
17th October 2013

Manager of Company Announcements
ASX Limited
Exchange Centre
20 Bridge Street
SYDNEY, NSW, 2001

By E-Lodgement

Recommended Takeover Offer for Blackwood by Cockatoo Coal

- The Directors of Blackwood have recommended a conditional off-market takeover offer from Cockatoo Coal of two Cockatoo shares for each Blackwood share
- Combined Cockatoo/Blackwood would be a leading independent Australian metallurgical coal producer with a significant development and expansion portfolio
- Key conditions to the Offer include successful completion of Cockatoo's announced capital raising and a 52.1% minimum acceptance condition¹
- Blackwood's Directors unanimously recommend shareholders accept the Offer, in the absence of a superior proposal and subject to an independent expert concluding that the Offer is fair and reasonable to Blackwood shareholders and Cockatoo's announced capital raising proceeding (other than due certain actions by Noble Group)
- Blackwood's major shareholder, Noble Group (51.2%) has indicated that its current intention is to dispose of its entire shareholding in Blackwood comprising of 94,689,760 Blackwood Shares by accepting the Offer in the absence of a superior proposal, subject to the independent expert appointed by Blackwood concluding (and continuing to conclude) that the Offer is fair and reasonable to Blackwood shareholders and subject to completion of the purchase of the Placement Shares by Noble pursuant to Cockatoo's announced capital raising
- The Offer represents a 35% premium to the last closing price of Blackwood shares on 16 October on ASX based on a Cockatoo TERP².

¹ The Cockatoo Offer includes a minimum acceptance condition of 52.1%, which is equivalent to 50.1% on a fully diluted basis following the conversion into ordinary shares of all performance rights currently on issue by Blackwood.

² Theoretical ex-entitlement price (TERP) of A\$0.051 per share based on the 1 month VWAP of COK shares traded on ASX up to and including 16 October 2013 of A\$0.060 per Share and including the impact of Cockatoo's announced capital raising.

Following extensive discussions, Blackwood Corporation Limited ("Blackwood" ASX: BWD) advises today that it has agreed to a conditional all-share off-market takeover offer from Cockatoo Coal Limited ("Cockatoo" ASX: COK).

Blackwood and Cockatoo have today entered into a Bid Implementation Agreement ("BIA") pursuant to which Cockatoo has agreed to make a takeover offer to acquire all of the issued shares in Blackwood ("**Offer**").

Blackwood shareholders will be offered two shares for each Blackwood share they hold, which based on the Cockatoo TERP³ represents a:

- 35% premium to the closing price of Blackwood shares on 16 October 2013 on ASX;
- 22% premium to the 1 month volume weighted average price ("**VWAP**") on ASX up to and including 16 October 2013; and
- 41% premium to the 3 month VWAP on ASX up to and including 16 October 2013.

The Offer is subject to a number of key conditions including;

- A minimum acceptance condition of 52.1%, equivalent to 50.1% on a fully diluted basis;
- The successful completion of Cockatoo's capital raising announced to the ASX today;
- No material adverse change occurring in respect of Blackwood; and
- other standard bid conditions which are set out in the BIA.

Blackwood and Cockatoo have agreed to exclusivity arrangements in the BIA standard for a transaction of this nature, with customary fiduciary carve-outs. If Blackwood receives a competing proposal, it must provide notice to Cockatoo who will have 3 business days to match the competing proposal.

A copy of the complete BIA is attached to this announcement.

The Independent Expert, Grant Thornton Australia, has been engaged to assess whether the Offer is fair and reasonable to Blackwood shareholders.

RBS Morgans Corporate Limited have been appointed as financial advisors to the Independent Directors of Blackwood in relation to the Offer.

³ Theoretical ex-entitlement price (TERP) of A\$0.051 per share based on the 1 month VWAP of COK shares traded on ASX up to and including 16 October 2013 of A\$0.060 per Share and including the impact of Cockatoo's announced capital raising.

The Independent Directors of Blackwood unanimously recommend that shareholders ACCEPT the Offer in the absence of a superior offer and subject to an independent expert concluding that the Offer is fair and reasonable to Blackwood shareholders and subject to Cockatoo's announced capital raising completing.

Blackwood's major shareholder, Noble Group (51.2%) has indicated that its current intention is to accept for its entire shareholding in Blackwood into the Offer in the absence of a superior proposal, subject to the independent expert appointed by Blackwood concluding (and continuing to conclude) that the Offer is fair and reasonable to Blackwood shareholders and subject to Noble Group completing its purchase of shares in Cockatoo pursuant to Cockatoo's announced capital raising.

Blackwood Acquisition Timetable	Date
Bid Implementation Agreement Signed	17 October 2013
Bidder and Target Statements despatched to Blackwood shareholders Offer Opens	Late November 2013
Offer Close Date	Late December 2013

The Board of Blackwood believes the transaction is in the best interests of Blackwood shareholders for the following reasons:

- The Blackwood board has considered a range of potential transactions and the Cockatoo merger is the most value enhancing alternative available at the current time;
- The Offer allows Blackwood shareholders to become part of a leading mid-tier ASX listed metallurgical coal producer with the potential to expand to 3.5 million tonnes per annum;
- The merged company would possess significant development opportunities from a portfolio of more than 100 EPCs, prospective for coking, PCI and thermal coal deposits and including 15 approved mining leases;
- Simultaneous corporate financing initiatives announced by Cockatoo mean that Cockatoo's Baralaba North Expansion will have a funded capital investment program for the foreseeable development;
- The Offer represents an attractive premium to current and recent historical prices of Blackwood shares; and
- The Blackwood board believes the merger will provide substantial capital markets benefits for Blackwood shareholders including increased scale, relevance and liquidity.

If the Offer becomes unconditional but Cockatoo does not acquire greater than 90% of Blackwood shares, Cockatoo will not be able to undertake compulsory acquisition of Blackwood minority shareholders. Should this occur, Cockatoo will hold between 52.1% and 90% of Blackwood and Blackwood would most likely remain an independently listed entity, with Cockatoo as its majority shareholder.

In this scenario Cockatoo would be in a position to appoint a majority of the Blackwood board and have a controlling position. Depending on the ultimate ownership level achieved liquidity in Blackwood shares may be very limited.

Blackwood Chairman, Mr Barry Bolitho, said "the transaction is a very attractive proposition for Blackwood's shareholders to realise value in a producing company of scale".

"The proposed transaction is an opportunity for Blackwood's shareholders to participate in an enlarged production and exploration entity, underpinned by a high-quality PCI producing asset. The enlarged Cockatoo would have access to cashflow, a funded Baralaba Expansion project, and an extensive development portfolio in the combined acreage presently held by Cockatoo and Blackwood".

"There are few opportunities for shareholders to participate in high value metallurgical coal projects, and the enlarged Cockatoo has the potential to become the leading independent Australian metallurgical coal producer", Mr Bolitho said.

For and on behalf of the board



Patrick McCole
Company Secretary

For more information, please contact

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Bid Implementation Agreement

Blackwood Corporation Limited
Blackwood

Cockatoo Coal Limited
Cockatoo

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Parties **Blackwood Corporation Limited ACN 103 651 538** of Level 9, 288 Edward Street, Brisbane (**Blackwood**)

Cockatoo Coal Limited ACN 112 682 158 of Level 2, 66 Hunter Street, Sydney (**Cockatoo**)

Background

- A. Blackwood and Cockatoo are each listed on the ASX.
- B. Cockatoo proposes to make a Bid. The Blackwood Board proposes to recommend that Bid in the absence of a Superior Proposal for Blackwood and subject only to the Independent Expert concluding that the Bid is fair and reasonable to Blackwood Shareholders.
- C. The parties have agreed to certain matters in relation to the conduct of the Bid as set out in this agreement.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this agreement:

Agreed Form means in relation to any document the form of that document which has been initialled for the purpose of the identification by Blackwood (or its solicitors) and Cockatoo (or its solicitors) prior to the execution of this agreement.

Announcement Date means the date on which the Cockatoo Announcement and the Blackwood Announcement are made, being on or about the date of this agreement.

ASIC means the Australian Securities and Investments Commission.

Associate has the same meaning given in section 12 of the Corporations Act.

Authorisation means any licence, consent, approval, permit, registration, accreditation, certification or other authorisation given or issued by any Government Agency or any other person.

ASX means ASX Limited ACN 008 624 691 trading as the Australian Securities Exchange.

Bid means an off-market takeover bid under Chapter 6 of the Corporations Act under which Cockatoo offers to acquire all Blackwood Shares (in which it does not already have a Relevant Interest), an announcement of which is made on or about the date of this agreement.

Bidder's Statement means the bidder's statement to be prepared by Cockatoo in connection with the Bid in accordance with Chapter 6 of the Corporations Act.

Bid Consideration means 2 Cockatoo Shares for each Blackwood Share held.

Bid Period means the period that starts when the Bidder's Statement is given to Blackwood and ends at the end of the Offer Period.

Bid Terms means the terms and conditions set out in the Schedule.

Blackwood Announcement means an announcement made by Blackwood in respect of the transactions contemplated by this agreement in the Agreed Form.

Blackwood Assets means each asset owned or held by Blackwood Group or used in its business including the Blackwood Tenements and any assets held under any financing or operating lease.

Blackwood Board means the board of directors of Blackwood from time to time.

Blackwood Constitution means the constitution of Blackwood at the date of this deed.

Blackwood Director means a director of Blackwood from time to time.

Blackwood Due Diligence Materials Index means the index of information and documents contained in the Due Diligence Materials disclosed by Blackwood as at the Disclosure Date as set out in Part 1 of Annexure A.

Blackwood Group means Blackwood and its Subsidiaries (and **Blackwood Group Company** means any such company).

Blackwood Performance Rights means the 7,225,000 unlisted performance rights issued pursuant to the Blackwood performance rights plan approved by shareholders at the general meeting on 29 October 2010, the terms of which are set out in the document in section 3.02 of the Blackwood Due Diligence Materials Index.

Blackwood Properties means the real property owned, leased, occupied or used by the Blackwood Group.

Blackwood Senior Executives means each Blackwood Director, Mr Todd Harrington and Mr David Smith.

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

Blackwood Shareholder means, from time to time, each person who is registered in the Blackwood Share Register as a holder of a Blackwood Share.

Blackwood Share Register means the register of members of Blackwood maintained by or on behalf of Blackwood in accordance with section 168(1) of the Corporations Act.

Blackwood Tenements means those tenements listed in Part 1 of Annexure C.

Business Day is any day that is both a business day within the meaning given in the Listing Rules and a day (other than a Saturday) that banks in each of Sydney, Korea and Singapore are open for business.

Business Hours means from 9.00am to 5.00pm on a Business Day.

Closing Date means the date on which the Offer Period in respect of the Bid ends.

Cockatoo Announcement means an announcement made by Cockatoo in respect of the transactions contemplated by this agreement (including but not limited to disclosure of the composition of the Cockatoo Board), in the Agreed Form.

Cockatoo Constitution means the constitution of Cockatoo at the date of this deed.

Cockatoo Caused Subscription Termination means termination by Noble of the Noble Share Subscription Deed solely for deliberate breach by Cockatoo of that Deed.

Cockatoo Due Diligence Materials Index means the index of information and documents contained in the Due Diligence Materials disclosed by Cockatoo as at the Disclosure Date as set out in Part 2 of Annexure A.

Cockatoo Group means Cockatoo and its Subsidiaries (and **Cockatoo Group Company** means any such company).

