



**ENERGIO LIMITED**  
**(Subject to Deed of Company Arrangement)**  
**ABN 28 001 894 033**

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**PROSPECTUS**

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For the offer of 70,000,000 Shares at an issue price of 0.1 cents per Share to raise \$70,000  
**(Proponent Offer)**

and

For the offer of 70,000,000 free attaching Options exercisable at 1 cent each and  
expiring on 30 November 2013 **(Option Offer)**

and

For the offer of 400,000,000 Shares at an issue price of 0.5 cents per Share to raise  
\$2,000,000 **(Share Offer)**

and

For the offer of 50,000,000 Shares at a deemed issue price of 0.5 cents per Share and  
30,000,000 Options for nil consideration to the Secured Creditor **(Secured Creditor Offer)**

**The Offers are not underwritten.**

**IMPORTANT INFORMATION**

This is an important document that should be read in its entirety.  
If you do not understand it you should consult your professional advisers without delay.  
The Securities offered by this Prospectus should be considered speculative.

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## **IMPORTANT NOTICE**

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This Prospectus is dated 31 March 2010 and was lodged with the ASIC on that date. The ASIC and ASX and their officers take no responsibility for the contents of this Prospectus or the merits of the investment to which the Prospectus relates.

The expiry date of this Prospectus is at 5.00pm WST on that date which is 13 months after the date this Prospectus was lodged with the ASIC (**Expiry Date**). No Securities may be issued on the basis of this Prospectus after the Expiry Date.

The Deed Administrator is not responsible for the contents of this Prospectus and has not been involved in its preparation. This Prospectus has been prepared by the directors of the Company. Accordingly, the Deed Administrator does not accept any responsibility for the accuracy of any information included, or any failure to include any information in, this Prospectus.

Application will be made to ASX within seven (7) days after the date of this Prospectus for Official Quotation of the Shares the subject of this Prospectus. Official Quotation will not be sought for the Options offered pursuant to this Prospectus.

The distribution of this Prospectus in jurisdictions outside Australia may be restricted by law and persons who come into possession of this Prospectus should seek advice on and observe any of these restrictions. Failure to comply with these restrictions may violate securities laws. Applicants who are resident in countries other than Australia should consult their professional advisers as to whether any governmental or other consents are required or whether any other formalities need to be considered and followed.

This Prospectus does not constitute an offer in any place in which, or to any person to whom, it would not be lawful to make such an offer.

It is important that investors read this Prospectus in its entirety and seek professional advice where necessary. The Securities the subject of this Prospectus should be considered speculative.

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## **WEB SITE – ELECTRONIC PROSPECTUS**

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A copy of this Prospectus can be downloaded from the website of the Company at [www.energio.net.au](http://www.energio.net.au). Any person accessing the electronic version of this Prospectus for the purpose of making an investment in the Company must be an Australian resident and must only access the Prospectus from within Australia.

The Corporations Act prohibits any person passing onto another person an Application Form unless it is attached to a hard copy of this Prospectus or it accompanies the complete and unaltered version of this Prospectus. Any person may obtain a hard copy of this Prospectus free of charge by contacting the Company.

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## **EXPOSURE PERIOD**

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This Prospectus will be circulated during the Exposure Period. The purpose of the Exposure Period is to enable this Prospectus to be examined by market participants prior to the raising of funds. Potential investors should be aware that this examination may result in the identification of deficiencies in the Prospectus and, in those circumstances, any application that has been received may need to be dealt with in accordance with Section 724 of the Corporations Act.

Applications for securities under this Prospectus will not be processed by the Company until after the expiry of the Exposure Period. No preference will be conferred on persons who lodge applications prior to the expiry of the Exposure Period.

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## 1. CORPORATE DIRECTORY

### **Directors**

Mr Faldi Ismail  
*Non Executive Chairman*

Mr Athan Lekkas  
*Non Executive Director*

Mr Nathan Taylor  
*Non Executive Director*

### **Share Registry\***

Link Market Services Limited  
Level 12  
680 George Street  
SYDNEY NSW 2000

Telephone: (02) 8280 7111  
Facsimile: (02) 9287 0303

### **Company Secretary**

Sean Henbury

### **Registered Office**

C\ - 21 Teddington Road  
Burswood WA 6100

### **ASX Code**

EIO

### **Solicitors to the Company**

Steinepreis Paganin  
Lawyers and Consultants  
Level 4, Next Building  
16 Milligan Street  
PERTH WA 6000

\* This entity is included for information purposes only. It has not been involved in the preparation of this Prospectus and has not consented to being named in this Prospectus.

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## 2. LETTER TO INVESTORS

Dear Investor,

On 1 December 2009, Mr Bryan Hughes was appointed as administrator of the Company pursuant to Section 436C of the Corporations Act.

Romfal Corporate Pty Ltd (an entity controlled by Mr Faldi Ismail, now a director of the Company) (**Romfal**) subsequently put forward a proposal to the administrator to reconstruct and recapitalise the Company with a view to ensuring that the Company could continue to operate as a going concern and seek reinstatement to trading on ASX (**Proposal**).

On 14 January 2010, the Proposal was put to creditors and approved. The Company subsequently entered into a deed of company arrangement (**DOCA**) that provided for the payment of funds into the Company and settlement of creditors' claims (consistently with the terms of the Proposal).

The Proposal was then put to shareholders and approved at a general meeting held on 24 March 2010.

The DOCA will be terminated following completion of the capital raisings under this Prospectus, payment to the creditor's trust of \$200,000 (being the amount to be distributed to unsecured creditors before paying administrator's fees), payment to the Secured Creditor of \$150,000 and the issue of Shares and Options to the Secured Creditor under the Secured Creditor Offer.

Completion of the Proposal will have the following effect:

- (a) all creditors' claims against the Company will be released and compromised under the DOCA;
- (b) the Company will come out of administration (by termination of the DOCA); and
- (c) the Company's Shares will re-commence trading on the ASX. This will only occur once the Company has satisfied all conditions imposed by ASX.

The Offers under this Prospectus will facilitate completion of the Proposal and will enable the Company to apply for its securities to be reinstated to trading on ASX.

The ASX has given conditional approval to the re-instatement of the Company's Shares to trading on the ASX. To satisfy these conditions, the Company will need, amongst other things, to lodge its outstanding statutory financial reports, which the Company intends to do as soon as practicable after completion of the Offers. Shares issued under this Prospectus will only be tradable on the ASX if the conditions of the ASX approval are satisfied.

Yours faithfully

**Faldi Ismail**  
**Director**

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### 3. INVESTMENT OVERVIEW

#### 3.1 Important Notice

This section is not intended to provide full information for investors intending to apply for Securities offered pursuant to this Prospectus. This Prospectus should be read and considered in its entirety.

#### 3.2 Indicative Timetable

|                                       |                             |
|---------------------------------------|-----------------------------|
| Lodgement of Prospectus with the ASIC | 31 March 2010               |
| Opening Date of Offers                | 8 April 2010                |
| Closing Date of Offers                | 5.00pm WST on 15 April 2010 |
| Despatch of Holding Statements        | 19 April 2010               |

The above dates are indicative only and may change without notice. The Company reserves the right to extend the Closing Date or close the Offers early without notice.

#### 3.3 Purpose of the Offers and Use of Proceeds

The purpose of the Offers is to:

- (a) provide funds for the expansion of the Company's existing core business, which is focused on:
  - (i) research and development of toy and game products;
  - (ii) development of a distribution and marketing network for the Company's toy and game products; and
  - (iii) distribution and wholesales of toys, games and hobby products;
- (b) provide funds for the further acquisition and development of other investments, as identified by the Company (that may or may not be in the same sector); and
- (c) meet the costs and expenses of the recapitalisation of the Company (including payments due to under the DOCA and to the Secured Creditor) with a view to seeking reinstatement to trading of its securities on ASX.

