreed between the Company and the Trustee from time to time. The payment of such fees must be made by the Company by transfer to such account nominated from time to time by the Trustee to the Company in writing or by such other means notified by the Trustee to the Company from time to time.
- 10.52 The Company covenants with the Trustee that it will pay to the Trustee:
 - (a) if the Trustee takes any enforcement action in relation to any Transaction Document, on demand from the Trustee, such additional remuneration as shall be commensurate with any additional duties and responsibilities performed or undertaken by the Trustee in consequence of taking such enforcement action, as shall from time to time be agreed between the Company and the Trustee; and
 - (b) in the absence of agreement in relation to the additional remuneration referred to in clause 10.52(a) above, the Trustee shall be entitled to charge the Company reasonable hourly rates for time spent by the Trustee's officers and employees in relation to such enforcement action. Such hourly rates shall:
 - (i) reflect the level of expertise required to perform the work; and
 - (ii) be commensurate with and referable to the hourly rates charged at the relevant time by members of the Insolvency Practitioners Association of Australia for work of the kind being performed by the Trustee's officers and employees.
- 10.53 If the Trustee ceases to be the trustee during any year, it shall be entitled to receive for that year only that proportion of the relevant annual yearly fee that equates to the proportion of the year during which the Trustee acted as trustee.
- 10.54 The Company will pay to the Trustee on demand all costs, charges and expenses (including GST) reasonably and properly incurred by or on behalf of the Trustee, including reasonable remuneration of any experts or advisers employed by the Trustee in the administration of the trusts of this Deed from time to time (including legal costs on a full indemnity basis) including any variation to this Deed in priority to any claim by any Note Holder.
- 10.55 Subject to the terms of an escrow agreement or express agreement to the contrary, the Trustee may retain and pay to itself (in priority to any claim by Note Holders) all remuneration, payments or other amounts referred to in clauses 10.51 to 10.56 out of any moneys for the time being in its hands under the trusts of this Deed and/or the Trust Fund.

- 10.56 Where in any proceedings alleging any default of the Trustee there is a finding that the Trustee was in default, the Trustee must promptly repay to the Company any amount paid by the Company to the Trustee under clause 10.54 in connection with defending those proceedings, to the extent that those costs or expenses relate to the finding.

Event of Default

- 10.57 If an Event of Default occurs, the Trustee may:
- (a) exercise any of its rights, remedies, powers or discretions under the Transaction Document;
 - (b) exercise any of its powers under the Corporations Act; or
 - (c) issue a default notice to the Company requiring that the default be immediately remedied to the satisfaction of the Trustee.

Limitations of Liability

- 10.58 This limitation of the Trustee's liability applies despite any other provisions of this Deed and extends to all Obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed. In the event of any inconsistency, this clause 10.58 prevails.
- (a) The Trustee enters into this Deed as trustee of the Trust and in no other capacity.
 - (b) The parties other than the Trustee acknowledge that the Trustee incurs the Obligations solely in its capacity as trustee of the Trust and that the Trustee will cease to have any obligation under this Deed if the Trustee ceases for any reason to be trustee of the Trust.
 - (c) Subject to subclause 10.58(g), the Trustee, its officers or agents will not be liable to pay or satisfy any Obligations except out of the Assets against which it is actually indemnified in respect of any liability incurred by it as trustee of the Trust.
 - (d) Subject to subclause 10.58(g), the parties other than the Trustee may enforce their rights against the Trustee arising from non-performance of the Obligations only to the extent of the Trustee's right of indemnity out of the Assets of the Trust.
 - (e) Subject to subclause 10.58(g), if any party other than the Trustee does not recover all money owing to it arising from non-performance of the Obligations it may not seek to recover the shortfall by:
 - (i) bringing proceedings against the Trustee in its personal capacity; or
 - (ii) applying to have the Trustee put into administration or wound up or applying to have a receiver or similar person appointed to the Trustee or proving in the administration or winding up of the Trustee.
 - (f) Subject to subclause 10.58(g), the parties other than the Trustee waive their rights and release the Trustee from any personal liability whatsoever, in respect of any loss or damage:
 - (i) which they may suffer as a result of any:
 - (A) breach by the Trustee of any of its Obligations; or
 - (B) non-performance by the Trustee of the Obligations; and

