



ASX / MEDIA RELEASE

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METGASCO ANNOUNCES SCRIP MERGER WITH ELK PETROLEUM

Highlights

- Metgasco to merge with Elk Petroleum via a Scheme of Arrangement
- Establishes a strong platform and clear pathway for value creation for shareholders of both companies – a geographically diversified portfolio of exploration and advanced development assets and a strong cash position
- Upon completion of the transaction, existing Metgasco security holders and Elk security holders will own 77%¹ and 23%¹, respectively, of the issued ordinary shares of the combined entity (on an undiluted basis)
- Proposed merger has unanimous support of both the Metgasco and Elk Board
- Metgasco will provide Elk with a short term loan facility of A\$2.5m to assist with Elk's immediate funding requirements, with the right to convert to shares
- Transaction conditional on Metgasco sourcing additional funds on acceptable terms in Q1 2015

Metgasco Limited ("Metgasco") (ASX: MEL) is pleased to announce that it has entered into a Merger Implementation Deed ("MID") with Elk Petroleum Limited ("Elk") (ASX: ELK) for the acquisition of all of the ordinary shares and listed options in Elk through a Scheme of Arrangement offering MEL shares and equivalent MEL options as consideration ("Merger").

The Merger will result in a geographically diversified portfolio of exploration and advanced development assets, with exposure to:

- coal seam and conventional gas in New South Wales (NSW), Australia
- oil-producing Rocky Mountain region of the United States of America

The combined entity will initially focus on bringing the Grieve Enhanced Oil Recovery ("EOR")² project into production in 2017, in partnership with world class EOR operator Denbury Resources Inc., while retaining exposure to gas resources in NSW.

The merger will create an entity with a geographically diversified portfolio of exploration and advanced development assets with near term production potential, and a strong cash position.

¹ Subject to adjustment based on treatment of unlisted Elk securities

² Refer to following website for EOR information: <http://elkpet.com/what-is-eor/what-is-eor-gas/>

Metgasco has established significant coal seam gas resources and identified exciting conventional and tight gas potential in NSW's Clarence Moreton Basin. It is keen to continue further exploration, appraisal and development of these resources but has been delayed by repeated changes to the NSW regulatory regime, which have created uncertainty for investment.

Metgasco considers that significant NSW field activity has the potential to be further delayed until a stable regulatory framework is demonstrated and investment confidence has returned.

Metgasco has advised the benefits of diversification outside NSW to complement the delayed timetable for commercialisation of its substantial NSW gas resources and has been examining potential opportunities for some time.

Following evaluation of numerous options, the Metgasco Board has decided to pursue this Merger. The Merger provides Metgasco shareholders with medium term positive operating cash flows, a value accretive exposure to an advanced development asset, in a jurisdiction that has a low cost, short lead time business environment and a regulatory framework that supports development of oil and gas resources.

The proposed Merger will create a group benefiting from:

- enhanced geographical diversification and scale;
- oil reserves in Wyoming (Grieve Project);
- 4,428 Bcf of 2C contingent gas resources and conventional / tight gas exploration potential in the NSW Clarence Moreton Basin;
- cash flow from the Grieve EOR project expected to start early 2017, providing the basis to sustain ongoing operations in the USA and NSW;
- upside oil potential with the Singleton field, USA;
- exposure to a potential recovery in the oil price;
- a forecast combined cash position of approximately A\$9m (31 December 2014); and
- continued exposure to Australian exploration upside with potential delivery into the short supplied gas market.

The proposed Merger has the unanimous support of both the Metgasco and Elk Boards. In the absence of a superior proposal and subject to an Independent Expert concluding that the Merger is in the best interests of Elk's shareholders, the Board of Elk unanimously recommends that Elk shareholders vote in favour of the Merger. Each Elk Director intends to vote in favour of the Merger in relation to the shares held or controlled by them in the absence of a superior proposal.

The Metgasco and Elk Boards believe that the merged group will be better positioned for growth compared to either company on a standalone basis, and is expected to deliver significant benefits to shareholders.

Metgasco remains committed to pursuing available avenues to creating value for its shareholders from its NSW exploration permits. The company believes the USA assets and forecast cashflows will complement its ability to pursue its NSW Clarence Moreton Basin assets when gas supplies are insufficient for the eastern Australian market, gas prices are higher and the NSW regulatory environment has improved.

Commenting on the proposed Merger, Metgasco Chairman Mr Len Gill said:

"This is an exciting opportunity for Metgasco. We are acquiring oil reserves with ready access to market and have exposure to potentially higher oil prices after 2017 when oil production is expected to commence. With the bulk of the wells and facilities for the Grieve

project in place, the Grieve project is a well advanced development with relatively low capital costs remaining before first production. We have an expert, world class operator in Denbury. The reservoir is being re-pressurised to enable oil production.

"The Merger complements our NSW gas resources which we believe will add significant value to the company when the regulatory environment is satisfactory and investment confidence has returned.

"The Elk merger also offers some USA oil opportunities beyond the Grieve EOR project. One of our first activities will be to assess the opportunities identified by Elk and determine the appropriate timing for their appraisal and possible development. We believe we can grow the oil business in the USA, and in particular EOR projects."

Mr Gill continued:

"We have a process underway to source additional finance and are pleased with the significant interest shown by financiers to date. We expect the financing process to conclude by 31 March 2015 at which time the Scheme of Arrangement activities will be initiated."

Key Offer Terms

Pursuant to the MID, it is proposed that Metgasco will acquire all the issued ordinary shares and listed options in Elk by way of a Share Scheme of Arrangement and Listed Options Scheme of Arrangement. Subsequent to implementation of the merger, Metgasco will assume Elk's US\$12 million limited recourse finance facility extended by Denbury and repayable only from Grieve Project oil production.

On successful completion of the transaction, existing Metgasco security holders and Elk security holders will own 77%¹ and 23%¹ respectively of the issued ordinary shares of the combined entity.

Under the Share Scheme, Elk shareholders will receive approximately 0.6727¹ Metgasco shares for each Elk share held. Elk has also undertaken to enter into Cancellation Deeds with Elk non-ordinary security holders for the cancellation of Elk Unlisted Options, Elk Performance Rights and ELK Retention Rights on terms acceptable to Metgasco. The exchange ratio will vary slightly subject to the treatment of unlisted Elk securities.

Under the Listed Options Scheme, Elk listed option holders will receive 0.6727¹ Metgasco options with equivalent terms implied by the exchange ratio.

Key Conditions

Key conditions of the MID include:

- receipt of regulatory and court approvals;
 - Metgasco has applied to the ASX seeking in-principle advice as to whether ASX will exercise its discretion to require Metgasco to seek shareholder approval to proceed with the transaction, and if so, whether ASX will require re-compliance with Chs 1 and 2 of the Listing Rules. Having regard to the circumstances of this transaction, Metgasco does not presently intend to seek shareholder approval unless ASX requires Metgasco to do so;
- an independent expert opining that the Merger is in the best interest of Elk shareholders;
- Elk shareholder approval of the Merger (by at least 75% of votes cast and 50% of shareholders voting);

- all holders of Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights entering into separate Cancellation Deeds with Elk;
- no material adverse change, prescribed occurrence or regulated event in respect of Metgasco or Elk; and
- Metgasco securing an amount of additional funding on acceptable terms by 31 March 2015. Metgasco has met with several financiers in the USA and Australia who have indicated significant interest.

The MID also includes customary deal protection clauses including mutual break fees and no shop and no talk provisions, as well as termination rights, obligations of the companies in the lead up to implementation and various other market standard provisions relevant to the Merger.

A copy of the MID is included as Appendix A to this announcement.

Interim Funding

Metgasco has agreed to provide Elk with a A\$2.5 million convertible loan facility to assist with the company's immediate funding requirements. The loan is convertible to ordinary shares in ELK at Metgasco's election based on the Volume Weighted Price (VWAP) for the ordinary shares for the 20 day period up to the conversion date subject to a cap of \$0.047 per Elk share, in a timeframe governed by the listing rules.

The loan is to be repaid on the earlier of 30 June 2015 or within 30 days of the MID being terminated by Metgasco or Elk.

Other standard terms typical for a loan of this nature have been agreed and reflected in the loan documentation.

Board and Management

The Board will comprise 4 directors in the medium term. Board composition will be determined prior to preparation of Scheme of Arrangement documents with individuals selected on the basis of the experience and skills they bring to Metgasco.

Timetable and implementation

A Scheme Booklet is expected to be despatched to Elk shareholders in late April 2015. The Scheme Booklet will include further details of the transaction, an Independent Expert's Report, the reasons for Elk Directors' recommendation and other matters relevant to Elk shareholders' vote on the Merger.

An indicative timetable of key milestones is set out below. Further details on the timing and implementation of the transaction will be made available to shareholders upon release of the Scheme Booklet.

Key Milestones	Target Date
Announcement of Merger	22 December 2014
Financing secured	31 March 2015
First Court hearing to approve Scheme Booklet and convene Scheme Meeting	Late April 2015
Scheme Booklet despatched to Elk shareholders	Late April 2015
Scheme Meetings	May 2015
Second Court hearing to approve Scheme	May 2015
Merger implementation	June 2015

Conference call

A conference call to be hosted by Metgasco will be held at 0900 AEST on 23 December 2014 to discuss the transaction and will reference the investor presentation loaded with the ASX. Dialin number is 1800 725 000 or 02 8373 3582 and code is 58483346

Advisers to the transaction

Metgasco has appointed Miro Advisors as financial advisor and Gilbert + Tobin as legal counsel.

About Metgasco

Metgasco Limited (ASX:MEL) has a 100% interest in PEL 16, 13 and 426 in the Clarence Moreton Basin in NSW.

About Elk Petroleum

Elk Petroleum Limited (ASX: ELK) is an oil and gas producer and developer with assets located in one of the richest onshore oil regions of the USA: the northern Rocky Mountains.

For further information contact:

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Merger Implementation Deed

Metgasco Limited ACN 088 196 383

Elk Petroleum Limited ACN 112 566 499

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Parties

- 1 **Metgasco Limited** ACN 088 196 383 of Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales 2060, Australia (**Metgasco**)
 - 2 **Elk Petroleum Limited** ACN 112 566 499 of Suite 4, Level 9, 341 George Street, Sydney, New South Wales 2000, Australia (**Elk**)
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Background

- A Elk has agreed to propose a members' scheme of arrangement pursuant to which Metgasco will acquire all the Scheme Shares. Elk and Metgasco have agreed to implement the Share Scheme on the terms and conditions of this deed.
- B Elk has agreed to propose an optionholders' scheme of arrangement pursuant to which Metgasco will acquire all the Scheme Options. Elk and Metgasco have agreed to implement the Option Scheme on the terms and conditions of this deed.
- C Metgasco has agreed to assist Elk in proposing the Share Scheme and Option Scheme.
- D Elk and Metgasco agree that Elk will procure that holders of Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights will enter into Cancellation Deeds with Elk on terms acceptable to Metgasco.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Agreement to proceed with Transaction

- (a) Elk agrees to propose the Share Scheme and Option Scheme on and subject to the terms of this deed.
- (b) Metgasco agrees to assist Elk in proposing the Share Scheme and Option Scheme on and subject to the terms of this deed.
- (c) Elk agrees to procure that holders of Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights enter into a separate Cancellation Deed with Elk on terms acceptable to Metgasco.

3 Conditions precedent

3.1 Conditions precedent

Subject to this clause 3, the Share Scheme and Option Scheme will not become Effective until and unless the following conditions precedent are satisfied or waived in accordance with clause 3.3.

- (a) **(Independent Expert's Report)** The Independent Expert provides the Independent Expert's Report to Elk, stating that in its opinion the Transaction is in the best interests of Elk Shareholders and Elk Optionholders.
- (b) **(Court approval)** The Court approves the Share Scheme and Option Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (c) **(Elk Shareholder approval)** Elk Shareholders approve the Share Scheme and Elk Optionholders approve the Option Scheme at the Scheme Meetings by the requisite majorities under section 411(4)(a) of the Corporations Act.
- (d) **(Restraints)** Before and as at 8:00am on the Second Court Date:
 - (i) there is not in effect any preliminary or permanent injunction or other preliminary or final decision, order or decree issued by any court of competent jurisdiction or by any Government Agency, nor is there in effect any other legal restraint or prohibition; and
 - (ii) no action or investigation is announced or commenced by any Government Agency,

which restrains, prohibits, impedes or otherwise materially adversely impacts upon (or could reasonably be expected to restrain, prohibit or otherwise materially adversely impedes or impacts upon) the completion of the Transaction.
- (e) **(Other Restraints)** Between the date of this deed and 8:00am on the Second Court Date, if Metgasco shareholder approval in respect of the Transaction is required under the Listing Rules, then that approval must have been given by 8:00am on the Second Court Date.
- (f) **(Elk Material Adverse Change)** No Elk Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date.
- (g) **(Metgasco Material Adverse Change)** No Metgasco Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date.
- (h) **(New capital)** Metgasco executes binding documentation in respect of, or otherwise receives, new debt, equity and/or hybrid capital of a quantum and on terms acceptable to Metgasco.
- (i) **(Market Out)** At no time between the date of this deed and 8:00am on the Second Court Date does:
 - (i) the S&P/ASX 200 Index fall by 10% or more from its level as at the close of trading on the date of this deed; and
 - (ii) the S&P/ASX 200 Index remain at or below that level (as determined at the close of trade) for 4 or more consecutive Business Days.

