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**NEW HORIZON COAL LTD**

**ACN 143 932 110**

**NOTICE OF GENERAL MEETING**

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**TIME:** 10.00 am (WST)

**DATE:** 28 March 2013

**PLACE:** Level 1, 33 Ord Street, West Perth, Western Australia

*This Notice of Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their professional advisers prior to voting.*

*Should you wish to discuss the matters in this Notice of Meeting please do not hesitate to contact the Company Secretary on (+61 8) 9420 9300.*



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## **IMPORTANT INFORMATION**

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### **TIME AND PLACE OF MEETING**

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Notice is given that the meeting of the Shareholders to which this Notice of Meeting relates will be held at 10.00 am (WST) on 28 March 2013 at:

Level 1  
33 Ord Street  
West Perth Western Australia 6005

### **YOUR VOTE IS IMPORTANT**

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The business of the Meeting affects your shareholding and your vote is important.

### **VOTING ELIGIBILITY**

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The Directors have determined pursuant to Regulation 7.11.37 of the Corporations Regulations 2001 (Cth) that the persons eligible to vote at the Meeting are those who are registered Shareholders at 4.00pm (WST) on 26 March 2013.

### **VOTING IN PERSON**

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To vote in person, attend the Meeting at the time, date and place set out above.

### **VOTING BY PROXY**

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To vote by proxy, please complete and sign the enclosed Proxy Form and return by the time and in accordance with the instructions set out on the Proxy Form.

In accordance with section 249L of the Corporations Act, members are advised that:

- each member has a right to appoint a proxy;
- the proxy need not be a member of the Company; and
- a member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If the member appoints 2 proxies and the appointment does not specify the proportion or number of the member's votes, then in accordance with section 249X(3) of the Corporations Act, each proxy may exercise one-half of the votes.

New sections 250BB and 250BC of the Corporations Act came into effect on 1 August 2011 and apply to voting by proxy on or after that date. Shareholders and their proxies should be aware of these changes to the Corporations Act, as they will apply to this Meeting. Broadly, the changes mean that:

- if proxy holders vote, they must cast all directed proxies as directed; and
- any directed proxies which are not voted will automatically default to the Chair, who must vote the proxies as directed.

Further details on these changes is set out below.

#### ***Proxy vote if appointment specifies way to vote***

Section 250BB(1) of the Corporations Act provides that an appointment of a proxy may specify the way the proxy is to vote on a particular resolution and, **if it does:**

- the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way (i.e. as directed); and
- if the proxy has 2 or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands; and
- if the proxy is the chair of the meeting at which the resolution is voted on – the proxy must vote on a poll, and must vote that way (i.e. as directed); and
- if the proxy is not the chair – the proxy need not vote on the poll, but if the proxy does so, the proxy must vote that way (i.e. as directed).

#### ***Transfer of non-chair proxy to chair in certain circumstances***

Section 250BC of the Corporations Act provides that, if:

- an appointment of a proxy specifies the way the proxy is to vote on a particular resolution at a meeting of the Company's members; and
- the appointed proxy is not the chair of the meeting; and
- at the meeting, a poll is duly demanded on the resolution; and
- either of the following applies:
  - the proxy is not recorded as attending the meeting;
  - the proxy does not vote on the resolution,

the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at the meeting.

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## BUSINESS OF THE MEETING

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### AGENDA

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#### 1. RESOLUTION 1 – RE-ELECTION OF DIRECTOR – MR MARK SANDERS

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*“That, for the purposes of clause 13.4 of the Constitution and for all other purposes, Mr Mark Sanders, a Director who was appointed on 7 November 2012, retires, and being eligible, is re-elected as a Director.”*

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#### 2. RESOLUTION 2 – RATIFICATION OF PRIOR ISSUE – FIRST TRANCHE OF PLACEMENT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of ASX Listing Rule 7.4 and for all other purposes, Shareholders ratify the allotment and issue of 17,875,000 Shares on the terms and conditions set out in the Explanatory Statement.”*

**Voting Exclusion:** The Company will disregard any votes cast on this Resolution by a person who participated in the issue and any associates of those persons. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

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#### 3. RESOLUTION 3 – PARTICIPATION OF DIRECTOR IN SECOND TRANCHE OF PLACEMENT – MR GARY STEINEPREIS

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of section 195(4) of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to allot and issue up to 1,250,000 Shares to Mr Gary Steinepreis (or his nominee) on the terms and conditions set out in the Explanatory Statement.”*

**Voting Exclusion Statement:** The Company will disregard any votes cast on this Resolution by Mr Gary Steinepreis (and his nominee) and any of their associates. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

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#### 4. RESOLUTION 4 – PARTICIPATION OF DIRECTOR IN SECOND TRANCHE OF PLACEMENT – MR CARL COWARD