Cockatoo Option means an option to be issued a Cockatoo Share.

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

Cockatoo Shareholder means, from time to time, each person who is registered as a holder of a Cockatoo Share.

Cockatoo Tenements means those tenements listed in Part 2 of Annexure C.

Commitment Letter and Term Sheet means a commitment letter (and accompanying term sheet) in respect of the Project Finance Facilities executed by Cockatoo, JFE Shoji Trading Australia Pty Limited and ANZ on or before the date of this agreement.

Commercial Transactions means the issue of the Noble Subscription Shares and the entry into and performance of the Noble Marketing Rights Agreement.

Communications means advertising and communications (whether written or oral, and whether direct or via agents, consultants or advisers) with any shareholders, Government Agency, rating agency or media outlet relating to the Bid.

Competing Proposal means, in relation to Blackwood or Cockatoo, any proposed transaction or arrangement (including any expression of interest, proposal or offer in relation to a takeover bid, scheme of arrangement, share or asset sale or purchase, capital reduction or buy back, joint venture or dual listed company structure) by any person (other than the other party or its Related Bodies Corporate) under which that person (together with the person's Associates) would subject to satisfaction of conditions:

- (a) acquire control (as defined in section 50AA of the Corporations Act) of that party;
- (b) become the holder of a Relevant Interest in 20% or more of the shares in that party;
- (c) acquire (whether directly or indirectly) or become the holder of, or otherwise acquire, have a right to acquire or have an economic interest in all or a substantial part of the assets or business of that party and its Subsidiaries;
- (d) otherwise acquire or merge with that party; or
- (e) enter into any agreement or understanding requiring the respective board of directors of that party to recommend a proposal referred to in paragraphs (a) to (d),

but does not include any transaction or arrangement contemplated in this agreement under which:

- (f) Maylion (or any of its Related Bodies Corporate) becomes the holder of a Relevant Interest in 20% or more of the Cockatoo Shares as a result of the Noble Subscription;
- (g) SK Networks (or its nominee pursuant to the SK Subscription Deed) becomes the holder of a Relevant Interest in 20% or more of the Cockatoo Shares as a result of the SK Subscription;

- (h) Harum (or any of its Related Bodies Corporate) becomes the holder of a Relevant Interest in 10% or more of the Cockatoo Shares as a result of the Harum Subscription.

Completion Date means the date on which completion of the subscription for the Noble Subscription Shares has occurred in accordance with the Noble Share Subscription Deed.

Conditions means the Bid conditions set out in paragraph 3 of the Schedule.

Counterproposal has the meaning given in clause 5.7.

Corporations Act means the Corporations Act 2001 (Cth).

Disclosure Date means:

- (a) in respect of disclosures made by Blackwood, 5.00pm Sydney time on 8 October 2013; and
- (b) in respect of disclosures made by Cockatoo, 5.00pm Sydney time on 8 October 2013.

Due Diligence Materials means:

- (a) the written information and documents provided to Blackwood and its Representatives by Cockatoo and its Representatives, including the written responses given by Cockatoo and its Representatives in respect of questions raised by Blackwood and its Representatives in its due diligence process; and
- (b) the written information and documents provided to Cockatoo and its Representatives by Blackwood and its Representatives, including the written responses given by Blackwood and its Representatives in respect of questions raised by Cockatoo and its Representatives in its due diligence process,

in each case included as at the Disclosure Date in the electronic data rooms maintained on behalf of each party for the purpose of facilitating due diligence investigations on the other party (lists of which are contained in the Blackwood Due Diligence Materials Index and the Cockatoo Due Diligence Materials Index).

Encumbrance means mortgage, charge, pledge, lien, restriction against transfer, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, other third party interest or any other security agreement or arrangement in favour of any person, whether registered or unregistered.

End Date means such date as is the last day of the Exclusivity Period or such later date agreed by the parties in writing.

Equity Raising means the offer of Cockatoo Shares for issue by Cockatoo:

- (a) to institutional and sophisticated investors under the Institutional Raising; and
- (b) to Harum pursuant to the Harum Subscription Deed,

raising a minimum aggregate amount of \$60 million and a maximum aggregate amount of \$120 million, in each case at a price of no less than \$0.045 per Share. For the avoidance of doubt the Equity Raising does not include the issue of Shares under the Share Purchase Plan, the Noble Subscription or the SK Subscription.

Exclusivity Period means the period commencing on the date of this agreement and ending on the earlier of:

- (a) the date this agreement is lawfully terminated in accordance with its terms; and
- (b) the Closing Date.

Existing Agency Agreements has the meaning given to it in Annexure B.

Existing Sales Agreements has the meaning given to it in Annexure B.

Favourable means fair and reasonable to Blackwood Shareholders.

Finance Documents means:

- (a) the Bank Guarantee Facility Agreement dated 16 May 2011 between, amongst others, Macquarie Bank Limited and Cockatoo;
- (b) KEBA Facility; and
- (c) the Deed of Indemnity dated 27 March 2012 between SK Networks and Cockatoo,

and each document entered into in connection with, or as required pursuant to the terms of, such documents, all as may be amended from time to time.

Government Agency means any government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial body (including a court), department, commission, authority, office, instrumentality, tribunal, agency, delegate, organisation or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange, including the ASX.

GST has the meaning given in the GST Act.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Harum means Harum Energy Australia Limited.

Harum Share Subscription Deed means the subscription deed between Harum and Cockatoo executed on the date of this agreement.

Harum Subscription means the subscription by Harum for a minimum of 449,798,705 Cockatoo Shares and a maximum of 560,909,816 Cockatoo Shares pursuant to the terms of the Harum Share Subscription Deed.

Indemnified Loss means, in relation to any fact, matter or circumstance, all Losses, costs, damages, expenses, penalties and other liabilities arising out of or in connection with that fact, matter or circumstance and including all legal and other professional expenses on an indemnity basis incurred in connection with investigating, disputing, defending or settling any claim, action, demand or proceeding relating to that fact, matter or circumstance (including any claim, action, demand or proceeding based on the terms of this agreement).

Independent Expert means the independent expert to be engaged by Blackwood to express an opinion on whether the Bid is fair and reasonable to Blackwood Shareholders.

Ineligible Foreign Shareholder means a Blackwood Shareholder whose address as shown in the Blackwood Share Register is a place outside Australia and its external territories or New Zealand, unless Cockatoo and Blackwood are satisfied, acting reasonably, that the laws of that Blackwood Shareholder's country of residence (as shown in the Blackwood Share Register)

permit the issue and allotment of Cockatoo Shares to that Blackwood Shareholder, either unconditionally or after compliance with conditions which Cockatoo in its sole discretion regards as acceptable.

Insolvency Event means, in respect of a person:

- (a) an administrator being appointed to the person;
- (b) a controller (as defined in the Corporations Act) or analogous person being appointed to the person or any of the person's property;
- (c) an application being made by that person to a court for an order to appoint a controller (as defined in the Corporations Act), provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property;
- (d) an appointment of the kind referred to in subparagraph (c) being made (whether or not following a resolution or application);
- (e) the person being taken under section 459F(2) of the Corporations Act to have failed to comply with a statutory demand;
- (f) an application being made to a court for an order for its winding up in circumstances where the person is insolvent;
- (g) an order being made, or the person passing a resolution, for its winding up;
- (h) the person being unable to pay its debts or otherwise being insolvent;
- (i) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or
- (j) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Institutional Raising means the offer of Cockatoo Shares to institutional and sophisticated investors the terms of which are described in the Cockatoo Announcement and the Investor Presentation and which is the subject of the Offer Management Agreement (raising a maximum aggregate amount of \$120,000,000 less the amount raised under the Harum Share Subscription Deed and a minimum aggregate amount of \$60,000,000 less the amount raised under the Harum Share Subscription Deed), in each case at no less than \$0.045 per Cockatoo Share.

Investor Presentation means the investor presentation announced to the ASX by Cockatoo together with the Cockatoo Announcement.

Lead Manager means Credit Suisse (Australia) Limited.

Listing Rules means the official listing rules of the ASX, as amended from time to time.

Loss means all damage, loss, cost and expense (including fines, penalties, charges and legal costs and expenses of whatsoever nature or description but in all circumstances excluding consequential loss).

Material Adverse Change means any event that occurs after the date of this agreement, or of which Blackwood or Cockatoo (as the case may be) becomes aware after the date of this

agreement, that individually or when aggregated with all such events has had, or is reasonably likely to have, a materially adverse effect on the assets, liabilities, financial condition, results of operations, profitability or prospects of the Cockatoo Group (as a whole), including any material default by a Cockatoo Coal Group Company under their existing financing facilities, or the Blackwood Group (as a whole) (as the case may be), including any material default by a Blackwood Group Company under their existing financing facilities, other than:

- (a) an event which relates to commodity prices, exchange rates or financial markets;
- (b) a general change in economic, political or business conditions;
- (c) a change in law or regulation or the practice or policy of any Government Agency;
- (d) an event which has been disclosed by Cockatoo to the ASX or Blackwood in writing prior to the date of this agreement;
- (e) an event which has been disclosed by Blackwood to the ASX or Cockatoo in writing prior to the date of this agreement (including, for the avoidance of doubt, repayment of the Noble Loan in accordance with its terms);
- (f) the occurrence of an event under 12.1(k) of the Noble Facility Agreement, or an event in respect of Blackwood which results from Cockatoo not complying with its obligations in clause 4.19; or
- (g) an event which occurs with the written consent of Blackwood or Cockatoo (as the case may be).

Maylion means Maylion Pty Limited.

Noble means Noble Group Limited Bermuda Registration Number 19316.

Noble Controlled Event means any breach by Noble or any of its Related Bodies Corporate of the Noble Share Subscription Deed which results in the failure by Noble or any of its Related Bodies Corporate to complete the subscription for the Noble Subscription Shares pursuant to the Noble Share Subscription Deed.

Noble Loan means amounts drawn down under the Noble Facility Agreement.

Noble Facility Agreement means the facility agreement between Blackwood as borrower, Matilda Coal Pty Ltd as guarantor and Noble as lender dated 31 July 2012, the terms of which are set out in the document in section 4 of the Blackwood Due Diligence Materials Index.

Noble Marketing Rights Agreement means the Sale and Marketing Agreement (Coal) between Noble Resources International Pte Ltd and Cockatoo executed on or before the date of this agreement.

Noble Share Subscription Deed means the subscription deed between Cockatoo, Noble and Maylion executed on the date of this agreement.

Noble Subscription means the subscription by Maylion (or its permitted nominee) for the Noble Subscription Shares pursuant to the terms of the Noble Share Subscription Deed.

Noble Subscription Shares means 866,031,245 Cockatoo Shares to be issued under the Noble Share Subscription Deed.

Offer means the offer by Cockatoo to acquire all the Blackwood Shares pursuant to the Bid.

Offer Management Agreement means the Offer Management Agreement between the Lead Manager and Cockatoo executed on or around the date of this agreement in the Agreed Form.

Offer Period means the period during which the Offer will remain open for acceptance.