An indicative two year expenditure budget for the funds raised under the offers (assuming full subscription) is set out below:

| Expense   | Amount    |
|---|-----------|
| Cost of the recapitalisation process                | \$80,000  |
| Re-listing expenses                                 | \$20,000  |
| Payment to Noble Investments Pty Ltd <sup>1</sup>   | \$150,000 |
| Payment to Creditors' Trust for unsecured creditors | \$200,000 |

|   |                    |
|---|--------------------|
| Review and development of existing business (including rent and salaries) | \$600,000          |
| Review of other new projects  | \$600,000          |
| Working capital <sup>2</sup>  | \$420,000          |
| <b>Total funds utilised</b>   | <b>\$2,070,000</b> |

1. Cash consideration to the Secured Creditor. This will be paid following completion of the Offers in partial satisfaction of the secured debt owing to the Secured Creditor. The balance of the debt will be satisfied through the issue of Shares and Options under the Secured Creditor Offer.
2. Any capital raising fee that is paid (as contemplated by Section 3.5 below) will come out of working capital.

### 3.4 Capital Structure

The capital structure of the Company following completion of the Offers (assuming full subscription and on a post consolidation basis<sup>1</sup>) is summarised below:

| <b>Shares</b>  | <b>Number</b>      |
|--|--------------------|
| Shares on as at the date of the Prospectus <sup>1</sup>        | 23,262,608         |
| Shares offered under the Proponent Offer                       | 70,000,000         |
| Shares offered under the Share Offer                           | 400,000,000        |
| Shares issued to Noble Investments Pty Ltd <sup>2</sup>        | 50,000,000         |
| <b>Total Shares on issue at completion of the Offers</b>       | <b>543,262,608</b> |
|  |                    |
| <b>Options</b>   |                    |
| Options on as at date of Prospectus <sup>3</sup>               | 18,910,384         |
| Options offered under the Proponent Offer                      | 70,000,000         |
| Options issued to Noble Investments Pty Ltd <sup>4</sup>       | 30,000,000         |
| <b>Total options on issue at completion of Proponent Offer</b> | <b>118,910,384</b> |
|  |                    |

Notes:

1. Shareholder approval was obtained at the Company's recent General Meeting to consolidate the capital of the Company on the basis that every 5 Shares be consolidated into 1 Share. This number may be subject to rounding.
2. Shareholder approval was obtained at the Company's recent General Meeting to issue 50,000,000 Shares at a deemed price of 0.5 cents each to the Secured Creditor in partial satisfaction of the secured debt claim of the Secured Creditor.

3. Shareholder approval was obtained at the Company's recent General Meeting to consolidate the capital of the Company on the basis that every 5 options be consolidated into 1 Option.
4. Shareholder approval was obtained at the Company's recent General Meeting to issue 30,000,000 Options for nil consideration to the Secured Creditor.

### **3.5 Commissions on Application Forms**

The Company reserves the right to pay a commission of 5% (exclusive of goods and services tax) of amounts subscribed to any licensed securities dealers or Australian Financial Services licensee in respect of valid applications lodged and accepted by the Company and bearing the stamp of the licensed securities dealer or Australian Financial Services licensee. Payments will be subject to the receipt of a proper tax invoice from the licensed securities dealer or Australian Financial Services licensee. Athan Lekkas and Faldi Ismail (both directors of the Company) have an interest in a company that is a corporate authorised representative of an Australian Financial Services Licence holder that may be paid a fee in accordance with this section of the Prospectus.



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## **4. DETAILS OF THE OFFERS**

### **4.1 The Offers**

The Company is making four separate offers pursuant to this Prospectus. The purpose of the Offers and the use of the funds raised pursuant to the Offers are set out in Section 3.3 of this Prospectus.

The Offers encompass the recapitalisation proposal made by the Directors which is reflected in the Notice of Meeting announced to ASX on 22 February 2010.

The rights attached to the Securities offered pursuant to this Prospectus are summarised in Section 9.2 of this Prospectus.

#### ***The Proponent Offer***

Pursuant to the Proponent Offer, the Company offers the Directors and parties nominated by the Directors the opportunity to subscribe for 70,000,000 Shares at 0.1 cent each to raise \$70,000.

The Proponent Offer is only open to those persons nominated by the Directors. Accordingly, if you are nominated by the Directors and you wish to subscribe for Shares pursuant to the Proponent Offer, please complete a Proponent Offer Application Form.

#### ***The Options Offer***

The Options will be exercisable at 1 cent each on or before 30 November 2013. The full terms and conditions of the Options are set out in Section 9.2 of this Prospectus.

The Options Offer is only open to those persons nominated by the Directors. Accordingly, if you are nominated by the Directors and you wish to subscribe for Options pursuant to the Proponent Offer, please complete a Proponent Offer Application Form.

#### ***The Share Offer***

Pursuant to the Share Offer, the Company offers the Directors and parties nominated by the Directors the opportunity to subscribe for 400,000,000 Shares at an issue price of 0.5 cent per Share to raise \$2,000,000.

The Share Offer is only open to those persons nominated by the Directors. Accordingly, if you are nominated by the Directors and you wish to subscribe for Shares pursuant to the Share Offer, please complete a Share Offer Application Form.

#### ***The Secured Creditor Offer***

Pursuant to the Secured Creditor Offer, the Company offers the Secured Creditor (or its nominee) the opportunity to subscribe for 50,000,000 Shares at a deemed issue price of 0.5 cents each and 30,000,000 Options for nil cash consideration in partial satisfaction of the secured debt owing to the Secured Creditor.

The Secured Creditor Offer is only open to the Secured Creditor (or its nominee).

## **4.2 Opening and Closing Dates**

The Offer will open for receipt of acceptances on 8 April 2010 and close at 5.00pm (WST) on 15 April 2010 (unless varied) (**Closing Date**).

## **4.3 Applications**

Please do not complete and Application Form unless instructed to do so by a Director.

Applications for Securities under the Offers must be made using the relevant Application Form (Proponent Offer Application Form, Option Offer Application Form, Share Offer Application Form and/or Secured Creditor Offer Application Form).

Completed Application Forms and accompanying cheques must be mailed or delivered to:

Street Address:

Energio Limited  
C\ - FJH Solutions  
21 Teddington Road  
BURSWOOD WA 6100

Mailing Address:

Energio Limited  
C/- FJH Solutions  
PO BOX 6918  
EAST PERTH WA 6892

Cheques should be made payable to "Energio Limited –Offer Account" and crossed "Not Negotiable". Completed Application Forms must reach the above address by no later than the Closing Date.

## **4.4 Minimum Subscription**

The minimum subscription to be raised under each of the Offers is full subscription.

If the minimum subscription has not been raised in respect of an Offer within 4 months after the date of this Prospectus, all applications in respect of that Offer will be dealt with in accordance with the Corporations Act.

## **4.5 Allotment**

Allotment of the Securities offered by this Prospectus will take place as soon as practicable after the Closing Date. The Directors reserve the right to close the Offers early without notice upon meeting the minimum subscription for the Offers. Prior to allotment, all application monies shall be held by the Company on trust. The Company, irrespective of whether the allotment of Securities takes place, will retain any interest earned on the application monies.

The Directors reserve the right to allot Securities in full for any application or to allot any lesser number or to decline any application. Where the number of Shares allotted is less than the number applied for, or where no allotment is

made, the surplus application monies will be returned by cheque to the applicant within 7 days of the allotment date.

#### **4.6 ASX Listing**

Application for official quotation by ASX of the Shares offered pursuant to this Prospectus will be made within 7 days of the date of this Prospectus. If approval is not obtained from ASX before the expiration of 3 months after the date of issue of the Prospectus, (or such period as varied by the ASIC), the Company will not issue any Shares and will repay all application monies for the Shares within the time prescribed under the Corporations Act, without interest.

The fact that ASX may grant official quotation to the Shares is not to be taken in any way as an indication of the merits of the Company or the Shares now offered for subscription.

The Company will not be making application to ASX for quotation of the Options offered pursuant to this Prospectus.