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, for the purposes of section 195(4) of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to allot and issue up to 5,250,000 Shares to Mr Carl Coward (or his nominee) on the terms and conditions set out in the Explanatory Statement.”*

**Voting Exclusion Statement:** The Company will disregard any votes cast on this Resolution by Mr Carl Coward (and his nominee) and any of their associates. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

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**5. RESOLUTION 5 – PARTICIPATION OF DIRECTOR IN SECOND TRANCHE OF PLACEMENT – MR MARK SANDERS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*“That, subject to the passing of Resolution 1, for the purposes of section 195(4) of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to allot and issue up to 625,000 Shares to Mr Mark Sanders (or his nominee) on the terms and conditions set out in the Explanatory Statement.”*

**Voting Exclusion Statement:** The Company will disregard any votes cast on this Resolution by Mr Mark Sanders (and his nominee) and any of their associates. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

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**6. RESOLUTION 6 – ISSUE OF INCENTIVE OPTIONS TO DIRECTOR – MR MIKE PLACHA**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*“That, for the purposes of section 208 of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to allot and issue 10,000,000 Incentive Options (comprising 5,000,000 Unlisted Options and 5,000,000 Listed Options) to Mr Mike Placha (or his nominee) on the terms and conditions set out in the Explanatory Statement.”*

**ASX Voting Exclusion:** The Company will disregard any votes cast on this Resolution by Mr Mike Placha (or his nominee) and any of his associates. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

**Voting Prohibition Statement:**

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

- (a) the proxy is the Chair; and
- (b) the appointment expressly authorises the Chair to exercise the proxy even though this Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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## **7. RESOLUTION 7 – ISSUE OF INCENTIVE OPTIONS TO DIRECTOR – MR MARK SANDERS**

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

*“That, subject to the passing of Resolution 1, for the purposes of section 208 of the Corporations Act, ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to allot and issue 1,000,000 Incentive Options (comprising 500,000 Unlisted Options and 500,000 Listed Options) to Mr Mark Sanders (or his nominee) on the terms and conditions set out in the Explanatory Statement.”*

**ASX Voting Exclusion:** The Company will disregard any votes cast on this Resolution by Mr Mark Sanders (or his nominee) and any of his associates. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

**Voting Prohibition Statement:**

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

- (a) the proxy is the Chair; and
- (b) the appointment expressly authorises the Chair to exercise the proxy even though this Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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**DATED: 12 FEBRUARY 2013**

**BY ORDER OF THE BOARD**

**GARY STEINEPREIS  
DIRECTOR**

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## EXPLANATORY STATEMENT

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This Explanatory Statement has been prepared to provide information which the Directors believe to be material to Shareholders in deciding whether or not to pass the Resolutions which are the subject of the business of the Meeting.

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### 1. RESOLUTION 1 – RE-ELECTION OF DIRECTOR – MR MARK SANDERS

Clause 13.4 of the Constitution allows the Directors to appoint at any time a person to be a Director as an addition to the existing Directors, but only where the total number of Directors does not at any time exceed the maximum number specified by the Constitution.

Any Director so appointed holds office only until the next following general meeting and is then eligible for re-election but shall not be taken into account in determining the Directors who are to retire by rotation (if any) at that meeting.

Mr Mark Sanders will retire in accordance with clause 13.4 of the Constitution and being eligible seeks re-election.

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### 2. RESOLUTION 2 – RATIFICATION OF PRIOR ISSUE – FIRST TRANCHE OF PLACEMENT

#### 2.1 Background

On 29 January 2013, the Company announced it had resolved to issue up to 25,000,000 Shares at an issue price of \$0.08 per Share, to raise up to \$2,000,000, with the Shares to be issued in two tranches as follows:

- (a) 17,875,000 Shares to sophisticated and professional investors of which 3,925,000 Shares were issued pursuant to the Company's capacity under ASX Listing Rule 7.1A while 13,950,000 Shares were issued pursuant to ASX Listing Rule 7.1 (**First Tranche**) which were issued on or about 4 February 2013; and
- (b) 7,125,000 Shares to be issued to related parties subject to Shareholder approval (**Second Tranche**),

(together the **Placement**).

The Company engaged the services of Delta Capital Pty Ltd (ACN 109 059 181) (**Delta Capital**), a licensed securities dealer (AFSL 277935), to manage the issue of the Shares the subject of the Ratification. The Company must pay a lead manager fee of 1% and a placement fee of 5% being a total management fee of 6% (exclusive of goods and services tax) to Delta Capital on the amount raised under the Ratification.

#### 2.2 General

Resolution 2 seeks Shareholder ratification pursuant to ASX Listing Rule 7.4 for the issue of those Shares the subject of the First Tranche (**Ratification**).