Prescribed Occurrence means any of the following events:

- (a) a party converts all or any of its shares into a larger or smaller number of shares;
- (b) a party or any of its respective Subsidiaries resolves to reduce its capital in any way;
- (c) a party or any of its respective Subsidiaries:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) a party or any of its respective Subsidiaries issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option, excluding:
 - (i) any issue of Cockatoo Shares contemplated or permitted under this agreement;
 - (ii) in relation to Blackwood, any issue of Blackwood Shares as a result of the vesting and exercise of Blackwood Performance Rights that is authorised under or is the result of compliance with the terms of clause 4.7;
 - (iii) in relation to Cockatoo, the issue of 50,000,000 options to be issued Cockatoo Shares under the terms of the Second SK Option Deed; and
 - (iv) in relation to Cockatoo, any issue of Cockatoo Shares as a result of the exercise of any Cockatoo Options;
- (e) a party or any of its respective Subsidiaries issues, or agrees to issue, convertible notes;
- (f) a party or any of its respective Subsidiaries declares any dividend or pays, makes or incurs any liability to pay or make any distribution in relation to a dividend, capital distribution, bonus or other share of its profits or assets;
- (g) a party or any of its respective Subsidiaries disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (h) a party or any of its respective Subsidiaries charges, or agrees to charge the whole, or a substantial part, of its business or property, other than in respect of the Project Finance Facilities;
- (i) a party or any of its respective Subsidiaries resolves to be wound up;
- (j) a liquidator or provisional liquidator is appointed in relation to a party or any of its respective Subsidiaries;
- (k) a court makes an order for the winding up of a party or any of its respective Subsidiaries;

- (l) an administrator is appointed under section 436A, 436B or 436C of the Corporations Act in relation to a party or any of its respective Subsidiaries;
- (m) a party or any of its respective Subsidiaries executes a deed of company arrangement; or
- (n) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of a party or any of its respective Subsidiaries.

Project Finance Documents means the facility agreement, to be executed after the date of this deed, setting out the terms on which the Project Finance Facilities are made available to Cockatoo pursuant to and consistent with the Commitment Letter and Term Sheet and all documents entered into pursuant to or in connection with that agreement.

Project Finance Facilities means the facilities to be made available under the Project Finance Documents.

Recapitalisation means completion occurring under the terms of the Noble Share Subscription Deed, the SK Share Subscription Deed and Cockatoo receiving the proceeds of the Equity Raising.

Records means all originals and copies of all books, records, reports, correspondence, files, manuals and other documents and information created by, owned by, or relating to any party or its Subsidiaries, whether in printed, electronic or any other form and including all:

- (a) statutory books and registers, minute books, books of account, trading and financial records, employee records, tax returns and related correspondence;
- (b) customer lists, supplier lists, price lists, pricing models and sales and marketing materials;
- (c) title deeds and other documents of title; and
- (d) originals and copies of all contracts and Authorisations.

Register Date means the day set by Cockatoo under section 633(2) of the Corporations Act.

Related Body Corporate has the meaning given in section 9 of the Corporations Act (except that Noble and its Subsidiaries (other than a Subsidiary of Blackwood) are not Related Bodies Corporate of Blackwood).

Relevant Interest has the meaning given in section 9 of the Corporations Act.

Representative means, in respect of a party, its Related Bodies Corporate and each director, officer, employee, advisor, agent or representative of that party and its Related Bodies Corporate.

Second SK Option Deed means the option deed, dated 28 June 2013, between Cockatoo and SK Networks, under which SK Networks will be granted 50,000,000 Cockatoo Options.

Share Purchase Plan means an offer of Cockatoo Shares for issue by Cockatoo pursuant to a scheme under ASIC Class Order 09/425:

- (a) by which eligible Cockatoo Shareholders will be offered the right to subscribe for Cockatoo Shares; and
- (b) raising a maximum aggregate amount of the sum of \$130 million less the amount raised under the Equity Raising at a price not less than \$0.045 per Cockatoo Share.

SK Networks means SK Networks Co. Ltd.

SK Share Subscription Deed means the subscription deed between Cockatoo and SK Networks executed on the date of this agreement.

SK Subscription means the subscription by SK Networks (or its permitted nominee) for the SK Subscription Shares pursuant to the terms of the SK Share Subscription Deed at a subscription price of \$0.05.

SK Subscription Shares means 1,000,000,000 Cockatoo Shares to be issued under the SK Share Subscription Deed.

Standard Rate in relation to interest payable on any payment due under this agreement means the rate which is the 90 day Bank Bill Swap Reference Rate (Average Bid) as published in the Australian Financial Review on the first date on which interest accrues on that payment (or if that rate or publication is not published, the rate determined by the payee, acting reasonably, to be the nearest equivalent rate having regard to prevailing market conditions) plus (in either case) a margin of 2% per annum.

Subsidiary has the meaning given to that term in section 9 of the Corporations Act.

Superior Proposal means a Competing Proposal which:

- (a) is bona fide and in writing and in the determination of the party's respective board of directors (or in the case of Cockatoo its independent directors), acting in good faith after consultation with the party's respective legal and financial advisers, is capable of being valued and completed, taking into account all aspects of the Competing Proposal (including its terms and conditions and the identity of the person or persons making it); and
- (b) in the determination of the party's respective board of directors (or in the case of Cockatoo its independent directors), acting in good faith and in order to satisfy what the board (or in the case of Cockatoo its independent directors) considers to be its fiduciary or statutory duties after receiving specific written legal advice, would be likely to, if completed substantially in accordance with its terms, result in a transaction more favourable to either Blackwood Shareholders or Cockatoo Shareholders (as the case may be) than the Bid.

Takeovers Panel means the Australian Takeovers Panel.

Tax means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax, impost or withholding obligation of whatever nature, whether direct or indirect, by whatever method collected or recovered, together with any fees, penalties, fines, interest or statutory charges.

Target's Statement means the target's statement to be issued by Blackwood under section 638 of the Corporations Act in response to the Bid.

Timetable means the timetable set out in clause 4.1.

1.2 Interpretation

In this agreement headings and words in bold are for convenience only and do not affect the interpretation of this agreement and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word indicating a gender includes every other gender;

- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this agreement, but except for one in Agreed Form) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (h) a reference to a statute includes any regulations or other instruments made under it and a reference to a statute or any regulation or other instrument made under it or a provision of any such statute, regulation or instrument includes consolidations, amendments, re-enactments and replacements;
- (i) a reference to any time is a reference to that time in Brisbane, Australia;
- (j) a reference to \$ or **dollar** is to Australian currency; and
- (k) this agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

2. Announcement and Bid

2.1 Announcements

- (a) Immediately after the execution of this agreement:
 - (i) Cockatoo must issue an announcement in the form of the Cockatoo Announcement to the ASX; and
 - (ii) Blackwood must issue an announcement in the form of the Blackwood Announcement to the ASX.
- (b) Subject to clause 2.1(c), each party must consult with the other party prior to making any other public announcement in connection with the Bid or including any information which could affect the Bid and in good faith considering any edits proposed by the other party.
- (c) Where a party is required by law or the Listing Rules to make any announcement or make any disclosure relating to a matter the subject of the Bid, it must, to the extent practicable, consult with the other party as to the content of that announcement or disclosure and allow the other party to suggest edits, unless, acting reasonably, the party required to make the announcement or disclosure considers that an immediate announcement or disclosure is required to be made.

- (d) To the maximum extent possible at law, a party will not be responsible for, and will disclaim any liability for, any information appearing in the other party's announcement (including information provided by that party to the other party). For the avoidance of doubt, none of Blackwood nor any of its Representatives will be responsible for, and disclaims any liability for, any information set out or referred to in the documents issued by or on behalf of Cockatoo in connection with the Equity Raising (including information provided by Blackwood or its Representatives to Cockatoo).

2.2 Making of the Bid

- (a) Cockatoo agrees to make the Bid on terms and conditions no less favourable than the Bid Terms.
- (b) Cockatoo must, in accordance with the Corporations Act:
 - (i) lodge an Offer together with the Bidder's Statement with ASIC under section 633 of the Corporations Act; and
 - (ii) give a copy of an Offer and the Bidder's Statement to Blackwood.

3. Blackwood's assessment of the Bid

3.1 Meeting of Blackwood Board

Blackwood represents and warrants that the Blackwood Board has met and considered the possibility of Cockatoo agreeing to make the Bid.

3.2 Blackwood Directors' recommendation

Subject to the Independent Expert concluding that the Bid is Favourable, each Blackwood Director will recommend (in the Blackwood Announcement, the Target's Statement and in any other public statements made after the execution of this agreement and relating to the Bid) that Blackwood Shareholders accept the Offer in the absence of a Superior Proposal for Blackwood, and must not change, withdraw, qualify or modify that recommendation unless permitted to do so in accordance with clause 3.3.

3.3 Maintenance of recommendation

The Blackwood Board may not make any public statement or take any other action that qualifies their support of the Bid or contradicts, or subsequently change, withdraw or modify, the recommendation referred to in clause 3.2 except where:

- (a) the Blackwood Board determines, after Cockatoo's rights under clause 5.7 have been exhausted, that a Competing Proposal constitutes a Superior Proposal;
- (b) the Cockatoo Board determines, after Blackwood's rights under clause 5.7 have been exhausted, that a Competing Proposal in respect of Cockatoo constitutes a Superior Proposal;
- (c) the Independent Expert fails to conclude that the Bid is Favourable (or having given a report that, in the opinion of the Independent Expert, the Bid is Favourable, gives a report changing that opinion for any reason to conclude that the Bid is not Favourable);
- (d) the Recapitalisation does not proceed other than solely due to a Noble Controlled Event; or

- (e) the Blackwood Board determines in good faith and acting reasonably, after receiving specific written legal advice, that recommending or continuing to recommend the acceptance of the Bid would be likely to constitute a breach of fiduciary or statutory duty owed to Blackwood by the Blackwood Directors.

3.4 Warranty

Blackwood represents and warrants to Cockatoo that each Blackwood Director has informed Blackwood that he supports the Bid and will act in accordance with clauses 3.2 and 3.3.

3.5 Blackwood procurement

Blackwood must procure that each Blackwood Director acts in accordance with his obligations under clauses 3.2 and 3.3.

3.6 Blackwood Directors' intentions

Blackwood represents and warrants to Cockatoo that each Blackwood Director who holds Blackwood Shares has indicated their intention to accept, no later than 2 days before the date set out in the Bidder's Statement for giving notice of the status of the Conditions as required by section 630(3) of the Corporations Act, the Offer made in respect of any Blackwood Share that they own or control except where:

- (a) the Blackwood Board determines, after Cockatoo's rights under clause 5.7 have been exhausted, that a Competing Proposal constitutes a Superior Proposal;
- (b) the Cockatoo Board determines, after Blackwood's rights under clause 5.7 have been exhausted, that a Competing Proposal in respect of Cockatoo constitutes a Superior Proposal;
- (c) the Independent Expert fails to conclude that the Bid is Favourable (or having given a report that, in the opinion of the Independent Expert, the Bid is Favourable, gives a report changing that opinion for any reason to conclude that the Bid is not Favourable); or,
- (d) the Recapitalisation does not proceed other than solely due to a Noble Controlled Event.

