

(Subject to Deed of Company Arrangement)

www.mirabela.com.au
Email: info@mirabela.com.au

Execution of Deed of Company Arrangement

Perth, AUSTRALIA – 13 May 2014: Mirabela Nickel Limited (Subject to Deed of Company Arrangement) (**Mirabela** or the **Company**) (ASX: MBN) advises that on 13 May 2014 the second meeting of creditors of the Company was held pursuant to section 439A of the Corporations Act 2001 (*Commonwealth*) (**Second Meeting**). At the Second Meeting, the Company's creditors resolved that Mirabela enter into a deed of company arrangement, the terms of which were detailed in the Administrators' report dated 2 May 2014, a copy of which was attached to the announcement dated 2 May 2014. The creditors of Mirabela Investments Pty Limited (Subject to Deed of Company Arrangement) (**Mirabela Investments**) also entered into a deed of company arrangement.

On 13 May 2014, Mirabela and Mirabela Investments executed the deeds of company arrangement and Martin Madden, Clifford Rocke and David Winterbottom were appointed as Deed Administrators. Copies of the executed deeds of company arrangement are attached to this announcement.

Deed of Company Arrangement

Mirabela Nickel Limited (administrators appointed) ACN 108 161 593
Mirabela Investments Pty Limited (administrators appointed) ACN 124 449 716
Martin Madden, Clifford Stuart Rocke and David John Winterbottom

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Parties

- 1 **Mirabela Nickel Limited** (administrators appointed) ACN 108 161 593 c/- KordaMentha, Level 10, 40 St Georges Terrace, Perth WA 6000 (**Mirabela**)
 - 2 **Mirabela Investments** means Mirabela Investments Pty Limited (administrators appointed) ABN 70 124 449 716 c/- KordaMentha Level 10, 40 St Georges Terrace, Perth WA 6000 (**Mirabela Investments**)
 - 3 **Martin Madden** c/- KordaMentha, Level 5 Chifley Tower, 2 Chifley Square, Sydney NSW 2000, **Clifford Stuart Roche** c/- KordaMentha Level 10, 40 St Georges Terrace, Perth WA 6000 and **David John Winterbottom** c/- KordaMentha Level 5 Chifley Tower, 2 Chifley Square, Sydney NSW 2000 (**Deed Administrators**)
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Background

- A Martin Madden, Clifford Stuart Roche and David John Winterbottom were appointed joint and several voluntary administrators of Mirabela and Mirabela Investments pursuant to Part 5.3A of the Act on 25 February 2014 which appointment continues today.
- B On 13 May 2014, pursuant to section 439A of the Act, a second meeting of Mirabela's creditors was held. At that meeting, the creditors resolved that Mirabela execute a deed of company arrangement proposed by a majority of the Noteholders on the condition in particular that any Claims of Shareholders Claimants be extinguished subject to the terms of this Deed.
- C The Deed Administrators have consented to be the administrators of this Deed.
- D Subject to the terms of this Deed, this Deed binds all creditors in accordance with section 444D of the Act and also binds Mirabela, its officers and members in accordance with section 444G of the Act.

The parties agree

1 Definitions and Interpretation

1.1 Definitions

In this Deed, unless the subject or context otherwise requires:

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

Administrative Agent has the meaning given under the Syndicated Note Subscription Deed.

Appointment Date means 25 February 2014.

ASIC means the Australian Securities and Investment Commission.

Bare Trustee means Mirabela Investments as bare trustee of the Transfer Shares to be transferred pursuant to the Section 444GA Order.

Bradesco Credit Facility means the document entitled 'Credit Agreement' dated 20 January 2012 by and between Mirabela Brazil and Banco Bradesco S.A as amended from time to time.

Business Day means any day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

Calculation Date means the date a court orders a transfer of the Transfer Shares under section 444GA of the Act.

Caterpillar Credit Facility means the document entitled 'Master Funding and Lease Agreement' dated 23 March 2009 by and between Mirabela Brazil and Caterpillar Financial Services Corporation as amended from time to time.

Claim means a debt payable by, and any claim and all claims against, Mirabela (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date that would be admissible to proof against Mirabela in accordance with Division 6 of Part 5.6 of the Act, if Mirabela had been wound up and the winding up is taken to have commenced on the Appointment Date.

Commencement Date means the date that this Deed is executed by Mirabela and the Deed Administrators.

Committee of Creditors mean the committee of creditors appointed at the first creditors meeting of Mirabela held on 10 March 2014 in Perth.

Convertible Secured Note means the convertible note as defined in the New Indenture.

Costs includes costs, charges and expenses incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under this Deed during the Deed Period including costs, charges and expenses incurred in connection with advisers.

Court means the Supreme Court of New South Wales or the New South Wales registry of the Federal Court of Australia or any court having jurisdiction to hear and determine matters under the Act.

Creditor means each Noteholder and each Shareholder Claimant.

Deed means this deed of company arrangement as amended from time to time.

Deed of Amendment and Acknowledgement means the agreement between Mirabela, the Administrative Agent and the Security Trustee compromising the liabilities under the SNSD Notes amongst other things.

Deed Period means the period commencing on the Commencement Date and ending on the Termination Date.

Directors means the directors of Mirabela from time to time.

Enforcement Process, in relation to property, means:

- (a) execution against that property; or
- (b) any other enforcement process in relation to that property that involves a Court or a sheriff.

Excluded Creditors means those creditors (including employees) of Mirabela who are not Noteholders and not Shareholder Claimants.

FATA means *Foreign Acquisitions and Takeovers Act 1975 (Cth)*.

Financier means a Financier as defined in the Syndicated Note Subscription Deed.

Foreign Investment Policy means the document entitled "Australia's Foreign Investment Policy" published by the Treasurer on www.firb.gov.au (as amended from time to time).

Indenture means the indenture dated 14 April 2011 by and among the Mirabela Parties and the Bank of New York Mellon as note trustee.

Legal Personal Representative means a trustee or executor appointed to any of the Administrators or Deed Administrators upon death, incapacity, insanity or any combination of them.

Majority Noteholders means those Noteholders who hold 51% or more of the aggregate total number of outstanding Notes at the time of determination.

Mirabela Brazil means Mirabela Mineração do Brasil Ltda. a limited liability company organised under the laws of Brazil of Fazenda Santa Rita, sem número, sala 01, escritório central, Zona Rural, CEP 45585-000, Itagibá, Bahia, Brazil.

Mirabela Investments DOCA means the deed of company arrangement (as amended from time to time) entered into by Mirabela Investments and the Deed Administrators on or about the date of this Deed.

Mirabela Parties means each of Mirabela, Mirabela Investments and Mirabela Brazil.

New Capital Share means a Share to be issued to a Noteholder as consideration for that Noteholder having agreed to subscribe for Convertible Notes not subscribed for by other Noteholders.

New Indenture means a document so entitled to be entered into between the Mirabela Parties and others which will set out the terms upon which Mirabela will issue up to approximately US\$135,000,000 in secured convertible notes (excluding paid-in-kind interest).

New Rollover Fee Share means a Share to be issued to a Financier as consideration for that Financier having agreed to exchange its Secured Syndicated Note Debt for Convertible Notes.

Noteholder means the holder of one or more Notes.

Noteholder Claim Period means the period of 12 months following the date of the Section 444GA Order.