#### **4.7 Applicants outside Australia**

This Prospectus does not, and is not intended to, constitute an offer in any place or jurisdiction, or to any person to whom it would not be lawful to make such an offer or to issue this Prospectus. The distribution of this Prospectus in jurisdictions outside Australia may be restricted by law and persons who come into possession of this Prospectus should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable securities laws. No action has been taken to register or qualify these Securities or otherwise permit a public offering of the Securities the subject of this Prospectus in any jurisdiction outside Australia.

It is the responsibility of applicants outside Australia to obtain all necessary approvals for the allotment and issue of the Securities pursuant to this Prospectus. The return of a completed Application Form will be taken by the Company to constitute a representation and warranty by the applicant that all relevant approvals have been obtained.

#### **4.8 CHESS**

The Company participates in CHESS, for those investors who have, or wish to have, a sponsoring stockbroker. Investors who do not wish to participate through CHESS will be issuer sponsored by the Company. Because the sub-registers are electronic, ownership of securities can be transferred without having to rely upon paper documentation.

Electronic registers mean that the Company will not be issuing certificates to investors. Instead, investors will be provided with a statement (similar to a bank account statement) that sets out the number of Shares allotted to them under this Prospectus. The notice will also advise holders of their Holder Identification Number (**HIN**) or Securityholder Reference Number (**SRN**) and explain, for future reference, the sale and purchase procedures under CHESS and issuer sponsorship.

Further monthly statements will be provided to holders if there have been any changes in their security holding in the Company during the preceding month.

#### **4.9 Risk Factors**

Prospective investors in the Company should be aware that subscribing for Securities the subject of this Prospectus involves a number of risks. These risks are set out in Section 8 of this Prospectus and investors are urged to consider those risks carefully (and if necessary, consult their professional adviser) before deciding whether to invest in the Company.

The risk factors set out in Section 8, and other general risks applicable to all investments in listed securities not specifically referred to, may in the future affect the value of the Securities. Accordingly, an investment in the Company should be considered speculative.

#### **4.10 Privacy Statement**

If you complete an application for Shares or Options, you will be providing personal information to the Company. The Company collects, holds, and will use that information to assess your application, service your needs as a Shareholder, facilitate distribution payments and corporate communications to you as a Shareholder and carry out administration.

The information may also be used from time to time and disclosed to persons inspecting the register, bidders for your securities in the context of takeovers, regulatory bodies, including the Australian Taxation Office, authorised securities brokers, print service providers, mail houses and the Company share registry.

You can access, correct and update the personal information that we hold about you. Please contact the Company or its registry if you wish to do so at the relevant contact numbers set out in this Prospectus.

Collection, maintenance and disclosure of certain personal information is governed by legislation including the Privacy Act 1988 (as amended), the Corporations Act and certain rules such as the ASTC Settlement Rules.

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## **5. COMPANY OVERVIEW**

### **5.1 Company Background**

Energio, formally Brainytoys Limited, prior to being placed into administration in December 2009, was a global toys and games development company.

The core business activities of Energio included:

- (a) research and development of toy and game products;
- (b) development of a distribution and marketing network for the Company's toy and game products; and
- (c) distribution and wholesales of toys, games and hobby products through wholly owned subsidiaries in Australia, the U.S., UK and Hong Kong.

Energio listed on ASX on 24 March 2005, and established an operational and business model as Australia's first ASX toy and game development company. Energio' portfolio of production and market ready products were predominantly based on innovative electronic and software technologies targeting age groups from 3 years and up. Product design and development occurred in Perth, and Chinese contract manufacturers produced the products.

In early 2008, Energio began acquiring and integrating a global platform of speciality and mass-market toy companies. On 1 January 2008, the Company acquired 100% interest in Enertec Enterprises Limited, a Hong Kong based company. On 4 January 2008, it acquired 100% interest in Toyway Limited through a newly formed United Kingdom subsidiary, Brainy UK Limited. On 6 January 2008, it acquired the business and selected assets of Reveal Entertainment, Inc through a newly formed United States corporation, Energio, Inc.

Through these acquisitions, strategic industry alliances were established in key operational centres (such as Hong Kong/China, USA, and Europe) to give Energio access to a worldwide sales and distribution network.

The combined Energio group had the ability to offer in excess of 250 products to the market in the areas of: remote control toys, low and high tech electronic toys, electronic games, board games, construction kits, collectables, and activity kits.

The acquisitions also gave Energio the ability to apply its technology expertise and know how to these new products, further develop its own designs and creations, and give it access to additional intellectual properties.

Brainytoys previously had five subsidiaries as part of its development and global distribution network:

1. Brainytoy.com Pty Ltd (Australia);
2. Enertec Enterprises Limited (Hong Kong);
3. Brainy UK Limited (UK);
4. Toyway Limited (UK); and
5. Brainytoys, Inc (US).

Enertec Enterprises Limited (Hong Kong) was sold in February 2009 (at the direction and request of the secured lender to the Company). The funds received from this sale were paid to the Secured Creditor. The Marshmallow Fun Company (which had been merged into Braintytoys, Inc) was likewise sold back to the original vendors in December 2008 (primarily as a result of the Company defaulting on deferred payment commitments under the material agreements with the vendors). The UK companies were placed into liquidation in the first half of 2009.

It is likely that all foreign subsidiaries will be wound up or liquidated.

The Australian subsidiary remains the core operating entity of the Company.

## 5.2 Administration Overview

On 1 December 2009, Mr Bryan Hughes was appointed as administrator of the Company pursuant to Section 436C of the Corporations Act.

Romfal Corporate Pty Ltd (**Romfal**) subsequently put forward a proposal to the administrator to reconstruct and recapitalise the Company with a view to ensuring that the Company could continue to operate as a going concern and seek reinstatement to trading on ASX (**Proposal**).

On 14 January 2010, the Proposal was put to creditors and approved. The Company subsequently entered into a deed of company arrangement (**DOCA**) that provided for the payment of funds into the Company and settlement of creditors' claims (consistently with the terms of the Proposal).

The DOCA will be terminated following completion of the capital raisings under this Prospectus, payment to the creditor's trust of \$200,000 (being the amount to be distributed to unsecured creditors before paying administrator's fees), payment to the Secured Creditor of \$150,000 and the issue of Shares and Options to the Secured Creditor under the Secured Creditor Offer.

## 5.3 Summary of the Proposal

The Proposal put forward by Romfal in conjunction with an investment syndicate (**Syndicate**) can be summarised as follows:

- (a) Energio will consolidate its existing shares on a one (1) for five (5) basis. This was approved by Shareholders at the Company's recent General Meeting.
- (b) The Syndicate (or its nominee) will provide:
  - (i) \$350,000 cash to the creditors of Energio (and its subsidiaries) to be allocated \$150,000 (**Secured Cash Consideration**) to the sole secured creditor (Noble Investments Pty Ltd (**Noble**)) and \$200,000 (**Unsecured Cash Consideration**) to unsecured creditors (inclusive of the administrator's costs); and
  - (ii) 50,000,000 Shares and 30,000,000 Options will be issued in full and final satisfaction of the balance of the secured debt claim of Noble (**Shares Consideration**) as approved by Shareholders at the Company's recent General Meeting,

(the Secured and Unsecured Cash Consideration and Shares Consideration hereafter referred to as the "**Creditor Consideration**").

- (c) The Company will undertake the Offers pursuant to this Prospectus as outlined in paragraph 4.1.
- (d) The Unsecured Cash Consideration will be made available to the administrators within 5 business days after the satisfaction of the conditions set out below.
- (e) All of the directors of Energio will be removed and replaced by nominees of the Syndicate.
- (f) Energio will retain all of its assets (mainly consisting of computer hardware/software and intellectual property).
- (g) The Creditor Consideration was offered on the basis that following shareholder approval of the Proposal:
  - (i) the Syndicate pays to the Secured Creditor the Secured Cash Consideration;
  - (ii) Energio issues to the Secured Creditor the Shares Consideration;
  - (iii) the secured creditor, on receipt of the Secured Cash Consideration and the Shares Consideration, releases its security;
  - (iv) the DOCA terminates and a trust fund is established to hold the Unsecured Cash Consideration for unsecured creditors and claimants of Energio (**Trust Fund**); and
  - (v) Energio pays the Trustees of the Trust Fund (or they direct) the Unsecured Cash Consideration in full and final satisfaction of the Syndicate's offer in relation to the Proposal.