4. Facilitating the Bid

4.1 Timetable

Each party agrees to use its best endeavours to comply with the following timetable:

17 October 2013	Announcement of Bid
22 November 2013	Lodge Bidder's Statement / Target's Statement with ASIC and ASX Serve Bidder's Statement / Target's Statement on Blackwood / Cockatoo Despatch Bidder's Statement / Target's Statement to Blackwood shareholders Offer opens
23 December 2013	Close of offer (unless extended)

4.2 Bidder's Statement

- (a) Cockatoo must prepare the Bidder's Statement in compliance with the Corporations Act.
- (b) Cockatoo must within a reasonable time (but, in any event, not less than 5 Business Days) prior to lodgement of the Bidder's Statement with ASIC in accordance with item 2 of section 633(1) of the Corporations Act, provide a reasonably complete draft of the Bidder's Statement to Blackwood for review by Blackwood and its external legal and financial advisers.
- (c) Cockatoo will consider in good faith all reasonable and timely comments received from Blackwood and its external legal and financial advisers on the draft Bidder's Statement provided under clause 4.2(b).
- (d) Cockatoo must lodge with ASIC a copy of the Bidder's Statement.
- (e) Cockatoo will despatch the Bidder's Statement and Offer to Blackwood Shareholders and, for that purpose, Blackwood agrees with Cockatoo for the purposes of item 6 of section 633(1) of the Corporations Act, that Cockatoo may send the Bidder's Statement, Offer and accompanying documents to Blackwood Shareholders as early as the same date on which Cockatoo sends a copy of the Bidder's Statement to Blackwood in accordance with item 3 of section 633(1) of the Corporations Act (or such later date as Bidder chooses).
- (f) Blackwood must provide on a timely basis any assistance and information reasonably requested by Cockatoo to enable Cockatoo to prepare and finalise the Bidder's Statement.
- (g) Blackwood agrees that the offers and accompanying documents to be despatched by Cockatoo under the Bid under item 6 of section 633(1) of the Corporations Act may be sent on a date nominated by Cockatoo that is earlier than the date for despatch under item 6 of section 633(1) of the Corporations Act.

4.3 Target's Statement

- (a) Blackwood must prepare the Target's Statement in compliance with the Corporations Act.
- (b) Blackwood must ensure that the Target's Statement contains a prominent statement to the effect that:
 - (i) the Blackwood Board unanimously recommends that Blackwood Shareholders accept the Offer; and
 - (ii) each Blackwood Director who holds Blackwood Shares intends to act in the manner described in clause 3.6,in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Bid is Favourable, and the Recapitalisation proceeding (other than solely due to a Noble Controlled Event).
- (c) Blackwood must within a reasonable time (but, in any event, not less than 5 Business Days) prior to lodgement of the Target's Statement with ASIC in accordance with item 13 of section 633(1) of the Corporations Act, provide a

reasonably complete draft of the Target's Statement (other than the Independent Expert's report) to Cockatoo for review by Cockatoo and its external legal and financial advisers.

- (d) Blackwood will consider in good faith all reasonable and timely comments received from Cockatoo and its external legal and financial advisers on the draft Target's Statement provided under clause 4.3(c).
- (e) Cockatoo must provide on a timely basis any assistance and information reasonably requested by Blackwood to enable Blackwood to prepare and finalise the Target's Statement.
- (f) Blackwood must give Cockatoo updated information about the Blackwood Share Register during the Offer Period as reasonably requested by Cockatoo to enable Cockatoo to send the Offer to persons who become Blackwood Shareholders after the day referred to in clause 4.4(b)(i).

4.4 Information about Blackwood Shareholders

- (a) Provided that the Offer is recommended at the time by the Blackwood Directors, Blackwood must promptly provide (and/or direct Blackwood's share registry to promptly provide) Cockatoo all information about the Blackwood Share Register that Cockatoo reasonably requires in order to implement the Bid or to assist Cockatoo to solicit acceptances under the Bid.
- (b) Blackwood agrees that:
 - (i) for the purposes of section 641(2) of the Corporations Act, the information requested by Cockatoo under section 641(1) of the Corporations Act in relation to the Bid must be correct on the day Cockatoo makes the request under section 641(1); and
 - (ii) the information requested by Cockatoo under section 641(1) must be provided to Cockatoo by the end of the next day after the day on which the information must be correct.

4.5 Promote the Bid

During the Offer Period in the absence of a Superior Proposal in relation to Blackwood (which the Blackwood Directors recommend to Blackwood Shareholders after Blackwood has complied with clause 5.7), and subject only to the Independent Expert concluding that the Bid is Favourable, Blackwood will:

- (a) support, and procure that the Blackwood Directors will support, the Bid;
- (b) use its reasonable endeavours to procure that the Blackwood Senior Executives as reasonably requested by Cockatoo will support the Bid; and
- (c) participate in efforts reasonably required by Cockatoo to promote the merits of the Bid, including meeting with key Blackwood Shareholders, analysts, management, customers, press and other parties mutually agreed if reasonably requested to do so by Cockatoo,

provided that Blackwood will not be required to comply with this provision if:

- (d) the Blackwood Board has determined in good faith and acting reasonably, after receiving specific written legal advice, that recommending or continuing to

recommend the acceptance of the Bid would be likely to constitute a breach of fiduciary or statutory duty owed to Blackwood by the Blackwood Directors; or

- (e) the Cockatoo Board determining, after Blackwood's rights under clause 5.7 have been exhausted, that a Competing Proposal in respect of Cockatoo constitutes a Superior Proposal.

4.6 Advertising and communications

Subject to clause 2.1, the parties must consult with each other (in advance, to the extent reasonably practicable) in relation to all Communications and, without limiting the generality of the foregoing, must:

- (a) if practicable, provide the other party with drafts of any written Communications proposed to be issued and make such amendments thereto as the other party reasonably requires, provided such amendments are provided in a timely manner;
- (b) provide copies of all written Communications sent to a shareholder, Government Agency, rating agency or media outlet to the other party promptly upon dispatch; and
- (c) ensure all Communications are in accordance with all applicable laws.

4.7 Blackwood Performance Rights

- (a) Subject to clause 4.7, Blackwood represents and warrants that, as soon as reasonably practicable after the Offer is unconditional and Cockatoo has voting power of 50.1% or more in Blackwood, the Blackwood Board will:
 - (i) make a determination that all unvested Blackwood Performance Rights will vest and become exercisable; and
 - (ii) will release all Blackwood Shares issued and to be issued in respect of those vested Blackwood Performance Rights from any restrictions or holding locks,only for the purposes of enabling the holders of such Blackwood Performance Rights or Blackwood Shares to accept the Offer.
- (b) Blackwood represents and warrants that it will as soon as reasonably practicable after the Announcement Date, apply to ASX for waivers of any Listing Rule requirements that are necessary to enable the Blackwood Board to undertake the actions contemplated in clause 4.7(a).

4.8 Blackwood obligations in relation to satisfaction of Conditions

Blackwood must:

- (a) use all reasonable endeavours to ensure that each Condition is satisfied as soon as practicable after the date of this agreement, and must not do (or omit to do) anything which will, or is likely to, result in any of the Conditions being breached;
- (b) if a fact, matter or circumstance occurs or arises of which Blackwood is or becomes aware and which would cause any of the Conditions to be breached, immediately notify Cockatoo of the fact, matter or circumstance; and

- (c) provide on a timely basis all reasonable assistance to Cockatoo, and provide all information reasonably requested by Cockatoo, in order to assist Cockatoo to achieve the satisfaction of each of the Conditions.

4.9 Cockatoo obligations in relation to satisfaction of Conditions

Cockatoo must:

- (a) use all reasonable endeavours to ensure that each Condition is satisfied as soon as practicable after the date of this agreement, and must not do (or omit to do) anything which will, or is likely to, result in any of the Conditions being breached;
- (b) if a fact, matter or circumstance occurs or arises of which Cockatoo is or becomes aware and which would cause any of the Conditions to be breached, immediately notify Blackwood of the fact, matter or circumstance; and
- (c) provide on a timely basis all reasonable assistance to Blackwood, and provide all information reasonably requested by Blackwood, in order to assist Blackwood to achieve the satisfaction of each of the Conditions.

4.10 Waiver of conditions and extension

- (a) Subject to the Corporations Act and clause 4.10(b), Cockatoo may declare the Offers to be free from any Condition or extend the Offer Period at any time.
- (b) Cockatoo must not:
 - (i) free the Offers from the Condition in paragraph 3.3 of the Schedule, without the prior written consent of Blackwood; or
 - (ii) extend the Offer Period beyond a period of 3months after the date the Offers first become open for acceptance without the prior written consent of Blackwood.
- (c) If:
 - (i) the Condition in paragraph 3.3 of the Schedule ("52.1% minimum acceptance") is satisfied;
 - (ii) the Condition in paragraph 3.4 of the Schedule ("Noble subscription") is satisfied; and
 - (iii) the Blackwood Directors have taken the action referred to in clause 4.16(a),then Cockatoo must immediately free the Offer from all of the outstanding Conditions (other than the 'Statutory Condition' set out in paragraph 3.7 of the Schedule which the parties acknowledge that the Offer cannot be freed from).

4.11 Variations to Offer

Cockatoo may vary the terms and conditions of the Offer in any manner which is permitted by the Corporations Act.

4.12 Cockatoo access

From the date of this agreement until the End Date, provided that the Offer is recommended at the time by the Blackwood Directors, Blackwood must procure that Cockatoo and its Representatives are given reasonable access on reasonable notice to:

- (a) the Blackwood Assets, the Blackwood Properties and the Records of the Blackwood Group; and
- (b) all officers and employees of the Blackwood Group during Business Hours.

4.13 Conduct of the business

Subject to clause 4.15, from the date of this agreement to the End Date, except with the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), each party must, and must procure that each of its respective Subsidiaries:

- (a) conducts its businesses in the ordinary and usual course consistent with its usual business practices and does not make any significant change to the nature or scale of any activity comprised in its business;
- (b) conducts its business in accordance with all applicable laws;
- (c) maintains, and complies with the terms of, Authorisations necessary to own and operate its assets, own and occupy its properties and conduct its business in connection with any tenements that it holds;
- (d) keeps and maintains proper Records of all its dealings and transactions relating to its business;
- (e) pays all amounts owing to its trade or other creditors in accordance with applicable payment terms;
- (f) in relation to Cockatoo, must ensure that no event of default or potential event of default (however defined under any of the Project Finance Documents or any of the Finance Documents) will arise as a result of the consummation of the transactions referred to in, or anticipated to be completed under, this agreement and shall, on request by Blackwood from time to time promptly provide evidence to demonstrate to Blackwood that is in full compliance with this clause;
- (g) in relation to Cockatoo, must promptly provide Blackwood with a copy of any notice served on or provided to it by any party to the Project Finance Documents or a Finance Document in connection with the Project Finance Documents or a Finance Document;
- (h) in relation to Cockatoo, may not propose, make, or agree to an amendment, variation or restatement to or of the Project Finance Documents or any Finance Document without the prior written consent of Blackwood, acting reasonably;
- (i) protects and maintains each of its physical assets; and
- (j) consults with the other party in relation to the preparation and approval of any budgets or business plan relating to its business.

4.14 Restrictions

Subject to clause 4.15, from the date of this agreement to the End Date, except with the prior written consent of the other party, each party must not, and must procure that each of its respective Subsidiaries does not:

- (a) issue or allot any share capital or options or other securities convertible into share capital;
- (b) buy back or redeem any shares or otherwise reduce its share capital;
- (c) grant any special voting or other rights that attach to its shares;
- (d) increase, reduce, reconstruct or otherwise alter its share capital, or undertake a share buy-back, other than the issue or allotment of any share capital as contemplated by the Recapitalisation;
- (e) enter into any or resolve to enter into any compromise, arrangement, scheme or other form of arrangement with a receiver, receiver and manager, administrator or other controller in relation to any of its assets or undertakings;
- (f) resolve to be wound up;
- (g) enter into or vary a contract or commitment relating to borrowings or other financial accommodation repay any borrowings, or grant an Encumbrance, in each case other than in the ordinary course of the operation of its business; or
- (h) dispose or agree to dispose of the whole or a substantial part of its business, assets or property.