Notes means the Notes as defined in the Indenture.

Regulations means the Corporations Regulations 2001 (Cth).

Relief means:

- (a) from ASIC, such exemptions and/or declarations pursuant to section 655A of the Corporations Act as are necessary in order to permit each of the following transactions to occur without the approval of Mirabela shareholders:

- (i) the transfer of the Transfer Shares to the Noteholders in accordance with clause 6.2(b) of this Deed;
 - (ii) the issuance of the New Rollover Fee Shares and the New Capital Shares; and
 - (iii) the conversion into Shares by a Noteholder of any Convertible Secured Notes issued to that Noteholder; and
- (b) from ASX, such waivers from ASX Listing Rules 7.1 and 10.1 as are necessary in order to permit each of the following transactions to occur without the approval of Mirabela shareholders:
- (i) the issuance of the Convertible Secured Notes and their conversion into Shares; and
 - (ii) the granting of security over their assets by Mirabela, Mirabela Investments and/or Mirabela Brazil in favour of the holders of Convertible Secured Notes,

in each case in a form (and subject to conditions) acceptable to the Deed Administrators and the Majority Noteholders.

Remuneration means the costs, fees, and expenses of the Deed Administrators under this Deed.

Resolution mean the resolution of the creditors of Mirabela referred to in recital B of this Deed.

Section 444GA Application means the application to be commenced in Court by the Deed Administrators in respect of the shares in Mirabela.

Section 444GA Order means an order in favour of the Section 444GA Application.

Secured Syndicated Note Debt means the secured debt owing under the Syndicated Note Subscription Deed.

Security Trustee has the meaning given under the Syndicated Note Subscription Deed.

Shareholder Claimants means persons who would have a subordinated claim under section 563A of the Act in a winding up of Mirabela had it been wound up on the Appointment Date.

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

SNSD Notes means notes issued pursuant to the Syndicated Note Subscription Deed.

Syndicated Note Subscription Deed means the syndicated note subscription deed dated 24 December 2013 by and among the Mirabela Parties and the financiers named therein, as amended from time to time.

Termination Date means the date upon which this Deed is terminated in accordance with clause 17.

Transfer Shares means 98.2% of the Shares.

Treasurer means the Treasurer of the Commonwealth of Australia.

Unaccounted Noteholders means those Noteholders whose entitlements to the Transfer Shares have not been confirmed in accordance with clause 6.2(a) before the end of the Noteholder Claim Period.

Unaccounted Proceeds is defined in clause 6.2(c).

Unaccounted Proceeds Period is defined in clause 6.2(c).

1.2 Interpretation

In this Deed, unless the subject or context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any one gender include the other gender and vice versa;
- (c) words importing natural persons include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- (d) words "written" and "in writing" includes any means of visible reproduction of words in a tangible and permanently viable form;
- (e) if a word or phrase is defined, other clauses of speech and grammatical forms of that word or phrase have corresponding meanings;
- (f) reference to clauses and schedules are references to clauses and schedules of this Deed;
- (g) references in this Deed to any statutory enactment or law shall be construed as references to that enactment or law as amended or modified or re-enacted from time to time and to the corresponding provisions of any similar enactment or law of any other relevant jurisdiction;
- (h) references in this Deed to sections shall be construed as references to sections of the Act;
- (i) references to (or to any specific provision of) this Deed or to any other agreement or document shall be construed as references to (that provision of) this Deed or that other agreement or document as amended, substituted, novated, supplemented, varied or replaced with the agreement of the relevant parties and in force at any relevant time;
- (j) headings in this Deed are for the purpose of mere convenient reference only and do not form the clause of this Deed or affect its construction or interpretation;
- (k) a term or expression not otherwise defined in this Deed shall have the same meaning, if any, as provided for in the Act;
- (l) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Deed or any clause of it.

1.3 Inconsistency with Act or Regulations

If there is any inconsistency between the provisions of this Deed and the Act or Regulations, this Deed shall prevail to the extent permitted by law.

1.4 Other Inconsistencies

If there is any inconsistency between the provisions of this Deed and the Constitution of Mirabela and any other obligation binding on Mirabela, the provisions of this Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by Mirabela.

1.5 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

1.6 Successors and assigns

The obligations and liabilities imposed and rights and benefits conferred on the parties under this Deed shall be binding upon and ensure in favour of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns.

2 Operation

2.1 Interdependency

The effectiveness and operation of this Deed is interdependent with the operation of the Mirabela Investments DOCA, so that this arrangement is conditional on execution of the Mirabela Investments DOCA by Mirabela Investments and the proposed deed administrators in accordance with section 444B(6) of the Act.

3 Recapitalisation of Mirabela

The purpose of this Deed is to give effect to certain elements of the recapitalisation component of Mirabela involving the following elements:

- (a) the transfer of the Transfer Shares with leave of the Court pursuant to section 444GA of the Act and in accordance with the terms of this Deed; and
- (b) the compromise of the Notes and the Shareholder Claimants' Claims; and
- (c) the satisfaction and discharge of the Secured Syndicate Note Debt pursuant to the Deed of Amendment and Acknowledgement; and
- (d) the issuance of the Convertible Secured Notes and the New Rollover Fee Shares and the New Capital Shares.

4 Schedule 8A not to apply

The prescribed provisions set out in Schedule 8A of the Regulations are excluded from this Deed and apply only to the extent that they have been incorporated by reference in this Deed.

5 Commencement of this Deed

This Deed shall commence on the Commencement Date.

6 Claims

6.1 Release and extinguishment of Claims and Shareholder Claims

Immediately upon and after this Deed becoming effectuated:

- (a) the Bare Trustee will hold the Transfer Shares on trust for and on behalf of the Noteholders and each Noteholder will become entitled to their pro-rata amount of Transfer Shares in the same proportion that the Noteholder's Notes held on the Calculation Date bears to the total aggregate number of Notes outstanding on the Calculation Date on the terms set out in this clause 6;
- (b) the Claims of Shareholder Claimants in their capacity as holders of Shares will be fully satisfied and completely discharged; and
- (c) the Claims of Noteholders in their capacity as holder of Notes will be fully satisfied and completely discharged.

6.2 Transfer of Shares

- (a) The Bare Trustee will:
 - (i) calculate the pro-rata amount of Transfer Shares to which each Noteholder is entitled in the same proportion that the Noteholder's Notes held on the Calculation Date bears to the total aggregate number of Notes outstanding on the Calculation Date rounded down to the nearest Transfer Share; and
 - (ii) request each Noteholder to confirm:
 - (A) its pro-rata entitlement to Transfer Shares;
 - (B) its instructions in respect of its pro-rata entitlement to the Transfer Shares upon effectuation of this Deed; and
 - (C) that any such instructions are permitted at law.
- (b) The Bare Trustee will either:
 - (i) transfer to a Noteholder (or as a Noteholder directs) that Noteholder's entitlement to Transfer Shares in accordance with this Deed upon the Bare Trustee having received confirmation of and agreed the Noteholder's entitlement; or
 - (ii) sell the Noteholder's entitlement to Transfer Shares and deposit any proceeds realised (less the costs, fees, taxes and expenses associated with the sale) in an account notified to it, if either:
 - (A) instructed to do so by the relevant Noteholder in accordance with clause 6.2(a)(ii)(B); or