#### **5.4 Proposed Business Plan**

- (a) Further Development of Existing Concepts

The new board of Energio (**New Board**) intends to further evaluate and develop the toy and gaming side of the business.

Energio's corporate aim is to position this new company as a prominent participant in the world's US\$100+ billion toy, games and entertainment market, with a broad range of products covering key segments of this very large world market.

The Energio business focus is aimed towards satisfying the large consumer demand for entertainment products and the requirements of the world's leading toys, games and media companies for the supply of creative, innovative, new generation products.

Energio intends to develop human resource and product innovation skills in the areas of: software development; product design; product virtualization; prototype development, mass manufacture and marketing systems in the toys and games industry. It is proposed that these skills will be systematically applied in concluding marketing, manufacturing, product licensing and distribution arrangements with the world's leading toys and games industry participants.

The New Board intends to re-focus the activities of Energio on a more medium term model that is primarily a product development model with view to a longer term outlook for earnings and cash flow.

It is intended that part of the funds raised pursuant to the Offers will be utilised to:

- (i) secure the services of corporate and technical personnel;
- (ii) establish management and technical infrastructure;
- (iii) purchase development tools;
- (iv) pre-manufacture development;
- (v) register patents;
- (vi) manufacture products;
- (vii) market products;
- (viii) develop distribution networks; and
- (ix) develop market opportunities.

Energio considers that there are a number of opportunities in the toys/games entertainment and educational markets, and intends to focus development on products for the following segments:

- (i) hand-held LCD electronic games;
- (ii) die cast vehicles;
- (iii) board games;
- (iv) novelty/collectables/characters;
- (v) construction kits;
- (vi) electronic toys;
- (vii) remote control/robotic toys;
- (viii) educational products and toys; and
- (ix) computer animation programs;
- (x) Plush and Dolls.

Energio's management philosophy is to adopt a prudent and risk averse approach to:

- (i) specific product development by containing product development costs to a maximum of \$100,000 for each product;
- (ii) manufacturing and inventory holdings through the use of contract manufacturing and by matching purchase and sales



orders from distributors and licensees, thereby virtually eliminating company owned inventories; and

- (iii) its product development strategy, through the development of a considerable multi-segment product range ensuring that the company's success is not tied to the performance of any single product.

The operational matrix of the business is intended to be as follows:

- (i) Develop a product concept.
- (ii) Evaluate potential for further development.
- (iii) Develop a prototype.
- (iv) Present prototype to distributors and obtain feedback, or license product to major Toy Company.
- (v) Manufacture small production runs (up to 5,000 units) for test release in Australia and NZ.
- (vi) Distributor delivers the product to retail point.
- (vii) Launch advertising in primary markets to stimulate first-stage demand.
- (viii) Develop marketing profile for product.
- (ix) Sell the product to overseas distributors, which would take up the manufactured product directly, or toy companies that would take up manufacturing rights by way of licence and royalty agreements.

The development cycle can take from three to six months for products in development.

(b) Industry Technology

Powerful new computer tools can now be applied to many areas in the product development cycle, creating potentially profitable competitive advantages.

Specifically, these advanced tools may allow Energio to shorten the development cycle and give Energio the ability to develop multiple products quickly, effectively and at a relatively low cost. These tools include:

- (i) **3D visualisation software** – For the creation of “virtual” models of the product so that the functional and cosmetic elements can be visualised and assessed before the product is actually built.
- (ii) **Advanced software modelling and virtualization tools** – For the modelling of the functional aspects of a product before the product is built.
- (iii) **3D printers** – This technology is closely allied to the 3D visualisation software listed above, but goes one important step

further in that these tools allow for the creation of actual physical product prototypes, derived from 3D designs in a matter of hours and by way of devices that are no bigger than a large photocopier.

- (iv) **3D animation tools** – Broadcast-quality 3D animation tools are now widely available at very low cost. Combining these tools with the very low cost of computing power allows Energio to develop 3D animation dynamic displays of its products and also 3D animation cartoon programs to support the marketing of its products.

(c) Global Markets

The toy, games and entertainment industry is a very substantial world industry generating an estimated US\$100+ billion in annual sales, with the US market alone generating approximately US\$50+ billion in sales in 2003.

The Australian toy games and entertainment market is estimated to generate annual sales of approximately \$3 billion.

The toy, games and entertainment markets are in a constant search for innovative products, and are relatively resilient in economic terms, able to ride out most economic down cycles.

One of the most interesting features of these markets is that nearly every "blockbuster" toy or game launched over the last 50 years has been brought forward by independent inventors and small companies.

In order to remain competitive, most of the big toy and game companies licence products from other smaller companies and inventors.

Energio will seek to make its products available for licensing to major toy companies.

## 5.5 Other Opportunities

In addition to the above, the new management team will actively seek out complementary and non-complementary assets, investments and businesses that may have the potential to generate additional shareholder value.

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## 6. DIRECTORS AND CORPORATE GOVERNANCE

### 6.1 Directors

Outlined below is a summary of each of the Directors.

#### ***Mr Faldi Ismail – Non Executive Chairman B.Bus MAICD***

Faldi has many years experience as a corporate consultant specialising in the restructure and recapitalisation of a wide range of ASX-listed companies. Faldi spent over four years working as a tax supervisor with a major Perth based Accounting firm as well as being a senior within their Corporate Restructuring Division.

Faldi operates his own corporate consultancy company and has specialist skills in mergers and acquisitions, capital raisings and has many years of investment banking experience covering a wide range of sectors, with a specific focus on the resource sector. To date, Faldi has been involved in the identification, facilitation and/or implementation of resource related acquisitions into the following ASX listed companies:

- (a) Kangaroo Resources Limited ASX Code "KRL" - coal acquisition;
- (b) Coventry Resources Limited, ASX Code "CVY" - gold acquisition;
- (c) Pan Asia Corporation Limited, ASX Code "PZC" - coal acquisition;
- (d) NSL Consolidated Limited, ASX Code "NSL" - iron ore acquisition; and
- (e) Environmental Clean Technologies Limited, ASX Code "ESI" – Coal dewatering technology acquisition.

Faldi is currently a Director of the following ASX listed companies - Kangaroo Resources Limited (KRL) and Coventry Resources Limited (CVY). Faldi intends to actively utilise his business network in the industry to identify and evaluate projects that meet the criteria set by the Board.

#### ***Mr Athan Lekkas – Non Executive Director***

Mr Lekkas has participated in a broad range of business and corporate advisory transactions and projects for a diverse range of ASX listed and unlisted companies, including the banking, mining and corporate finance industries in Australia and abroad. He is experienced particularly in the treasury and financial market sectors including financial feasibility studies for the provision of debt or equity for project funding.

He has analysed and evaluated projects for various public listed and private companies. Mr Lekkas has successfully consulted and presently provided services to a consortium of local and overseas manufacturers, steel mills, and presently has service and supply agreements with various ITW subsidiaries (US Listed Company), Wesfarmers Industrial (ASX listed) and various Bunning principles. The majority of these projects have involved managing the implementation of a strategic plan.

Mr Lekkas has more recently focused and specialised on the restructure and recapitalisation of a wide range of ASX listed companies.

Mr Lekkas has harnessed his valuable network of sophisticated investors in both Australia and abroad, with strategic investments and project advisory.

Mr Lekkas is currently a director of ASX listed Pan Asia Corporation Limited (PZC), an emerging coal producer in Indonesia

**Mr Nathan Taylor – Non Executive Director B.Com LLB**

Mr Taylor is Co Head of Equity Capital Markets at StoneBridge Securities Limited, a boutique stockbroker headquartered in Sydney.