4.15 Exceptions

Either party may take any action that would otherwise be prohibited under clauses 4.13 or 4.14 between the date of this agreement and the End Date:

- (a) which is required to be done or procured by a party under, or which is otherwise permitted by, this agreement;
- (b) which is required to be done or procured by a party under the Noble Share Subscription Deed or the SK Share Subscription Deed;
- (c) which is required to be done to complete the Recapitalisation, including but not limited to entering into an underwriting agreement;
- (d) which involves the allotment and issue of shares pursuant to the exercise of existing options and performance rights:
 - (i) in the case of Cockatoo, listed in the document in section 02.06.07 of the Cockatoo Due Diligence Materials Index; and
 - (ii) in the case of Blackwood, listed in the document in section 3.02 of the Blackwood Due Diligence Materials Index;
- (e) in the case of clause 4.13(a) in respect of Cockatoo, which is required to be done to facilitate Cockatoo's execution of the Project Finance Documents, and Cockatoo's ability to effect drawdowns under them;

- (f) which is done in relation to or in considering a Competing Proposal or Superior Proposal;
- (g) which is announced to the ASX by either party prior to the date of this document;
- (h) which Blackwood is required to do pursuant to the repayment of the Noble Loan in accordance with its terms; or
- (i) which is approved by the other party in writing, such approval not to be unreasonably withheld or delayed.

4.16 Appointment of Cockatoo's nominee directors to the Blackwood Board

Blackwood represents and warrants to Cockatoo that it has been advised by each Blackwood Director that he or she will, and Blackwood must procure that the Blackwood Directors will, as soon as reasonably practicable after the date that Cockatoo acquires a Relevant Interest in excess of 50% of the Blackwood Shares:

- (a) take all actions necessary to ensure the nominees of Cockatoo are lawfully appointed as Blackwood Directors and represent a majority of the Blackwood Board, such appointments to be effective once the Offer is free from all Conditions (other than the 'Statutory Condition' set out in paragraph 3.7 of the Schedule which the parties acknowledge that the Offer cannot be freed from); and
- (b) as soon as practicable after Cockatoo acquires a Relevant Interest in 90% of the Blackwood Shares, and provided that the Offer is free from all Conditions (other than the 'Statutory Condition' set out in paragraph 3.7 of the Schedule which the parties acknowledge that the Offer cannot be freed from), ensure that all Blackwood Directors, other than Cockatoo's nominees, resign (provided that a proper Blackwood Board is constituted at all times), unless Cockatoo requests otherwise.

4.17 Cockatoo Board and senior management composition

Cockatoo will do all things necessary to procure that, immediately following the end of the Offer Period, the Cockatoo Board is composed as described in the Cockatoo Announcement and the Investor Presentation.

4.18 Share purchase plan

Cockatoo agrees to use its best endeavours to conduct the Share Purchase Plan in accordance with the Announcement and the Investor Presentation.

4.19 New facility

- (a) Cockatoo agrees that, as soon as reasonably practicable after the date that Cockatoo acquires a Relevant Interest in excess of 50% of the Blackwood Shares, Cockatoo will execute an agreement with Blackwood under which Cockatoo offers Blackwood a A\$4 million loan facility (**New Facility**), which New Facility is repayable in full 3 months after the date of first draw down, and otherwise must be on materially the same terms as the terms of the Noble Facility Agreement other than the repayment period and amount.
- (b) The parties agree that the New Facility will be able to be drawn down immediately upon the Blackwood Directors having taken the action referred to in clause 4.16(a), and that Blackwood will draw down and use the amounts drawn down under the New Facility to repay A\$4 million of the Noble Loan in accordance with its terms

immediately upon the occurrence of an event under 12.1(k) of the Noble Facility Agreement.

5. Exclusivity

5.1 No existing negotiations or discussions

Each party represents and warrants to the other party that, at the date of this agreement:

- (a) neither it nor any of its respective Representatives is engaged in any continuing negotiations or discussions with any entity or person in relation to the possible making of a Competing Proposal; and
- (b) it has, and its respective Representatives have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal.

5.2 No shop

During the Exclusivity Period, each party must not, and must ensure that its respective Representatives do not, except with the prior written consent of the other party, directly or indirectly solicit or invite any Competing Proposal or expression of interest or offer which may lead to a Competing Proposal, or initiate discussions with any third party which may reasonably be expected to lead to a Competing Proposal.

5.3 No talk and no due diligence

During the Exclusivity Period, each party must not, and must ensure that its respective Representatives do not, except with the prior written consent of the other party:

- (a) participate in any discussions or negotiations in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
- (b) provide any information to a third party for the purposes of enabling that party to make a Competing Proposal; or
- (c) communicate any intention do to any of the things listed in clauses 5.3(a) or 5.3(b).

5.4 No commitments in respect of Competing Proposals

During the Exclusivity Period, each party must not, and must ensure that its respective Representatives do not, except with the prior written consent of the other party, enter into any agreement, arrangement or understanding in relation to a Competing Proposal requiring that party to abandon, or otherwise fail to proceed with, the transactions the subject of this agreement.

5.5 Exceptions

The restrictions in clauses 5.3 and 5.4 do not apply to the extent that they restrict a party from taking or refusing to take any action with respect to a bona fide Competing Proposal (which was not encouraged, solicited or invited, facilitated or initiated by that party or its respective Representatives in contravention of clause 5.2) provided that the party's respective board of directors has determined, in good faith, that:

- (a) such bona fide Competing Proposal could reasonably be expected to lead to a Superior Proposal; and

- (b) after receiving legal advice, failing to respond to such bona fide Competing Proposal would constitute or would be likely to constitute a breach by that party's board of directors' fiduciary or statutory obligations.

5.6 Notice of unsolicited approach

- (a) During the Exclusivity Period, a party (**Notifying Party**) must promptly notify the other party:
 - (i) of any approach or attempt to initiate, resume or continue discussions or negotiations with the Notifying Party or any of its Representatives which may reasonably be expected to lead to a Competing Proposal; and
 - (ii) of any request for information relating to the Notifying Party or its Subsidiaries or any of its businesses or operations or any request for access to the books or records of the Notifying Party or its Subsidiaries, other than requests occurring in the ordinary course of business,

provided that the Notifying Party will not be required to comply with this provision if the Notifying Party's board of directors has determined in good faith, after receiving legal advice from its external advisers, that taking these actions would be reasonably likely to constitute a breach of the Notifying Party's board of directors' fiduciary or statutory obligations.

- (b) A notification given under clause 5.6(a) must be accompanied by all relevant details of the relevant event, including the identity of the relevant person or persons and the key terms and conditions of any Competing Proposal or proposed Competing Proposal (to the extent known) and must be provided no later than 2 Business Days from receipt of the approach, request, Competing Proposal or proposed Competing Proposal.

5.7 Right of last offer

During the Exclusivity Period, if a party notifies the other party under clause 5.6 of a Competing Proposal and of its intention to enter into an agreement, commitment, arrangement or understanding in respect of that Competing Proposal:

- (a) the other party will have the right, but not the obligation, at any time during the period of 3 Business Days following receipt of such notice, to make an offer to the Notifying Party that delivers a benefit to the Notifying Party's shareholders that is at least equal to that of the Competing Proposal (**Counterproposal**);
- (b) if the other party makes a Counterproposal, the Notifying Party and its board must consider it in good faith; and
- (c) if the Notifying Party's board, acting reasonably, considers that the Counterproposal would provide a benefit to the Notifying Party's shareholders that is at least equal to that of the Competing Proposal, then the Notifying Party and the other party must use reasonable endeavours to agree to amendments to this agreement that are reasonably necessary to reflect the Counterproposal and to enter into an amended agreement to give effect to those amendments and to implement the Counterproposal as soon as reasonably practicable,

provided that the Notifying Party will not be required to comply with this provision if the Notifying Party's board has determined in good faith, after receiving legal advice from its external advisers, that taking these actions would be reasonably likely to constitute a breach of the Notifying Party board's fiduciary or statutory obligations.

For the purposes of this clause 5.7, each successive material modification of a third party's Competing Proposal will constitute a new Competing Proposal.

5.8 Legal advice

Each party acknowledges that it has received legal advice on this agreement and the operation of this clause 5.

6. Representations, warranties and indemnities

6.1 Mutual representations and warranties

Each party represents and warrants to the other party as at the date of this agreement and separately on each date up to and including the End Date that:

- (a) it is a company that is properly incorporated and validly existing under the laws of its place of incorporation or registration;
- (b) it has the legal right and full power and authority to enter into and perform its obligations under this agreement and to carry out the transactions contemplated by this agreement and has obtained all necessary Authorisations and consents and taken all other actions necessary to enable it to do so (other than those Authorisations and consents which are subject of Conditions, or that are subject of conditions set out in clause 3 of the Noble Share Subscription Deed, set out in clause 4 of the SK Share Subscription Deed, or set out in clause 3 of the Harum Share Subscription Deed);
- (c) the execution, delivery and performance of this agreement by it will constitute legal, valid and binding obligations of it, enforceable in accordance with its terms;
- (d) no Insolvency Event has occurred in relation to the party nor is there any act which has occurred or any omission made which may result in an Insolvency Event occurring in respect of that party;
- (e) no mortgagee has taken or attempted or indicated in any manner any intention to take possession of any of its business or assets; and
- (f) the execution, delivery and performance of this agreement will not result in a breach of or constitute a default under:
 - (i) any legislation or rule of law or regulation, existing Authorisation, consent or any order or decree of any Government Agency;
 - (ii) its constitution or any legislation, rules or other document constituting that party or governing its activities; or
 - (iii) any agreement or instrument to which it is a party or which is binding on it or any of its assets or properties,and will not result in the creation or imposition of any Encumbrance or restriction of any nature on any of its assets.