- (B) a Noteholder or beneficial owner of a Note does not confirm that its instructions to deal with its pro-rata entitlement of Transfer Shares are permitted at law.
- (c) As soon as practicable following expiry of the Noteholder Claim Period, the Bare Trustee will sell the Transfer Shares to which any Unaccounted Noteholders are entitled and hold the proceeds of the sale of those Transfer Shares less the costs, fees, taxes and expenses associated with the sale (**Unaccounted Proceeds**) on trust for and on behalf of the Unaccounted Noteholders until the 6 year anniversary of the Calculation Date (**Unaccounted Proceeds Period**).
- (d) If an Unaccounted Noteholder provides evidence to the Bare Trustee of its holding of Notes at the expiry of the Noteholder Claim Period and that holding is agreed to by the Bare Trustee and that Unaccounted Noteholder during the Unaccounted Proceeds Period, the Bare Trustee will remit to that Unaccounted Noteholder from the Unaccounted Proceeds their pro-rata amount of the Unaccounted Proceeds in the same proportion that the Unaccounted Noteholder's holding of Notes at the expiry of the Noteholder Claim Period bears to the total aggregate number of Notes held by Unaccounted Noteholders at the expiry of the Noteholder Claim Period less any fees, costs, taxes and expenses associated with such remission.
- (e) After the expiry of the Unaccounted Proceeds Period, the Bare Trustee will remit any Unaccounted Proceeds then remaining to the Department of Treasury (Western Australia) pursuant to, and in accordance with, the Unclaimed Money Act 1990 (WA).

6.3 Trustee rights and obligations

- (a) The Transfer Shares cannot be transferred or sold by the Bare Trustee other than in accordance with clauses 6.2(b) or 6.2(c).
- (b) The Bare Trustee will not exercise any right attaching to a Transfer Share which is held by it (including, without limitation, the right to vote), other than to the extent necessary to comply with this Deed or an order or direction of a Court.
- (c) Mirabela Investments accepts no personal liability for any acts, matters or omissions relating to things done or not done in its capacity as Bare Trustee, including, without limitation, any liability relating to any amounts payable to a Noteholder as a result of the sale of any Transfer Shares by the Bare Trustee, other than for fraud by Mirabela Investments.

6.4 Survival

This clause 6 shall survive termination of this Deed.

7 Acknowledgement – Excluded Creditors

Mirabela and the Deed Administrators acknowledge and agree that the rights and claims of the Excluded Creditors are not intended to be impacted by the operation of this Deed.

8 Scope of Arrangement and Moratorium

8.1 Binding Effect

This Deed binds:

- (a) in accordance with section 444D of the Act, all creditors who have a Claim; and
- (b) in accordance with section 444G of the Act, Mirabela, its officers and members and the Deed Administrators.

8.2 Moratorium

During or after the Deed Period, no creditor shall in relation to his, her or its Claim:

- (a) make or proceed with an application for an order to wind up Mirabela;
- (b) institute, revive or continue any action, suit, arbitration, mediation or proceeding against Mirabela or in relation to the property of Mirabela;
- (c) institute, revive or continue with any Enforcement Process against the property of Mirabela;
- (d) take any action whatsoever to seek to recover any part of its Claim;
- (e) exercise any right of set off or defence, cross claim or cross action to which that creditor would not have been entitled had Mirabela been wound up;
- (f) commence or take any further step in any arbitration against Mirabela or to which Mirabela is a party; or
- (g) otherwise enforce any right it may have or acquire,

except with the consent of the Deed Administrators or with the leave of the Court.

8.3 Property available to Noteholders

The only property available to the Noteholders is the entitlement to Shares which are to be administered in accordance with this Deed.

8.4 Property available to Shareholder Claimants

There is no property available to the Shareholder Claimants.

8.5 Consistency with the Act

- (a) For the purposes of section 444DA of the Act, any eligible employee creditor will retain a priority at least equal to that they would have been entitled to if the property of Mirabela had been applied in accordance with sections 556, 560 and 561 of the Act.
- (b) For the purposes of section 444DB of the Act, if the Deed Administrators were to call for proof (which is not contemplated by this Deed), the Deed Administrators must determine that a debt by way of superannuation contribution (**Superannuation Debt**) is not admissible to proof against Mirabela if:

- (i) that debt by way of superannuation guarantee charge:
 - (A) has been paid; or
 - (B) is, or is to be, admissible against the company; and
 - (ii) the Deed Administrators are satisfied that the superannuation guarantee charge is attributable to the Superannuation Debt.
 - (c) If the Deed Administrators make a determination in accordance with clause 8.5(b) the Superannuation Debt is to be treated as extinguished as against Mirabela.
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9 The Officers and Members

9.1 Effect of this Deed on Mirabela's officers

- (a) During the Deed Period, unless authorised in writing by the Deed Administrators, the Directors and Mirabela's officers cannot perform or exercise, and must not purport to perform or exercise a function or powers as an officer of Mirabela.
 - (b) During the Deed Period, the Directors will:
 - (i) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;
 - (ii) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and
 - (iii) perform their obligations pursuant to this Deed.
 - (c) During the Deed Period:
 - (i) the Deed Administrators may remove and appoint Directors to Mirabela as they think fit; and
 - (ii) the Deed Administrators' power to remove and appoint directors to Mirabela is to the exclusion of any shareholder power to remove and appoint directors to Mirabela.
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10 Deed Administrators' Appointment

10.1 Acceptance of Appointment

The Deed Administrators:

- (a) accept the appointment as administrators of this Deed; and
- (b) agree to act as administrators of this Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with this Deed or the Act.

10.2 Deed administrators are agents

In exercising the powers conferred by this Deed and carrying out the duties arising under this Deed, the Deed Administrators will act as agent for and on behalf of Mirabela.

10.3 Management

- (a) The Deed Administrators shall retain day to day management and control of Mirabela until the Termination Date to the exclusion of the Directors.
- (b) The Deed Administrators will not be obliged to take any action under this Deed in the event that there are insufficient funds to pay the Remuneration and the Costs.

10.4 Joint and several

The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.

10.5 No Limitation

Nothing in this Deed shall limit the rights in law or equity of the Deed Administrators:

- (a) to make an application under section 444F of the Act; or
- (b) to apply for orders or directions pursuant to section 447A(1) or section 447D of the Act.

11 Powers of the Deed Administrators

11.1 General Powers

Subject to clause 11.3, the Deed Administrators are entitled to exercise all the rights, powers, privileges, authorities and discretions which are conferred by Mirabela's constitution or otherwise by law on the Directors (to the exclusion of the Directors), provided that the Deed Administrators shall not be responsible for such statutory obligations that may continue to be imposed on the Directors during the Deed Period.