- (j) **(Prescribed Occurrence)** No Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date.
- (k) **(No Force Majeure Event)** No Force Majeure Event occurs between the date of this deed and 8:00am on the Second Court Date.
- (l) **(Treatment of Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights)** Before the Scheme Meetings, each holder of the Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights listed in Schedule 2 has entered into a separate Cancellation Deed with Elk accounting for the cancellation of the Elk Unlisted Options, Elk Performance Rights and/or Elk Retention Rights (as the case may be) on terms acceptable to Metgasco.

3.2 Reasonable endeavours

- (a) Elk must use its reasonable endeavours to procure that the conditions precedent in clauses 3.1(f) and 3.1(j) are satisfied as soon as possible after the date of this deed.
- (b) Elk must use its reasonable endeavours to procure that the conditions precedent in clauses 3.1(c) and 3.1(l) are satisfied as soon as possible after the satisfaction of the conditions precedent in clause 3.1(h).
- (c) The parties must each use reasonable endeavours to procure that:
 - (i) the conditions precedent in clauses 3.1(b) and 3.1(d) are satisfied; and
 - (ii) there is no occurrence or non-occurrence within their control or the control of any of their related bodies corporate that prevents, or would be reasonably likely to prevent, the satisfaction of any condition precedent.
- (d) Without limiting clause 3.2(c) but subject to clause 3.2(e), each party must:
 - (i) keep the other party informed of the progress towards satisfaction of the conditions precedent; and
 - (ii) except to the extent prohibited by a Government Agency:
 - (A) promptly notify the other party of all communications between it and a Government Agency in connection with any approval or consent required pursuant to a condition precedent in clause 3.1 or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to the Transaction (**Regulatory Matter**);
 - (B) promptly provide the other party with copies of all communications referred to in clause 3.2(d)(ii)(A) (where written);
 - (C) before sending any submission or correspondence to a Government Agency relating to any Regulatory Matter, consult with the other party in relation to, and provide the other party with a draft copy of, such submission or correspondence; and
 - (D) respond to reasonable requests for information that relate to any Regulatory Matter, whether made by the other party, a Government Agency or any other person, at the earliest practicable time.

- (e) Before providing any document or other information to the other party (in this clause 3.2(e), the **Recipient**) pursuant to clause 3.2(d), a party (in this clause 3.2(e), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if the Discloser reasonably believes that:
 - (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interests of the Discloser or any of its related bodies corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information.

3.3 Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(b) and 3.1(c) cannot be waived.
- (b) The conditions precedent in clauses 3.1(a) and 3.1(d) are for the benefit of Metgasco and Elk and any breach or non-fulfilment of any of these conditions precedent may only be waived with the written consent of both Metgasco and Elk (in each party's absolute discretion).
- (c) The conditions precedent in clauses 3.1(e), 3.1(f), 3.1(h), 3.1(i), 3.1(j), 3.1(k) to 3.1(l) are for the sole benefit of Metgasco and any breach or non-fulfilment of any of these conditions precedent may only be waived with the written consent of Metgasco.
- (d) The condition precedent in clause 3.1(g) is for the sole benefit of Elk and any breach or non-fulfilment of this condition precedent may only be waived with the written consent of Elk.
- (e) If a party waives the breach or non-fulfilment of a condition precedent, such waiver will not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-fulfilment of the condition precedent.
- (f) Waiver of breach or non-fulfilment of a condition precedent does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other condition precedent resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that condition precedent resulting from any other event.

3.4 Termination on failure of condition precedent

- (a) If:
- (i) there is a breach or non-fulfilment of a condition precedent and:
 - (A) the breach or non-fulfilment is not waived in accordance with clause 3.3 or cannot be waived because of clause 3.3(a); or
 - (B) each party having the benefit of that condition precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment in accordance with clause 3.3; or
 - (ii) a condition precedent becomes incapable of satisfaction and:
 - (A) the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur is not waived in accordance with clause 3.3; or
 - (B) each party having the benefit of that condition precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur in accordance with clause 3.3; or
 - (iii) the Share Scheme and Option Scheme have not become Effective by the End Date,

then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith with a view to determining whether they can reach agreement with respect to:

- (iv) an extension of the time for satisfaction of the relevant condition precedent or an extension of the End Date (as the case may be); or
- (v) the Transaction proceeding by way of alternative means or methods.

If the parties are unable to reach such agreement within 10 Business Days after a Consultation Notice is given, or if a Consultation Notice is not given within 10 Business Days after a Termination Event, either party (in this clause 3.4, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party, provided that:

- (vi) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.4(a)(i) or 3.4(a)(ii), the Terminating Party has the benefit of the relevant condition precedent or the condition precedent is one referred to in clause 3.3(a)); and
- (vii) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances forming the basis upon which the Consultation Notice was given.

Where a Termination Notice is validly given under this clause 3.4(a), this deed will terminate with immediate effect and clause 12.5 will apply.

3.5 Certain notices

Each party must promptly notify the other party in writing if:

- (a) a condition precedent has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;
- (b) there is a breach or non-fulfilment of a condition precedent; or
- (c) it becomes aware of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
 - (i) a condition precedent becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms; or
 - (ii) a material breach of this deed by that party.

4 Scheme

4.1 Scheme

- (a) Elk agrees to propose the Share Scheme and Option Scheme on and subject to the terms of this deed.
- (b) Elk must not consent to any modification of, or amendment to, the Share Scheme or Option Scheme, or to the making or imposition by a court of any condition in respect of the Share Scheme or Option Scheme, without the prior written consent of Metgasco (such consent not to be unreasonably withheld).

4.2 Consideration

- (a) Subject to clauses 4.2(b) to 4.2(d):
 - (i) and subject to clauses 4.2(a)(ii) to 4.2(a)(iv), the headline consideration to be paid to Scheme Shareholders and Scheme Optionholders on the basis that the agreed total valuation ratio as between Metgasco and Elk is 77:23 (Metgasco:Elk);
 - (ii) the headline consideration payable to Scheme Shareholders and Scheme Optionholders will be reduced by the estimated value (based on a Black-Scholes model) of the Metgasco Options to be offered to Scheme Optionholders, to arrive at a net agreed total valuation ratio as between Metgasco and Elk of 77.1:22.9 (**Agreed Valuation Ratio**);
 - (iii) each Scheme Shareholder will be entitled to receive 0.6727 Metgasco Shares for each Scheme Share held by that Scheme Shareholder (based on the number of Elk Shares on issue as at the date of this deed); and
 - (iv) each Scheme Optionholder will be entitled to receive 0.6727 Metgasco Options for each Scheme Option held by that Scheme Optionholder (based on the number of Scheme Options on issue as at the date of this deed)(together, the **Consideration**).
- (b) The Consideration payable per Scheme Share and Scheme Option described in clause 4.2(a) will be adjusted down to reflect the downwards impact on the value of Elk (as implied by the Agreed Valuation Ratio) of the value of consideration to be

paid (set out in Schedule 2) for the Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights.

- (c) Unless Metgasco is satisfied that the laws of a Foreign Shareholder's country of residence (as shown in the Elk Share Register) permit the issue and allotment of Metgasco Shares to the Foreign Shareholder, either unconditionally or after compliance with conditions which Metgasco, in its sole discretion, regards as acceptable and not unduly onerous, the Metgasco Shares to which a Foreign Shareholder shall become entitled will be allotted to a nominee approved by Elk. The nominee will sell those Metgasco Shares and pay the proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges, to that Foreign Shareholder in full satisfaction of that Foreign Shareholder's rights under the Share Scheme.
- (d) Unless Metgasco is satisfied that the laws of a Foreign Optionholder's country of residence (as shown in the Elk Option Register) permit the issue and allotment of Metgasco Options to the Foreign Optionholder, either unconditionally or after compliance with conditions which Metgasco, in its sole discretion, regards as acceptable and not unduly onerous, the Metgasco Options to which a Foreign Optionholder shall become entitled will be allotted to a nominee approved by Elk. The nominee will sell those Metgasco Options and pay the proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges, to that Foreign Optionholder in full satisfaction of that Foreign Optionholder's rights under the Option Scheme.
- (e) Subject to the terms of the Share Scheme and Option Scheme, Metgasco covenants in favour of Elk that, in consideration of the transfer to Metgasco of all the Scheme Shares held by a Scheme Shareholder under the Share Scheme and all the Scheme Options held by a Scheme Optionholder under the Option Scheme, on the Implementation Date it will:
 - (i) accept that transfer; and
 - (ii) provide, or procure the provision of, the Consideration to each Scheme Shareholder for each Scheme Share held by the relevant Scheme Shareholder and/or to each Scheme Optionholder for each Scheme Option held by the relevant Scheme Optionholder,in each case in accordance with the terms of the Share Scheme or Option Scheme.
- (f) Where the calculation of the Consideration to be provided to a particular Scheme Shareholder or Scheme Optionholder would result in the Scheme Shareholder or Scheme Optionholder becoming entitled to a fraction of a Metgasco Share or Metgasco Option that is:
 - (i) 0.5 or greater, it will be rounded up to the nearest whole number of Metgasco Shares or Metgasco Options; and
 - (ii) less than 0.5, it will be rounded down to the nearest whole number of Metgasco Shares or Metgasco Options.
- (g) Subject to the Share Scheme and Option Scheme becoming Effective, Metgasco must:
 - (i) do everything reasonably necessary to ensure that the Metgasco Shares to be issued under clause 4.2(a)(i) are approved for official quotation on ASX

and that trading in the new Metgasco Shares commences by the first Business Day after the Implementation Date; and

- (ii) ensure that on issue, the Consideration will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

4.3 Treatment of Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights

Subject to the Share Scheme and Option Scheme becoming Effective, Metgasco agrees in favour of Elk that, in consideration for the entry by holders of the Elk Unlisted Options, Elk Performance Rights and Elk Retention Rights listed in Schedule 2) entering into a legally binding Cancellation Deed with Elk (on terms acceptable to Metgasco) before the Scheme Meetings, Metgasco will provide, or procure the provision of, the relevant cash amount due to each such holder in accordance with the relevant Cancellation Deed and the terms of this deed to Elk, which Elk must distribute to each such holder on the terms of the Cancellation Deed.