6.2 Blackwood representations and warranties

Blackwood represents and warrants to Cockatoo as at the date of this agreement and separately on each date up to and including the End Date:

- (a) Blackwood's issued equity securities comprise:
- (i) 185,020,269 Blackwood Shares; and
 - (ii) 7,225,000 Blackwood Performance Rights on the terms disclosed in the documents referred to in section 3.02 of the Blackwood Due Diligence Materials Index,
- and warrants that this statement is correct;
- (b) that:
- (i) no person has any right to subscribe for or to receive or be issued any shares, options, securities or interests of any Blackwood Group Company;
 - (ii) there are no outstanding options, contracts, calls, first refusals, commitments, rights (including pre-emptive rights) or demands or any kind relating to the issued or unissued share capital of any Blackwood Group Company; and
 - (iii) no Blackwood Group Company is under any obligation to issue and have not granted any person the right to call for the issue of any such securities in any Blackwood Group Company,
- and Blackwood and each other Blackwood Group Company has not offered to do any of the foregoing;
- (c) the Blackwood Constitution complies with the Corporations Act, the Listing Rules and the requirements of ASIC and ASX;
- (d) Blackwood and each other Blackwood Group Company has paid all Taxes (including penalties and interest) that have lawfully become due and payable on or before the due date, and the financial statements of Blackwood fully provide for all Taxes (including penalties and interest) for which Blackwood and each other Blackwood Group Company is or may become liable to pay in respect of the period up to and including the date of the relevant financial statements;
- (e) the execution, delivery and performance of this agreement by Blackwood does not and will not result in a person being entitled to exercise any rights under any agreement or other instrument to which a Blackwood Group Company is bound or is subject to, which results, or could result, to an extent to which is material in the context of the Blackwood Group taken as a whole, in:
- (i) the interest of any Blackwood Group Company in any joint venture or other entity (or any arrangements relating to such interests) being terminated or modified; or
 - (ii) the assets of any Blackwood Group Company being sold, transferred, or offered for sale or transfer, or the assets or shares in any companies, joint ventures or other entities in which a Blackwood Group Company owns or has an interest being put to any Blackwood Group Company, including under any pre-emptive rights or similar provisions;
- (f) as far as Blackwood is aware, Blackwood and the other members of the Blackwood Group are not in breach in any material respect, of their constitutions, any rules, regulations or requirements of ASX, or any applicable law, decree, judgement,

legislation, statute, ordinance, treaty or other legislative measure including any environmental law;

- (g) Blackwood and the other members of the Blackwood Group are not in default under any document or agreement binding on it or its assets and as far as Blackwood is aware, nothing has occurred which is or would, with the giving of notice or lapse of time or both, constitute an event of default, prepayment event or similar event under any such document or agreement, which individually or in aggregate could reasonably be expected to have a material adverse effect on the assets, business or undertaking of the Blackwood Group, other than in respect of the Noble Loan;
- (h) there are no marketing, sale, offtake or similar arrangements to which a Blackwood Group Company is a party in respect of coal or other product, other than the documents referred to in section 6 of the Blackwood Due Diligence Materials Index;
- (i) no Blackwood Group Company is a party to any agreement under which it is bound to share profits or pay any royalties relating to the Blackwood Tenements or to waive or abandon any rights to which it is entitled in respect of the Blackwood Tenements other than in respect of the non-coal tenements referred to in the Blackwood prospectus lodged with ASX on 10 November 2010;
- (j) Blackwood has at all times been, and continues to be, in compliance with its continuous disclosure and periodic disclosure obligations under the Corporations Act and the Listing Rules, and as far as Blackwood is aware, the information released to ASX is not materially misleading or deceptive and does not contain any material omission;
- (k) no Blackwood Group Company owes any borrowings or other indebtedness under any bank facility, overdraft, bond, note, debenture or other arrangement providing financial accommodation, other than in respect of the Noble Loan;
- (l) Blackwood is not relying on the carve-outs in Listing Rule 3.1A to withhold any information from disclosure;
- (m) each Blackwood Group Company has full corporate power to own the assets owned or held by, or used in the business of, Blackwood Group and to carry on its business as conducted at the date of this agreement and has done everything necessary to do business lawfully in all jurisdictions in which its business is carried on;
- (n) Blackwood Group's assets are free of Encumbrances or other third party rights other than applicable "native title" or "native title rights or interests" (as defined in the Native Title Act 1993 (Cth) or any Encumbrance which is or may be registered under the Personal Properties Securities Act 2009 (Cth) as at 9am on 19 September 2013;
- (o) a Blackwood Group Company is the sole beneficial owner of all rights, title and interest in and to the Blackwood Tenements (and no other tenements) and that right, title and interest is free and clear of any Encumbrance, and each of the Blackwood Tenements is in good standing with all relevant Government Agencies;
- (p) as far as Blackwood is aware, all information in the Due Diligence Materials in respect of Blackwood is true, accurate and complete in all material respects and is not materially misleading or deceptive;
- (q) the Due Diligence Materials in respect of Blackwood have been prepared by Blackwood in good faith and with due care;

- (r) Blackwood has not withheld from its Due Diligence Materials anything of which:
 - (i) Blackwood knows or should reasonably be expected to know is material to Cockatoo in entering into and completing the transactions contemplated by this agreement; or
 - (ii) might reasonably be expected to affect the willingness of Cockatoo to enter into and complete the transactions contemplated by this agreement;
- (s) there are no prosecutions, litigation, arbitration, other dispute resolution proceedings, investigations or audits involving Blackwood or a Related Body Corporate of Blackwood, in each case which would reasonably be expected to have a material adverse effect on the assets, business or undertaking of the Blackwood Group, nor so far as Blackwood is aware, is any such matter pending or threatened against Blackwood or any Related Body Corporate of Blackwood; and
- (t) there is no unsatisfied judgement, order, arbitral award or decision of any court, tribunal or arbitrator, or unsatisfied settlement of proceedings in any court, tribunal or arbitration, against any Blackwood Group Company.

6.3 Cockatoo representations and warranties

- (a) Cockatoo represents and warrants to Blackwood that, as at:
 - (i) the date of this agreement, Cockatoo's issued equity securities comprise:
 - A. 886,294,158 Cockatoo Shares; and
 - B. 175,833,333 Cockatoo Options as disclosed in the documents referred to in section 02.06.07 of the Cockatoo Due Diligence Materials Index (the terms of which options are disclosed in the documents referred to in sections 02.02.05, 02.04.02.07, 02.04.02.08 and 02.04.02.20 of the Cockatoo Due Diligence Materials Index).
 - (ii) the time immediately before Completion, Cockatoo's issued equity securities will comprise, in each case provided that no existing Cockatoo Coal Options have been exercised before that time in accordance with their terms:
 - A. 886,294,158 Cockatoo Shares; and
 - B. 225,833,333 Cockatoo Options as disclosed in the document referred to in section 02.06.07 of the Cockatoo Due Diligence Materials Index (the terms of which options are disclosed in the documents referred to in sections 02.02.05, 02.04.02.07, 02.04.02.08 and 02.04.02.20 of the Cockatoo Due Diligence Materials Index),

and warrants that this statement is correct.
- (b) Cockatoo represents and warrants to Blackwood as at the date of this agreement and separately on each date up to and including the End Date that:
 - (i) other than with respect to the Subscription Shares to be issued under the Noble Subscription, the Cockatoo Shares to be issued under the SK

Subscription, and the Cockatoo Shares to be issued under the Equity Raising:

- A. no person has any right to subscribe for or to receive or be issued any shares, options, securities or interests of any Cockatoo Group Company;
- B. there are no outstanding options, contracts, calls, first refusals, commitments, rights (including pre-emptive rights) or demands or any kind relating to the issued or unissued share capital of any Cockatoo Group Company; and
- C. no Cockatoo Group Company is under any obligation to issue and have not granted any person the right to call for the issue of any such securities in any Cockatoo Group Company,

and Cockatoo and each other Cockatoo Group Company has not offered to do any of the foregoing;

- (ii) except for the approvals of Cockatoo Shareholders in accordance with clause 3.2 of the Noble Share Subscription Deed, there is no restriction on the allotment and issue of the Noble Subscription Shares;
- (iii) the Cockatoo Constitution complies with the Corporations Act, the Listing Rules and the requirements of ASIC and ASX;
- (iv) Cockatoo and each other Cockatoo Group Company has paid all Taxes (including penalties and interest) that have lawfully become due and payable on or before the due date, and the financial statements of Cockatoo fully provide for all Taxes (including penalties and interest) for which Cockatoo and each other Cockatoo Group Company is or may become liable to pay in respect of the period up to and including the date of the relevant financial statements;
- (v) the execution, delivery and performance of this agreement by Cockatoo does not and will not result in a person being entitled to exercise any rights under any agreement or other instrument to which a Cockatoo Group Company is bound or is subject to, which results, or could result, to an extent to which is material in the context of the Cockatoo Group taken as a whole, in:
 - A. the interest of any Cockatoo Group Company in any joint venture or other entity (or any arrangements relating to such interests) being terminated or modified; or
 - B. the assets of any Cockatoo Group Company being sold, transferred, or offered for sale or transfer, or the assets or shares in any companies, joint ventures or other entities in which a Cockatoo Group Company owns or has an interest being put to any Cockatoo Group Company, including under any pre-emptive rights or similar provisions;
- (vi) as far as Cockatoo is aware, Cockatoo and the other members of the Cockatoo Group are not in breach in any material respect, of their constitutions, any rules, regulations or requirements of ASX, or any applicable law, decree, judgement, legislation, statute, ordinance, treaty or other legislative measure including any environmental law;

- (vii) Cockatoo and other members of the Cockatoo Group are not in default under any document or agreement binding on it or its assets and as far as Cockatoo is aware, nothing has occurred which is or would, with the giving of notice or lapse of time or both, constitute an event of default, prepayment event or similar event under any such document or agreement, which individually or in aggregate could reasonably be expected to have a material adverse effect on the assets, business or undertaking of Cockatoo;
- (viii) there are no marketing, sale, offtake or similar arrangements to which a Cockatoo Group Company is a party in respect of coal or other product other than the Existing Agency Agreements or the Existing Sales Agreements (in each case to the extent in the Agreed Form);
- (ix) no Cockatoo Group Company is a party to any agreement under which it is bound to share profits or pay any royalties relating to the Cockatoo Tenements or to waive or abandon any rights to which it is entitled in respect of the Cockatoo Tenements other than the documents referred to in section 02.15 of the Cockatoo Due Diligence Materials Index;
- (x) Cockatoo has at all times been, and continues to be, in compliance with its continuous disclosure and periodic disclosure obligations under the Corporations Act and the Listing Rules, and as far as Cockatoo are is aware the information released to ASX is not materially misleading or deceptive and does not contain any material omission;
- (xi) no Cockatoo Group Company owes any borrowings or other indebtedness under any bank facility, overdraft, bond, note, debenture or other arrangement providing financial accommodation other than the documents referred to in sections 02.04.02 and 02.04.04 of the Cockatoo Due Diligence Materials Index;
- (xii) Cockatoo is not relying on the carve-outs in Listing Rule 3.1A to withhold any information from disclosure;
- (xiii) each Cockatoo Group Company has full corporate power to own the assets owned or held by, or used in the business of, Cockatoo Group and to carry on its business as conducted at the date of this agreement and has done everything necessary to do business lawfully in all jurisdictions in which its business is carried on;
- (xiv) Cockatoo Group's assets are free of Encumbrances or other third party rights other than applicable "native title" or "native title rights or interests" (as defined in the Native Title Act 1993 (Cth) or any Encumbrance which is or may be registered under the Personal Properties Securities Act 2009 (Cth) as at 9am on 19 September 2013;
- (xv) a Cockatoo Group Company is the sole beneficial owner of all rights, title and interest in and to the Cockatoo Tenements (and no other tenements) and that right, title and interest is free and clear of any Encumbrance, and each of the Cockatoo Tenements is in good standing with all relevant Government Agencies;
- (xvi) as far as Cockatoo is aware all information in its Due Diligence Materials is true, accurate and complete in all material respects and is not materially misleading or deceptive;

- (xvii) the Due Diligence Materials in respect of Cockatoo have been prepared by Cockatoo in good faith and with due care;
- (xviii) Cockatoo has not withheld from the Due Diligence Materials anything of which:
 - A. Cockatoo knows or should reasonably be expected to know is material to Blackwood in entering into and completing the transactions contemplated by this agreement; or
 - B. might reasonably be expected to affect the willingness of Blackwood to enter into and complete the transactions contemplated by this agreement;
- (xix) there are no prosecutions, litigation, arbitration, other dispute resolution proceedings, investigations or audits involving Cockatoo or a Related Body Corporate of Cockatoo, in each case which would reasonably be expected to have a material adverse effect on the assets, business or undertaking of Cockatoo, nor, so far as Cockatoo is aware, is any such matter pending or threatened against Cockatoo or any Related Body Corporate of Cockatoo;
- (xx) there is no unsatisfied judgement, order, arbitral award or decision of any court, tribunal or arbitrator, or unsatisfied settlement of proceedings in any court, tribunal or arbitration, against any Cockatoo Group Company; and
- (xxi) Cockatoo has obtained all necessary Authorisations and consents and taken all other actions necessary to enable it to conduct the Equity Raising, other than those Authorisations and consents which are subject of conditions set out in clause 3.2 of the Noble Share Subscription Deed, or set out in clause 4 of the SK Share Subscription Deed, or set out in clause 3 of the Harum Subscription Deed.