Prior joining StoneBridge in late 2008, Mr Taylor worked within the UBS Equity Capital Markets team and prior to this within the Macquarie Bank Equity Capital Markets team.

Throughout his investment banking career, Mr Taylor has been involved in raising over A\$6bn for ASX listed companies in the resources and related sectors and over A\$10bn for other ASX listed companies.

Prior to working for Macquarie Bank, Mr Taylor worked as a corporate lawyer for Blake Dawson where he was involved in conducting due diligence and structuring a large number of regulated and unregulated M&A transactions.

**6.2 Corporate Governance**

The Directors monitor the business affairs of the Company on behalf of Shareholders and have formally adopted a corporate governance policy which is designed to encourage Directors to focus their attention on accountability, risk management and ethical conduct. The Board and management are committed to corporate governance and, to the extent that they are applicable to the Company, intend to follow the "Principles of Good Corporate Governance and Best Practice Recommendations" issued by the ASX Corporate Governance Council.

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## 7. FINANCIAL INFORMATION

### 7.1 Effect of the Offers

The principal effect of the Offers will be to:

- (a) increase cash reserves immediately after completion of the Offers and estimated expenses of the Offers by \$1,620,000; and
- (b) increase the number of Shares on issue (post consolidation) from 23,262,608 Shares to 543,262,608 Shares and increase the number of Options on issue from 18,910,384 to 118,910,384.

### 7.2 Pro-forma Balance Sheet

Set out below is the Company's unaudited pro-forma statement of financial position as at 31 December 2009 (assuming all Offers are fully subscribed).

#### Consolidated Balance Sheet and Pro Forma Balance Sheet as at 31 December 2009 (unaudited)

|                                  | 31-Dec-09<br>Actual<br>\$ | 31-Dec-09<br>Pro-forma<br>\$ |
|----------------------------------|---------------------------|------------------------------|
| <b>CURRENT ASSETS</b>            |                           |                              |
| Cash and cash equivalents        | -                         | 1,620,000                    |
| <b>TOTAL CURRENT ASSETS</b>      | <b>-</b>                  | <b>1,620,000</b>             |
| <b>NON-CURRENT ASSETS</b>        |                           |                              |
| Intangible assets                | 10,000                    | 10,000                       |
| <b>TOTAL NON-CURRENT ASSETS</b>  | <b>10,000</b>             | <b>10,000</b>                |
| <b>TOTAL ASSETS</b>              | <b>10,000</b>             | <b>1,630,000</b>             |
| <b>CURRENT LIABILITIES</b>       |                           |                              |
| Trade and other payables         | 777,384                   | -                            |
| Priority employee claims         | 53,062                    | -                            |
| Secured creditors                | 1,100,000                 | -                            |
| <b>TOTAL CURRENT LIABILITIES</b> | <b>1,930,446</b>          | <b>-</b>                     |
| <b>TOTAL LIABILITIES</b>         | <b>1,930,446</b>          | <b>-</b>                     |
| <b>NET ASSETS</b>                | <b>-1,920,446</b>         | <b>1,630,000</b>             |
| <b>EQUITY</b>                    |                           |                              |
| Issued capital                   | 16,965,663                | 18,935,663                   |
| Reserves                         | 871,120                   | 871,120                      |

|                     |                   |                  |
|---------------------|-------------------|------------------|
| Accumulated Losses  | -19,757,229       | - 18,176,783     |
| <b>TOTAL EQUITY</b> | <b>-1,920,446</b> | <b>1,630,000</b> |

Notes:

- a. Intangible assets were valued at \$6,055,482 in the 30 June 2008 annual report. An integral part of the Company's intellectual property previously consisted of a number of well known brand licences. The Company had also an accumulation of intellectually property through acquisitions and in house development.

At 31 December 2009, the Directors are not in a position to determine the recoverable amount for the Company's intellectual property and other assets. The Directors therefore consider it prudent to impair these items and include them in the unaudited balance sheet at a value of \$10,000.

The Directors will reassess recoverable amount once they have had an opportunity to assess the intellectual property and its uses.

- b. The pro forma adjustments to the balance sheet otherwise assumes that all creditor claims of the Company have been settled under the DOCA, the costs of the recapitalisation process and re-listing fees are \$100,000 and payments under the DOCA and to the Secured Creditor (which total \$350,000) have been made.
- c. The balance sheet above does not include a potential liability in the order of \$50,000 that will be required to wind up the Company's foreign subsidiaries.

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## **8. RISK FACTORS**

### **8.1 Introduction**

An investment in the Company is not risk free and prospective investors should consider the risk factors described below, together with information contained elsewhere in this Prospectus, before deciding whether to apply for Securities pursuant to this Prospectus.

The financial prospects of any organisation are also sensitive to the underlying nature of its business and the nature and extent of the risks to which the entity is exposed. The Directors are responsible for ensuring that appropriate policies and procedures are in place to identify and monitor the risks faced by the Company from time to time to ensure that such risks are managed within a level determined by the Directors to be prudent. In addition, there are a number of risks specific to the Company and the industry to which it operates.

A summary of the main risk factors relevant to the Company are set out below. The following is not intended to be an exhaustive list of the risk factors to which the Company is exposed.

### **8.2 Viability of Business**

As indicated earlier in this Prospectus, the Company has been placed into administration and is currently subject to deed of company arrangement.

This has largely come about due to the Company previously incurring too much debt and not being able to finance the debt through its operations.

There is a risk that the new Directors will also not be able to develop the business into a viable model that is self sustaining.

### **8.3 Reinstatement to trading**

The Company's reinstatement to trading is subject to approval from the ASX. There is no guarantee that the ASX will grant this permission.

### **8.4 Share Market**

Share market conditions may affect the value of the Company's quoted securities regardless of the Company's operating performance. Share market conditions are affected by many factors such as:

- (a) general economic outlook;
- (b) interest rates and inflation rates;
- (c) currency fluctuations;
- (d) changes in investor sentiment toward particular market sectors;
- (e) the demand for, and supply of, capital; and
- (f) terrorism or other hostilities.

## **8.5 Uncertainty of Future Profitability**

The Company's ability to operate profitably in the future will depend on its ability to manage its costs, to execute its development and growth strategies, economic conditions in the markets the Company operates, competitive factors and regulatory developments. Accordingly, the extent of future profits, if any, and the time required to achieve a sustained profitability is uncertain. Moreover, the levels of such profitability cannot be predicted.

## **8.6 Transaction Specific Prospectus**

Due to the Company previously being in administration, the Company has not lodged all of the periodic reports required by the Corporations Act and the ASX Listing Rules. In particular, the Company has not lodged its Half Yearly Financial Reports for the period ending 31 December 2008 and 31 December 2009 and as not lodged its Annual Financial Report for the period ending 30 June 2009 by the required dates. The lodgement of these outstanding reports is a condition to the Company's Shares being re-instated to trading on the ASX. The Company intends to lodge these outstanding reports as soon as practicable after completing the capital raisings under this Prospectus.

The Company's failure to provide these periodic reports could result in the ASIC making an order that would prevent the Company issuing a transaction specific prospectus for a 12 month period. If such an order were made before the closing date of this Prospectus, the Company would be unable to proceed with this Prospectus in which case any applications will be dealt with in accordance with the Corporations Act.

## **8.7 Additional Requirements for Capital**

The Company's capital requirements depend on numerous factors. Depending on the Company's ability to generate income from its operations, the Company may require further financing in addition to amounts raised by the Offers. Any additional equity financing will dilute shareholdings, and debt financing, if available, may involve restrictions on financing and operating activities. If the Company is unable to obtain additional financing as needed, it may be required to reduce the scope of its operations and reduce its expansion programs as the case may be.

## **8.8 Reliance on Key Personnel and Need to Attract Qualified Staff**

The Company is dependent on its management and technical personnel, the loss of whose services could materially and adversely affect the Company and impede the achievements of its business objectives.

The Company's ability to sell its products and services will depend in part upon its ability to attract and retain suitably qualified management and technical personnel over time.