5 Implementation

5.1 Elk obligations

Elk must, acting at all times in good faith, take all steps reasonably necessary to implement the Share Scheme and Option Scheme in accordance with the Timetable and on and subject to the terms of this deed. Without limiting the foregoing, Elk must:

- (a) **(Independent Expert)** as soon as reasonably practicable after the date of this deed, appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (b) **(preparation of Scheme Booklet)**
 - (i) subject to clause 5.2(a), prepare the Scheme Booklet (other than the Metgasco Information and the Independent Expert's Report) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, and the Listing Rules; and
 - (ii) provide Metgasco with drafts of the Scheme Booklet and the factual information sections relating to Metgasco in the Independent Expert's Report, in a timely manner and, acting reasonably and in good faith, consider (and, where applicable, promptly provide to the Independent Expert in writing) all reasonable comments from Metgasco and its Representatives on those drafts, provided that such comments are provided to Elk in a timely manner;
- (c) **(lodgement of Regulator's Drafts)**
 - (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Metgasco immediately thereafter; and
 - (ii) keep Metgasco reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Metgasco in good faith prior to taking any steps or actions to address any

such material issues (provided that, where such issues relate to Metgasco Information, Elk must not take any steps to address them without Metgasco's prior written consent, not to be unreasonably withheld);

- (d) **(no objection statement)** apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Share Scheme and Option Scheme;
- (e) **(First Court Hearing)** apply to the Court for orders under section 411(1) of the Corporations Act directing Elk to convene the Scheme Meetings;
- (f) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Elk Information, and, once such processes have been completed, provide written confirmation to Metgasco of the completion of such processes;
- (g) **(approval and registration of Scheme Booklet)** arrange for registration of the Scheme Booklet with ASIC in accordance with the Corporations Act;
- (h) **(Scheme Meeting)** as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to Elk Shareholders, and convene and hold the Scheme Meetings in accordance with the orders made by the Court at the First Court Hearing;
- (i) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, it becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Elk Shareholders under any applicable law but was not included in the Scheme Booklet,promptly consult with Metgasco in good faith as to the need for, and form of, any supplementary disclosure to Elk Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws;
- (j) **(conditions precedent certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
 - (i) a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent (other than the condition precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Metgasco by 5:00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Metgasco pursuant to clause 5.2(g);
- (k) **(Second Court Hearing)** subject to the conditions precedent (other than the condition precedent in clause 3.1(b) being satisfied or waived in accordance with clause 3), apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Share Scheme and Option Scheme;
- (l) **(Court Documents)** prepare the Court Documents, provide drafts of those documents to Metgasco in a timely manner and, acting reasonably and in good

faith, take into account all reasonable comments from Metgasco and its Representatives on those drafts, provided that such comments are provided in a timely manner;

- (m) **(Metgasco representation at Court Hearings)** allow, and not oppose, any application by Metgasco for leave of the Court to be represented by counsel at a Court Hearing;
- (n) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Share Scheme and the Option Scheme before 5:00pm on the Business Day following the day on which it receives such office copy;
- (o) **(quotation of Elk Shares and Elk Listed Options and ASX listing)** apply to ASX to have:
 - (i) trading in Elk Shares and Elk Listed Options suspended from the close of trading on the Effective Date; and
 - (ii) Elk removed from the official list of ASX, and quotation of Elk Shares and Elk Listed Options on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date,

and not do anything to cause any of these things to happen before the time specified in this clause 5.1(o);

- (p) **(information)** provide Metgasco with such information as Metgasco reasonably requests and which is necessary for the purpose of soliciting votes in favour of the Share Scheme and Option Scheme;
- (q) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy;
- (r) **(implementation)** if the Share Scheme and Option Scheme become Effective, do all things contemplated of it under the Share Scheme and Option Scheme and all other things (if any) necessary for Elk to do to lawfully give effect to the Share Scheme and Option Scheme; and
- (s) **(Convertible Loan Facility)** comply at all times with the terms of the Convertible Loan Facility and General Security Deed.

5.2 Metgasco obligations

Metgasco must, acting at all times in good faith, take all steps reasonably necessary to implement the Share Scheme and Option Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Metgasco must (to the fullest extent applicable):

- (a) **(prepare Metgasco Information)**
 - (i) as soon as reasonably practicable after the date of this deed, prepare the Metgasco Information for inclusion in the Scheme Booklet in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, and the Listing Rules; and

- (ii) provide Elk with drafts of the Metgasco Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Elk and its Representatives on those drafts, provided that such comments are provided to Metgasco in a timely manner;
- (b) **(assistance with Scheme Booklet and Court Documents)** provide any assistance or information reasonably requested by Elk or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Elk Shareholders) or any Court Documents;
- (c) **(Independent Expert's Report)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, provide any assistance or information reasonably requested by Elk or its Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report (and any update to any such report);
- (d) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Metgasco Information, and, once those processes have been completed, provide written confirmation to Elk of the completion such processes;
- (e) **(confirmation of Metgasco Information)** promptly after Elk requests that it does so, confirm in writing to Elk that:
 - (i) it consents to the inclusion of the Metgasco Information in the Scheme Booklet, in the form and context in which the Metgasco Information appears; and
 - (ii) the Metgasco Information in the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise), and the inclusion of such Metgasco Information, in that form and context, has been approved by the Metgasco Board;
- (f) **(update Metgasco Information)** promptly advise Elk in writing if it becomes aware:
 - (i) of information which should have been but was not included in the Metgasco Information in the Scheme Booklet, and promptly provide Elk with the omitted information; or
 - (ii) that the Metgasco Information in the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide Elk with any information required to correct the misleading or deceptive statements;
- (g) **(conditions precedent certificate)** before 8:00 am on the Second Court Date, provide to Elk for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent (other than the condition precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Elk by 5:00pm on the Business Day prior to the Second Court Date;
- (h) **(representation at Second Court Hearing)** ensure that it is represented by counsel at the Second Court Hearing, at which through its counsel, Metgasco will undertake (if requested by the Court) to do all such things and take all such steps within its power as are reasonably necessary in order to ensure the fulfilment of its

obligations under this deed, the Share Scheme, the Option Scheme and to, so far as reasonably practicable, ensure that the Court makes an order under section 411(4)(b) of the Corporations Act approving the Share Scheme and Option Scheme;

- (i) **(Consideration)** if the Share Scheme and Option Scheme become Effective, provide or procure the provision of the Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Share Scheme, the Option Scheme and the Deed Poll (and Elk holds this promise on trust for Elk Shareholders);
- (j) **(Deed Poll)** before 5:00pm on the Business Day prior to the First Court Date, enter into the Deed Poll, and, if the Scheme becomes Effective, comply with its obligations under the Deed Poll; and
- (k) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy; and
- (l) **(Convertible Loan Facility)** comply with the Convertible Loan Facility.

5.3 Scheme Booklet

- (a) If the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
 - (i) if the relevant part of the Scheme Booklet is Metgasco Information, Elk will make such amendments to that part of the Scheme Booklet as required by Metgasco (acting reasonably and in good faith); and
 - (ii) in any other case, Elk (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.
- (b) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
 - (i) Elk is responsible for the Elk Information contained in the Scheme Booklet;
 - (ii) Metgasco is responsible for the Metgasco Information contained in the Scheme Booklet; and
 - (iii) the Independent Expert is responsible for the Independent Expert's Report.

5.4 Conduct of business

- (a) Subject to clause 5.4(b), from the date of this deed up to and including the Implementation Date, Elk must:
 - (i) ensure that the business of the Elk Group is conducted:
 - (A) in the usual and ordinary course;
 - (B) in a manner generally consistent with the manner in which such business has been conducted in the 12 months prior to the date of this deed;

- (C) in compliance at all times with the terms of the Convertible Loan Facility and General Security Deed; and
 - (D) in accordance with all applicable laws in all material respects;
 - (ii) not, and must ensure that its Related Bodies Corporate do not:
 - (A) incur or commit to, or bring forward the time for incurring or committing to, or grants to another person a right the exercise of which could be reasonably expected to involve or result in any member of the Elk Group incurring or committing to, any capital or operating expenditure, financial indebtedness (including borrowings, loans and advances) or liability (whether actual or contingent), or forgo any revenue, for one or more related items or amounts of in aggregate more than \$200,000;
 - (B) settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount payable by any entity within the Elk Group exceeds \$200,000;
 - (C) do or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than in accordance with the Timetable and the terms of this deed; or
 - (D) authorise, commit or agree to do any of the matters set out above;
 - (iii) make reasonable endeavours to:
 - (A) retain the services of the directors, officers and Relevant Employees of the Elk Group;
 - (B) maintain and preserve the Elk Group's relationships with joint venturers, customers, suppliers, investors, Government Agencies, licensors, licensees and others with whom the Elk Group has business dealings;
 - (C) comply with the periodic cash flow forecast budget as agreed between Metgasco and Elk in writing, which sets out a total cash outflow of A\$2.5 million for the period to 30 June 2015;
 - (D) secure an extension of its existing A\$1.25 million loan facility that is currently expected to mature on 8 January 2015 on terms acceptable to Metgasco; and
 - (E) sell the Grieve Pipeline, with the sale to be completed by no later than 10 March 2015 and on terms approved by Metgasco. Elk must provide regular updates regarding the state of the sale process and take reasonable directions from and respond to the reasonable requests from Metgasco in relation to the sale process;
 - (iv) ensure that no Prescribed Occurrence occurs; and
 - (v) ensure that the Elk Group does not enter into any lines of business which are different to the Existing Business Lines.
- (b) Nothing in clause 5.4(a) restricts the ability of Elk to take any action which:

- (i) is required or permitted by this deed, the Share Scheme or the Option Scheme;
 - (ii) has been fairly disclosed to Metgasco or in any announcement to or filing with ASX or ASIC before the date of this deed;
 - (iii) has been agreed to in writing by Metgasco, such agreement will not be unreasonably withheld. The parties agree that Metgasco must respond in writing to Elk within seven days of receipt of a request for Elk to take an action for the purposes of this clause 5.4(b); or
 - (iv) is conducted in the ordinary course of business by Elk.
- (c) In this deed, unless the context requires otherwise, references to the business or assets of the Elk Group are to that business or those assets taken as a whole.

5.5 Access

From the date of this deed, Elk must:

- (a) keep Metgasco regularly informed as to the conduct and performance of the Elk Group business; and
- (b) use reasonable endeavours to procure that Metgasco is provided with reasonable, non-disruptive access during normal business hours and on reasonable notice to information, premises and senior executives of any member of the Elk Group, where Metgasco requests such access for the purposes of:
 - (i) implementation of the Transaction; or
 - (ii) obtaining an understanding, or furthering its understanding, of the Elk Group or its business or assets in order to allow Metgasco to develop, finalise and implement its plans for the Elk Group following implementation of the Transaction,

provided that compliance with any such request in paragraph (b) above would not, in the reasonable opinion of Elk (acting in good faith), result in undue disruption to the Elk Group's business and would not require Elk to provide Metgasco with any information, subject to clause 8.4, in breach of any obligation of confidentiality to any person.

5.6 Resignation of Elk Directors

Subject to provision of the Scheme Consideration in accordance with clause 4.2, Elk must procure that, with effect on and from the Implementation Date:

- (a) those persons nominated by Metgasco are appointed to the Elk Board and the boards of other members of the Elk Group, provided that:
 - (i) such persons sign consents to act as a director of the relevant member(s) of the Elk Group; and
 - (ii) such consents to act are provided to Elk before the Implementation Date; and
- (b) those Elk Directors and directors of other members of the Elk Group, as nominated by Metgasco, resign as a director of the relevant member(s) of the Elk Group.

5.7 Appointment of directors following the Implementation Date

Metgasco and Elk agree that the board of Metgasco following the Implementation Date will have no more than four directors in the medium term. The composition of the board will have regard to the need for diversity of experience, skills and knowledge of Metgasco's and Elk's assets. Metgasco and Elk will consult in good faith with each other to reach agreement on the persons to be nominated, and each person nominated must be acceptable to Metgasco. If agreement is not reached before the Regulator's Draft is lodged with ASIC, the directors of Metgasco at the date of this deed will remain the directors of Metgasco until agreement is reached. Subject to the Share Scheme and Option Scheme becoming Effective, Metgasco must procure that, with effect on and from the Implementation Date:

- (a) if a person accepted for nomination to the board of the merged entity is not a director of Metgasco at the date of this deed, Metgasco will appoint that person to the Metgasco board, provided that:
 - (i) the person signs a consent to act as a director of Metgasco; and
 - (ii) such consent to act is provided to Metgasco before the Implementation Date; and
- (b) if a director of Metgasco at the date of this deed is not nominated for the board of the merged entity, that director will resign as a director of Metgasco.

6 Public announcements

- (a) Immediately after execution of this deed:
 - (i) Elk must release an ASX announcement on terms approved by Metgasco, acting reasonably; and
 - (ii) Metgasco must release an ASX announcement on terms approved by Elk, acting reasonably.
- (b) Subject to clause 6(c), before making any public announcement in respect of the Transaction (whether through the ASX or otherwise), a party must provide the other party with a draft copy of such public announcement as soon as reasonably practicable before it is proposed that such public announcement is made, and, where the proposed public announcement relates or refers to the Transaction (or may have a material effect on the Transaction or any aspect of it), must give the other party a reasonable opportunity to comment on the form and content of the draft announcement and must take into account all reasonable comments from that party and its Representatives on the draft.
- (c) A party will only be required to comply with clause 6(b) if and to the extent that compliance would not, in the reasonable opinion of that party, be likely to result in that party breaching its continuous disclosure or similar obligations.

7 Board support of Transaction

7.1 Confirmation of Recommendations and Voting Intentions

Elk represents and warrants to Metgasco that each Elk Director has confirmed (by way of a unanimous resolution of the Elk Board) that:

- (a) his or her recommendation in respect of the Share Scheme is that Elk Shareholders vote in favour of the Share Scheme and in respect of the Option Scheme, that Elk Optionholders vote in favour of the Option Scheme at the Scheme Meetings (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted all Elk Shares and/or Elk Listed Options in which he or she has a Relevant Interest in favour of the Share Scheme and/or Option Scheme at the Scheme Meetings (**Voting Intention**),

in each case in the absence of:

- (c) a Superior Proposal; or
- (d) the Independent Expert concluding in the Independent Expert's Report that the Transaction is not in the best interests of, or not fair and not reasonable, to Elk Shareholders and Elk Optionholders.