6.4 Representation and warranties qualified by disclosure

- (a) Cockatoo acknowledges and agrees that each representation and warranty given by Blackwood in clauses 6.2(c), (d), (f), (g), (j), (m), (n), (s), (t) is given subject to, and is qualified by, all facts, matters and circumstances that are disclosed to Cockatoo as specified in clause 6.4(c).
- (b) Blackwood acknowledges and agrees that each representation and warranty given by Cockatoo in clauses 6.3(b)(iii), (iv), (vi), (vii), (x), (xiii), (xiv), (xix) and (xx) is given subject to, and is qualified by, any facts, matters and circumstances that are disclosed to Blackwood as specified in clause 6.4(c).
- (c) The parties acknowledge and agree that each representation given by Blackwood referred to in clause 6.4(a) and by Cockatoo referred to in clause 6.4(b) is given subject to, and is qualified by (and is only subject to and qualified by) all facts, matters or circumstances:
 - (i) are fairly disclosed by, or fairly referred to in, this agreement;
 - (ii) are fairly disclosed by, or fairly referred to in, the Due Diligence Materials; or

- (iii) would have been fairly disclosed to that party had it conducted searches of records open to public inspection maintained by the Federal Court and the Supreme Court in Queensland and New South Wales at 9am on 19 September 2013;
- (iv) would have been fairly disclosed to that party had it conducted searches of records open to public inspection maintained by ASIC at 9am on 19 September 2013,

in each case provided that a matter will have been fairly disclosed or fairly referred to if such disclosure or reference is of sufficient detail so that the nature and scope of the fact, matter or circumstance which might breach the representation or warranty (and the nature and extent of the breach) could reasonably be expected to come to the attention of that party from such disclosure or reference.

6.5 Representations and warranties qualified by awareness

- (a) To the extent that any representation or warranty given by Blackwood is qualified by Blackwood's awareness or knowledge, the facts of which Blackwood is aware or that are within Blackwood's knowledge are taken to be:
 - (i) all facts of which Mr Barry Bolitho, Mr Todd Harrington, Mr David Smith or Mr Brendan Schilling are actually aware at the relevant time; and
 - (ii) all facts of which Mr Barry Bolitho, Mr Todd Harrington, Mr David Smith or Mr Brendan Schilling would have been aware of at the relevant time had they made due and careful enquiries of all people who might reasonably be expected to have knowledge of relevant facts.
- (b) To the extent that any representation or warranty given by Cockatoo is qualified by Cockatoo's awareness or knowledge, the facts of which Cockatoo is aware or that are within Cockatoo's knowledge are taken to be:
 - (i) all facts of which, Mr Andrew Lawson, Mr Peter Nightingale, Mr Mark Lochtenberg or Mr Lee O'Dwyer are actually aware at the relevant time; and
 - (ii) all facts of which Mr Andrew Lawson, Mr Peter Nightingale, Mr Mark Lochtenberg or Mr Lee O'Dwyer would have been aware of at the relevant time had they made due and careful enquiries of all people who might reasonably be expected to have knowledge of relevant facts.

6.6 Qualification of warranties by awareness of party receiving

- (a) Cockatoo warrants to Blackwood that, as at the time immediately prior to execution of this agreement, it is not aware of (and, for the avoidance of doubt, may not bring any Claim in respect of) any breach of any representation and warranty given by Blackwood in clauses 6.2(e), (p), (q) and (r).
- (b) Blackwood warrants to Cockatoo that, as at the time immediately prior to execution of this agreement, it is not aware of (and, for the avoidance of doubt, may not bring any Claim in respect of) any breach of any representation and warranty given by Cockatoo in clauses 6.3(b)(v), 6.3(b)(xvi), 6.3(b)(xvii) and 6.3(b)(xviii).
- (c) For the purposes of this clause 6.6, Cockatoo will (and only will) be deemed to know or be aware of a breach of representation or warranty if any of Mr Andrew

Lawson, Mr Peter Nightingale or Mr Lee O'Dwyer actually knows or is actually aware of that breach as at the time immediately prior to the execution of this deed.

- (d) For the purposes of this clause 6.6, Blackwood will (and only will) be deemed to know or be aware of a breach of representation or warranty only if any of Mr Todd Harrington, Mr David Smith, Mr Barry Bolitho or Mr Brendan Schilling actually knows or is actually aware of that breach as at the time immediately prior to the execution of this deed.
- (e) Except as expressly set out in this agreement, no warranty is excluded or limited by:
 - (i) any inquiry or investigation made by or on behalf of the party or any of its Representatives;
 - (ii) any actual or constructive knowledge of the party or any of its Representatives that any warranty is or may be incorrect; or
 - (iii) any other act, matter or thing.

6.7 Reliance

- (a) Each party acknowledges and agrees that the other is entering into this agreement in reliance on the representations and warranties in clauses 6.1, 6.2 and 6.3.
- (b) Each party acknowledges and agrees that no other party (nor any person acting on that other party's behalf) has not made any warranty, representation or other inducement to it to enter into this agreement, except for the representations and warranties expressly set out in this agreement.
- (c) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any warranty, representation or other inducement by or on behalf of any other party, except for any warranty or representation expressly set out in this agreement.

6.8 Notification of breach

Each party undertakes to the other party that it will notify the other party as soon as practicable after it becomes aware of any fact, matter or circumstance which results in or is reasonably likely to result in a breach of any representation or warranty given under clauses 6.1, 6.2 and 6.3 (as applicable) and each party must promptly provide to the other party notice describing that fact, matter or circumstance in reasonable detail.

6.9 Status and enforcement of representations, warranties and indemnities

- (a) Each representation and warranty given in 6.1, 6.2 and 6.3:
 - (i) is to be treated as a separate warranty and is not limited by reference to any other warranty or any other provision of this agreement;
 - (ii) is severable;
 - (iii) will remain in full force and effect after Completion and survives the termination of this agreement; and
 - (iv) is given with the intent that liability under them will not be confined to breaches which are discovered prior to the date of termination, completion or expiration of this agreement.

- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this agreement.

6.10 Indemnity by Cockatoo

Without limiting any other remedy available to Blackwood, Cockatoo must pay to Blackwood on demand:

- (a) the amount of any Indemnified Losses suffered or incurred by Blackwood arising out of or in connection with the breach of any warranty given by Cockatoo; and
- (b) an amount equal to any additional Tax assessable on Blackwood arising out of or in connection with the receipt by Blackwood of a payment under this clause 6.10 or otherwise in respect of the breach of warranty given by Cockatoo including, for the avoidance of doubt, payment under this paragraph (b), so that the amount retained by Blackwood after payment of that Tax is equal to the amount that would have been retained had no additional Tax been payable (taking into account any resulting relief or benefit).

6.11 Indemnity by Blackwood

Without limiting any other remedy available to Cockatoo, Blackwood must pay to Cockatoo on demand:

- (a) the amount of any Indemnified Losses suffered or incurred by Cockatoo arising out of or in connection with the breach of any warranty given by Blackwood; and
- (b) an amount equal to any additional Tax assessable on Cockatoo arising out of or in connection with the receipt by Cockatoo of a payment under this clause 6.11 or otherwise in respect of the breach of warranty given by Blackwood including, for the avoidance of doubt, payment under this paragraph (b), so that the amount retained by Cockatoo after payment of that Tax is equal to the amount that would have been retained had no additional Tax been payable (taking into account any resulting relief or benefit).

6.12 No action against officers and employees

Each party waives, and must procure that its Related Bodies Corporate waives, all rights and claims that it may have personally against the officers and employees of the other party in relation to any matter arising directly or indirectly in connection with this agreement or the Bid, except to the extent that such rights or claims arise out of the fraud, wilful misconduct or wilful default of such person.

7. Termination

7.1 Termination by Cockatoo

Cockatoo may terminate this agreement at any time by notice in writing to Blackwood:

- (a) if a Noble Controlled Event occurs and this event solely causes the Recapitalisation to not proceed;
- (b) if the following occurs:

- (i) Blackwood is in material breach of any provision of this agreement (including any representation or warranty);
 - (ii) Cockatoo has given notice to Blackwood setting out details of the material breach and stating an intention to terminate this agreement; and
 - (iii) the material breach has not been remedied by Blackwood within 5 Business Days from the time such notice is given;
- (c) if Blackwood does (or omits to do) anything which does, will, or is likely to, result in any of the Conditions being breached;
- (d) if a majority of Blackwood Directors:
 - (i) fail to recommend the Bid as described in clause 3.2;
 - (ii) make any public statement or takes any action that contradicts their recommendation;
 - (iii) qualify their respective support for the Bid, or withdraw their respective recommendation;
 - (iv) recommend against the Bid; or
 - (v) fail to accept the Offer made in respect of any Blackwood Share that they own or control in accordance with clause 3.6; or
- (e) if the Target's Statement does not contain the statements as described in clause 4.3(b).

7.2 Termination by Blackwood

Blackwood may terminate this agreement at any time by notice in writing to Cockatoo:

- (a) if the following occurs:
 - (i) Cockatoo is in material breach of any provision of this agreement (including any representation or warranty);
 - (ii) Blackwood has given notice to Cockatoo setting out details of the material breach and stating an intention to terminate this agreement; and
 - (iii) the material breach has not been remedied by Cockatoo within 5 Business Days from the time such notice is given, or
- (b) if Cockatoo does (or omits to do) anything which does, will, or is likely to, result in any of the Conditions being breached;
- (c) a Material Adverse Change occurs in respect of the Cockatoo Group;
- (d) if the Independent Expert concludes that the Commercial Transactions constitute a net benefit to Noble for the purposes of Takeovers Panel Guidance Note 21 (or having given a report that, in the opinion of the Independent Expert, the Commercial Transactions do not constitute a net benefit to Noble for the purposes of Takeovers Panel Guidance Note 21), gives a report changing that opinion for any reason;

- (e) if the Cockatoo Board determines, after Blackwood's rights under clause 5.7 have been exhausted, that a Competing Proposal in respect of Cockatoo constitutes a Superior Proposal; or
- (f) if the Recapitalisation is not completed in accordance with its terms, other than solely due to a Noble Controlled Event.

7.3 Termination by Blackwood or Cockatoo

Either Blackwood or Cockatoo may terminate this agreement at any time by notice in writing to the other if:

- (a) the End Date has passed before the Offer has been freed from all Conditions under section 650F of the Corporations Act (other than as a result of a breach by the terminating party of its obligations under this agreement); or
- (b) Cockatoo withdraws the Offer for any reason including due to breach of a Condition.

7.4 Automatic termination at Closing Date

This agreement will terminate automatically at 11.59pm on the Closing Date, if not already terminated in accordance with this clause 7.