11.2 Additional Powers

Without limiting the powers in clause 11.1 above and subject to the Act and clause 11.3, the Deed Administrators shall have the following powers:

- (a) to remove from office a Director;
- (b) to appoint a person as a director of Mirabela, whether to fill a casual vacancy or not;
- (c) to enter upon or take possession of the property of Mirabela;
- (d) to lease or let on hire property of Mirabela;
- (e) to insure property of Mirabela;
- (f) to insure the Deed Administrators for actions taken during the Deed Period;

- (g) to repair or renew property of Mirabela;
- (h) to call in, collect or convert into money the property of Mirabela;
- (i) to administer the assets available for the payment of Claims in accordance with the provisions of this Deed;
- (j) to borrow and grant security;
- (k) to bring, prosecute and defend in the name and on behalf of Mirabela or in the name of the Deed Administrators any actions, suits or proceedings;
- (l) to refer to arbitration any question affecting Mirabela;
- (m) to resolve any dispute of any nature commercially;
- (n) to make payments to any secured creditor of Mirabela and any person who is an owner or lessor;
- (o) to convene and hold meetings of the members or creditors of Mirabela for any purposes the Deed Administrators think fit;
- (p) to appoint agents to do any business or to attend to any matter or affairs of Mirabela that the Deed Administrators are unable to do, or that it is unreasonable to expect the Deed Administrators to do, in person;
- (q) to engage or discharge employees on behalf of Mirabela;
- (r) to appoint a solicitor, accountant or other professionally qualified person to assist the Deed Administrators;
- (s) to permit any person authorised by the Deed Administrators to operate any account in the name of Mirabela;
- (t) to do all acts and execute in the name and on behalf of Mirabela all deeds, receipts and other documents, using Mirabela's common or official seal when necessary;
- (u) subject to the Bankruptcy Act 1966, to prove in the bankruptcy of any contributory or debtor of Mirabela or under any deed executed under that act;
- (v) subject to the Act, to prove in the winding up of any contributory or debtor of Mirabela or under any scheme of arrangement entered into, or deed of company arrangement executed, under the Act;
- (w) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of Mirabela;
- (x) to take out letters of administration of the estate of a deceased contributory or debtor, and do any other act necessary for obtaining payment of any money due from a contributory or debtor, or the estate of a contributory or debtor, that cannot be conveniently done in the name of Mirabela;
- (y) to bring or defend an application for the winding up of Mirabela;
- (z) to control Mirabela's business, property and affairs;

- (aa) to carry on the business of Mirabela on such terms and conditions and for such purposes and times and in such manner as the Deed Administrators think fit subject only to the limitations imposed by this Deed;
- (bb) to perform any function and exercise any power that Mirabela or any of its officers could perform or exercise if Mirabela was not subject to this Deed;
- (cc) to compromise any Claims brought by or against Mirabela on such terms as the Deed Administrators think fit and to take security for the discharge of any debt forming part of the property of Mirabela; and
- (dd) to enter into and complete any contract for the sale of shares in Mirabela;
- (ee) in accordance with section 444GA of the Act, to transfer shares in Mirabela;
- (ff) to do anything that is incidental to exercising a power set out in this clause; and
- (gg) to do anything else that is necessary or convenient for the purpose of administering this Deed.

11.3 Restriction on exercise of Powers

During the Deed Period and after the termination of this Deed, the Deed Administrators will not do any act or thing which is inconsistent with or could cause Mirabela to breach this Deed.

11.4 Solicitors and Consultants

The Deed Administrators shall have power to engage solicitors and consultants, the costs of which shall be part of the Costs.

The Deed Administrators may delegate their powers under this clause 11 including by way of appointing agents to act on behalf of the Deed Administrators.

11.5 No Personal Liability

During the Deed Period, the Deed Administrators are acting as the agent of Mirabela and accept no personal liability for any acts, matters or omissions relating to things done or not done in that capacity, including, without limitation, any liability relating to any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of Mirabela.

12 Deed Administrators' right to Mirabela's books

A person is not entitled as against the Deed Administrators:

- (a) to obtain possession of the books of Mirabela; or
- (b) to claim or enforce a lien on such books, but such a lien is not otherwise prejudiced.

13 Deed Administrators may investigate affairs

The Deed Administrators may investigate Mirabela's business, property, affairs and financial circumstances and may report the results of their investigations to ASIC and creditors.

14 Reporting

Except as required by law, the Deed Administrators shall not be required to report to creditors. However, the Deed Administrators may, in their absolute discretion, report to creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of the creditors.

15 Administrators' Remuneration and Indemnity

15.1 Remuneration

- (a) The Deed Administrators are entitled to be paid the Remuneration and Costs on the basis of the time spent by the Deed Administrators, their partners and staff in the performance of services in connection with or in relation to the administration of Mirabela during the Deed Period and such time will be charged at the Deed Administrators' standard rates, from time to time, for work of that nature.
- (b) The Committee of Creditors is reappointed for the purposes of this Deed, including but not limited to consideration of the Remuneration and Costs of the Deed Administrators should guidance be required.

15.2 Funding of the Deed Administrators' Remuneration

The Remuneration and Costs are to be paid from, and are limited to, the assets of Mirabela.

15.3 Indemnity

The Deed Administrators are entitled to be indemnified for:

- (a) the Remuneration and Costs;
- (b) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments arising out of or in the course of the administration of Mirabela during the Deed Period; and
- (c) any amount for which the Deed Administrators are entitled to exercise a lien at law in equity on the property of Mirabela,

except in the case of fraud or breach of duty by the Deed Administrators.

15.4 Continuing Indemnity

The indemnity in this Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators and the

appointment of new deed administrators or the termination of this Deed for any reason whatsoever.

15.5 Indemnity not to be affected or prejudiced

The indemnity under clauses 15.3 and 15.4 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Deed Administrators and extends to cover any actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Deed Administrators or defect in the approval or execution of this Deed or otherwise; or
- (b) affect or prejudice all or any rights that the Deed Administrators may have against Mirabela or any other person to be indemnified against the Costs, and liabilities incurred by the Deed Administrators in the performance of, or incidental to, any of the powers or authorities conferred on the Deed Administrators by this Deed or otherwise.

15.6 Administrators' lien

The Deed Administrators are entitled to exercise a lien over Mirabela's assets for all amounts in respect of which they are entitled to an indemnity from Mirabela.

15.7 Priority of indemnity and lien rights

The rights of the Deed Administrators to an indemnity and lien conferred by this clause 15 shall have the same priority as that conferred by section 443E of the Act in respect of rights conferred by section 443D of the Act (modified as applicable).

16 Meetings

Regulations 5.6.23 to 5.6.36A of the Regulations apply with such modifications as are necessary, to meetings of creditors held under this Deed as if the references to "the liquidator", "the liquidator or provisional liquidator", "the liquidator, provisional liquidator or chairman" or "the liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Deed Administrators.