There can be no assurance that the Company will be able to attract or retain sufficiently qualified personnel on a timely basis or retain its key management personnel.

## **8.9 Industry Risks**

The Company's current and future potential competitors include companies with substantially greater resources than it. There is no assurance that competitors will not succeed in developing products or services that are more



effective or economic than the current products and services or any of those being developed by the Company or which would render the products obsolete and/or otherwise uncompetitive. In addition, the Company may not be able to compete successfully against current or future competitors where aggressive pricing policies are employed to capture market share. Such competition could result in price reductions, reduced gross margins and loss of market share, any of which could materially adversely affect the Company's future business, operating results and financial position.

#### **8.10 Currency Risk**

Adverse movements in currency exchange rates have the potential to reduce the Company's earnings. Securities in the Company are denominated in Australian dollars while the Company's revenue may be denominated in other currencies as the Company will be selling products internationally. Accordingly, the Company's earnings may be subject to fluctuations between the exchange rate of the Australian dollar and the relevant foreign currency. Such fluctuations may have an adverse effect on the value of the Company's securities.

#### **8.11 Transporting Risk**

The Company's business may involve the transportation of products to overseas destinations. There is a risk that the products will be damaged in transit. The Company will try to mitigate this risk by taking out adequate insurance cover, but there is no assurance that such insurance will cover all contingencies and eventualities.

#### **8.12 New Services**

The Company may, from time to time, introduce new and expanded services in order to generate additional revenues, attract more customers and respond to competition. There can be no guarantee that these new businesses will eventuate or be successful.

#### **8.13 Product Sales and Development**

The Company can make no representations that any of its product development or commercialisation will be successful; that the Company's development milestones will be achieved; or that the Company will develop further products that are commercially exploitable. Projects can be delayed or fail, or product/market development may cease to be viable for a range of unexpected commercial reasons.

#### **8.14 Business Relationship Risk**

The Company enters into business relationships with various parties for the sale of various products.

In these business relationships, there is a risk of adverse impact on the Company associated with insolvency, default or other managerial failure or activities of any other parties involved.

#### **8.15 Intellectual Property Rights**

Securing and protecting rights to intellectual property, and in particular to patents, trademarks and copyrights, is highly problematic in toys and games industry. Accordingly, the best protection for the Company to avoid

infringements in international markets is to expedite the development and sale of the Company's products.

The granting of a patent does not guarantee that the rights of others are not infringed or that competitors will not develop competing intellectual property that circumvents such patents. The Company's success depends, in part, on its ability to obtain patents, maintain trade secret protection and operate without infringing the proprietary rights of third parties.

Because the patent positions of companies in the toys and games industry can be highly uncertain and frequently involve complex legal evaluation, neither the breadth of claims allowed in such patents nor their enforceability can be predicted. There can be no assurance that any patents that the Company may own or control or license now and in the future will afford the Company commercially significant protection of its intellectual property or its projects, or have commercial application.

While the Company is not aware of any third party interests in its intellectual property rights and it will take steps to protect and confirm its interest in these rights. There is always a risk of third parties claiming an interest in the intellectual property of the Company and, if any such disputes arise, they could adversely affect the Company.

#### **8.16 Risk and Product Liability, and Uninsured Risks**

The Company's business exposes it to potential product liability risks that are inherent in the research and developments, manufacturing, marketing, and use of its products. In the course of maintaining its business, it will be necessary for the Company to secure sufficient levels of insurance to cover various product liability risks. However, there can be no assurance that adequate or necessary insurance coverage will be available at an acceptable cost or in sufficient amounts. If at all, or that product liability or other claims would not materially and adversely affect the business or financial condition of the Company.

#### **8.17 Potential Acquisitions**

As part of its business strategy, the Company may make acquisitions of or significant investments in complementary companies, products or technologies, although no such acquisitions or investments are currently planned. Any such future transactions would be accompanied by the risks commonly encountered in making acquisitions of companies, products and technologies.

#### **8.18 Licensing, Manufacturing and Distribution Agreements**

The Company is a party to a number of different licensing, manufacturing and distribution agreements. There can be no assurance given that there will be no detrimental impact on the Company if one or more of these agreements is either breached by another party or if, for reasons outside of the Company's control, an agreement cannot be renewed or is terminated.

#### **8.19 Investment Speculative**

The above list of risk factors ought not to be taken as exhaustive of the risks faced by the Company or by investors in the Company. The above factors, and others not specifically referred to above, may in the future materially affect the financial performance of the Company and the value of the Securities offered under this Prospectus.

Therefore, the Securities carry no guarantee with respect to the payment of dividends, returns of capital or market value.

Potential investors should consider that the investment in the Company is speculative and should consult their professional advisers before deciding whether to apply for Securities.

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## 9. ADDITIONAL INFORMATION

### 9.1 Continuous Disclosure Obligations

The Company is a “disclosing entity” for the purpose of Section 713 of the Corporations Act and, as such, is subject to regular reporting and disclosure obligations. Specifically, like all listed companies, the Company is required to continuously disclose any information it has to the market which a reasonable person would expect to have a material effect on the price or the value of the Company’s Securities. The Shares which will be issued pursuant to this Prospectus are in the same class of Shares that have been quoted on the official list of the ASX during the 12 months prior to the issue of this Prospectus.

This Prospectus is a “transaction specific prospectus”. In general terms “transaction specific prospectuses” are only required to contain information in relation to the effect of the issue of Securities on the Company and the rights attaching to the Securities. It is not necessary to include general information in relation to all of the assets and liabilities, financial position, profits and losses or prospects of the issuing company.

This Prospectus is intended to be read in conjunction with the publicly available information in relation to the Company which has been notified to ASX and does not include all of the information that would be included in a prospectus for an initial public offering of securities in an entity that is not already listed on a stock exchange. Investors should therefore have regard to the other publicly available information in relation to the Company before making a decision whether or not to invest.

Having taken such precautions and having made such enquiries as are reasonable, the Company believes that it has complied with the general and specific requirements of ASX as applicable from time to time throughout the 12 months before the issue of this Prospectus which required the Company to notify ASX of information about specified events or matters as they arise for the purpose of ASX making that information available to the stock market conducted by ASX, except that the Company has not lodged all of the periodic reports required to be lodged under the ASX Listing Rules and the Corporations Act. These outstanding reports must be provided before Shares of the Company will be reinstated to trading on the ASX. The Company intends to prepare and lodge these reports as soon as practicable after completion of the Offers.

Information that is already in the public domain has not been reported in this Prospectus other than that which is considered necessary to make this Prospectus complete.

The Company, as a disclosing entity under the Corporations Act, states that:

- (a) copies of documents lodged with the ASIC in relation to the Company may be obtained from, or inspected at, the offices of the ASIC; and
- (b) it will provide a copy of each of the following documents, free of charge, to any person on request between the date of issue of this Prospectus and the Closing Date:
  - (i) the annual financial report for the financial year ended 30 June 2008;

- (ii) the half-year financial report for the period ended 31 December 2007; and
- (iii) any documents used to notify ASX of information relating to the Company in the period from lodgement of a disclosure document on 26 July 2008 until lodgement of this Prospectus with the ASIC.

Copies of documents lodged with the ASIC in relation to the Company can be inspected at the registered office of the Company during normal office hours.