7.5 Effect of termination

Termination of this agreement will not affect:

- (a) clause 1 and clauses 5 to 12 inclusive (including this clause 7), which will survive termination; and
- (b) any liability of a party arising under or for any breach of this agreement prior to its termination,

but in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including any further obligations in respect of the Bid.

7.6 No termination following board appointments

Notwithstanding any other provision of this agreement, Cockatoo may not terminate this agreement at any time after the Blackwood Directors have taken the action referred to in clause 4.16(a) and the appointments of the nominees of Cockatoo as Blackwood Directors are effective and represent a majority of the Blackwood Board.

7.7 Damages

- (a) Notwithstanding any other provision of this agreement, the maximum aggregate liability that a party can have to another party under or in connection with this agreement (including in respect of any breach by the party of this agreement) is an amount equal to \$5,000,000.
- (b) This clause 7.6 shall survive termination of this agreement.

8. Payments

8.1 Direction

Any reference in this agreement to a payment to any party includes payment to another person at the direction of that party.

8.2 Method of payment

Payment of any amount due under this agreement by any party must be made by the paying party to the recipient party by:

- (a) electronic funds transfer to a bank account specified by the recipient party to the paying party at least 3 Business Days before the due date for payment and confirmed by the paying party to the recipient party by notice; or
- (b) otherwise, unendorsed bank cheque drawn on an Australian bank or other immediately available funds.

8.3 No deduction

Any payment to be made under this agreement must be made free and clear of any deduction or withholding, except where that deduction or withholding is required or compelled by law.

8.4 Gross-up for withholdings

Any person who is required or compelled by law to make any deduction or withholding from any amount payable under this agreement must, to the extent permitted by law, pay to the payee an additional amount sufficient to ensure that the amount received by the payee equals the full amount that would have been received by the payee, if that deduction or withholding had not been required or compelled.

8.5 Default interest

If any party (the Payor) fails to make a payment to any other party (the Payee) under this agreement on or before the due date for payment, then, without limiting any other remedy of the Payee, the Payor must pay to the Payee upon demand interest on the due amount calculated at the rate which is 2% above the Standard Rate, with interest to accrue from the due date to the day immediately before the actual date of payment, calculated daily on the basis of a 365 day year and capitalised monthly.

9. GST

9.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 9 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 9.
- (c) Unless otherwise expressly stated, all consideration to be provided under this agreement are exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to

a supply for the purpose of this clause 9.

- (d) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

9.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

9.3 GST payable

- (a) If GST is payable in relation to a supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the amount of that GST at the same time as any other consideration is to be first provided for that supply.
- (b) The Supplier must provide a tax invoice to the Recipient no later than 14 days after the day on which any consideration is to be first provided for that supply.

9.4 Variation of GST

If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 9.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 9.4 is deemed to be a payment, credit or refund of the additional amount payable under clause 9.3. Where there is an adjustment event, the Supplier must issue an adjustment note to the Recipient as soon as the Supplier becomes aware of the adjustment event.

9.5 No merger

This clause will not merge on completion of this agreement.

10. Notices

10.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
 - (i) if to Blackwood:

Attention: Todd Harrington

Address: Level 9, 288 Edward St, Brisbane QLD 4000

Fax number: 07 3034 0899

(ii) if to Cockatoo:

Attention: Peter Nightingale

Address: Level 2, 66 Hunter Street, Sydney NSW 2000

Fax number: 02 9921 6333

- (c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
- (d) must be delivered by hand or posted by prepaid post to the address, sent by fax to the number, of the addressee, in accordance with clause 10.1(b).

10.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
- (d) (in the case of delivery by hand) on delivery,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

11. General

11.1 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

11.2 Assignment

A party cannot assign or otherwise transfer any of its rights under this agreement without the prior consent of each other party.

11.3 Consents

Except where this agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this deed and to be effective must be given in writing.

11.4 Consideration

This agreement is entered into in consideration of the parties incurring obligations and giving rights under this agreement and for other valuable consideration.

11.5 Costs

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

11.6 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

11.7 Entire agreement

This agreement embodies the entire understanding of Blackwood and Cockatoo and constitutes the entire terms agreed by Blackwood and Cockatoo in relation to the subject matter of this agreement and together supersede any prior written or other agreement between Blackwood and Cockatoo in relation to that subject matter.

11.8 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

11.9 No merger

A party's rights and obligations do not merge on completion of any transaction under this agreement.

11.10 Severance

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

11.11 Relationship

Except where this agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

11.12 Stamp duties

Any stamp duty, duties or other taxes of a similar nature (including fines, penalties and interest) in connection with this agreement or any transaction contemplated by this deed must be paid by Cockatoo.

11.13 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or

enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement.

- (b) A waiver or consent given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

12. Governing law and jurisdiction

12.1 Governing law

This agreement is governed by and must be construed according to the law applying in the state of New South Wales.

12.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may have now or in the future to the venue of any proceedings, and any claim it may have now or in the future that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 12.2(a).

1. Bid consideration

- (a) The Bid Consideration will be scrip consideration of 2 Cockatoo Shares for each Blackwood Share.
- (b) If the total number of Cockatoo Shares to be issued to a Blackwood Shareholder as a result of acceptance of an Offer by that Blackwood Shareholder is not a whole number, then the number of Cockatoo Shares issued to that Blackwood Shareholder will be rounded up to the nearest whole number.

2. Offer

2.1 Shares subject to the Offer

- (a) The Offer will relate to all Blackwood Shares:
 - (i) which exist (or will exist) as at the Register Date; and
 - (ii) that are issued during the period from the Register Date to the end of the Offer Period due to the vesting, conversion, or exercise of the rights attached to, the Blackwood Performance Rights.
- (b) Cockatoo will deal with the Cockatoo Shares to which Ineligible Foreign Shareholders would otherwise be entitled in the manner contemplated by section 619(3) of the Corporations Act.

2.2 Offer Period

Unless withdrawn, the Offer will remain open for acceptance during the period commencing on the date of this offer, being [●], and ending at [●] pm on the later of:

- (a) [●]; and
- (b) any date to which the Offer Period is extended in accordance with the Corporations Act, provided that Cockatoo expressly reserves its rights under section 650C of the Corporations Act to extend the period during which the Offer remains open or otherwise to vary the Offer in accordance with the Corporations Act.

3. Conditions

3.1 Prescribed Occurrences

Between the Announcement Date and the end of the Offer Period (each inclusive), no Prescribed Occurrence occurs.

3.2 52.1% minimum acceptance

Before or at the end of the Offer Period, Cockatoo has a Relevant Interest of at least 52.1% of all Blackwood Shares.

3.3 Noble subscription

Cockatoo receives the subscription monies payable on issue of Cockatoo Shares in accordance with the terms of the Noble Share Subscription Deed other than where Cockatoo has not received the subscription monies due to a Cockatoo Caused Subscription Termination.

3.4 No Blackwood Material Adverse Change

Between the Announcement Date and the end of the Offer Period no Material Adverse Change occurs in respect of the Blackwood Group.

3.5 No material transactions or changes

Between the Announcement Date and the end of the Offer Period, no Blackwood Group Company:

- (a) enters into or announces an intention or proposal to enter into or offers to enter into;
- (b) discloses the existence of; or
- (c) incurs, becomes subject to, or brings forward the time for performance of (or is reasonably likely to incur, become subject to or bring forward the time for performance of),

an obligation or arrangement (other than pursuant to and in the proper discharge of a legally binding obligation entered into and fully disclosed in writing to Cockatoo or fully disclosed to the ASX prior to the Announcement Date) or a decision by it, whether conditional or otherwise:

- (d) to acquire an interest in property or other assets for an amount or having a market value in aggregate greater than \$1 million;
- (e) to dispose of an interest in any property or other assets for an amount, or in respect of which the book value (as recorded in Blackwood's balance sheet as at 30 June 2013) is, in aggregate, greater than \$1 million;
- (f) to perform or acquire the benefit of any services or supplies of goods or services in relation to any asset, project or business or interest therein where the aggregate financial liability of the Blackwood Group in respect of those services exceeds or may exceed \$1 million or the term of the arrangement exceeds and cannot be terminated within 12 months;
- (g) to enter into or terminate, or, in any material respect, amend or waive, any of the terms applicable to, or rights (including any rights of pre-emption or first or last refusal) under, a shareholders agreement, joint-venture, asset or profit sharing agreement, partnership or joint-selling agreement, merger of business or of corporate entities, or dual listed company structure; or
- (h) to make or incur capital expenditure that is \$1 million or more in excess of the planned capital expenditure disclosed to Cockatoo prior to the Announcement Date (and whether for an individual item or on an aggregated basis),

without Cockatoo's prior written consent.

3.6 No regulatory actions

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (a) there is not in effect any preliminary or final decision, order or decree issued by a Government Agency;
- (b) no action or investigation is announced, commenced or threatened by any Government Agency; and
- (c) no application is made to any Government Agency (other than by Cockatoo or any of its Associates),

in consequence of or in connection with the Offer (other than an application to, or a decision or order of, ASIC or the Takeovers Panel under, or relating to a breach of, Chapter 6, 6A, 6B or 6C of the Corporations Act or relating to unacceptable circumstances within the meaning of section 657A of the Corporations Act) which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, the making of the Offer or the acquisition of Blackwood Shares under the Offer or the completion of any transaction contemplated by the Bidder's Statement, or seeks to require the divestiture by Cockatoo of any Blackwood Shares, or the divestiture of any material assets of Blackwood or the Cockatoo Group.

3.7 Statutory condition

The Offer and any contract that results from acceptance of it is subject to a statutory condition under the Corporations Act that:

- (a) an application is made to the ASX for admission to quotation of the Cockatoo Shares issued as Bid Consideration within 7 days after the start of the Bid Period; and
- (b) permission for admission to quotation of the Cockatoo Shares issued as Bid Consideration on the ASX is granted no later than 7 days after the end of the Bid Period.

The Offer will not be freed from this statutory condition.

If any part of this statutory condition is not fulfilled, any contract that results from an acceptance of the Offer will be automatically void.

Executed as an agreement.

**Executed by Blackwood Corporation
Limited ACN 103 651 538** in accordance with
section 127 of the Corporations Act 2001 (Cth):

Signature of director

Barry Coen
Full name of director

Signature of company secretary/director

Andrea Vincent Simpson
Full name of company secretary/director

**Executed by Cockatoo Coal Limited ACN
112 682 158** in accordance with section 127 of
the Corporations Act 2001 (Cth):

Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director

Executed as an agreement.

**Executed by Blackwood Corporation
Limited ACN 103 651 538** in accordance with
section 127 of the Corporations Act 2001 (Cth):

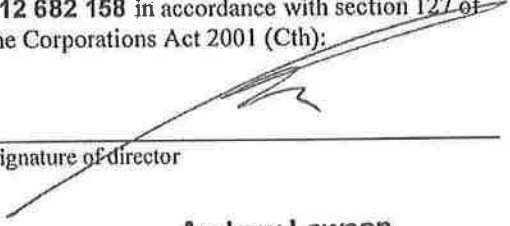
Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director


**Executed by Cockatoo Coal Limited ACN
112 682 158** in accordance with section 127 of
the Corporations Act 2001 (Cth):



Signature of director

Andrew Lawson

Full name of director



Signature of company secretary/director

Peter J. Nightingale

Full name of company secretary/director