- (ii) which cannot be paid or satisfied out of the Assets of which the Trustee is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.
- (g) The parties other than the Trustee acknowledge that the whole of this Deed is subject to this clause 10.58 and the Trustee shall in no circumstances be required to satisfy any liability of the Trustee arising under, or for non-performance or breach of any Obligations under or in respect of, this Deed or under or in respect of any other document to which it is expressed to be a party out of any funds, property or assets other than the Assets of the Trust under the Trustee's control and in its possession as and when they are available to the Trustee to be applied in exoneration for such liability PROVIDED THAT if the liability of the Trustee is not fully satisfied out of the Assets of the Trust as referred to in this clause 10.58, the Trustee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the Trust have been reduced by reasons of fraud, negligence or breach of trust by the Trustee in the performance of the Trustee's duties as trustee of the Trust.
- (h) Nothing in the aforementioned clause 10.58(g) shall make the Trustee liable to any claim for an amount greater than the amount which the Trustee would have been able to claim and recover from the assets of the Trust in relation to the relevant liability if the Trustee's right of indemnification out of the Assets of the Trust had not been prejudiced by the Trustee's failure to properly perform its duties.
- (i) The parties agree that no act or omission of the Trustee (including any related failure to satisfy any Obligations) will constitute fraud, negligence or wilful default of the Trustee for the purposes of this clause 10.58 to the extent to which the act or omission was caused or contributed to by any failure of the Company or any other person to fulfil its obligations relating to the Trust or by any other act or omission of the Company or any other person.
- (j) No attorney, agent or other person appointed in accordance with this Deed has authority to act on behalf of the Trustee in a way which exposes the Trustee to any personal liability (except in accordance with the provisions of clause 10.58), and no act or omission of such a person will be considered fraud, negligence or wilful default of the Trustee for the purposes of this clause 10.58.
- (k) In this clause the "Obligations" means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this Deed, and "Assets" includes all assets, property and rights real and personal of any value whatsoever.

11. Distribution of Recovered Monies

Order of distribution of Recovered Monies

- 11.1 All Recovered Monies must be distributed by the Trustee as soon as practicable after the Trustee receives the moneys in accordance with the Transaction Documents, in the order and proportions provided under the Transaction Documents. Notwithstanding the previous sentence, any other provision of this Deed or any other Transaction Document, the Trustee is entitled to retain out of Recovered Monies any fees payable to it, and any Claims incurred by it, under this Deed before distributing the remainder of the Recovered Monies in accordance with this clause.

Suspense account

- 11.2 Unless the Note Holders decide otherwise, any money recovered under a Transaction Document does not form part of the Recovered Monies for the purposes of clause 11.1 if that Transaction Document permits the money to be placed to the credit of a suspense account in order to preserve rights to prove in the bankruptcy or liquidation of any person. Any suspense account to which money is placed under this clause 11.2 must be an interest bearing account selected reasonably by the Trustee. Interest earned on the account is to be immediately treated as Recovered Monies in accordance with this Deed.

Contingent payments

- 11.3 If a Note Holder receives an amount under a Transaction Document on account of an amount contingently owing under a Transaction Document, and it transpires that the amount never becomes owing and payable, the Note Holder must promptly repay the amount received to the Trustee for distribution in accordance with this Deed.