The Company has lodged the following announcements with ASX since lodgement of the 2009 annual report on 6 October 2008:

| <b>Date</b> | <b>Announcement</b>  |
|-------------|--|
| 26/03/2010  | New Registered Office  |
| 26/03/2010  | Final Directors Interest Notices                             |
| 26/03/2010  | Initial Directors Interest Notices                           |
| 26/03/2010  | Board Appointments / Resignations                            |
| 26/03/2010  | Change of Name   |
| 25/03/2010  | ASX Circular: Brainytoys Limited - Reorganisation of Capital |
| 24/03/2010  | Results of Meeting   |
| 11/03/2010  | Change to Indicative Timetable for the Consolidation         |
| 22/02/2010  | Notice of General Meeting                                    |
| 18/02/2010  | Administrator's Update to Shareholders                       |
| 18/02/2010  | Administrator's Update                                       |
| 03/12/2009  | Instrument of Appointment of Administrator                   |
| 02/12/2009  | Administrator Appointed                                      |
| 02/11/2009  | Company Update and Director Appointment/Resignation          |
| 21/10/2009  | Director/Secretary Appointment/Resignation                   |
| 25/08/2009  | Suspension from OQ – Annual Listing Fees – Non-Payment       |
| 07/07/2009  | Response to ASX Appendix 3Z Query                            |
| 06/07/2009  | Appointment of Secretary/Final Directors Interest Notice x 6 |
| 12/06/2009  | Appointment of Directors                                     |
| 12/06/2009  | Initial Director's Interest Notice                           |
| 30/03/2009  | Suspension of trading – market update                        |
| 07/01/2009  | Suspension of share trading                                  |
| 07/01/2009  | Voluntary Suspension from Quotation                          |
| 01/12/2008  | Director Appointment/Resignation                             |
| 28/11/2008  | Results of Meeting   |
| 28/11/2008  | Chairman's Address to Shareholders                           |
| 14/11/2008  | Mezzanine capital raising                                    |
| 30/10/2008  | Notice of Annual General Meeting/Proxy Form                  |
| 27/10/2008  | Appendix 4C – quarterly                                      |
| 23/10/2008  | Resignation of Director                                      |
| 22/10/2008  | Director Resignation   |
| 22/10/2008  | Capital raising  |
| 22/10/2008  | Change in substantial holding                                |
| 17/10/2008  | Appendix 3B  |
| 06/10/2008  | Reinstatement to Official Quotation: 07/10/08                |
| 06/10/2008  | Annual Report to shareholders                                |

## 9.2 Rights Attaching to Securities

### Shares

The rights, privileges and restrictions attaching to Shares can be summarised as follows:

(a) **General Meetings**

Shareholders are entitled to be present in person, or by proxy, attorney or representative to attend and vote at general meetings of the Company.

Shareholders may requisition meetings in accordance with Section 249D of the Corporations Act and the Constitution of the Company.

(b) **Voting Rights**

Subject to any rights or restrictions for the time being attached to any class or classes of shares, at general meetings of Shareholders or classes of Shareholders:

- (i) each Shareholder entitled to vote may vote in person or by proxy, attorney or representative;
- (ii) on a show of hands, every person present who is a Shareholder or a proxy, attorney or representative of a Shareholder has one vote; and
- (iii) on a poll, every person present who is a Shareholder or a proxy, attorney or representative of a Shareholder shall, in respect of each fully paid Share held by him, or in respect of which he is appointed a proxy, attorney or representative, have one vote for the Share, but in respect of partly paid Shares shall have such number of votes as bears the same proportion to the total of such Shares registered in the Shareholder's name as the amount paid (not credited) bears to the total amounts paid and payable (excluding amounts credited).

(c) **Dividend Rights**

Subject to the rights of persons (if any) entitled to Shares with special rights to dividend the Directors may declare a final dividend out of profits in accordance with the Corporations Act and may authorise the payment or crediting by the Company to the Shareholders of such a dividend. The Directors may authorise the payment or crediting by the Company to the Shareholders of such interim dividends as appear to the Directors to be justified by the profits of the Company. Subject to the rights of persons (if any) entitled to shares with special rights as to dividend all dividends are to be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid. Interest may not be paid by the Company in respect of any dividend, whether final or interim.

(d) **Winding-Up**

If the Company is wound up, the liquidator may, with the authority of a special resolution of the Company, divide among the Shareholders in kind the whole or any part of the property of the Company, and may for that purpose set such value as he considers fair upon any property to be so divided, and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders. The

liquidator may, with the authority of a special resolution of the Company, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no shareholder is compelled to accept any shares or other securities in respect of which there is any liability. Where an order is made for the winding up of the Company or it is resolved by special resolution to wind up the Company, then on a distribution of assets to members, Shares classified by ASX as restricted securities at the time of the commencement of the winding up shall rank in priority after all other Shares.

(e) **Transfer of Shares**

Generally, Shares in the Company are freely transferable, subject to formal requirements, the registration of the transfer not resulting in a contravention of or failure to observe the provisions of a law of Australia and the transfer not being in breach of the Corporations Act or the Listing Rules.

(f) **Variation of Rights**

Pursuant to Section 246B of the Corporations Act, the Company may, with the sanction of a special resolution passed at a meeting of Shareholders vary or abrogate the rights attaching to shares.

If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class), whether or not the Company is being wound up may be varied or abrogated with the consent in writing of the holders of three-quarters of the issued shares of that class, or if authorised by a special resolution passed at a separate meeting of the holders of the shares of that class.

## **Options**

The material terms of the Options offered pursuant to the Proponent Offer are as follows:

- (a) the Options will be exercisable at any time prior to 5.00pm WST on 30 November 2013 (**Option Expiry Date**). Options not exercised on or before the Option Expiry Date will automatically lapse;
- (b) the exercise price of each Option will be 1 cent each;
- (c) the Options may be exercised wholly or in part by completing an application form for Shares (**Notice of Exercise**) delivered to the Company's Share Registry and received by it any time prior to the Option Expiry Date;
- (d) upon the exercise of an Option and receipt of all relevant documents and payment, the holder will be allotted and issued a Share ranking pari passu with the then issued Shares. The Company will apply to ASX to have the Shares granted official quotation;
- (e) a summary of the terms and conditions of the Options, including the Notice of Exercise, will be sent to all holders of Options when the initial holding statement is sent;

- (f) the Options will not be listed on ASX but are transferable;
- (g) any Notice of Exercise received by the Company's share registry on or prior to the Option Expiry Date will be deemed to be a Notice of Exercise as at the last Business Day of the month in which such notice is received;
- (h) there will be no participating entitlements inherent in the Options to participate in new issues of capital which may be offered to Shareholders during the currency of the Options. Prior to any new pro rata issue of securities to Shareholders, holders of Options will be notified by the Company and will be afforded 7 Business Days before the record date (to determine entitlements to the issue), to exercise Options;
- (i) in the event the Company proceeds with a pro rata issue (except a bonus issue) of securities to the holders of Shares after the date of issue of the Options, the exercise price of the Options will be adjusted in accordance with the formula set out in ASX Listing Rule 6.22.2;
- (j) in the event of any reconstruction (including consolidation, sub-division, reduction or return) of the issued capital of the Company prior to the Option Expiry Date, all rights of an optionholder are to be changed in a manner consistent with the ASX Listing Rules; and
- (k) Shares issued pursuant to the exercise of an Option will be issued not more than 14 days after the date of the Notice of Exercise.

### 9.3 Disclosure of Interests

Directors are not required under the Company's Constitution to hold any Shares. As at the date of this Prospectus, none of the Directors have a relevant interest in Securities in the Company.

However, as a result of Shareholder approval granted at the General Meeting, the Directors are entitled to subscribe for the following Securities pursuant to this Prospectus:

| NAME                       | SHARES     | OPTIONS    |
|----------------------------|------------|------------|
| Faldi Ismail <sup>1</sup>  | 63,333,333 | 23,333,333 |
| Athan Lekkas <sup>2</sup>  | 63,333,333 | 23,333,333 |
| Nathan Taylor <sup>3</sup> | 20,000,000 | Nil        |

1. On 24 March 2010, the Company obtained Shareholder approval for the issue of up to 23,333,333 Shares under the Proponent Offer, up to 40,000,000 Shares under the Share Offer and up to 23,333,333 Options under the Options Offer to Mr Ismail or his nominees. This table assumes that Mr Ismail subscribes to these securities pursuant to the offer.
2. On 24 March 2010, the Company obtained Shareholder approval for the issue of up to 23,333,333 Shares under the Proponent Offer, up to 40,000,000 Shares under the Share Offer and up to 23,333,333 Options under the Options Offer to Mr Lekkas or his nominees. This table assumes that Mr Lekkas subscribes to these securities pursuant to the offer.