17 Effectuation and Termination of Deed

17.1 Effectuation

- (a) Upon and after the following occurring this Deed will become fully effectuated:
 - (i) an amendment and/or extension of the Bradesco Credit Facility is effected to the satisfaction of the Deed Administrators ;
 - (ii) the waiver of any enforcement under the Caterpillar Credit Facility granted on 28 February 2014 continues in effect to the satisfaction of the Deed Administrators;
 - (iii) a Court makes the Section 444GA Order;

- (iv) the Deed of Amendment and Acknowledgement is entered into to the satisfaction of the Deed Administrators ;
- (v) either:
 - (A) the Majority Noteholders have received a written notice under FATA and/or the Foreign Investment Policy from the Treasurer (or his delegate) stating that, or to the effect that, the Commonwealth Government does not object to the transfer of the Transfer Shares, the issue of Convertible Secured Notes and the issue of the New Rollover Fee Shares, New Capital Shares and shares to be issued on conversion of the Convertible Secured Notes (**FIRB Transaction**), either without condition or on terms acceptable to the Deed Administrators; or
 - (B) following notice of the FIRB Transaction having been given by or on behalf of the Majority Noteholders to the Treasurer under FATA, the Treasurer ceases to be empowered to make any order under Part II of FATA because of the expiry of the applicable statutory waiting period;
- (vi) Relief has been obtained in a form satisfactory to the Deed Administrators; and thereafter contemporaneously
- (vii) the Convertible Secured Notes become 'Finance Documents' for the purposes of the Syndicated Note Subscription Deed and have the benefit of the 'Security' as defined;
- (viii) Mirabela receives funds in respect of the Convertible Secured Notes to the satisfaction of the Deed Administrators; and
- (ix) the Deed Administrators transfer the Transfer Shares to the Bare Trustee.
- (b) This Deed (other than clause 6) terminates after its terms have been fulfilled and the Deed Administrators give notice to ASIC that this Deed has been fully effectuated.
- (c) Upon termination of this Deed in accordance with this clause 17.1:
 - (i) the day to day management and control of Mirabela will revert to the Directors; and
 - (ii) the Deed Administrators will thereupon retire and, except in respect of any provision which survives termination, Mirabela will cease to be subject to this Deed.

17.2 Termination on non-compliance

If this Deed is not fully effectuated in accordance with clause 17.1 by 31 July 2014 (or such later date as the Deed Administrators and the Majority Noteholders agree) the Deed Administrators will convene a meeting of Mirabela's creditors to consider terminating this Deed and winding up Mirabela.

17.3 No Limitation

Nothing in this Deed shall limit the operation of section 445D of the Act or the rights of the creditors under section 445E or section 445F of the Act.

17.4 Previous operation of this Deed preserved

In accordance with section 445H of the Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

18 Liquidation

18.1 Winding Up

Where at a meeting convened under section 445F of the Act, the creditors pass a resolution terminating this Deed, whether or not notice of that meeting set out a proposed resolution that Mirabela be wound up, the creditors may resolve at the meeting that Mirabela be wound up.

18.2 Commencement of Winding Up

For the avoidance of doubt, if the creditors resolve to wind up Mirabela, the winding up will be deemed to have begun or commenced on the Appointment Date.

19 Further Assurances

All persons bound by this Deed shall exercise all such powers as are available to them, do all such acts and things, sign, execute and deliver all such documents and instruments and provide assistance and cooperation as may be reasonably required to give full effect to the provisions of this Deed.

20 Severance

If any part of this Deed is or becomes illegal, ineffective, invalid or unenforceable, that part shall be severed from this Deed and that severance shall not affect the effectiveness, validity or enforceability of the remaining part of this Deed.

21 Jurisdiction

This Deed shall be governed by and construed in accordance with the laws from the time being enforced in the State of New South Wales and the parties hereby irrevocably submit to the jurisdiction of the Court including any Courts having appellate jurisdiction there from.

22 Waiver

The waiver by any of the persons bound by this Deed in respect of any breach by another person bound by this Deed, of any of the provisions of this Deed, shall not be deemed to be a waiver in respect of any other breach or of any subsequent similar breach by a person bound by this Deed and no delay or omission on the part of a person to exercise or avail itself of any rights accruing to it under this Deed shall operate as a waiver in respect of any default by another person under this Deed.

23 Counterparts

This Deed may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

24 Notices

24.1 Address of Notice

Any notice or document required to be given to or served upon any of the parties pursuant to or in connection with this Deed shall be in writing and shall be deemed to be duly given or made when delivered (in the case of facsimile provided confirmation of the transmission has been received) to the party to which such notice is given or served by:

- (a) any means permitted by the law or the regulations; or
- (b) pre-paid post to the person's address last known to the Deed Administrators.

24.2 Notice by Post

Any notice sent by pre-paid post shall be taken to have been received by the addressee at the time at which it would have been delivered in the ordinary course of post.

24.3 Notice by facsimile

Any notice given by facsimile on a day which is not a Business Day shall be deemed dispatched on the next succeeding Business Day.

24.4 Signing of Notice

Any notice may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.

Execution page

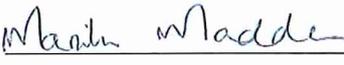
Executed as a deed.

Signed and delivered by **Mirabela Nickel Limited ACN 108 161 593 (administrators appointed)** by its administrator in accordance with section 442A of the Corporations Act in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)



Signature of Administrator

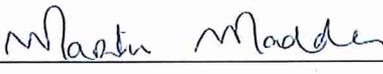
Martin Madden
Name of Administrator (print)

Signed and delivered by **Mirabela Investments Pty Limited ACN 124 449 716 (administrators appointed)** by its administrator in accordance with section 442A of the Corporations Act in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)



Signature of Administrator

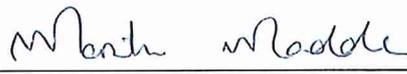
Martin Madden
Name of Administrator (print)

Signed sealed and delivered by **Martin Madden** in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)



Signature of Martin Madden

Signed sealed and delivered by **Clifford Stuart
Rocke** in the presence of:



Signature of witness

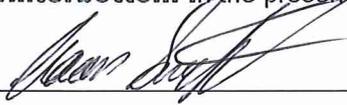


Signature of Clifford Stuart Rocke

Nicholas Edwards

Name of witness (print)

Signed sealed and delivered by **David John
Winterbottom** in the presence of:



Signature of witness



Signature of David John Winterbottom

Aaron Swaffield

Name of witness (print)

Deed of Company Arrangement

Mirabela Investments Pty Limited (administrators appointed) ACN 124 449 716
Martin Madden, Clifford Stuart Rocke and David John Winterbottom

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Parties

- 1 **Mirabela Investments** means Mirabela Investments Pty Limited (administrators appointed) ABN 70 124 449 716 c/- KordaMentha Level 10, 40 St Georges Terrace, Perth WA 6000 (**Mirabela Investments**)
 - 2 **Martin Madden** c/- KordaMentha, Level 5 Chifley Tower, 2 Chifley Square, Sydney NSW 2000, **Clifford Stuart Rocke** c/- KordaMentha Level 10, 40 St Georges Terrace, Perth WA 6000 and **David John Winterbottom** c/- KordaMentha Level 5 Chifley Tower, 2 Chifley Square, Sydney NSW 2000 (**Deed Administrators**)
-

Background

- A Martin Madden, Clifford Stuart Rocke and David John Winterbottom were appointed joint and several voluntary administrators of Mirabela Investments pursuant to Part 5.3A of the Act on 25 February 2014 which appointment continues today.
- B On 13 May 2014, pursuant to section 439A of the Act, a second meeting of Mirabela Investments' creditors was held. At that meeting, the creditors resolved that Mirabela Investments execute a deed of company arrangement proposed by a majority of the Noteholders on the condition in particular that any Claims of Shareholders Claimants be extinguished subject to the terms of this Deed.
- C The Deed Administrators have consented to be the administrators of this Deed.
- D Subject to the terms of this Deed, this Deed binds all creditors in accordance with section 444D of the Act and also binds Mirabela Investments, its officers and members in accordance with section 444G of the Act.

The parties agree

1 Definitions and Interpretation

1.1 Definitions

In this Deed, unless the subject or context otherwise requires:

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

Appointment Date means 25 February 2014.