12. Payment to Note Holders

- 12.1 Any interest, Principal Monies or other moneys payable on or in respect of any Notes may be paid:
- (a) by payment by "not negotiable" cheque sent through the post to the registered address of the holder or in the case of joint holders to the registered address of the first joint holder who is named in the Register in respect of such Notes. Every such cheque shall be sent at the risk of the person entitled to the moneys represented thereby; or
 - (b) by deposit to such account with any bank, credit union or building society as the Note Holder by written notice to the Company may direct.
- 12.2 If several persons are entered in the Register as joint holders of any Notes then the payment to any one of such persons for any interest or other moneys payable on or in respect of such Notes shall be as effective a discharge to the Company (or the Trustee, as applicable) as if the person to whom payment is made were the sole registered holder of such Notes.
- 12.3 The Company and the Trustee shall be entitled to deduct and withhold from any payment to be made to a Note Holder, any amount which the Company or the Trustee is required to deduct or withhold in respect of such payment under any applicable taxation or other law.
- 12.4 If any withholding or deduction as described in paragraph 12.3 above is required by any law or regulation, the Company or the Trustee (as the case may be) will account to the relevant government authority for the amount required to be withheld or deducted and the Company or the Trustee (as the case may be) will not be obliged to pay any additional amounts to Note Holders in respect of such withholding or deduction.

13. Variation of Trust Deed

- 13.1 Subject to clause 13.2, and the ASX Listing Rules (to the extent applicable), this Deed may be amended, varied, modified or added to by notice given by the Company to all Note Holders provided that the amendment, variation, modification or addition has been agreed to by Note Holders at a Meeting held in accordance with the provisions of this Deed by way of Special Resolution and provided the change does not alter any of the rights and obligations of the Trustee (without the Trustee's prior written consent).

- 13.2 The Company and the Trustee may by deed between them amend, vary, modify or add to this Deed without requiring the agreement or approval of Note Holders if in the opinion of the Trustee:
- (a) the change is necessary or desirable to correct an error or to comply with any law or to comply with the ASX Listing Rules;
 - (b) the change is of a formal or technical nature; or
 - (c) the change is not likely to be materially prejudicial to the interests of Note Holders.
-

14. Power of Attorney

Attorney

- 14.1 The Company irrevocably appoints the Trustee, a Controller appointed by the Trustee, and their respective Authorised Officers severally as its attorneys to, after an Event of Default has occurred:
- (a) perform the obligations of the Company under the Transaction Documents;
 - (b) in the name of the Company or the attorney, do everything the attorney considers necessary or desirable to give full effect to a right, remedy or power of the Trustee or the Note Holders under a Transaction Document;
 - (c) execute, in the name of the Company, any documents;
 - (d) appoint substitutes or delegate its powers (including this power of delegation) to any person for any period and revoke any substitution or delegation; and
 - (e) do everything that the Company may lawfully authorise an agent to do in respect of the Secured Property.
- 14.2 Any attorney of the Company may exercise its powers even if the exercise of the power constitutes a conflict of interest or duty.
- 14.3 If required by the Trustee, the Company must ratify anything an attorney or its delegate does in exercising its powers under this clause 14.
- 14.4 The Company must sign and deliver to the Trustee any powers of attorney and other documents necessary to give full effect to the Trustee's rights under this Deed.

Completion of blanks

- 14.5 The Trustee and each Authorised Officer of the Trustee is authorised to fill in any blanks and otherwise complete any instruments executed by the Company and deposited with the Trustee in connection with this Deed.
-

15. Notices

Requirements

- 15.1 All notices must be:
- (a) in legible writing and in English;

- (b) addressed to the recipient in accordance with clauses 15.3 and 15.4 or to the address or facsimile number set out below or (in the case of the Trustee and/or the Company) to any other address or facsimile number that a party may notify to the other:

to the Company:

Address: Level 14
500 Collins Street
Melbourne Victoria 3000

Attention: Mr Leslie Smith
Company Secretary

Facsimile No: (03) 9629 1624

E-mail address: leslie.smith@lakesoil.com.au

to the Trustee:

Address: Level 2
575 Bourke Street
Melbourne Victoria 3000

Attention: Mr Sten Silavecky
Senior Manager, Structured Finance & Property

Facsimile No: (03) 8623 5200

E-mail address: ssilavecky@eqt.com.au

- (c) signed by the party, or where the sender is a company, by an Authorised Officer or under the common seal of the sender;
- (d) sent to the recipient by hand, prepaid post (airmail if to or from a place outside Australia) or facsimile; and
- (e) sent in electronic form (such as email).