7.2 Maintenance of Recommendations and Voting Intentions

- (a) Elk must use its reasonable endeavours to ensure that no Elk Director withdraws, changes or modifies a Recommendation or Voting Intention unless:
 - (i) a Superior Proposal is made; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report that the Transaction is not in the best interests of, or not fair and not reasonable, to Elk Shareholders and Elk Optionholders.
- (b) Subject to an Elk Director withdrawing or changing a Recommendation or Voting Intention where clause 7.2(a) applies, Elk must ensure that:
 - (i) the Scheme Booklet includes statements to the effect that that Elk Director gives the Recommendation and has the Voting Intention; and
 - (ii) no public announcement is made by Elk, and no public statement is made by that Elk Director, which is inconsistent with that Elk Director giving the Recommendation and having the Voting Intention.

7.3 Metgasco acknowledgement

Metgasco acknowledges that without derogating from a party's rights under clause 12, if any of the events in clause 7.2(a) occur, then any Elk Director may change, withdraw or modify their Recommendation or Voting Intention.

8 Exclusivity

8.1 Termination of existing discussions

On the date of this deed, Elk must, and must procure that each of its Representatives:

- (a) cease any discussions with any Third Party in relation to, a potential Competing Proposal;
- (b) cease the provision of any due diligence access and the making available of any non-public information in relation to the Elk Group (**Non-Public Information**) to

any Third Party, where the due diligence access and provision of Non-Public Information was for the purposes of, a potential Competing Proposal; and

- (c) require any Third Party to whom Non-Public Information has been provided or made available to immediately return or destroy that Non-Public Information in accordance with any agreed terms of confidentiality, where the Non-Public Information was provided or made available for the purposes of, a potential Competing Proposal.

8.2 No-shop

During the Exclusivity Period, Elk must not, and must procure that its Representatives do not:

- (a) solicit, initiate or invite enquiries, discussions or proposals in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (b) communicate to any person any intention to do any of the things referred to in clause 8.2(a),

provided that nothing in this clause 8.2 prevents Elk from making normal presentations to, or responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction.

8.3 No-talk

Subject to clause 8.5, during the Exclusivity Period, Elk must not, and must ensure that its Representatives do not:

- (a) participate in or resume (where discussions have ceased under clause 8.1) any discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal;
- (b) provide or make available to any Third Party any Non-public information where provision of that information may reasonably be expected to lead to a Competing Proposal; or
- (c) communicate to any person any intention to do any of the things referred to in clause 8.3(a),

provided that nothing in this clause 8.3 prevents Elk from making normal presentations to, or responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction.

8.4 Notification obligation and matching right

- (a) Subject to clause 8.5, during the Exclusivity Period, Elk must within 2 Business Days notify Metgasco in writing if it is approached, or if any of its Representatives is approached, by any person in relation to a Competing Proposal, and such notice must set out reasonable details of the approach, including the key terms of any Competing Proposal (including, if specified, the identity of the person making the Competing Proposal, consideration, conditions, structure, timing, break fee, financing and due diligence requirements) (**Key Terms**).
- (b) Before the End Date, Elk must not recommend a Competing Proposal, or enter into any agreement, arrangement or understanding to undertake a Competing Proposal, unless it has first:

- (i) notified Metgasco in writing in accordance with clause 8.4(a); and
- (ii) given Metgasco at least 5 clear Business Days after the provision of that information in which to provide a matching or superior deal to the relevant Competing Proposal (**Metgasco Counterproposal**).
- (c) Elk must procure that the Elk Directors consider any Metgasco Counterproposal in good faith, and if the Elk Directors determine that the terms and conditions of the Metgasco Counterproposal taken as a whole are no less favourable than those of the relevant Competing Proposal, the Parties must each use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement Metgasco Counterproposal as soon as reasonably practicable, and Elk must use procure that each Elk Director makes a public statement to Elk Shareholders and Elk Optionholders recommending the Metgasco Counterproposal to Elk Shareholders and Elk Optionholders.

8.5 Fiduciary exception

In respect of a bona fide, written Competing Proposal that is made or announced without any breach by Elk of its obligations under this clause 8, Elk may undertake any action (**prohibited action**) that would otherwise be prohibited by clause 8.3, or refrain from notifying a matter under clause 8.4(a) or identifying a Competing Proposal as would otherwise be required by clause 8.4(a), if (and only to the extent that) the Elk Board determines, acting in good faith and after obtaining legal advice, that not undertaking the prohibited action, or undertaking the required action, would be likely to result in the Elk Directors breaching their fiduciary or statutory duties.

9 Break Fee

9.1 Background

This clause 9 has been agreed to in circumstances where:

- (a) each party believes that it and its shareholders will derive significant benefits from the implementation of the Transaction;
- (b) Metgasco and Elk have incurred and will further incur significant costs in connection with the Transaction, which will include significant opportunity costs if the Transaction is not implemented;
- (c) Metgasco and Elk have requested that provision be made for the payment of the Break Fee by Elk or Metgasco, and would not have entered into this deed had such provision not been made;
- (d) Metgasco and Elk believe that it is appropriate to agree to pay the Break Fee to secure each party's entry into this deed; and
- (e) each party has received separate legal advice in relation to this deed and the operation of this clause 9.

The parties acknowledge and agree that the costs referred to in clause 9.1(b) are of such a nature that they cannot be precisely quantified, but that the Break Fee is a genuine and reasonable pre-estimate of the those costs.

9.2 Payment of Break Fee by Elk

Subject to clauses 9.4 and 9.6, Elk must pay Metgasco the Break Fee (without set-off or withholding) within 10 Business Days after receipt of a written demand from Metgasco if any of the following events occur:

- (a) at any time before the end of the Exclusivity Period, a Competing Proposal is made or announced by a Third Party, and, within 12 months thereafter:
 - (i) a Competing Proposal by the Third Party or any associate of the Third Party of the kind referred to in either of paragraphs (a)(ii) or (a)(iii) of the definition of Competing Proposal is completed, implemented or consummated in the same or substantially the same form as made or announced (disregarding any differences in consideration or structure); or
 - (ii) the Third Party or an associate of the Third Party acquires Control of, or merges with, Elk; or
- (b) Metgasco becomes entitled to terminate this deed under clause 12.1(b) or 12.2, or Elk becomes entitled to terminate the deed under clause 12.3(a) (other than in circumstances where the Independent Expert concludes in the Independent Expert's Report that the Transaction is not in the best interests of, or not fair and not reasonable, to Elk Shareholders and Elk Optionholders).

9.3 Payment of Break Fee by Metgasco

Subject to clause 9.4, Metgasco must pay Elk the Break Fee within 10 Business Days after receipt of a written demand from Elk if Elk becomes entitled to terminate this deed under clause 12.3(b).

9.4 Payment conditions

- (a) Notwithstanding the occurrence of any event referred to in clause 9.2 (for Elk) or 9.3 (for Metgasco), the Break Fee will not be payable if the Share Scheme and Option Scheme become Effective.
- (b) Elk or Metgasco can only ever be liable to pay the Break Fee once.
- (c) The parties acknowledge and agree that, despite any other provision of this deed, if a party becomes liable to pay a Break Fee, that fee shall be reduced by any amount previously paid by that party to the other party in connection with a breach by the first party of this deed.

9.5 Nature of payment

The Break Fee is an amount to compensate Metgasco or Elk for the following costs and expenses:

- (a) external advisory costs (excluding success fees);
- (b) internal costs such as costs of management and directors' time, risk management costs and capital costs;
- (c) out-of-pocket expenses; and

- (d) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which otherwise could have been developed or pursued.

9.6 Compliance with law

This clause 9 imposes obligations on Elk only to the extent that the performance of those obligations:

- (a) does not constitute unacceptable circumstances as declared by the Takeovers Panel;
- (b) does not breach the fiduciary or statutory duties of the Elk Directors; and
- (c) is not otherwise unlawful or held to be unenforceable by a court.

If the Break Fee is paid to Metgasco and clause 9.6 applies, Metgasco must refund the relevant part of the Break Fee (if any) to Elk within 10 Business Days after receipt of a written demand from Elk.

10 Representations and Warranties

10.1 Metgasco Representations and Warranties

Metgasco represents and warrants to Elk that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll;
- (c) **(corporate action)** it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll;
- (d) **(binding)** this deed is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(performance)** the execution and performance by it of this deed did not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
- (f) **(capital structure)** its capital structure is as set out in Schedule 3 and, other than as set out in Schedule 3:
 - (i) it has not issued any other Metgasco Shares or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, Metgasco Shares; and
 - (ii) it is not under any obligation to issue, and no person has any right to require or call for the issue of, any Metgasco Shares or other securities, rights or

instruments issuable by Metgasco (whether such obligation or right is conditional or otherwise);

- (g) **(regulatory approvals)** as far as Metgasco is aware, no regulatory approval is required to be obtained by Metgasco in order for it to execute, deliver and perform this deed;
- (h) **(Metgasco Information)** the Metgasco Information included in the Scheme Booklet with its consent pursuant to clause 5.2(e), and any other information provided by it pursuant to clause 5.2(f), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws, including the Corporations Act, Corporations Regulations and the Listing Rules;
- (i) **(publicly available information)** Metgasco is not aware that any information in any document or announcement which Metgasco or any of its related bodies corporate has lodged or filed with, or otherwise given to, any Government Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its related bodies corporate), within the period of 2 years prior to the date of this deed, and which is publicly available or otherwise in the public domain, is misleading or deceptive in any material respect (whether by omission or otherwise);
- (j) **(due diligence)** so far as Metgasco is aware, the information given by Metgasco to Elk for the purposes of due diligence: is true, accurate and complete in all material respects; is not misleading or deceptive in any material respect (whether by omission or otherwise); and Metgasco has not withheld any information that a reasonable buyer of Metgasco Shares would expect to be given;
- (k) **(basis of Metgasco Information)** the Metgasco Information:
 - (i) will be provided to Elk in good faith and on the understanding that Elk and each other Elk Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Share Scheme and Option Scheme; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations and the Listing Rules,and all information provided by Metgasco to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (l) **(new information)** it will, as a continuing obligation, provide to Elk all further or new information which arises after the Scheme Booklet has been despatched to Elk Shareholders until the date of the Scheme Meetings which is necessary to ensure that the Metgasco Information is not misleading or deceptive (including by way of omission); and
- (m) **(continuous disclosure)** it is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and following release of the Agreed Public Announcement, there will be no information which it is withholding from disclosure in reliance on Listing Rule 3.1A;
- (n) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Metgasco Group, nor has any regulatory

action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this deed.

10.2 Metgasco's indemnity

Metgasco agrees to indemnify Elk and each of the Elk Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Elk or any of the other Elk Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Metgasco Representations and Warranties.

10.3 Elk Representations and Warranties

Elk represents and warrants to Metgasco that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has full corporate power and lawful authority to execute, deliver and perform this deed and the Share Scheme and Option Scheme;
- (c) **(corporate action)** it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed, the Share Scheme and the Option Scheme;
- (d) **(binding)** this deed is a valid and binding obligation on Elk, enforceable in accordance with its terms;
- (e) **(performance)** the execution and performance by it of this deed did not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
- (f) **(capital structure)** its capital structure is as set out in Schedule 2 and, other than as set out in Schedule 2:
 - (i) it has not issued any other Elk Shares or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, Elk Shares; and
 - (ii) it is not under any obligation to issue, and no person has any right to require or call for the issue of, any Elk Shares or other securities, rights or instruments issuable by Elk (whether such obligation or right is conditional or otherwise);
- (g) **(Elk Information)** the Elk Information included in the Scheme Booklet, and any supplementary disclosure made to Elk Shareholders pursuant to clause 5.1(i) (excluding any information provided by Metgasco), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws, including (in respect of the Elk Information) the Corporations Act, Corporations Regulations, and the Listing Rules;

- (h) **(publicly available information)** Elk is not aware that any information in any document or announcement which Elk or any of its related bodies corporate has lodged or filed with, or otherwise given to, any Government Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its related bodies corporate), within the period of 2 years prior to the date of this deed, and which is publicly available or otherwise in the public domain, is misleading or deceptive in any material respect (whether by omission or otherwise);
- (i) **(due diligence)** so far as Elk is aware, the information given by Elk to Metgasco for the purposes of due diligence: is true, accurate and complete in all material respects; is not misleading or deceptive in any material respect (whether by omission or otherwise), and Elk has not withheld any information that a reasonable buyer of the Scheme Shares and Scheme Options would expect to be given;
- (j) **(corporate structure and assets)** without limitation to clause 10.3(i), all information about the corporate structure of, and asset ownership by, Elk and the Elk Group given by Elk to Metgasco is true and accurate including, but without limitation to, the structure and assets diagram sent by Elk to Metgasco on 10 December 2014;
- (k) **(basis of Elk Information)** the Elk Information:
 - (i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that Metgasco and each other Metgasco Indemnified Party will rely on that information for the purpose of determining to proceed with the Transaction; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations and the Listing Rules,

and all information provided by Elk to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (l) **(new information)**: it will, as a continuing obligation (but in respect of the Metgasco Information, only to the extent that Metgasco provides Elk with updates to the Metgasco Information), ensure that the Scheme Booklet is updated to include all further or new information which arises after the Scheme Booklet has been despatched to Elk Shareholders until the date of the Scheme Meetings which is necessary to ensure that the Metgasco Information is not misleading or deceptive (including by way of omission);
- (m) **(continuous disclosure)** it is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and following release of the Agreed Public Announcement, there will be no information which it is withholding from disclosure in reliance on Listing Rule 3.1A;
- (n) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Elk Group, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this deed; and
- (o) **(Convertible Loan Facility)** the warranties and representations given by Elk under the Convertible Loan Facility and the General Security Deed are true and accurate and not misleading.