ASX Listing Rule 7.1 provides that a company must not, subject to specified exceptions, issue or agree to issue more equity securities during any 12 month period than that amount which represents 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period.



ASX Listing Rule 7.4 sets out an exception to ASX Listing Rule 7.1. It provides that where a company in general meeting ratifies the previous issue of securities made pursuant to ASX Listing Rule 7.1 (and provided that the previous issue did not breach ASX Listing Rule 7.1) those securities will be deemed to have been made with shareholder approval for the purpose of ASX Listing Rule 7.1.

By ratifying this issue, the Company will retain the flexibility to issue equity securities in the future up to the 15% annual placement capacity set out in ASX Listing Rule 7.1 without the requirement to obtain prior Shareholder approval.

Where an eligible entity obtains shareholder approval to increase its placement capacity under ASX Listing Rule 7.1A, any equity securities issued under that additional placement capacity will not be counted in the variable upon which the 10% placement capacity is based until that issue has been ratified under ASX Listing Rule 7.4 (or 12 months has passed since their issue). In addition, any equity securities issued under that additional placement capacity will reduce the balance of equity securities able to be issued under that additional capacity without prior shareholder approval until that issue has been ratified under ASX Listing Rule 7.4 (or 12 months has passed since their issue).

By ratifying this issue, the Company will increase the variable upon which the 10% placement capacity is based and retain the flexibility to issue equity securities in the future up to the 10% placement capacity set out in ASX Listing Rule 7.1A without the requirement to obtain prior Shareholder approval.

### **2.3 Technical information required by ASX Listing Rule 7.4**

Pursuant to and in accordance with ASX Listing Rule 7.5, the following information is provided in relation to the Ratification:

- (a) 17,875,000 Shares were allotted;
- (b) the issue price was \$0.08 per Share;
- (c) the Shares issued were all fully paid ordinary shares in the capital of the Company issued on the same terms and conditions as the Company's existing Shares;
- (d) the Shares were allotted and issued to clients of Delta Capital that are classified as sophisticated and professional investors. None of these subscribers are related parties of the Company; and
- (e) the funds raised from this issue were used towards the ongoing development of the Kinney Coal Project and to working capital to support new opportunities.

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## **3. RESOLUTIONS 3, 4 AND 5 – PARTICIPATION OF RELATED PARTIES IN SECOND TRANCHE OF PLACEMENT**

### **3.1 General**

Pursuant to Resolutions 3, 4 and 5 the Company is seeking Shareholder approval for the allotment and issue of the Shares the subject of the Second Tranche to Messrs Gary Steinepreis (or his nominee), Carl Coward (or his nominee) and Mark Sanders (or his nominee) (**Related Parties**) (**Participation**). The Shares the subject of the Second Tranche will be issued on the same terms and conditions as those Shares issued under the First Tranche of the Placement (refer to Resolution 2 above).

Resolution 5 is conditional on Resolution 1 of this Notice of Meeting being approved.

### **3.2 Chapter 2E of the Corporations Act**

For a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The Participation will result in the issue of Shares which constitutes giving a financial benefit and Messrs Gary Steinepreis, Carl Coward and Mark Sanders are related parties of the Company by virtue of being Directors.

The Directors (other than Messrs Gary Steinepreis, Carl Coward and Mark Sanders who have a material personal interest in Resolutions 3, 4, and 5) consider that Shareholder approval pursuant to Chapter 2E of the Corporations Act is not required in respect of the Participation because the Shares will be issued to the Related Parties on the same terms as Shares issued to non-related party participants in the Placement and as such the giving of the financial benefit is on arm's length terms.

### **3.3 ASX Listing Rule 10.11**

ASX Listing Rule 10.11 also requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities to a related party, or a person whose relationship with the entity or a related party is, in ASX's opinion, such that approval should be obtained unless an exception in ASX Listing Rule 10.12 applies.

As the Participation involves the issue of Shares to related parties of the Company, Shareholder approval pursuant to ASX Listing Rule 10.11 is required unless an exception applies. It is the view of the Directors that the exceptions set out in ASX Listing Rule 10.12 do not apply in the current circumstances.

### **3.4 Technical Information required by ASX Listing Rule 10.13**

Pursuant to and in accordance with ASX Listing Rule 10.13, the following information is provided in relation to the Participation:

- (a) the Shares will be allotted and issued to Messrs Gary Steinepreis (or his nominee), Carl Coward (or his nominee) and Mark Sanders (or his nominee);
- (b) the maximum number of Shares to be issued is 7,125,000, of which:
  - (i) the maximum number to be issued to Mr Gary Steinepreis (or his nominee) is 1,250,000;
  - (ii) the maximum number to be issued to Mr Carl Coward (or his nominee) is 5,250,000; and

- (iii) the maximum number to be issued to Mr Mark Sanders (or his nominee) is 625,000;
- (c) the Shares will be issued no later than 1 month after the date of the Meeting (or such later date to the extent permitted by any ASX waiver or modification of the ASX Listing Rules) and it is intended that allotment will occur on the same date;
- (d) the issue price will be \$0.08 per Share, being the same as all other Shares issued under the Placement;
- (e) the Shares issued will be fully paid ordinary shares in the capital of the Company issued on the same terms and conditions as the Company's existing Shares; and
- (f) the funds raised will be used for the same purposes as all other funds raised under the Placement as set out in section 2.3(e) of this Explanatory Statement.