Receipt

15.2 Without limiting any other means by which a party may be able to prove that a notice has been received by the other party, a notice will be considered to be received:

- (a) if sent by hand, when left at the address of the recipient;
- (b) if sent by pre-paid post, 3 days (if posted within Australia to an address in Australia) or 10 days (if posted from one country to another) after the date of posting;
- (c) if sent by facsimile, on receipt by the sender of an acknowledgment or transmission report generated by the sender's machine indicating that the whole facsimile was sent to the recipient's facsimile number;
- (d) if sent in electronic form, when the sender receives an email message from its addressee acknowledging its receipt:
- (i) if it is transmitted by 5.00 pm (local time in the place of receipt) on a Business Day – on that Business Day; or

- (ii) if it is transmitted after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day),

but if a notice is served by hand, or is received by the recipient's facsimile on a day which is not a Business Day, or after 5:00 pm (recipient's local time) on a Business Day, that notice will be considered have been received by the recipient at 9:00 am on the next Business Day.

Notices to Note Holders

- 15.3 All notices to Note Holders may be given by the Trustee and sent by prepaid post addressed to the Note Holder to the address set out in the Register for that Note Holder.
- 15.4 Failure to give a notice to, or non-receipt of a notice by, any Note Holder does not invalidate any resolution or proceeding to which the notice relates.

16. General provisions

No merger

- 16.1 No Transaction Document merges, discharges, postpones or adversely affects in any other way the rights, remedies or powers of the Trustee or any Note Holder under any other Transaction Document.
- 16.2 Nothing in any Transaction Document merges, discharges, postpones or adversely affects in any other way a Security or any of the rights, remedies or powers of the Trustee or any Note Holder against any person.
- 16.3 If a judgment is made in favour of the Trustee or any Note Holder against the Company, the Trustee holds the judgment as security collaterally with the Transaction Documents and no Transaction Document merges in the judgment.

Further assurances

- 16.4 The Company must, at its own expense, whenever requested by the Trustee, promptly do or cause to be done anything which the Trustee considers necessary or desirable to:
 - (a) give full effect to a Transaction Document; or
 - (b) more fully secure the rights, remedies and powers of the Trustee under a Transaction Document,including signing and delivering documents.

Waiver and exercise of rights

- 16.5 A waiver by the Trustee of a provision of or of a right under a Transaction Document is binding on the Trustee only if it is given in writing and is signed by the Trustee or an Authorised Officer of the Trustee.
- 16.6 A waiver is effective only in the specific instance and for the specific purpose for which it is given.
- 16.7 A single or partial exercise, or non-exercise, of a right by the Trustee does not prevent another exercise, attempted exercise or non-exercise of that right or the exercise, or non-exercise, of another right.

- 16.8 Failure by the Trustee to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.
- 16.9 The Trustee is not liable for any loss, cost or expense of the Company caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

Invalid or unenforceable provisions

- 16.10 If a provision of a Transaction Document is invalid or unenforceable in a jurisdiction:
- (a) it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
 - (b) that fact does not affect the validity or enforceability of:
 - (i) that provision in another jurisdiction; or
 - (ii) the remaining provisions

Trustee's certificate

- 16.11 A certificate signed by an Authorised Officer of the Trustee stating an amount due, owing or payable or a rate or any other matter for the purpose of a Transaction Document is, in the absence of manifest error, conclusive and binding.

Counterparts

- 16.12 This Deed may be signed in counterparts and all counterparts taken together constitute one document.