10.4 Elk's indemnity

Elk agrees with Metgasco (in its own right and separately as trustee or nominee for each Metgasco Indemnified Party) to indemnify Metgasco and each of the Metgasco Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Metgasco or any of the other Metgasco Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Elk Representations and Warranties.

10.5 Qualifications on Elk's Representations and Warranties

The Elk Representations and Warranties in clause 10.3 and the indemnity in clause 10.4 are each subject to matters that have been fairly disclosed in:

- (a) the Disclosure Materials; and
- (b) Elk's announcements to ASX, or a document lodged with ASIC, prior to the date of this deed.

In respect of those matters, Metgasco agrees that, to the extent that a matter was fairly disclosed as above, there will be no breach of an Elk Representation and Warranty, and it will have no claim against Elk or any Elk Indemnified Party, if such a matter would make an Elk Representation and Warranty untrue or incorrect or misleading or deceptive in any respect.

10.6 Survival of Representations and Warranties

Each Representation and Warranty:

- (a) is severable;
- (b) survives termination of this deed; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

10.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 10.2 and 10.4):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survives termination of this deed.

10.8 Timing of Representations and Warranties

Each Representation and Warranty is given at the date of this deed and again at 8:00am on the Second Court Date, except that the Elk Representation and Warranty in clause 10.3(m) is only given as at 8:00am on the Second Court Date.

11 Releases

11.1 Release of Elk Indemnified Parties

- (a) Subject to clause 11.1(b), Metgasco releases any and all rights that it may have, and agrees with Elk that it will not make any claim, against any Elk Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Elk under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where an Elk Indemnified Party has not acted in good faith or has engaged in wilful misconduct. To avoid doubt, nothing in this clause 11.1(a) limits the rights of Metgasco to terminate this deed under clause 12.
- (b) The release in clause 11.1(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Elk receives and holds the benefit of clause 11.1(a) as trustee for the Elk Indemnified Parties.

11.2 Release of Metgasco Indemnified Parties

- (a) Subject to clause 11.2(b), Elk releases any and all rights that it may have, and agrees with Metgasco that it will not make any claim, against any Metgasco Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Metgasco under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Metgasco Indemnified Party has not acted in good faith or has engaged in wilful misconduct. To avoid doubt, nothing in this clause 11.2 limits the rights of Elk to terminate this deed under clause 12.
- (b) The release in clause 11.2(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Metgasco receives and holds the benefit of clause 11.2(a) as trustee for the Metgasco Indemnified Parties.

12 Termination

12.1 Termination by either party

- (a) Either party may terminate this deed in accordance with clause 3.4.
- (b) Other than in respect of a breach of a Representation and Warranty (which are dealt with in clauses 12.2(d) and 12.3(b)), at any time before 8:00am on the Second Court Date, either party may terminate this deed if the other party commits a material breach of this deed, provided that:
 - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date).

Termination under this clause 12.1(b) will take effect at the expiry of the period referred to in clause 12.1(b)(ii).

12.2 Termination by Metgasco

Metgasco may terminate this deed, with immediate effect, at any time before 8:00am on the Second Court Date by notice in writing to Elk if:

- (a) Elk materially breaches clause 8; or
- (b) in any circumstances (including where clause 7.2(a) applies), a majority of the Elk Directors:
 - (i) withdraw, adversely change or make any public statement that is inconsistent with a Recommendation or Voting Intention; or
 - (ii) recommend, endorse or support any Competing Proposal; or
- (c) in any circumstances, Elk voluntarily enters into any agreement or arrangement in relation to the implementation of any Competing Proposal; or
- (d) at the time they were made, the Elk Representations and Warranties were not true and accurate in all material respects, provided that:
 - (i) Metgasco has given written notice to Elk setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (ii) the relevant breach or circumstances have not been remedied for 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm ending on the Business Day before the Second Court Date); and
 - (iii) the loss that would reasonably be expected to follow from such a breach would exceed \$200,000 in aggregate or the relevant breach is material in the context of the Transaction taken as a whole; or

- (e) Elk is in material breach of either or both of the Convertible Loan Facility or the General Security Deed.

12.3 Termination by Elk

Elk may terminate this deed, with immediate effect, at any time before 8:00am on the Second Court Date by notice in writing to Metgasco if:

- (a) the Elk Board publicly:
 - (i) withdraw or adversely change their Recommendation; or
 - (ii) recommend a Competing Proposal,in each case provided that clause 7.2(a) applies; or
- (b) at the time they were made, the Metgasco Representations and Warranties were not true and accurate in all material respects, provided that:
 - (i) Elk has given written notice to Metgasco setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (ii) the relevant breach or circumstances have not been remedied for 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm ending on the Business Day before the Second Court Date); and
 - (iii) the loss that would reasonably be expected to follow from such a breach would exceed \$1 million in aggregate or the relevant breach is material in the context of the Transaction taken as a whole; or
- (c) Metgasco is in material breach of either or both of the Convertible Loan Facility or the General Security Deed.

12.4 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

12.5 Effect of termination

If this deed is terminated in accordance with this clause 12, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 12.5 and clauses 1, 9, 11, 14, 15 and 16, and Schedule 1, will survive termination; and
- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination.

13 Confidentiality

Each party acknowledges and agrees that nothing in this deed derogates from the rights and obligations of Elk under the Confidentiality Deed, provided that this deed prevails to the extent of any inconsistency with the Confidentiality Deed.

14 Duty, costs and expenses

14.1 Stamp duty

Metgasco:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed or any transaction effected under it; and
- (b) indemnifies Elk against any liability arising from or in connection with any failure by it to comply with clause 14.1(a).

14.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

15 GST

- (a) In this clause 15, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that legislation.
- (b) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 15(b) (**GST exclusive consideration**) is increased by an amount (**additional GST amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (c) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 15(b) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (d) A party need not make a payment of the additional GST amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

16 General

16.1 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
 - (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below, and must be:
 - (iv) left at, or sent by commercial courier to, the address set out below;
 - (v) sent by fax to the number set out below; or
 - (vi) sent by email to the address set out below.

Metgasco

Attention: Sean Hooper, Company Secretary, Metgasco Limited
Address: Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales
2060, Australia
Email: sean.hooper@metgasco.com.au
with a copy (for information purposes only) to:
jwilliamson-noble@gtlaw.com.au

Elk

Attention: David Franks, Company Secretary, Elk Petroleum Limited
Address: Suite 4, Level 9, 341 George Street, Sydney, New South Wales
2000
Email: dfranks@fa.com.au
with a copy (for information purposes only) to:
nealetaylor@mac.com
jmurray@steinpag.com.au and mhawtin@steinpag.com.au

- (b) Subject to clause 16.1(c), a Notice is taken to be received:
 - (i) if sent by delivery, when it is delivered;
 - (ii) if sent by commercial courier, three days after despatch;
 - (iii) if sent by fax, at the time shown in the transmission report produced by the machine from which the fax was sent as the time the fax was sent in its entirety; or

(iv) if sent by email:

(A) when the sender receives an automated message confirming delivery;
or

(B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,

whichever happens first.

(c) If a Notice is taken to be received under clause 16.1(b):

(i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or

(ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

16.2 Governing law and jurisdiction

(a) This deed is governed by the laws of New South Wales.

(b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

16.3 No representation or reliance

(a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

(b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other person, except for any representation or inducement expressly set out in this deed.

16.4 No merger

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

16.5 Waivers and consents

(a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

(b) Any waiver or consent given by a party under this deed 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 any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

16.6 Variation

This deed may only be varied by a document signed by or on behalf of each of the parties.

16.7 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

16.8 Further action

Each party will do all things and execute all further documents necessary to give full effect to this deed.

16.9 Entire agreement

This deed supersedes all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties.

16.10 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

This clause 16.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

16.11 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Schedule 1 — Dictionary and interpretation

1 Dictionary

additional GST amount has the meaning given in clause 15(d).

ASIC means the Australian Securities and Investments Commission.

associate has the meaning given in section 12 of the Corporations Act.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

Business Day has the meaning given in the Listing Rules.

Break Fee means \$250,000 (exclusive of GST).

Cancellation Deed means a deed (in a form agreed between Metgasco and Elk, such agreement not to be unreasonably withheld or delayed) entered into with Elk by a holder of Elk Unlisted Options, Elk Performance Rights and/or Elk Retention Rights under which that holder agrees, subject to the Share Scheme and Option Scheme becoming effective, to the cancellation of all of their Elk Unlisted Options, Elk Performance Rights and/or Elk Retention Rights (as the case may be) in return for the relevant cash amount due to each such holder in accordance with the relevant Cancellation Deed and as determined by the relevant method set out in Schedule 2.

Competing Proposal means any proposal, offer, agreement, arrangement or transaction which is sufficiently detailed and credible to warrant consideration as such by Elk and which:

- (a) if entered into or completed, would result in a Third Party (either alone or together with one or more associates) directly or indirectly:
 - (i) acquiring an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in 20% or more of the Elk Shares;
 - (ii) acquiring, becoming the holder of or having a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of the Elk Group (where a material asset of the Elk Group will include rights in respect of assets representing 50% or more of the value of the Elk Group's total assets); or
 - (iii) otherwise acquiring, acquiring Control of or merging with Elk or any other member of the Elk Group,

whether by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets or interests therein, joint venture, reverse takeover bid, dual-listed company structure, recapitalisation, establishment of a new holding company for the Elk Group or other synthetic merger, or any other means.

condition precedent means a condition set out in clause 3.1.

Confidentiality Deed means the confidentiality deed dated 3 September 2014.

Consideration has the meaning given in clause 4.2(a).

Consultation Notice has the meaning given in clause 3.4(a).

Control has the meaning given in section 50AA of the Corporations Act.

Convertible Loan Facility means the document of that name between Metgasco and Elk dated on or about the date of this deed.

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

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Metgasco and Elk.

Court Documents means the documents required for the purposes of a Court Hearing, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearing means the First Court Hearing or Second Court Hearing (as applicable), and **Court Hearings** means both of them.

Deed Poll means the deed poll to be entered into by Metgasco in respect of the provision of the Consideration, in the form of Attachment D.

Default has the meaning as given in the Convertible Loan Facility.

Discloser has the meaning given in clause 3.2(e).

Disclosure Materials means the information in relation to the Elk Group disclosed in writing by or on behalf of Elk to Metgasco and its Representatives prior to the date of this deed, including:

- (a) the documents and information contained in the online data room (**Online Data Room**) to which Metgasco and its Representatives were given access prior to the date of this deed, the index of which has been initialled by the parties for identification; and
- (b) any written answers to requests for further information made by Metgasco and its Representatives as contained in the Online Data Room.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act, in relation to the Share Scheme and Option Scheme.

Effective Date means the date on which the Share Scheme and Option Scheme become Effective.

Elk Board means the board of directors of Elk.

Elk Director means a director of Elk.

Elk Group means, collectively, Elk and each of its Related Bodies Corporate.

Elk Indemnified Party means a director, officer, employee or adviser of a member of the Elk Group.

Elk Information means all the information in a Scheme Booklet other than the Metgasco Information and the Independent Expert's Report.

Elk Listed Option means a listed option to acquire an Elk Share, as set out in Schedule 2.