Approval pursuant to ASX Listing Rule 7.1 is not required for the Participation as approval is being obtained under ASX Listing Rule 10.11. Accordingly, the issue of Shares to Messrs Gary Steinepreis (or his nominee), Carl Coward (or his nominee) and Mark Sanders (or his nominee) will not be included in the use of the Company's 15% annual placement capacity pursuant to ASX Listing Rule 7.1.

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## **4. RESOLUTIONS 6 AND 7 – ISSUE OF INCENTIVE OPTIONS TO RELATED PARTIES**

### **4.1 General**

The Company has agreed, subject to obtaining Shareholder approval, to allot and issue a total of 11,000,000 Options (**Incentive Options**) to Messrs Mike Placha (or his nominee) and Mark Sanders (or his nominee) (**Incentive Related Parties**) on the terms and conditions set out below.

The Incentive Options will consist of 5,500,000 Unlisted Options (the terms and conditions of which are set out in Schedule 1) and 5,500,000 Listed Options (the terms and conditions of which are set out in Schedule 2). A summary of Chapter 2E of the Corporations Act and ASX Listing Rule 10.11 are set out in sections 3.2 and 3.3 of the Explanatory Statement.

The grant of the Incentive Options constitutes giving a financial benefit and Messrs Mike Placha and Mark Sanders are related parties of the Company by virtue of being Directors.

It is the view of the Company that the exceptions set out in sections 210 to 216 of the Corporations Act and ASX Listing Rule 10.12 do not apply in the current circumstances. Accordingly, Shareholder approval is sought for the grant of Incentive Options to the Incentive Related Parties.

Resolution 7 is conditional on Resolution 1 of this Notice of Meeting being approved.

### **4.2 Shareholder Approval (Chapter 2E of the Corporations Act and Listing Rule 10.11)**

Pursuant to and in accordance with the requirements of section 219 of the Corporations Act and ASX Listing Rule 10.13, the following information is provided in relation to the proposed grant of Incentive Options:

- (a) the related parties are Messrs Mike Placha and Mark Sanders and they are related parties by virtue of being Directors;
- (b) the maximum number of Incentive Options (being the nature of the financial benefit being provided) to be granted to the Incentive Related Parties is:
- (i) 10,000,000 Incentive Options (comprising 5,000,000 Unlisted Options and 5,000,000 Listed Options) to Mr Mike Placha (or his nominee); and
- (ii) 1,000,000 Incentive Options (comprising 500,000 Unlisted Options and 500,000 Listed Options) to Mr Mark Sanders (or his nominee);
- (c) the Incentive Options will be granted to the Incentive Related Parties no later than 1 month after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the ASX Listing Rules) and it is anticipated the Incentive Options will be issued on one date;
- (d) the Incentive Options will be granted for nil cash consideration, accordingly no funds will be raised;
- (e) the terms and conditions of the Incentive Options are set out in Schedule 1;
- (f) the value of the Incentive Options and the pricing methodology is set out in Schedule 3;
- (g) the relevant interests of the Incentive Related Parties in securities of the Company are set out below:

<b>Related Party</b>	<b>Shares</b>	<b>Options</b>
Mr Mike Placha	654,546	5,454,546 <sup>1</sup>
Mr Mark Sanders	Nil	Nil

<sup>1</sup> 454,546 listed Options exercisable at \$0.20 each on or before 31 December 2014 and 5,000,000 unlisted Options exercisable at \$0.50 each on or before 23 November 2016 (escrowed until 7 December 2013).

- (h) the remuneration and emoluments from the Company to the Incentive Related Parties for the previous financial year and the proposed remuneration and emoluments for the current financial year are set out below:

<b>Related Party</b>	<b>Current Financial Year</b>	<b>Previous Financial Year</b>
Mr Mike Placha	\$300,000 <sup>1</sup>	\$237,470
Mr Mark Sanders	\$36,000	Nil

<sup>1</sup> Base salary of \$250,000 plus incentive bonus of \$50,000, effective 1 January 2013.