Successors and assigns

- 16.13 This Deed is binding on, and for the benefit of, the parties to this Deed and their respective successors and permitted assigns.
- 16.14 The Company must, at its own expense, within 5 Business Days of written demand by the Trustee, execute and cause its successors to execute any instrument which imposes no greater obligations on the Company than those contained in this Deed, and do everything reasonably necessary, to bind its successors to this Deed.

Governing law

- 16.15 This Deed is governed by the laws applying in the Victoria.

Jurisdiction

- 16.16 The Company irrevocably and unconditionally:
- (a) submits to the non-exclusive jurisdiction of the courts of the Victoria; and
 - (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

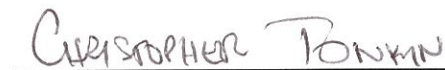
Execution

Executed as a deed.

Signed sealed and delivered
for and on behalf of **Lakes Oil NL**
by a director and secretary/director:



Signature of director



Name of director (please print)



Signature of secretary/director



Name of secretary/director (please print)

The **Common Seal of Equity Trustees Limited** in its capacity as trustee of the Lakes Oil Converting Notes Trust No.3 is duly affixed to this document by authority of its directors in the presence of:



Signature of authorised person



Signature of authorised person

Office held

Michael J O'Brien
Executive Director

Name of authorised person (print)

Office held

Carmen Odette Lunderstedt
Company Secretary

Name of authorised person (print)

Annexure 1

Conditions of Issue of Converting Notes

1 Definitions

30 Day Average Closing Share Price means the average closing price of the Shares on ASX on the 30 Business Days prior to the Maturity Date where sales were recorded.

ASX means ASX Limited or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Settlement means ASX Settlement Pty Ltd, the body which administers the CHESSE system in Australia.

ASX Settlement Operating Rules means the settlement operating rules of ASX Settlement.

Business Day means a day on which Banks are open for business in Melbourne other than a Saturday, a Sunday or a public holiday.

Change in Control Conversion Date has the meaning given in Condition 3.3.

Change in Control Event has the meaning given in Condition 3.3.

Company means Lakes Oil NL ABN 62 004 247 214.

Conversion means the conversion of a Note by exercise of the Conversion Right attached to the Note.

Conversion Date means subject to Condition 3.13 the earlier of:

- (a) the Maturity Date;
- (b) the Early Conversion Date; or
- (c) the Change in Control Conversion Date.

Conversion Rate means the rate of Conversion of each Note into Shares on:

- (a) a 9,091 Share to 1 Note basis (the ratio being based on a conversion price of 0.11 cents per Share); or
- (b) a 9,091 Share to 1 Note basis multiplied by the Uplift Factor (the ratio being based on a conversion price of between 0.10 and 0.11 cents per Share) where the 30 Day Average Closing Share Price prior to the Maturity Date is less than 0.11 cents (rounded upwards to the nearest Share in the case of fractions) up to a maximum of a 10,000 to 1 Note basis,

subject to any adjustment of the rate pursuant to Condition 3.5.

Conversion Right means the right to convert a Note to Shares in accordance with these conditions.

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

Early Conversion Date means any of 30 November 2016, 31 May 2017 or 30 November 2017.

Interest Payment Date means 30 November 2016, 31 May 2017, 30 November 2017 and 31 May 2018.

Interest Payment Amount means 50 cents per Note.

Issue Date means the date of issue of the Notes.

Listing Rules means the ASX Listing Rules.

Maturity Date means 31 May 2018.

Notes means, at any time, so many of these converting notes created and issued by the Company under these Conditions of Issue as are outstanding up to a maximum value of \$7,100,000.

Note Holder or **holder of Notes** means, in relation to any of the Notes at any time, the person registered in the Register as the holder of those Notes.

Paying Trustee means Equity Trustees Limited ABN 46 004 031 298 as trustee of the Lakes Oil Converting Notes Paying Trust (No.3).