Business Day means any day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

Claim means a debt payable by, and any claim and all claims against, Mirabela Investments (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date that would be admissible to proof against Mirabela Investments in accordance with Division 6 of Part 5.6 of the Act, if Mirabela Investments had been wound up and the winding up is taken to have commenced on the Appointment Date.

Commencement Date means the date that this Deed is executed by Mirabela and the Deed Administrators.

Costs includes costs, charges and expenses incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under this Deed during the Deed Period including costs, charges and expenses incurred in connection with advisers.

Court means the Supreme Court of New South Wales or the New South Wales registry of the Federal Court of Australia or any court having jurisdiction to hear and determine matters under the Act.

Creditor means each Noteholder and each Shareholder Claimant.

Deed means this deed of company arrangement as amended from time to time.

Deed Period means the period commencing on the Commencement Date and ending on the Termination Date.

Directors means the directors of Mirabela Investments from time to time.

Enforcement Process, in relation to property, means:

- (a) execution against that property; or
- (b) any other enforcement process in relation to that property that involves a Court or a sheriff.

Excluded Creditors means those creditors (including employees) of Mirabela Investments who are not Noteholders and not Shareholder Claimants.

Indenture means the indenture dated 14 April 2011 by and among the Mirabela Parties and the Bank of New York Mellon as note trustee.

Legal Personal Representative means a trustee or executor appointed to any of the Administrators or Deed Administrators upon death, incapacity, insanity or any combination of them.

Majority Noteholders means those Noteholders who hold 51% or more of the aggregate total number of outstanding Notes.

Mirabela means Mirabela Nickel Limited (administrators appointed) ACN 108 161 593 c/- KordaMentha Level 10, 40 St Georges Terrace Perth WA 6000

Mirabela Brazil means Mirabela Mineração do Brasil Ltda. a limited liability company organised under the laws of Brazil of Fazenda Santa Rita, sem número, sala 01, escritório central, Zona Rural, CEP 45585-000, Itagibá, Bahia, Brazil.

Mirabela DOCA means the deed of company arrangement (as amended from time to time) entered into by Mirabela and the Deed Administrators on or about the date of this Deed.

Mirabela Parties means each of Mirabela, Mirabela Investments and Mirabela Brazil.

Noteholder means the holder of one or more Notes.

Notes means the Notes as defined in the Indenture.

Regulations means the Corporations Regulations 2001 (Cth).

Remuneration means the costs, fees, and expenses of the Deed Administrators under this Deed.

Resolution mean the resolution of the creditors of Mirabela Investments referred to in recital B of this Deed.

Shareholder Claimants means persons who would have a subordinate claim under section 563A of the Act in a winding up of Mirabela Investments had it been wound up on the Appointment Date.

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

Termination Date means the date upon which this Deed is terminated in accordance with clause 16.

1.2 Interpretation

In this Deed, unless the subject or context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any one gender include the other gender and vice versa;
- (c) words importing natural persons include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- (d) words "written" and "in writing" includes any means of visible reproduction of words in a tangible and permanently viable form;
- (e) if a word or phrase is defined, other clauses of speech and grammatical forms of that word or phrase have corresponding meanings;
- (f) reference to clauses and schedules are references to clauses and schedules of this Deed;
- (g) references in this Deed to any statutory enactment or law shall be construed as references to that enactment or law as amended or modified or re-enacted from time to time and to the corresponding provisions of any similar enactment or law of any other relevant jurisdiction;
- (h) references in this Deed to sections shall be construed as references to sections of the Act;
- (i) references to (or to any specific provision of) this Deed or to any other agreement or document shall be construed as references to (that provision of) this Deed or that other agreement or document as amended, substituted, novated, supplemented, varied or replaced with the agreement of the relevant parties and in force at any relevant time;
- (j) headings in this Deed are for the purpose of mere convenient reference only and do not form the clause of this Deed or affect its construction or interpretation;

- (k) a term or expression not otherwise defined in this Deed shall have the same meaning, if any, as provided for in the Act;
- (l) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Deed or any clause of it;
- (m) a reference to "\$" or "dollar" is to Australian currency.

1.3 Inconsistency with Act or Regulations

If there is any inconsistency between the provisions of this Deed and the Act or Regulations, this Deed shall prevail to the extent permitted by law.

1.4 Other Inconsistencies

If there is any inconsistency between the provisions of this Deed and the Constitution of Mirabela and any other obligation binding on Mirabela, the provisions of this Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by Mirabela.

1.5 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

1.6 Successors and assigns

The obligations and liabilities imposed and rights and benefits conferred on the parties under this Deed shall be binding upon and ensure in favour of the respective parties and each of their respective successors in title, Legal Personal Representatives and permitted assigns.

2 Operation

2.1 Interdependency

The effectiveness and operation of this Deed is interdependent with the operation of the Mirabela DOCA, so that this arrangement is conditional on execution of the Mirabela DOCA by Mirabela and the proposed deed administrators in accordance with section 444B(6) of the Act.

3 Schedule 8A not to apply

The prescribed provisions set out in Schedule 8A of the Regulations are excluded from this Deed and apply only to the extent that they have been incorporated by reference in this Deed.

4 Commencement of this Deed

This Deed shall commence on the Commencement Date.

5 Claims

5.1 Release and extinguishment of Claims and Shareholder Claims

Immediately upon and after this Deed becoming effectuated:

- (a) the Claims of Shareholders Claimants in their capacity as holders of Shares will be fully satisfied and completely discharged; and
- (b) the Claims of Noteholders in their capacity as holder of Notes will be fully satisfied and completely discharged.

5.2 Survival

This clause 5 shall survive termination of this Deed.

6 Acknowledgement – Excluded Creditors

Mirabela Investments and the Deed Administrators acknowledge and agree that the rights and claims of the Excluded Creditors are not intended to be impacted by the operation of this Deed.

7 Scope of Arrangement and Moratorium

7.1 Binding Effect

This Deed binds:

- (a) in accordance with section 444D of the Act, all creditors who have a Claim; and
- (b) in accordance with section 444G of the Act, Mirabela Investments, its officers and members and the Deed Administrators.

7.2 Moratorium

During or after the Deed Period no creditor shall in relation to his, her or its Claim:

- (a) make or proceed with an application for an order to wind up Mirabela Investments;
- (b) institute, revive or continue any action, suit, arbitration, mediation or proceeding against Mirabela Investments or in relation to the property of Mirabela Investments;
- (c) institute, revive or continue with any Enforcement Process against the property of Mirabela Investments;
- (d) take any action whatsoever to seek to recover any part of its Claim;
- (e) exercise any right of set off or defence, cross claim or cross action to which that creditor would not have been entitled had Mirabela Investments been wound up;

- (f) commence or take any further step in any arbitration against Mirabela Investments or to which Mirabela Investments is a party; or
- (g) otherwise enforce any right it may have or acquire,

except with the consent of the Deed Administrators or with the leave of the Court.

7.3 Property available to Noteholders

The only property available to the Noteholders is the entitlement to Shares which are to be administered in accordance with the Mirabela DOCA.

7.4 Property available to Shareholder Claimants

There is no property available to the Shareholder Claimants.