- (i) if the Incentive Options granted to the Incentive Related Parties are exercised, a total of 11,000,000 Shares would be allotted and issued. This will increase the number of Shares on issue from 118,000,000, to 129,000,000 (assuming that no other Options are exercised and no other Shares are issued) with the effect that the shareholding of existing Shareholders would be diluted by an aggregate of 9.32%, comprising 8.47% by Mr Mike Placha, and 0.85% by Mr Mark Sanders.

The market price for Shares during the term of the Incentive Options would normally determine whether or not the Incentive Options are exercised. If, at any time any of the Incentive Options are exercised and the Shares are trading on ASX at a price that is higher than the exercise price of the Incentive Options, there may be a perceived cost to the Company.

- (j) the trading history of the Shares on ASX in the 12 months before the date of this Notice is set out below:

	<b>Price</b>	<b>Date</b>
Highest	23 cents	7 February 2012
Lowest	8 cents	29 November 2012
Last	8 cents	11 February 2013

- (k) the Board acknowledges the grant of Incentive Options to Mr Mark Sanders is contrary to Recommendation 8.3 of The Corporate Governance Principles and Recommendations with 2010 Amendments (2<sup>nd</sup> Edition) as published by The ASX Corporate Governance Council. However, the Board considers the grant of Incentive Options to Mr Mark Sanders reasonable in the circumstances for the reasons set out in paragraph (m) below;

- (l) the primary purpose of the grant of the Incentive Options to the Incentive Related Parties is to provide a performance linked incentive component in the remuneration package for the Incentive Related Parties to motivate and reward the performance of the Incentive Related Parties in their respective roles as Directors;

- (m) Mr Mike Placha declines to make a recommendation to Shareholders in relation to Resolution 6 due to his material personal interest in the outcome of the Resolution on the basis that he is to be granted Incentive Options in the Company should Resolution 6 be passed. However, in respect of Resolution 7, Mr Mike Placha recommends that Shareholders vote in favour of the Resolution for the following reasons:

- (i) the grant of Incentive Options to the Incentive Related Parties will align the interests of the Incentive Related Parties with those of Shareholders;

- (ii) the grant of the Incentive Options is a reasonable and appropriate method to provide cost effective remuneration as the non-cash form of this benefit will allow the Company to spend a greater proportion of its cash reserves on its operations than it would if alternative cash forms of remuneration were given to the Incentive Related Parties; and

- (iii) it is not considered that there are any significant opportunity costs to the Company foregone by the Company in granting the Incentive Options upon the terms proposed;
- (n) Mr Mark Sanders declines to make a recommendation to Shareholders in relation to Resolution 7 due to his material personal interest in the outcome of the Resolution on the basis that he is to be granted Incentive Options in the Company should Resolution 7 be passed. However, in respect of Resolution 6, Mr Mark Sanders recommends that Shareholders vote in favour of those Resolutions for the reasons set out in paragraph (m) above;
- (o) with the exception of Mr Mike Placha and Mr Mark Sanders, no other Director has a personal interest in the outcome of Resolutions 6 and 7;
- (p) Mr Gary Steinepreis recommends that Shareholders vote in favour of Resolutions 6 and 7 for the reasons set out in paragraph (m) above;
- (q) Mr Carl Coward recommends that Shareholders vote in favour of Resolutions 6 and 7 for the reasons set out in paragraph (m) above;
- (r) in forming their recommendations, each Director considered the experience of the Incentive Related Parties, the current market price of Shares, the current market practices when determining the number of Incentive Options to be granted as well as the exercise price and expiry date of those Incentive Options; and
- (s) the Board is not aware of any other information that would be reasonably required by Shareholders to allow them to make a decision whether it is in the best interests of the Company to pass Resolutions 6 and 7.

Approval pursuant to ASX Listing Rule 7.1 is not required in order to issue the Incentive Options to the Incentive Related Parties as approval is being obtained under ASX Listing Rule 10.11. Accordingly, the issue of Incentive Options to the Incentive Related Parties will not be included in the 15% calculation of the Company's annual placement capacity pursuant to ASX Listing Rule 7.1.

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## GLOSSARY

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**\$** means Australian dollars.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited.

**ASX Listing Rules** means the Listing Rules of ASX.

**Board** means the current board of directors of the Company.

**Business Day** means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day.

**Chair** means the chair of the Meeting.

**Company** or **New Horizon** means New Horizon Coal Ltd (ACN 143 932 110).

**Constitution** means the Company's constitution.

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

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

**Explanatory Statement** means the explanatory statement accompanying the Notice.

**First Tranche** has the meaning given in section 2.1 of the Explanatory Statement.

**General Meeting** or **Meeting** means the meeting convened by the Notice.

**Incentive Option** means an Option granted pursuant to Resolutions 6 and 7 with the terms and conditions set out in Schedules 1 and 2 (comprising the Unlisted Options and the Listed Options, as applicable).