3. On 24 March 2010, the Company obtained Shareholder approval for the issue of up to 20,000,000 Shares under the Share Offer to Mr Taylor or his nominees. This table assumes that Mr Taylor subscribes to these Shares pursuant to the offer.

#### **9.4 Remuneration**

The Constitution provides that the remuneration of Directors will be not more than the aggregate fixed sum determined by a general meeting to be divided as the Directors determine and in default of agreement, in equal Shares. As at the date of this Prospectus, the Directors have not received any Directors' fees.

It is proposed that each of the Directors will be entitled to a Director's fee of between \$2,000 to \$4,000 per month, payable after the Company's Shares have been reinstated to trading on ASX and calculated from the date of their appointment, being 24 March 2010.

#### **9.5 Fees and Benefits**

Other than as set out below or elsewhere in this Prospectus, no:

- (a) Director of the Company;
- (b) person named in this Prospectus as performing a function in a professional advisory or other capacity in connection with the preparation or distribution of this Prospectus; or
- (c) promoter of the Company,

has, or had within 2 years before lodgement of this Prospectus with the ASIC, any interest in:

- (i) the formation or promotion of the Company;
- (ii) any property acquired or proposed to be acquired by the Company in connection with its formation or promotion or in connection with the Offers under this Prospectus; or
- (iii) the Offers under this Prospectus,

and no amounts have been paid or agreed to be paid and no benefits have been given or agreed to be given to any of those persons as an inducement to become, or to qualify as, a Director of the Company or for services rendered in connection with the formation or promotion of the Company or the Offers under this Prospectus.

Steinepreis Paganin has acted as the solicitors to the Company in relation to the restructure of the Company, preparation of the Notice of Meeting and this Prospectus. The Company estimates it will pay Steinepreis Paganin \$8,000 for these services. Subsequently, fees will be charged in accordance with normal charge out rates.

#### **9.6 Consent**

Steinepreis Paganin has given its written consent to being named as the solicitor to the Company in this Prospectus. Steinepreis Paganin has not withdrawn its consent prior to the lodgement of this Prospectus with the ASIC. To the maximum extent permitted by law, Steinepreis Paganin expressly disclaims and

takes no responsibility for any part of this Prospectus other than a reference to its name and a statement included in this Prospectus with its consent as specified in this section.

#### **9.7 Expenses of the Offers**

The total expenses of the Offers are estimated to be approximately \$20,000.

#### **9.8 Litigation**

The Company is not currently engaged in any material litigation.

#### **9.9 Market Price of Shares**

The Company is a disclosing entity for the purposes of the Corporations Act and its Shares are quoted on ASX.

The Company's Securities were suspended from trading on 7 January 2009 and therefore not quoted on the ASX since that date.

#### **9.10 Electronic Prospectus**

Pursuant to Class Order 00/044, the ASIC has exempted compliance with certain provisions of the Corporations Act to allow distribution of an electronic prospectus and electronic application form on the basis of a paper prospectus lodged with the ASIC, and the publication of notices referring to an electronic prospectus or electronic application form, subject to compliance with certain conditions.

If you have received this Prospectus as an electronic Prospectus, please ensure that you have received the entire Prospectus accompanied by the relevant Application Forms. If you have not, please contact the Company and the Company will send you, for free, either a hard copy or a further electronic copy of the Prospectus or both.

The Company reserves the right not to accept an Application Form from a person if it has reason to believe that when that person was given access to the electronic Application Form, it was not provided together with the electronic Prospectus and any relevant supplementary or replacement prospectus or any of those documents were incomplete or altered.

#### **9.11 Taxation**

The acquisition and disposal of Securities in the Company will have tax consequences, which will differ depending on the individual financial affairs of each investor. All potential investors in the Company are urged to obtain independent financial advice about the consequences of acquiring Securities from a taxation viewpoint and generally.

To the maximum extent permitted by law, the Company, its officers and each of their respective advisors accept no liability and responsibility with respect to the taxation consequences of subscribing for Securities under this Prospectus.

#### **9.12 Forecasts**

The Directors have considered the matters set out in ASIC Regulatory Guide 170 and believe that they do not have a reasonable basis to forecast future earnings on the basis that the operations of the Company are inherently uncertain.

Accordingly, any forecast or projection information would contain such a broad range of potential outcomes and possibilities that it is not possible to prepare a reliable best estimate forecast or projection.

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**10. DIRECTORS' AUTHORISATION**

This Prospectus is issued by the Company and its issue has been authorised by a resolution of the Directors.

In accordance with Section 720 of the Corporations Act, each Director has consented to the lodgement of this Prospectus with the ASIC.

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**Mr Faldi Ismail**  
**Director**

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## 11. GLOSSARY

Where the following terms are used in this Prospectus they have the following meanings:

**A\$** or **\$** means an Australian dollar.

**Application Forms** means Proponent Offer Application Form, Share Offer Application Form, Option Offer Application Form or Secured Creditor Offer Application Form and **Application Form** means one of them.

**ASIC** means Australian Securities & Investments Commission.

**ASX** means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange (as the context requires).

**Board** means the board of Directors as constituted from time to time.

**Business Day** has the same meaning as in the ASX Listing Rules.

**Closing Date** means the closing date for receipt of Application Forms under this Prospectus in respect of the Proponent Offer, Option Offer, Share Offer and Secured Creditor Offer, as set out in Section 4.2 of this Prospectus.

**Company** or **Energio** means Energio Limited (ABN 28 001 894 033) (Subject to Deed of Company Arrangement).

**Constitution** means the constitution of the Company.

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

**Deed Administrator** means Bryan Hughes.

**Directors** means the directors of the Company.

**DOCA** means the deed of company arrangement entered into by the Company, Romfal Corporate Pty Ltd, the Deed Administrator and BT Creditors Trust Pty Ltd on 2 February 2010.

**Exposure Period** means the period of 7 days after the date of lodgement of this Prospectus, which period may be extended by the ASIC by not more than 7 days pursuant to Section 727(3) of the Corporations Act.

**General Meeting** means the general meeting of Shareholders held on 24 March 2010.

**Listing Rules** means the official listing rules of ASX.

**Notice of Meeting** means the notice of meeting and accompanying explanatory statement as announced to ASX on 22 February 2010.

**Offers** means the offer of Securities pursuant to this Prospectus as outlined in Section 4.

**Official List** means the Official List of ASX.

**Official Quotation** means official quotation by ASX in accordance with the Listing Rules.

**Option** means an option to subscribe for a Share on the terms and conditions set out in Section 4.1.

**Option Offer** means the offer of 70,000,000 free Options as set out in Section 3.1.

**Option Offer Application Form** means the option offer application form accompanying this Prospectus relating to the Option Offer.

**Proponent Offer** means the offer of the offer of 70,000,000 Shares at an issue price of 0.1 cents per Share as set out in Section 4.1.

**Proponent Offer Application Form** means the Proponent Offer application form accompanying this Prospectus relating to the Proponent Offer.

**Prospectus** means this prospectus.

**Secured Creditor** means Noble Investments Pty Ltd (or its nominee).

**Secured Creditor Offer** means the offer of 50,000,000 Shares at a deemed issue price of 0.5 cents per Share and 30,000,000 Options for nil consideration as set out in Section 4.1.

**Secured Creditor Offer Application Form** means the Secured Creditor Offer application form accompanying this Prospectus relating to the Secured Creditor Offer.

**Securities** means Shares and Options.

**Share** means a fully paid ordinary share in the capital of the Company.

**Share Offer** means the offer of the offer of 400,000,000 Shares at an issue price of 0.5 cents per Share as set out in Section 4.1.

**Share Offer Application Form** means the share offer application form accompanying this Prospectus relating to the Share Offer.

**Shareholder** means a holder of Shares.

**Share Registry** means the share registry set out in the Corporate Directory.

**WST** means Western Standard Time.