Elk Material Adverse Change means:

- (a) a matter, event or circumstance that occurs, is announced or becomes known to Metgasco where that matter, event or circumstance has, has had, or is reasonably likely to have, either individually, or when aggregated with any other matters, events or circumstances of a similar kind or category, the effect of:
 - (i) constituting a material deviation from the periodic cash flow forecast budget as agreed between Metgasco and Elk in writing, which sets out a total cash outflow of A\$2.5 million for the period to 30 June 2015; or
 - (ii) reducing Elk Group's net tangible assets by greater than \$200,000 (including a one off or non-recurring event); or
 - (iii) any of Elk's licences or permits no longer being in full force and effect, or being liable to cancellation, forfeiture, non-renewal or non-grant, for any reason; or
 - (iv) a fall in the West Texas Intermediate oil benchmark price to USD\$50 per barrel or below, and it remains at or below USD\$50 per barrel for 4 or more consecutive Business Days; or
- (b) any other matter, event or circumstance (including a one-off or non-recurring event) that occurs, is announced or becomes known to Metgasco where that matter, event or circumstance is, or is reasonably likely to be, materially adverse to the ability of Elk to perform its obligations under this deed,

in each case (except that paragraph (d) only will not qualify paragraph (a)) other than matters, events or circumstances (on or after the date of this deed):

- (c) required or specifically permitted by this deed or the Scheme;
- (d) resulting from changes in general economic or political conditions or the securities market in general;
- (e) fairly disclosed to Metgasco or ASX prior to the date of this deed (or which may arise from a matter, event or circumstance which was disclosed); or
- (f) that occur with the written consent of Metgasco.

Elk Option Register means the register of holders of Elk Listed Options and Elk Unlisted Options maintained in accordance with the Corporations Act.

Elk Optionholder means a holder of one or more Elk Listed Options, as shown in the Elk Option Register.

Elk Performance Right means a performance right to acquire an Elk Share, as set out in Schedule 2.

Elk Representations and Warranties means the representations and warranties set out in clause 10.2.

Elk Retention Right means a retention right to acquire an Elk Share, as set out in Schedule 2.

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

Elk Share Register means the register of Elk Shareholders maintained in accordance with the Corporations Act.

Elk Shareholder means a holder of one or more Elk Shares, as shown in the Elk Share Register.

Elk Unlisted Option means an unlisted option to acquire an Elk Share, as set out in Schedule 2.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means 30 June 2015 or such later date as Metgasco and Elk agree in writing.

Existing Business Lines means lines of business in which Elk is engaged as at the date of this deed being oil and gas production and development of projects using enhanced oil recovery technology in the USA.

Exclusivity Period means the period from the date of this deed to the earlier of:

- (a) the termination of this deed under clause 12; and
- (b) the End Date.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Elk to convene the Scheme Meetings is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard) with such hearing being the **First Court Hearing**.

Force Majeure Event means:

- (a) any material adverse change in national or international monetary, political, financial or economic conditions, or securities markets, or any material adverse change in any foreign exchange controls in, Australia, the United Kingdom or the United States of America;
- (b) a general moratorium on commercial banking activities in, Australia, the United Kingdom or the United States of America by any relevant authority or a material disruption in commercial banking or securities settlement or clearance services in Australia, the United Kingdom or the United States of America,

in each case which makes it impracticable for Metgasco to make payment of the Consideration.

Foreign Shareholder means a Scheme Shareholder whose address in the Elk Share Register is a place outside Australia and its external territories and New Zealand, except where Metgasco is satisfied that the laws of Foreign Shareholder's country of residence (as shown on the Elk Share Register) permit the issue and allotment of Metgasco Shares

to the Foreign Shareholder, either unconditionally or after compliance with conditions which Metgasco, in its sole discretion, regards as acceptable and not unduly onerous.

Foreign Optionholder means a Scheme Optionholder whose address in the Elk Option Register is a place outside Australia and its external territories and New Zealand, except where Metgasco is satisfied that the laws of Foreign Optionholder's country of residence (as shown on the Elk Option Register) permit the issue and allotment of Metgasco Options to the Foreign Optionholder, either unconditionally or after compliance with conditions which Metgasco, in its sole discretion, regards as acceptable and not unduly onerous.

General Security Deed has the meaning as given in the Convertible Loan Facility.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

Grieve Pipeline is the oil export pipeline that traverses Natrona County and runs approximately 32 miles from Elk's Grieve oil project to the west side of Casper, Wyoming, USA, and is 100% owned by Elk at the date of this deed.

GST exclusive consideration has the meaning given in clause 15(b).

Implementation Date means the fifth Business Day after the Record Date or such other day as the parties agree in writing.

Independent Expert means the independent expert to be appointed by Elk to prepare the Independent Expert's Report in accordance with clause 5.1(a).

Independent Expert's Report means the report in respect of the Transaction to be prepared and issued by the Independent Expert for inclusion in the Scheme Booklet.

Insolvency Event means, in relation to any entity:

- (a) the entity resolving that it be wound up or an application to a court for, or a court making, an order for the winding up or dissolution of the entity other than where the application or order (as the case may be) is set aside within 14 days;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement;
- (d) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) or is otherwise presumed to be insolvent under the Corporations Act unless the entity has, or has access to, committed financial support from its parent entity such that it is able to pay its debts; or
- (e) the entity being deregistered as a company or otherwise dissolved other than on a solvent basis.

Key Terms has the meaning given in clause 8.4.

Listing Rules means the official listing rules of ASX.

Metgasco Group means, collectively, Metgasco and each of its Related Bodies Corporate.

Metgasco Indemnified Party means a director, officer, employee or adviser of a member of the Metgasco Group.

Metgasco Information means information regarding the Metgasco Group provided by or on behalf of Metgasco to Elk or its Representatives in writing for inclusion in a Scheme Booklet.

Metgasco Material Adverse Change means the cancellation of exploration licences 13, 16 and 426 in the Clarence Moreton Basin in New South Wales.

Metgasco Option means an unlisted option to acquire a Metgasco Share on terms based on the agreed ratio in clause 4.2(a)(ii), but otherwise equivalent to the Elk Listed Options.

Metgasco Representations and Warranties means the representations and warranties set out in clause 10.1.

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

Metgasco Share Register means the register of Metgasco Shareholders maintained in accordance with the Corporations Act.

Metgasco Shareholder means a holder of one or more Metgasco Shares, as shown in the Metgasco Share Register at the relevant point in time.

Metgasco Unlisted Option means an unlisted option to acquire a Metgasco Share, as set out in Schedule 3.

Non-Public Information has the meaning given in clause 8.1(b).

Notice has the meaning given in clause 16.1(a).

Option Scheme means a creditors' scheme of arrangement under Part 5.1 of the Corporations Act between Elk and the Scheme Shareholders, in the form of Attachment C, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Prescribed Occurrence means the occurrence of any of the following:

- (a) Elk converting all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Elk Group resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming any of its shares;
- (c) any member of the Elk Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;

- (d) any member of the Elk Group issuing shares, granting or vesting a performance right or retention right, or an option over its shares, or agreeing to make such an issue of shares or grant or vest such a performance right or retention right or an option other than the issue of shares upon exercise of an existing Elk Listed Option in respect of a member of the Elk Group;
- (e) any member of the Elk Group issuing or agreeing to issue securities convertible into shares (including any issue or agreement to issue performance rights) or debt securities;
- (f) any member of the Elk Group making, determining as payable or declaring any distribution (whether by way of dividend, capital reduction or otherwise and whether cash or in specie);
- (g) any member of the Elk Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property including, to avoid doubt, the Grieve oil pipeline other than petroleum sales in the ordinary course of business for less than \$200,000 unless agreed in writing between Elk and Metgasco or in accordance with clause 5.4(a)(iii)(E);
- (h) any member of the Elk Group ceasing, or threatening to cease, the whole or a material part of its business;
- (i) any member of the Elk Group creating, granting or agreeing to any Encumbrance over any of the assets of any member of the Elk Group, other than pursuant to the General Security Deed or a lien which arises by operation of law, legislation or arises in the ordinary course of the Elk Group's business;
- (j) any member of the Elk Group being subject to an Insolvency Event;
- (k) a member of the Elk Group making any change to its constitution;
- (l) any member of the Elk Group enters into, agrees to enter into or announces any agreement or transaction which, if performed or completed, would, or could reasonably be expected to, involve or result in any member(s) of the Elk Group:
 - (i) acquiring, agreeing to acquire or offering to acquire one or more companies, entities, securities, businesses or assets, or any interest in any joint venture or partnership, in any such case having a value of at least \$200,000, either individually or when aggregated with all other such acquisitions or agreements permitted by this sub-paragraph (l)(i);
 - (ii) disposing of, agreeing to dispose of or offering to dispose of (whether by way of sale, transfer, joint venture or otherwise) one or more companies, entities, securities, businesses or assets (or any interest (including an economic interest) or right in any of the foregoing), or any interest in any joint venture or partnership, in any such case having a value of at least \$200,000, either individually or when aggregated with all other such disposals, agreements or offers permitted by this sub-paragraph (l)(ii);
- (m) any member of the Elk Group:
 - (i) subject to (m)(ii), enters into, agrees to enter into or materially amends any employment, consulting, severance or other similar arrangement or agreement with any officer, director, executive or employee of the Elk Group whose total employment cost exceeds \$150,000 (**Relevant Employee**)

without first consulting with Metgasco and giving Metgasco a reasonable opportunity to provide input for Elk's consideration;

- (ii) increases the remuneration of, pays any bonus or termination or retention payment other than as disclosed to Metgasco by Elk prior to the date of this deed to, or varies or terminates the employment arrangements of any Relevant Employee (or agrees to do any of these things), in any such case otherwise than in accordance with contractual entitlements existing as at the date of this deed;
 - (iii) accepts as a compromise of a matter less than the full compensation due to it or any other member(s) of the Elk Group where the compromise is more than \$200,000 or waives any material Third Party default where the financial impact upon the Elk Group would be in excess of \$200,000;
 - (iv) changes any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
 - (v) does anything that would result in a de-consolidation of the Elk consolidated tax group; or
 - (vi) is in material default under any agreement or arrangement which is material in the context of the Elk Group taken as a whole;
- (n) any member of the Elk Group authorises, procures or commits or agrees to do any of the matters set out above,

but does not include any occurrence:

- (o) required or permitted by this deed or the Scheme or the transactions contemplated by either;
- (p) agreed to in writing by Metgasco;
- (q) fairly disclosed in the Disclosure Materials; or
- (r) fairly disclosed by Elk in an announcement made by Elk to ASX, or a document lodged by it with ASIC, prior to the date of this deed.

prohibited action has the meaning given in clause 8.5.

Recipient has the meaning given in clause 3.2(e).

Recommendation has the meaning given in clause 7.2(a)(i).

Record Date means 7:00pm on the fifth Business Day after the Effective Date of the Share Scheme and Option Scheme.

Regulator's Draft has the meaning given in clause 5.1(c)(i).

Regulatory Matter has the meaning given in clause 3.2(d)(ii)(A).

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Employee means any officer, director, executive or employee of the Elk Group whose total employee cost exceeds \$150,000.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Representation and Warranty means a Metgasco Representation and Warranty or Elk Representation and Warranty.

Representative means, in respect of a party, an employee, agent, officer, director, adviser or financier of that party (or of a Related Body Corporate of that party), and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable).

Scheme Booklet means the explanatory statement in respect of the Share Scheme and the Option Scheme to be prepared by Elk pursuant to section 412 of the Corporations Act and in accordance with clause 5.1(b), and to be despatched to Elk Shareholders and Elk Optionholders in accordance with clause 5.1(h), which will contain (among other things) the Independent Expert's Report (or a concise version of that report), notices of meeting in respect of the Scheme Meetings and proxy forms.

Scheme Meetings means the meeting of Elk Shareholders and the meeting of Elk Optionholders ordered by the Court to be convened at the First Court Hearing.

Scheme Option means an Elk Listed Option held by a Scheme Optionholder as at the Record Date.

Scheme Optionholder means an Elk Optionholder as at the Record Date.

Scheme Share means an Elk Share held by a Scheme Shareholder as at the Record Date.

Scheme Shareholder means an Elk Shareholder as at the Record Date.

Second Court Date means the first day on which an application made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Sensitive Confidential Information has the meaning given in clause 3.2(e).

Share Scheme means a members' scheme of arrangement under Part 5.1 of the Corporations Act between Elk and the Scheme Shareholders, in the form of Attachment B, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Superior Proposal means a bona fide, Competing Proposal for the acquisition of 100% of the Elk securities (including all Elk Shares) which the Elk Board considers, acting in good faith and after taking written advice from Elk's legal and financial advisers:

- (a) is subject to conditions (taken as a whole) no more onerous than the conditions precedent to the Transaction in clause 3.1 (taken as a whole);
- (b) is reasonably likely to be implemented within 6 months, having regard to the proponent(s) and conditionality of the proposal; and

- (c) would, if implemented substantially in accordance with its terms, result in a more favourable outcome for Elk Shareholders than would result from implementation of the Share Scheme and Option Scheme.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Terminating Party has the meaning given in clause 3.4.