**Incentive Related Parties** has the meaning given in section 4.1 of the Explanatory Statement.

**Listed Option** means a listed Option granted pursuant to Resolutions 6 and 7 with the terms and conditions set out in Schedule 2.

**Notice** or **Notice of Meeting** means this notice of meeting including the Explanatory Statement and the Proxy Form.

**Option** means an option to acquire a Share.

**Optionholder** means a holder of an Option or Incentive Option as the context requires.

**Participation** has the meaning given in section 3.1 of the Explanatory Statement.

**Placement** has the meaning given in section 2.1 of the Explanatory Statement.

**Proxy Form** means the proxy form accompanying the Notice.

**Ratification** has the meaning given in section 2.2 of the Explanatory Statement.

**Related Parties** has the meaning given in section 3.1 of the Explanatory Statement.

**Resolutions** means the resolutions set out in the Notice, or any one of them, as the context requires.

**Second Tranche** has the meaning given in section 2.1 of the Explanatory Statement.

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

**Shareholder** means a holder of a Share.

**Unlisted Option** means an unlisted Option granted pursuant to Resolutions 6 and 7 with the terms and conditions set out in Schedule 1.

**WST** means Western Standard Time as observed in Perth, Western Australia.



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## SCHEDULE 1 – TERMS AND CONDITIONS OF UNLISTED OPTIONS

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The Unlisted Options entitle the holder (**Unlisted Optionholder**) to subscribe for Shares on the following terms and conditions:

- (a) Each Unlisted Option gives the Incentive Optionholder the right to subscribe for one fully paid ordinary share in New Horizon (**Share**).
- (b) The Incentive Options will expire at 5.00pm (WST) on the date which is 3 years after the Unlisted Options are issued (**Expiry Date**).
- (c) Any Unlisted Option not exercised before the Expiry Date will automatically lapse on the Expiry Date.
- (d) The amount payable upon exercise of each Unlisted Option will be AUD\$0.30 (**Exercise Price**).
- (e) The Unlisted Options held by each Incentive Optionholder may be exercised in whole or in part, and if exercised in part, multiples of 1,000 must be exercised on each occasion.
- (f) An Unlisted Optionholder may exercise their Incentive Options by lodging with the Company, before the Expiry Date:
  - (i) a written notice of exercise of Unlisted Options specifying the number of Unlisted Options being exercised; and
  - (ii) a cheque or electronic funds transfer for the Exercise Price for the number of Unlisted Options being exercised;(collectively, **Exercise Notice**).
- (g) An Exercise Notice is only effective when the Company has received the full amount of the Exercise Price in cleared funds.
- (h) Within 10 Business Days of receipt of the Exercise Notice accompanied by the Exercise Price, the Company will allot the number of Shares required under these terms and conditions in respect of the number of Unlisted Options specified in the Exercise Notice.
- (i) The Incentive Options are not transferable.
- (j) All Shares allotted upon the exercise of Unlisted Options will upon allotment rank pari passu in all respects with other Shares.
- (k) The Company will not apply for quotation of the Unlisted Options on ASX. However, The Company will apply for quotation of all Shares allotted pursuant to the exercise of Unlisted Options on ASX within 10 Business Days after the date of allotment of those Shares.
- (l) If at any time the issued capital of the Company is reconstructed, all rights of an Unlisted Optionholder are to be changed in a manner consistent with the *Corporations Act 2001* (Cth) and the ASX Listing Rules at the time of the reconstruction.
- (m) There are no participating rights or entitlements inherent in the Unlisted Options and Unlisted Optionholders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Unlisted Options. However, the Company will ensure that for the purposes of determining entitlements to any such issue, the record date will be at least 6 Business Days after the issue is announced. This will give Unlisted Optionholders the opportunity to exercise their Unlisted Options prior to the date for determining entitlements to participate in any such issue.
- (n) An Unlisted Option does not confer the right to a change in exercise price or a change in the number of underlying securities over which the Unlisted Option can be exercised.

- (o) Subject to the discretion of the Board of the Company, if:
- (i) the Unlisted Optionholder terminates its Employment; or
  - (ii) the Unlisted Optionholders' Employment is terminated with cause by the Company,
- any outstanding Unlisted Options which have not been exercised will immediately lapse and have no further force or effect.