Paying Trustee Agreement means the Paying Trustee Agreement dated 27 June 2016 between the Company, the Trustee in its capacity as trustee for the holders of the Notes and the Paying Trustee in its capacity as paying trustee for the holders of the Notes.

Shares means fully paid ordinary shares in the capital of the Company.

Trust Deed means the trust deed dated 27 June 2016 between the Company and the Trustee setting out further rights and obligations of the Company, the Trustee and Note Holders.

Trustee means Equity Trustees Limited ABN 46 004 031 298 or such other entity appointed as trustee pursuant to the Trust Deed from time to time.

Uplift Factor means 0.11 cents divided by the 30 Day Average Share Price prior to the Maturity Date, with a minimum 30 Day Average Share Price of 0.10 cents.

2 General Terms of Issue

Terms of Issue

2.1 Each of the Notes shall:

- (a) have an issue price of \$10;
- (b) be paid for in full on application;
- (c) subject to Condition 3.5, convert in the manner and at the times provided by Condition 3 into Shares at the Conversion Rate;
- (d) bear interest on the basis set out in Condition 4 (provided that the interest ceases to be payable from the Conversion Date); and
- (e) be initially quoted on ASX, and subject to Condition 3.3 the Company will use its best endeavours to maintain the listing of Notes (as a class) on ASX until the Maturity Date.

Status

2.2 The Notes:

- (a) constitute unsecured obligations of the Company;

- (b) confer contractual rights on the Note Holders as set out in these Conditions and the Trust Deed;
- (c) do not (until Conversion) confer on Note Holders any right as a member or shareholder of the Company, including voting rights; and
- (d) confer on Note Holders a right to be given copies of all documents sent by the Company to shareholders (whether in connection with a general meeting of Shareholders or otherwise).

2.3 Each Note Holder by accepting an issue of Notes:

- (a) agrees to be bound by these Conditions and the provisions of the Trust Deed; and
- (b) acknowledges that it has contractual rights against the Company as set out in these conditions but that the Notes do not (until Conversion) confer any right as a member of the Company.

3 Conversion

Conversion Right

3.1 Each Note Holder has the right to elect to convert the Notes early by giving written notice to the Company before an Early Conversion Date. Any Notes the subject of early Conversion will be the subject of a Share issue at the Conversion Rate within 10 Business Days of the Early Conversion Date, when final payment of interest up to the Early Conversion Date will be made.

3.2 Any Notes which have not converted by the Maturity Date will automatically convert on that date.

Early Conversion – Change of Control

3.3 There will be automatic early Conversion in the event that:

- (a) a takeover bid within the meaning of the Corporations Act is made for the Shares and the bidder acquires a relevant interest in 50% of the Company's Shares and the bid is declared unconditional; or
- (b) a court orders a meeting to be held in relation to a proposed scheme of arrangement in relation to the Company the effect of which is that a person will acquire a relevant interest in at least 90% of the Shares in the Company and the Company's shareholders pass the resolution by the requisite majorities,

(each a "*Change in Control Event*"), with the Conversion to occur within 10 Business Days after the relevant Change in Control Event occurs (the "*Change in Control Conversion Date*") together with the final payment of interest based on the rate of 10% per annum calculated on a daily basis for the period from the most recent Interest Payment Date to the Change in Control Conversion Date.

Right to participate in new issues of ordinary shares

3.4 Note Holders are entitled to participate in future issues of Shares prior to Conversion on the same basis as shareholders as though Conversion had taken place (without any Uplift Factor applying).