Termination Event has the meaning given in clause 3.4.

Termination Notice has the meaning given in clause 3.4.

Third Party means a person other than Metgasco and its associates.

Timetable means the indicative timetable for the implementation of the Transaction set out in Attachment A.

Trading Day has the meaning given in the Listing Rules.

Transaction means the acquisition of Elk by Metgasco by means of the Share Scheme and Option Scheme.

Voting Intention has the meaning given in clause 7.1(b).

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words "include", "including", "such as", "to avoid doubt" and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;

- (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
- (vi) this deed includes all schedules and attachments to it;
- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
- (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
- (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
- (x) a monetary amount is in Australian dollars;
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (i) In determining the time of day, where relevant to this deed, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 — Elk capital structure

Class of security	Total number on issue	Vesting date	Exercise price (\$)	Expiry date	Consideration payable for acquisition/cancellation
Elk Shares	196,277,553	N/A	N/A	N/A	See clause 4.2(a).
Elk Listed Options	22,675,000	N/A	\$0.25	22-Jul-17	See clause 4.2(a).
Elk Unlisted Options	6,250,000	N/A	\$0.25	1-Feb-15	Amount to be agreed between Elk and Metgasco based on a valuation using a Black-Scholes model.
Elk Unlisted Options	5,000,000	N/A	\$0.25	28-Oct-15	Amount to be agreed between Elk and Metgasco based on a valuation using a Black-Scholes model.
Elk Unlisted Options	100,000	N/A	\$0.25	30-Jun-16	Amount to be agreed between Elk and Metgasco based on a valuation using a Black-Scholes model.
Elk Retention Rights 2012	232,000	30-Jun-15		30-Jun-15	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2012	1,903,000	30-Jun-15		30-Jun-15	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Retention Rights 2013	78,000	30-Jun-16		30-Jun-16	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.

Elk Performance Rights 2013	4,527,825	30-Jun-15		30-Jun-15	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2013	1,000,000	30-Jun-15		30-Jun-15	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2013	1,000,000	30-Jun-16		30-Jun-16	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2013	2,000,000	30-Jun-17		30-Jun-17	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2013	2,000,000	30-Jun-18		30-Jun-18	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Retention Rights 2014	510,000	30-Jun-17		30-Jun-17	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Retention Rights 2014	280,000	30-Jun-17		30-Jun-17	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2014	2,706,388	30-Jun-17		30-Jun-17	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.
Elk Performance Rights 2014	126,731	30-Jun-17		30-Jun-17	Amount to be agreed between Elk and Metgasco based on a valuation to be determined.

Schedule 3 — Metgasco capital structure

Security	Total number on issue
Metgasco Shares	444,004,548
Metgasco Unlisted Options	1,202,222

Execution page

Executed as a deed.

Signed and delivered by **Metgasco Limited** in
accordance with section 127 of the *Corporations
Act 2001* (Cth) and by:

Signature of director

Signature of director/secretary

Name of director (print)

Peter J Henderson

Name of director/secretary (print)

Signature of director/secretary

Signed and delivered **Elk Petroleum Limited**
in accordance with section 127 of the *Corporations
Act 2001* (Cth) and by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Original signed by both parties

Attachment A — Timetable

Event	Indicative date (2014-15)
Release of Agreed Public Announcement	22 December 2014
Regulator's Draft provided to ASIC	8 April 2015
First Court Hearing	21 April 2015
Scheme Booklet registered with ASIC	21 April 2015
Scheme Meetings	21 May 2015
Second Court Hearing	25 May 2015
Effective Date	26 May 2015
Record Date	2 June 2015
Implementation Date	10 June 2015

Note: this timetable is indicative only and prepared on the basis that clause 3.1(h) is satisfied on 31 March 2015. If clause 3.1(h) is satisfied earlier, the timetable will be revised accordingly.

Attachment B — Share scheme of arrangement

Scheme of arrangement

Elk Petroleum Limited ACN 112 566 499

Each person registered as a holder of fully paid ordinary shares in Elk as at the Record Date

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Parties

- 1 **Elk Petroleum Limited** ACN 112 566 499 of Suite 4, Level 9, 341 George Street, Sydney, New South Wales 2000, Australia (**Elk**)
- 2 Each person registered as a holder of fully paid ordinary shares in Elk as at the Record Date (**Scheme Shareholders**)

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Preliminary matters

- (a) Elk is a public company limited by shares, incorporated in Australia and has been admitted to the official list of ASX. Elk Shares and Elk Listed Options are quoted for trading on the ASX.
- (b) As at the Second Court Date, there were 196,277,553 Elk Shares and 22,675,000 Elk Listed Options on issue which are officially quoted on the ASX.
- (c) Metgasco is a public company limited by shares, incorporated in Australia and has been admitted to the official list of ASX. Metgasco Shares are quoted for trading on the ASX.
- (d) If this Scheme becomes Effective:
 - (i) Metgasco will provide, or procure the provision of, the Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
 - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Metgasco and Elk will enter the name of Metgasco in the Share Register in respect of all the Scheme Shares; and
 - (iii) it will bind Elk and all Scheme Shareholders, including those who do not attend the meeting of Elk Shareholders to vote on this Scheme, those who do not vote at that meeting and those who vote against this Scheme at that meeting.
- (e) Elk and Metgasco have agreed, by entering into the Implementation Deed in respect of (among other things) the implementation of this Scheme, to implement this Scheme.

- (f) This Scheme attributes actions to Metgasco but does not itself impose any obligations on it to perform those actions. By executing the Deed Poll, Metgasco has agreed to perform the actions attributed to it under this Scheme.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in clause 3.1(b) of the Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Deed by 8:00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll is terminated in accordance with its terms before 8.00am on the Second Court Date;
- (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Elk and Metgasco;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to Elk and Metgasco are satisfied; and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

3.2 Certificates

Each of Elk and Metgasco will provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied.

3.3 End Date

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless Metgasco and Elk otherwise agree in writing.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, Elk will lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as possible and in any event before 5:00pm on the Business Day following the day on which such office copy is received by Elk or such later time as Metgasco and Elk agree in writing.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Consideration in the manner contemplated by clause 5.2, the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to Metgasco, without the need for any further act by any Scheme Shareholder (other than acts performed by Elk as attorney and agent for Scheme Shareholders under clause 8.5), by:
 - (i) Elk duly completing and executing the Scheme Transfer (as transferor) and delivering it to Metgasco; and
 - (ii) Metgasco duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to Elk for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(ii), Elk must enter, or procure the entry of, the name of Metgasco in the Share Register in respect of all the Scheme Shares.

5 Scheme Consideration

5.1 Entitlement to Consideration

Subject to the terms of this Scheme, each Scheme Shareholder will be entitled to the Consideration.

5.2 Provision of Consideration

On the Implementation Date, in consideration for, and immediately prior to, the transfer to Metgasco of the Scheme Shares:

- (a) subject to clause 5.4, Metgasco will issue to each Scheme Shareholder 0.6727 Metgasco Shares as consideration for the transfer to Metgasco of every 1 Scheme Share as otherwise adjusted by clause 4.2(a) of the Implementation Deed;
- (b) subject to clauses 5.3 to 5.6, the obligation of Metgasco to provide, or procure the provision of, Metgasco Shares under clause 5.2(a) will be satisfied by Metgasco as follows:
 - (i) on the Implementation Date, passing a resolution of directors and doing all other things necessary to validly issue the Metgasco Shares comprising the Consideration and entering in the register of members of Metgasco the name of each Scheme Shareholder in respect of the Metgasco Shares to which that Scheme Shareholder is entitled to receive under this Scheme; and
 - (ii) within 5 Business Days after the Implementation Date, despatching to each Scheme Shareholder by pre-paid post to his or her Registered Address at the Record Date, uncertificated holding statements, share certificates or equivalent documentation in the name of that Scheme Shareholder representing the total number of Metgasco Shares issued to that Scheme Shareholder.

5.3 Joint holders

In the case of Scheme Shares held in joint names, any uncertificated holding statements, share certificates or equivalent documentation for the Metgasco Shares to be issued to Scheme Shareholders will be issued in the names of the joint holders and forwarded to the holder whose name appears first in the Share Register as at the Record Date.

5.4 Foreign Shareholders

- (a) Metgasco will be under no obligation to issue any Metgasco Shares to any Foreign Shareholders as Consideration, and instead will issue the Metgasco Shares to which that Foreign Shareholder would otherwise have become entitled to the Nominee to be dealt with in accordance with this clause 5.4.
- (b) Metgasco must procure that on, or as soon as practicable and in any event not more than 20 Business Days after, the Implementation Date (at the risk of that Scheme Shareholder), the Nominee:
 - (i) sells on the ASX all Metgasco Shares it holds on behalf of the relevant Foreign Shareholders; and
 - (ii) pays the net proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges (on an averaged basis so that all Foreign Shareholders receive the same price per Metgasco Share sold, subject to rounding to the nearest whole cent), to that Foreign Shareholder in full satisfaction of that Foreign Shareholder's rights under the Scheme.
- (c) Foreign Shareholders agree that the amount referred to in clause 5.4(b)(ii) may be paid by the Nominee doing any of the following at the Nominee's election:
 - (i) sending by pre-paid airmail the proceeds to the Foreign Shareholder's Registered Address;
 - (ii) depositing or procuring the Share Registry to deposit the amount into an account with any Australian bank notified to Elk (or Elk's agent who manages the Share Register) by an appropriate authority from the Foreign Shareholder; or
 - (iii) in the event that a Foreign Shareholder does not have a Registered Address or the Nominee believes a Foreign Shareholder is not known at its Registered Address, and no account has been notified in accordance with clause 5.4(c)(ii) or a deposit into such an account is rejected or refunded, the Nominee may credit the amount payable to that Foreign Shareholder to a separate bank account of Elk to be held until the Foreign Shareholder claims the amount or the amount is dealt with in accordance with unclaimed money legislation. Elk must hold the amount on trust, but any benefit accruing from the amount will be to the benefit of Elk. An amount credited to the account is to be treated as having been paid to the Foreign Shareholder. Elk must maintain records of the accounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (d) Payment by the Nominee to a Foreign Shareholder in accordance with this clause 5.4 satisfies in full the Foreign Shareholder's right to Consideration.
- (e) Each Foreign Shareholder appoints Elk as its agent to receive on its behalf any financial services guide or other notices which may be given by the Nominee to that Foreign Shareholder.

5.5 Agree to become a member

Each Scheme Shareholder agrees to become a member of Metgasco and be bound by the constitution of Metgasco.

5.6 Fractional entitlements and splitting

Where the calculation of the Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a Metgasco Share that is:

- (a) 0.5 or greater, it will be rounded up to the nearest whole number of Metgasco Shares; and
- (b) less than 0.5, it will be rounded down to the nearest whole number of Metgasco Shares.

5.7 Ranking of Consideration

Upon issue:

- (a) the Metgasco Shares issued to Scheme Shareholders will rank equally in all respects with all other Metgasco Shares then on issue; and
- (b) each Metgasco Share issued to Scheme Shareholders will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

6 Dealings in Elk Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Elk Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Elk Shares at or before the Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at or before the Record Date at the place where the Share Register is kept,

and Elk will not accept for registration, nor recognise for any purpose (except a transfer to Metgasco pursuant to this Scheme and any subsequent transfer by Metgasco or its successors in title), any transfer or transmission application or other request received after the Record Date or received prior to the Record Date but not in registrable or actionable form.

6.2 Share Register

- (a) Elk must register registrable transmission applications or transfers of Elk Shares in accordance with clause 6.1(b) at or before the Record Date, provided that nothing in this clause 6.2(a) requires Elk to register a transfer that would result in an Elk Shareholder holding a parcel of Elk Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).

- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Elk will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Consideration, Elk must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Consideration has been provided to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Consideration.
- (d) All statements of holding for Elk Shares (other than statements of holding in favour of Metgasco) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries in respect of Metgasco) will cease to have effect except as evidence of entitlement to the Consideration in respect of Elk Shares relating to that entry.
- (e) As soon as possible after the Record Date, and in any event within one Business Day after the Record Date, Elk will ensure that details of the names, Registered Addresses and holdings of Elk Shares for each Scheme Shareholder as shown in the Share Register as at the Record Date are available to Metgasco in the form Metgasco reasonably requires.