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## SCHEDULE 2 – TERMS AND CONDITIONS OF LISTED OPTIONS

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The Listed Options entitle the holder (**Listed Optionholder**) to subscribe for Shares on the following terms and conditions:

- (a) Each Listed Option gives the Listed Optionholder the right to subscribe for one fully paid ordinary share in New Horizon (**Share**).
- (b) The Listed Options will expire at 5.00pm (WST) on 31 December 2014 (**Expiry Date**). Any Listed Option not exercised before the Expiry Date will automatically lapse on the Expiry Date.
- (c) The amount payable upon exercise of each Listed Option will be AUD\$0.20 (**Exercise Price**).
- (d) The Listed Options held by each Listed Optionholder may be exercised in whole or in part, and if exercised in part, multiples of 1,000 must be exercised on each occasion.
- (e) A Listed Optionholder may exercise their Listed Options by lodging with the Company, before the Expiry Date:
  - (i) a written notice of exercise of Listed Options specifying the number of Listed Options being exercised; and
  - (ii) a cheque or electronic funds transfer for the Exercise Price for the number of Listed Options being exercised;(collectively, **Exercise Notice**).
- (f) An Exercise Notice is only effective when the Company has received the full amount of the Exercise Price in cleared funds.
- (g) Within 10 Business Days of receipt of the Exercise Notice accompanied by the Exercise Price, the Company will allot the number of Shares required under these terms and conditions in respect of the number of Listed Options specified in the Exercise Notice.
- (h) The Listed Options are transferable.
- (i) All Shares allotted upon the exercise of Listed Options will upon allotment rank pari passu in all respects with other Shares.
- (j) The Company will apply for quotation of the Listed Options on ASX.
- (k) If at any time the issued capital of the Company is reconstructed, all rights of a Listed Optionholder are to be changed in a manner consistent with the *Corporations Act 2001* (Cth) and the ASX Listing Rules at the time of the reconstruction.
- (l) There are no participating rights or entitlements inherent in the Listed Options and Listed Optionholders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Listed Options. However, the Company will ensure that for the purposes of determining entitlements to any such issue, the record date will be at least 7 Business Days after the issue is announced. This will give Listed Optionholders the opportunity to exercise their Listed Options prior to the date for determining entitlements to participate in any such issue.
- (m) A Listed Option does not confer the right to a change in exercise price or a change in the number of underlying securities over which the Listed Option can be exercised.

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**SCHEDULE 3 – VALUATION OF INCENTIVE OPTIONS**

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The Incentive Options to be issued to the Mr Mike Placha (or his nominee) and Mr Mark Sanders (or his nominee) pursuant to Resolutions 6 and 7 have been valued by internal management.

**UNLISTED OPTIONS**

Using the Black & Scholes option model and based on the assumptions set out below, the Incentive Options were ascribed the following value:

<b>Assumptions:</b>	
Valuation date	6 February 2013
Market price of Shares	8 cents
Exercise price	30 cents
Expiry date (length of time from issue)	3 years from the date of issue
Risk free interest rate	3%
Volatility (discount)	60.64%
<b>Indicative value per Incentive Option</b>	0.91 cents
<b>Total Value of Incentive Options</b>	\$50,058
- Mr Mike Placha	\$45,507
- Mr Mark Sanders	\$4,551

Note: The valuation noted above is not necessarily the market price that the Incentive Options could be traded at and is not automatically the market price for taxation purposes.

**LISTED OPTIONS**

Using the Black & Scholes option pricing model and based on the assumptions set out below, the Incentive Options were ascribed the following value range:

<b>Assumptions:</b>	
Valuation date	6 February 2013
Market price of Shares	8 cents
Exercise price	20 cents
Expiry date (length of time from issue)	31 December 2014
Risk free interest rate	3%
Volatility (discount)	60.64%
<b>Indicative value per Incentive Option</b>	0.77 cents
<b>Total Value of Incentive Options</b>	\$42,151
- Mr Mike Placha	\$38,319
- Mr Mark Sanders	\$3,832

Note: The valuation ranges noted above are not necessarily the market prices that the Incentive Options could be traded at and they are not automatically the market prices for taxation purposes.

**PROXY FORM**

**APPOINTMENT OF PROXY  
NEW HORIZON COAL LTD  
ACN 143 932 110**

GENERAL MEETING

I/We   
of   
being a Shareholder entitled to attend and vote at the Meeting, hereby  
appoint   
Name of proxy

OR  the Chair as my/our proxy

or failing the person so named or, if no person is named, the Chair, or the Chair's nominee, to vote in accordance with the following directions, or, if no directions have been given, and subject to the relevant laws as the proxy sees fit, at the Meeting to be held at 10.00am (WST), on 28 March 2013 at Level 1, 33 Ord Street, Western Australia, and at any adjournment thereof.

**The Chair intends to vote undirected proxies in favour of all Resolutions in which the Chair is entitled to vote.**

<b>Voting on business of the Meeting</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
Resolution 1 – Re-Election of Director – Mr Mark Sanders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 – Ratification of Prior Issue – First Tranche of Placement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 – Participation of Director in Second Tranche of Placement – Mr Gary Steinepreis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4 – Participation of Director in Second Tranche of Placement – Mr Carl Coward	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5 – Participation of Director in Second Tranche of Placement – Mr Mark Sanders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 6 – Issue of Incentive Options to Director – Mr Mike Placha	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7 – Issue of Incentive Options to Director – Mr Mark Sanders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Please note:** If you mark the abstain box for a particular Resolution, you are directing your proxy not to vote on that Resolution on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

**Important for Resolutions 3, 4, 5, 6 and 7**

If you have not directed your proxy how to vote as your proxy in respect of Resolutions 3, 4, 5, 6 and 7 and the Chair is, or may by default be, appointed your proxy, you must mark the box below.