7.5 Consistency with the Act

- (a) For the purposes of section 444DA of the Act any eligible employee creditor will retain a priority at least equal to that they would have been entitled to if the property of the company had been applied in accordance with sections 556, 560 and 561 of the Act.
- (b) For the purposes of section 444DB of the Act if the Deed Administrators were to call for proof (which is not contemplated by this Deed) the Deed Administrators must determine that a debt by way of superannuation contribution (**Superannuation Debt**) is not admissible to proof against the company if:
 - (i) that debt by way of superannuation guarantee charge:
 - (A) has been paid; or
 - (B) is, or is to be, admissible against the company; and
 - (ii) the Deed Administrators are satisfied that the superannuation guarantee charge is attributable to the Superannuation Debt.
- (c) If the Deed Administrators make a determination in accordance with clause 7.5(b) the Superannuation Debt is to be treated as extinguished as against Mirabela.

8 The Officers and Members

8.1 Effect of this Deed on Mirabela Investments' officers

- (a) During the Deed Period, unless authorised in writing by the Deed Administrators, the Directors and Mirabela Investments' officers cannot perform or exercise, and must not purport to perform or exercise a function or powers as an officer of Mirabela.
- (b) During the Deed Period, the Directors will:
 - (i) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;

- (ii) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and
 - (iii) perform their obligations pursuant to this Deed.
- (c) During the Deed Period:
- (i) the Deed Administrators may remove and appoint Directors to Mirabela Investments as they think fit; and
 - (ii) the Deed Administrators' power to remove and appoint directors to Mirabela Investments is to the exclusion of any shareholder power to remove and appoint directors to Mirabela Investments.

9 Deed Administrators' Appointment

9.1 Acceptance of Appointment

The Deed Administrators:

- (a) accept the appointment as administrators of this Deed; and
- (b) agree to act as administrators of this Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with this Deed or the Act.

9.2 Deed administrators are agents

In exercising the powers conferred by this Deed and carrying out the duties arising under this Deed, the Deed Administrators will act as agent for and on behalf of Mirabela Investments.

9.3 Management

- (a) The Deed Administrators shall retain day to day management and control of Mirabela Investments until the Termination Date to the exclusion of the Directors.
- (b) The Deed Administrators will not be obliged to take any action under this Deed in the event that there are insufficient funds to pay the Remuneration and the Costs.

9.4 Joint and several

The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.

9.5 No Limitation

Nothing in this Deed shall limit the rights in law or equity of the Deed Administrators:

- (a) to make an application under section 444F of the Act; or
- (b) to apply for orders or directions pursuant to section 447A(1) or section 447D of the Act.

10 Powers of the Deed Administrators

10.1 General Powers

Subject to clauses 10.3, the Deed Administrators are entitled to exercise all the rights, powers, privileges, authorities and discretions which are conferred by Mirabela Investments' constitution or otherwise by law on the Directors (to the exclusion of the Directors), provided that the Deed Administrators shall not be responsible for such statutory obligations that may continue to be imposed on the Directors during the Deed Period.

10.2 Additional Powers

Without limiting the powers in clause 10.1 above and subject to the Act and clause 10.3, the Deed Administrators shall have the following powers:

- (a) to remove from office a Director;
- (b) to appoint a person as a director of Mirabela Investments, whether to fill a casual vacancy or not;
- (c) to enter upon or take possession of the property of Mirabela Investments;
- (d) to lease or let on hire property of Mirabela Investments;
- (e) to insure property of Mirabela Investments;
- (f) to insure the Deed Administrators for actions taken during the Deed Period;
- (g) to repair or renew property of Mirabela Investments;
- (h) to call in, collect or convert into money the property of Mirabela Investments;
- (i) to administer the assets available for the payment of Claims in accordance with the provisions of this Deed;
- (j) to borrow and grant security;
- (k) to bring, prosecute and defend in the name and on behalf of Mirabela Investments or in the name of the Deed Administrators any actions, suits or proceedings;
- (l) to refer to arbitration any question affecting Mirabela Investments;
- (m) to resolve any dispute of any nature commercially;
- (n) to make payments to any secured creditor of Mirabela Investments and any person who is an owner or lessor;
- (o) to convene and hold meetings of the members or creditors of Mirabela Investments for any purposes the Deed Administrators think fit;
- (p) to appoint agents to do any business or to attend to any matter or affairs of Mirabela that the Deed Administrators are unable to do, or that it is unreasonable to expect the Deed Administrators to do, in person;

- (q) to engage or discharge employees on behalf of Mirabela Investments;
- (r) to appoint a solicitor, accountant or other professionally qualified person to assist the Deed Administrators;
- (s) to permit any person authorised by the Deed Administrators to operate any account in the name of Mirabela Investments;
- (t) to do all acts and execute in the name and on behalf of Mirabela Investments all deeds, receipts and other documents, using Mirabela Investments' common or official seal when necessary;
- (u) subject to the Bankruptcy Act 1966, to prove in the bankruptcy of any contributory or debtor of Mirabela Investments or under any deed executed under that act;
- (v) subject to the Act, to prove in the winding up of any contributory or debtor of Mirabela Investments or under any scheme of arrangement entered into, or deed of company arrangement executed, under the Act;
- (w) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of Mirabela Investments;
- (x) to take out letters of administration of the estate of a deceased contributory or debtor, and do any other act necessary for obtaining payment of any money due from a contributory or debtor, or the estate of a contributory or debtor, that cannot be conveniently done in the name of Mirabela Investments;
- (y) to bring or defend an application for the winding up of Mirabela Investments;
- (z) to control Mirabela Investments' business, property and affairs;
- (aa) to carry on the business of Mirabela Investments on such terms and conditions and for such purposes and times and in such manner as the Deed Administrators think fit subject only to the limitations imposed by this Deed;
- (bb) to perform any function and exercise any power that Mirabela Investments or any of its officers could perform or exercise if Mirabela Investments was not subject to this Deed;
- (cc) to compromise any Claims brought by or against Mirabela Investments on such terms as the Deed Administrators think fit and to take security for the discharge of any debt forming part of the property of Mirabela Investments; and
- (dd) to do anything that is incidental to exercising a power set out in this clause; and
- (ee) to do anything else that is necessary or convenient for the purpose of administering this Deed.

10.3 Restriction on exercise of Powers

During the Deed Period and after the termination of this Deed, the Deed Administrators will not do any act or thing which is inconsistent with or could cause Mirabela Investments to breach this Deed.

10.4 Solicitors and Consultants

- (a) The Deed Administrators shall have power to engage solicitors and consultants, the costs of which shall be part of the Costs.
- (b) The Deed Administrators may delegate their powers under this clause 10 including by way of appointing agents to act on behalf of the Deed Administrators.

10.5 No Personal Liability

During the Deed Period, the Deed Administrators are acting as the agent of Mirabela Investments and accept no personal liability for any acts, matters or omissions relating to things done or not done in that capacity, including (without limitation) any liability relating to any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of Mirabela Investments.

11 Deed Administrators' right to Mirabela Investments' books

A person is not entitled as against the Deed Administrators:

- (a) to obtain possession of the books of Mirabela Investments; or
- (b) to claim or enforce a lien on such books, but such a lien is not otherwise prejudiced.

12 Deed Administrators may investigate affairs

The Deed Administrators may investigate Mirabela Investments' business, property, affairs and financial circumstances and may report the results of their investigations to ASIC and creditors.