Adjustment of Conversion Rate

- 3.5 If the Company reorganises its capital, the Conversion Rate or the conversion price or both will be adjusted in accordance with the Listing Rules applicable at the time of the reorganisation, and so that Note Holders will not receive a benefit that holders of Shares do not receive. Unless the Listing Rules require otherwise, the Conversion Rate must be adjusted as follows:
- (a) **Reduction in capital:** If the issued capital of the Company is reduced, the entitlement of a Note Holder to convert its Notes to Shares at the Conversion Rate will be reduced in the same proportion and manner as the issued capital is so reduced (subject to any provisions with respect to the rounding of entitlements as may be sanctioned by the meeting of the members of the Company approving the reduction of capital) but in all other respects the Conversion Rights will remain unchanged;
 - (b) **Consolidation of capital:** If the issued capital of the Company is consolidated, the entitlement of a Note Holder to convert its Notes to Shares at the Conversion Rate will be reduced in the same proportion and manner as the issued capital is so consolidated (subject to any provisions with respect to the rounding of entitlements as may be sanctioned by the meeting of the members of the Company approving the consolidation of capital) but in all other respects the Conversion Rights will remain unchanged; and
 - (c) **Subdivision of Capital:** If the issued capital of the Company is subdivided, the entitlement of a Note Holder to convert its Notes to Shares at the Conversion Rate will be increased in the same proportion and manner as the issued capital is so subdivided (subject to any provisions with respect to the rounding of entitlements as may be sanctioned by the meeting of the members of the Company approving the subdivision of capital) but in all other respects the Conversion Rights will remain unchanged.

Conversion to Shares

- 3.6 The Company covenants with each Note Holder that it will issue Shares for the Notes in respect of which Note Holders have elected to exercise Conversion Rights, at the Conversion Rate on the relevant Conversion Date (as applicable).
- 3.7 Upon the exercise of a Conversion Right in respect of a Note, the Note Holder will be deemed to have applied for such number of Shares as will be issued upon the conversion of those Notes at the Conversion Rate.
- 3.8 All Shares issued upon conversion of Notes will rank in all respects equally with the then existing Shares of the Company and will rank for dividends declared by the Company on its Shares after the Conversion Date of the Notes.
- 3.9 After the issue of such Shares, if the Company is listed on the ASX, the Company will apply for quotation of such Shares on the ASX to allow them to be traded.

Costs of Conversion and listing

- 3.10 Except as otherwise stated in these Conditions, the Company will pay the expenses (but excluding any taxes or stamp duties for which the holders of Shares would ordinarily be liable) of the issue of, and all expenses of obtaining a listing for, Shares issued on Conversion.

Conversion Right warranties

- 3.11 The Company must, whilst there are any Notes:

- (d) **Listing:** subject to Condition 3.3, use its best endeavours to:
 - (i) maintain a listing for all the Shares on the ASX;
 - (ii) obtain and maintain a listing on the ASX for all the Shares issued on the exercise of any of the Conversion Rights;
 - (iii) obtain and maintain a listing for all the Shares issued on the exercise of any of the Conversion Rights on any other stock exchanges on which any other Shares are then listed; and
 - (iv) promptly give to the Note Holders notice of the delisting of the Shares (as a class) by the ASX, or any other stock exchange on which they are listed from time to time;
- (e) **Conversion to ordinary shares:** ensure that all Shares issued upon Conversion will be duly and validly issued, fully paid and registered in the name of the Note Holder; and
- (f) **Consents:** use its best endeavours to obtain, as and when required, and having once obtained, maintain, all necessary governmental and regulatory consents to enable:
 - (i) the Company to allot and issue the Shares to be issued upon conversion of the Notes; and
 - (ii) the Company to make all payments required to be made by it in respect of the Notes.

Bound by Constitution

3.12 Each Note Holder acknowledges that on the issue of Shares on the exercise of the Conversion Right, the Note Holder will be bound by the Constitution of the Company in so far as it relates to Shares.

Conversion on External Administration

3.13 Subject to Condition 3.17, if the Company becomes an externally-administered body corporate (within the meaning of the Corporations Act) and notwithstanding any other provision of these Conditions, there will be automatic early Conversion, with the Conversion to occur within 10 Business Days (and any other future entitlements to Conversion shall thereupon cease).

Interest

3.14 The Notes will attract interest at each Interest Payment Date (which will be used for record date purposes), with interest payable at the Interest Payment Amount.