I/we direct the Chair to vote in accordance with his/her voting intentions (as set out above) on Resolutions 3, 4, 5, 6 and 7 (except where I/we have indicated a different voting intention above) and expressly authorise that the Chair may exercise my/our proxy even though Resolutions 6 and 7 are connected directly or indirectly with the remuneration of a member of the Key Management Personnel and acknowledge that the Chair may exercise my/our proxy even if the Chair has an interest in the outcome of Resolutions 3, 4, 5, 6 and 7 and that votes cast by the Chair for Resolutions 3, 4, 5, 6 and 7, other than as proxy holder, will be disregarded because of that interest.

If the Chair is, or may by default be, appointed your proxy and you do not mark this box and you have not directed the Chair how to vote, the Chair will not cast your votes on Resolutions 3, 4, 5, 6 and 7 and your votes will not be counted in calculating the required majority if a poll is called on Resolutions 3, 4, 5, 6 and 7.

If two proxies are being appointed, the proportion of voting rights this proxy represents is \_\_\_\_\_%

**Signature of Shareholder(s):**

**Date:** \_\_\_\_\_

**Individual or Shareholder 1**

**Shareholder 2**

**Shareholder 3**




**Sole Director/Company Secretary**

**Director**

**Director/Company Secretary**

**Contact Name:** \_\_\_\_\_ **Contact Ph (daytime):** \_\_\_\_\_

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## Instructions for Completing 'Appointment of Proxy' Form

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1. **(Appointing a proxy):** A Shareholder entitled to attend and cast a vote at the Meeting is entitled to appoint a proxy to attend and vote on their behalf at the Meeting. If a Shareholder is entitled to cast 2 or more votes at the Meeting, the Shareholder may appoint a second proxy to attend and vote on their behalf at the Meeting. However, where both proxies attend the Meeting, voting may only be exercised on a poll. The appointment of a second proxy must be done on a separate copy of the Proxy Form. A Shareholder who appoints 2 proxies may specify the proportion or number of votes each proxy is appointed to exercise. If a Shareholder appoints 2 proxies and the appointments do not specify the proportion or number of the Shareholder's votes each proxy is appointed to exercise, each proxy may exercise one-half of the votes. Any fractions of votes resulting from the application of these principles will be disregarded. A duly appointed proxy need not be a Shareholder.
2. **(Direction to vote):** A Shareholder may direct a proxy how to vote by marking one of the boxes opposite each item of business. The direction may specify the proportion or number of votes that the proxy may exercise by writing the percentage or number of Shares next to the box marked for the relevant item of business. Where a box is not marked the proxy may vote as they choose subject to the relevant laws. Where more than one box is marked on an item the vote will be invalid on that item.
3. **(Signing instructions):**
  - **(Individual):** Where the holding is in one name, the Shareholder must sign.
  - **(Joint holding):** Where the holding is in more than one name, all of the Shareholders should sign.
  - **(Power of attorney):** If you have not already provided the power of attorney with the registry, please attach a certified photocopy of the power of attorney to this Proxy Form when you return it.
  - **(Companies):** Where the company has a sole director who is also the sole company secretary, that person must sign. Where the company (pursuant to Section 204A of the Corporations Act) does not have a company secretary, a sole director can also sign alone. Otherwise, a director jointly with either another director or a company secretary must sign. Please sign in the appropriate place to indicate the office held. In addition, if a representative of a company is appointed pursuant to Section 250D of the Corporations Act to attend the Meeting, the documentation evidencing such appointment should be produced prior to admission to the Meeting. A form of a certificate evidencing the appointment may be obtained from the Company.
4. **(Attending the Meeting):** Completion of a Proxy Form will not prevent individual Shareholders from attending the Meeting in person if they wish. Where a Shareholder completes and lodges a valid Proxy Form and attends the Meeting in person, then the proxy's authority to speak and vote for that Shareholder is suspended while the Shareholder is present at the Meeting.
5. **(Return of Proxy Form):** To vote by proxy, please complete and sign the enclosed Proxy Form and return by:
  - (a) post to New Horizon Coal Ltd, Level 1, 33 Ord Street, West Perth, WA, 6005; or
  - (b) facsimile to the Company on facsimile number +61 8 9420 9399,so that it is received not less than 48 hours prior to commencement of the Meeting.

**Proxy Forms received later than this time will be invalid.**