13 Reporting

Except as required by law, the Deed Administrators shall not be required to report to creditors. However, the Deed Administrators may, in their absolute discretion, report to creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of the creditors.

14 Administrators' Remuneration and Indemnity

14.1 Remuneration

The Deed Administrators are entitled to be paid the Remuneration and Costs on the basis of the time spent by the Deed Administrators, their partners and staff in the performance of services in connection with or in relation to the administration of Mirabela Investments during the Deed Period and such time will be charged at the Deed Administrators' standard rates, from time to time, for work of that nature.

14.2 Funding of the Deed Administrators' Remuneration

The Remuneration and Costs are to be paid from, and are limited to, the assets of Mirabela Investments.

14.3 Indemnity

The Deed Administrators are entitled to be indemnified for:

- (a) the Remuneration and Costs;
- (b) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments arising out of or in the course of the administration of Mirabela Investments during the Deed Period; and
- (c) any amount for which the Deed Administrators are entitled to exercise a lien at law in equity on the property of Mirabela Investments,

except in the case of fraud or breach of duty by the Deed Administrators.

14.4 Continuing Indemnity

The indemnity in this Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators and the appointment of new deed administrators or the termination of this Deed for any reason whatsoever.

14.5 Indemnity not to be affected or prejudiced

The indemnity under clauses 14.3 and 14.4 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Deed Administrators and extends to cover any actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Deed Administrators or defect in the approval or execution of this Deed or otherwise; or
- (b) affect or prejudice all or any rights that the Deed Administrators may have against Mirabela Investments or any other person to be indemnified against the Costs, and liabilities incurred by the Deed Administrators in the performance of, or incidental to, any of the powers or authorities conferred on the Deed Administrators by this Deed or otherwise.

14.6 Administrators' lien

The Deed Administrators are entitled to exercise a lien over the Mirabela Investments' assets for all amounts in respect of which they are entitled to an indemnity from Mirabela Investments.

14.7 Priority of indemnity and lien rights

The rights of the Deed Administrators to an indemnity and lien conferred by this clause 14 shall have the same priority as that conferred by section 443E of the Act in respect of rights conferred by section 443D (modified as applicable).

15 Meetings

Regulations 5.6.23 to 5.6.36A of the Regulations apply with such modifications as are necessary, to meetings of creditors held under this Deed as if the references to "the liquidator", "the liquidator or provisional liquidator", "the liquidator, provisional liquidator or chairman" or "the liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Deed Administrators.

16 Effectuation and Termination of Deed

16.1 Effectuation

- (a) This Deed will become fully effectuated after notification from the Deed Administrators of the Mirabela DOCA that the Mirabela DOCA has become fully effectuated in accordance with its terms.
- (b) This Deed terminates after its terms have been fulfilled and the Deed Administrators give notice to ASIC that this Deed has been fully effectuated.
- (c) Upon termination of this Deed in accordance with this clause 16.1:
 - (i) the day to day management and control of Mirabela Investments will revert to the Directors; and
 - (ii) the Deed Administrators will thereupon retire and, except in respect of any provision which survives termination, Mirabela Investments will cease to be subject to this Deed.

16.2 Termination on non-compliance

If this Deed is not fully effectuated in accordance with clause 16.1 by 31 July 2014 (or such later date as the Deed Administrators and the Majority Noteholders agree) the Deed Administrators will convene a meeting of Mirabela Investments' creditors to consider terminating this Deed and winding up Mirabela Investments.

16.3 No Limitation

Nothing in this Deed shall limit the operation of s445D of the Act or the rights of the creditors under s445E or s445F of the Act.

16.4 Previous operation of this Deed preserved

In accordance with section 445H of the Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

17 Liquidation

17.1 Winding Up

Where at a meeting convened under section 445F of the Act, the creditors pass a resolution terminating this Deed, whether or not notice of that meeting set out a proposed resolution that Mirabela Investments be wound up, the creditors may resolve at the meeting that Mirabela Investments be wound up.

17.2 Commencement of Winding Up

For the avoidance of doubt, if the creditors resolve to wind up Mirabela Investments, the winding up will be deemed to have begun or commenced on the Appointment Date.

18 Further Assurances

All persons bound by this Deed shall exercise all such powers as are available to them, do all such acts and things, sign, execute and deliver all such documents and instruments and provide assistance and cooperation as may be reasonably required to give full effect to the provisions of this Deed.

19 Severance

If any part of this Deed is or becomes illegal, ineffective, invalid or unenforceable, that part shall be severed from this Deed and that severance shall not affect the effectiveness, validity or enforceability of the remaining part of this Deed.

20 Jurisdiction

This Deed shall be governed by and construed in accordance with the laws from the time being enforced in the State of New South Wales and the parties hereby irrevocably submit to the jurisdiction of the Court including any Courts having appellate jurisdiction there from.

21 Waiver

The waiver by any of the persons bound by this Deed in respect of any breach by another person bound by this Deed, of any of the provisions of this Deed, shall not be deemed to be a waiver in respect of any other breach or of any subsequent similar breach by a person bound by this Deed and no delay or omission on the part of a person to exercise or avail itself of any rights accruing to it under this Deed shall operate as a waiver in respect of any default by another person under this Deed.

22 Counterparts

This Deed may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

23 Notices

23.1 Address of Notice

Any notice or document required to be given to or served upon any of the parties pursuant to or in connection with this Deed shall be in writing and shall be deemed to be duly given or made when delivered (in the case of facsimile provided confirmation of the transmission has been received) to the party to which such notice is given or served by:

- (a) any means permitted by the law or the regulations; or

(b) pre-paid post to the person's address last known to the Deed Administrators.

23.2 Notice by Post

Any notice sent by pre-paid post shall be taken to have been received by the addressee at the time at which it would have been delivered in the ordinary course of post.

23.3 Notice by facsimile

Any notice given by facsimile on a day which is not a Business Day shall be deemed dispatched on the next succeeding Business Day.

23.4 Signing of Notice

Any notice may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.

Execution page

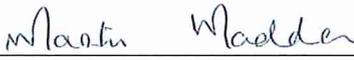
Executed as a deed.

Signed and delivered by **Mirabela Investments Pty Limited ACN 124 449 716 (administrators appointed)** by its administrator in accordance with section 442A of the Corporations Act in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)



Signature of Administrator

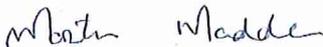
Martin Madden
Name of Administrator (print)

Signed sealed and delivered by **Martin Madden** in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)



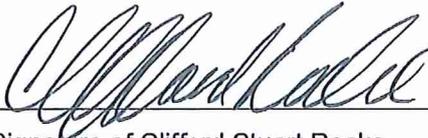
Signature of Martin Madden

Signed sealed and delivered by **Clifford Stuart Roche** in the presence of:



Signature of witness

Nicholas Edwards
Name of witness (print)

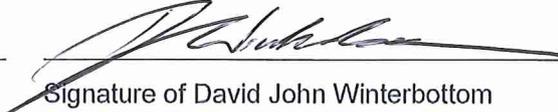


Signature of Clifford Stuart Roche

Signed sealed and delivered by **David John Winterbottom** in the presence of:



Signature of witness



Signature of David John Winterbottom

Aaron Swaffield

Name of witness (print)