3.15 Interest will be payable by the Company within 10 Business Days of each Interest Payment Date (provided that interest ceases to be payable from any earlier date that Conversion occurs).

3.16 The Company will on the date of issue of any Notes deposit with the Paying Trustee an amount in excess of the estimated interest on the Notes in an interest account controlled by the Paying Trustee where such amounts will be held on trust for, and for the benefit of, the holders of Notes in accordance with the terms of the Paying Trustee Agreement.

3.17 If the Company becomes an externally-administered body corporate (within the meaning of the Corporations Act) and notwithstanding any other provision of these Conditions, all interest on the Notes which would potentially be payable in the future on any future Interest

Payment Date will immediately become due and payable, and shall be paid in accordance with the Paying Trustee Agreement.

4 Title to Notes

- 1.1 Except as ordered by a court of competent jurisdiction or as required by law, the Company:
- (a) may treat the registered holder of any Note as the absolute owner (notwithstanding any notice of ownership or writing on the Note or any notice of previous loss or theft or of any trust or any other interest);
 - (b) is not required to obtain any proof of ownership and is not required to verify the identity of the registered holder; and
 - (c) is not required to recognise or give effect to any legal or equitable interest in any Note not entered on the Register notwithstanding that the Issuer may have actual or constructive notice thereof.

5 Transfer of Notes

- 5.1 The Notes are transferable at any time.
- 5.2 Subject to these Conditions and the Trust Deed and unless the Corporations Act, ASX Settlement Operating Rules or Listing Rules require otherwise, a Note Holder will be entitled to transfer their Notes or any part thereof by lodging with the Company at the address of the Register on which the Note Holder's Notes are for the time being recorded, a proper instrument of transfer duly stamped if necessary, executed by the transferor and executed by the transferee. No fee will be charged for the registration of a transfer.
- 5.3 The transferor shall be deemed to remain the owner of the Notes until the name of the transferee is entered in the Register in respect thereof.
- 5.4 Any person becoming entitled to Notes in consequence of the death or bankruptcy of any holder of such Notes, may, upon producing evidence or of the Note Holder's title as the Directors shall think sufficient, be registered as the holder of such Notes.

6 Non-Redeemable

- 6.1 The Notes are not redeemable in any circumstance by the Company.

7 Payment to Note Holders

- 7.1 Any interest shall be paid in accordance with the Trust Deed.
- 7.2 If several persons are entered in the Register as joint holders of any Notes then without prejudice to the last preceding Condition, the payment to any one of such persons for any moneys payable on or in respect of such Notes shall be as effective a discharge to the Company as if the person to whom payment is made were the sole registered holder of such Notes.
- 7.3 The Company shall be entitled to deduct and withhold from any payment to be made to a Note Holder, any amount which the Company is required to deduct or withhold in respect of such payment under any applicable taxation or other law.

8 Notices

- 8.1 A notice given to a Note Holder pursuant to a provision of these Conditions shall be in writing or electronic form and may be given to a Note Holder by being delivered to him by e-mail,

facsimile, or posted in a pre-paid envelope and addressed to the address appearing in the register or to such other address as he has notified the Company in writing.

- 8.2 A notice given to any one of joint Note Holders is sufficient notice to all of those joint Note Holders.

9 Variation of Conditions

- 9.1 These Conditions may be amended, varied, modified or added to in accordance with the terms set out in the Trust Deed.

10 Trustee's Power to Enforce

- 10.1 Without limiting the rights and discretion of the Trustee under the Trust Deed, the Trustee may at its discretion and without further notice institute such proceedings against the Company as it may think fit to enforce any obligation, condition or provision binding on the Company under the Trust Deed and these Conditions.

11 Conditions Binding on Parties and Successors

- 11.1 These Conditions and the provisions of the Trust Deed shall be binding on the Company, the Trustee and the Note Holders and all persons claiming through or under them respectively. These Conditions shall be governed by and construed in accordance with the laws of Victoria.