7 Quotation of Elk Shares

- (a) Elk will apply to ASX to suspend trading on the ASX in Elk Shares with effect from the close of trading on the Effective Date.
- (b) Elk will apply:
 - (i) for termination of the official quotation of Elk Shares on the ASX; and
 - (ii) to have itself removed from the official list of ASX,in each case with effect on and from the close of trading on the trading day immediately following the Implementation Date.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Elk may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Metgasco has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel for Elk has consented.

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:

- (i) agrees to the transfer of their Elk Shares together with all rights and entitlements attaching to those shares in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Elk Shares constituted by or resulting from this Scheme; and
 - (iii) acknowledges that this Scheme binds Elk and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is deemed to have warranted to Metgasco, and appointed and authorised Elk as its attorney and agent to warrant to Metgasco, that:
- (i) all their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind; and
 - (ii) they have full power and capacity to transfer their Scheme Shares to Metgasco together with any rights attaching to those shares.

Elk undertakes that it will provide such warranty to Metgasco as agent and attorney of each Scheme Shareholder.

8.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Upon the Scheme becoming Effective, Metgasco will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Elk of Metgasco in the Share Register as the holder of the Scheme Shares.

8.4 Appointment of sole proxy

Upon the Scheme becoming Effective and until Elk registers Metgasco as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have appointed Metgasco as attorney and agent (and directed Metgasco in each such capacity) to appoint any director, officer, secretary or agent nominated by Metgasco as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
- (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));

- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as Metgasco reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Metgasco and any director, officer, secretary or agent nominated by Metgasco under that clause may act in the best interests of Metgasco as the intended registered holder of the Scheme Shares.

8.5 Authority given to Elk

On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints Elk and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Metgasco and Elk undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Metgasco on behalf of and as agent and attorney for Scheme Shareholders; and
- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and Elk accepts such appointment. Elk, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

8.6 Binding effect of this Scheme

This Scheme binds Elk and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Elk.

9 General

9.1 Stamp duty

Metgasco will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in connection with the transfer by the Scheme Shareholders of the Scheme Shares to Metgasco pursuant to this Scheme; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

9.2 Consent

Each Scheme Shareholder consents to Elk doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Elk, it will not be taken to be received

in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Elk's registered office or at the office of the Share Registry.

- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an Elk Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

9.5 Further action

Elk must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

None of Elk or Metgasco, nor any of their respective directors, officers or secretaries, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Schedule 1 — Dictionary

1 Dictionary

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the "Australian Securities Exchange".

Business Day has the meaning given in the Listing Rules.

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

Consideration means, in respect of each Scheme Share, 0.6727 Metgasco Shares for each Scheme Share held by that Scheme Shareholder as otherwise adjusted by clause 4.2(a) of the Implementation Deed.

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

Court means the Federal Court of Australia.

Deed Poll means the deed poll to be entered into by Metgasco before 5:00pm on the Business Day prior to the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Elk to convene the Scheme Meetings is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), in respect of the provision of the Consideration.

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

Elk Listed Option means a listed option to acquire an Elk Share, as set out in Schedule 2 of the Implementation Deed.

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

Elk Shareholder means a holder of one or more Elk Shares, as shown in the Share Register.

End Date means 30 June 2015 or such later date as Metgasco and Elk agree in writing.

Government Agency means any government or any governmental, statutory or judicial entity or authority, or any minister, department, office or delegate of any government, whether in Australia or elsewhere. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC), and any stock exchange (including the ASX).

Implementation Deed means the scheme implementation deed dated on or about 19 December 2014 between Metgasco and Elk relating to (among other things) the implementation of this Scheme.

Implementation Date means the fifth Business Day after the Record Date or such other date as Elk and Metgasco agree in writing.

Foreign Shareholder means a Scheme Shareholder whose address in the Share Register is a place outside Australia and its external territories and New Zealand, except where Metgasco is satisfied that the laws of the Foreign Shareholder's country of residence (as shown on the Share Register) permit the issue and allotment of Metgasco Shares to the Foreign Shareholder, either unconditionally or after compliance with conditions which Metgasco, in its sole discretion, regards as acceptable and not unduly onerous.

Listing Rules means the official listing rules of ASX.

Metgasco means Metgasco Limited ACN 088 196 383 of Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales 2060, Australia.

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

Nominee means the nominee agent appointed by Metgasco for the purposes of clause 5.4.

Record Date means 7:00pm on the fifth Business Day after the Effective Date.

Registered Address means, in relation to an Elk Shareholder, the address shown in the Share Register as at the Record Date.

Scheme means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Metgasco and Elk.

Scheme Meeting means the meeting of Elk Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Share means an Elk Share held by a Scheme Shareholder as at the Record Date.

Scheme Shareholder means an Elk Shareholder as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard, with such hearing being the **Second Court Hearing**.

Share Register means the register of Elk Shareholders maintained in accordance with the Corporations Act.

Share Registry means Computershare Investor Services Pty Ltd.

2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words "include", "including" and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
 - (vi) this Scheme includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars.

Attachment C — Option scheme of arrangement

Scheme of arrangement

Elk Petroleum Limited ACN 112 566 499

Each person registered as a holder of fully paid listed options to acquire Elk Shares as at the Record Date

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Parties

- 1 **Elk Petroleum Limited** ACN 112 566 499 of Suite 4, Level 9, 341 George Street, Sydney, New South Wales 2000, Australia (**Elk**)
- 2 Each person registered as a holder of fully paid listed options in Elk as at the Record Date (**Scheme Optionholders**)

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Preliminary matters

- (a) Elk is a public company limited by shares, incorporated in Australia and has been admitted to the official list of ASX. Elk Shares and Elk Listed Options are quoted for trading on the ASX.
- (b) As at the Second Court Date, there were 196,277,553 Elk Shares and 22,675,000 Elk Listed Options on issue which are officially quoted on the ASX.
- (c) Metgasco is a public company limited by shares, incorporated in Australia and has been admitted to the official list of ASX. Metgasco Shares are quoted for trading on the ASX.
- (d) If this Scheme becomes Effective:
 - (i) Metgasco will provide, or procure the provision of, the Consideration to Scheme Optionholders in accordance with this Scheme and the Deed Poll; and
 - (ii) all the Scheme Options, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Metgasco and Elk will enter the name of Metgasco in the Option Register in respect of all the Scheme Options; and
 - (iii) it will bind Elk and all Scheme Optionholders, including those who do not attend the meeting of Elk Optionholders to vote on this Scheme, those who do not vote at that meeting and those who vote against this Scheme at that meeting.
- (e) Elk and Metgasco have agreed, by entering into the Implementation Deed in respect of (among other things) the implementation of this Scheme, to implement this Scheme.

- (f) This Scheme attributes actions to Metgasco but does not itself impose any obligations on it to perform those actions. By executing the Deed Poll, Metgasco has agreed to perform the actions attributed to it under this Scheme.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in clause 3.1(b) of the Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Deed by 8:00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll is terminated in accordance with its terms before 8.00am on the Second Court Date;
- (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Elk and Metgasco;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to Elk and Metgasco are satisfied; and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

3.2 Certificates

Each of Elk and Metgasco will provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied.

3.3 End Date

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless Metgasco and Elk otherwise agree in writing.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, Elk will lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as possible and in any event before 5:00pm on the Business Day following the day on which such office copy is received by Elk or such later time as Metgasco and Elk agree in writing.

4.2 Transfer of Scheme Options

On the Implementation Date:

- (a) subject to the provision of the Consideration in the manner contemplated by clause 5.2, the Scheme Options, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to Metgasco, without the need for any further act by any Scheme Optionholder (other than acts performed by Elk as attorney and agent for Scheme Optionholders under clause 8.5), by:
 - (i) Elk duly completing and executing the Scheme Transfer (as transferor) and delivering it to Metgasco; and
 - (ii) Metgasco duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to Elk for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(ii), Elk must enter, or procure the entry of, the name of Metgasco in the Option Register in respect of all the Scheme Options.

5 Scheme Consideration

5.1 Entitlement to Consideration

Subject to the terms of this Scheme, each Scheme Optionholder will be entitled to the Consideration.

5.2 Provision of Consideration

On the Implementation Date, in consideration for, and immediately prior to, the transfer to Metgasco of the Scheme Options:

- (a) Metgasco will issue to each Scheme Optionholder 0.6727 Metgasco Options as consideration for the transfer to Metgasco of every 1 Scheme Option as otherwise adjusted by clause 4.2(a) of the Implementation Deed;
- (b) subject to clauses 5.3 to 5.6, the obligation of Metgasco to provide, or procure the provision of, Metgasco Options under clause 5.2(a) will be satisfied by Metgasco as follows:
 - (i) on the Implementation Date, passing a resolution of directors and doing all other things necessary to validly issue the Metgasco Options comprising the Consideration and entering in the register of members of Metgasco the name of each Scheme Optionholder in respect of the Metgasco Options to which that Scheme Optionholder is entitled to receive under this Scheme; and
 - (ii) within 5 Business Days after the Implementation Date, despatching to each Scheme Optionholder by pre-paid post to his or her Registered Address at the Record Date, uncertificated holding statements, option certificates or equivalent documentation in the name of that Scheme Optionholder representing the total number of Metgasco Options issued to that Scheme Optionholder.

5.3 Joint holders

In the case of Scheme Options held in joint names, any uncertificated holding statements, option certificates or equivalent documentation for the Metgasco Options to be issued to Scheme Optionholders will be issued in the names of the joint holders and forwarded to the holder whose name appears first in the Option Register as at the Record Date.

5.4 Foreign Optionholders

- (a) Metgasco will be under no obligation to issue any Metgasco Options to any Foreign Optionholders as Consideration, and instead will issue the Metgasco Options to which that Foreign Optionholder would otherwise have become entitled to the Nominee to be dealt with in accordance with this clause 5.4.
- (b) Metgasco must procure that on, or as soon as practicable and in any event not more than 20 Business Days after, the Implementation Date (at the risk of that Scheme Optionholder), the Nominee:
 - (i) sells all Metgasco Options it holds on behalf of the relevant Foreign Optionholders; and
 - (ii) pays the net proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges (on an averaged basis so that all Foreign Optionholders receive the same price per Metgasco Option sold, subject to rounding to the nearest whole cent), to that Foreign Optionholder in full satisfaction of that Foreign Optionholder's rights under the Scheme.
- (c) Foreign Optionholders agree that the amount referred to in clause 5.4(b)(ii) may be paid by the Nominee doing any of the following at the Nominee's election:
 - (i) sending by pre-paid airmail the proceeds to the Foreign Optionholder's Registered Address;
 - (ii) depositing or procuring the Option Registry to deposit the amount into an account with any Australian bank notified to Elk (or Elk's agent who manages the Option Register) by an appropriate authority from the Foreign Optionholder; or
 - (iii) in the event that a Foreign Optionholder does not have a Registered Address or the Nominee believes a Foreign Optionholder is not known at its Registered Address, and no account has been notified in accordance with clause 5.4(c)(ii) or a deposit into such an account is rejected or refunded, the Nominee may credit the amount payable to that Foreign Optionholder to a separate bank account of Elk to be held until the Foreign Optionholder claims the amount or the amount is dealt with in accordance with unclaimed money legislation. Elk must hold the amount on trust, but any benefit accruing from the amount will be to the benefit of Elk. An amount credited to the account is to be treated as having been paid to the Foreign Optionholder. Elk must maintain records of the accounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (d) Payment by the Nominee to a Foreign Optionholder in accordance with this clause 5.4 satisfies in full the Foreign Optionholder's right to Consideration.
- (e) Each Foreign Optionholder appoints Elk as its agent to receive on its behalf any financial services guide or other notices which may be given by the Nominee to that Foreign Optionholder.

5.5 Agree to become an optionholder

Each Scheme Optionholder agrees to become an optionholder of Metgasco and be bound by the constitution of Metgasco.

5.6 Fractional entitlements and splitting

Where the calculation of the Consideration to be provided to a particular Scheme Optionholder would result in the Scheme Optionholder becoming entitled to a fraction of a Metgasco Option that is:

- (a) 0.5 or greater, it will be rounded up to the nearest whole number of Metgasco Options; and
- (b) less than 0.5, it will be rounded down to the nearest whole number of Metgasco Options.

5.7 Ranking of Consideration

Upon issue:

- (a) the Metgasco Options issued to Scheme Optionholders will rank equally in all respects with all other Metgasco Options then on issue; and
- (b) each Metgasco Option issued to Scheme Optionholders will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

6 Dealings in Elk Listed Options

6.1 Determination of Scheme Optionholders

To establish the identity of the Scheme Optionholders, dealings in Elk Listed Options or other alterations to the Option Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Option Register as the holder of the relevant Elk Shares at or before the Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at or before the Record Date at the place where the Option Register is kept,

and Elk will not accept for registration, nor recognise for any purpose (except a transfer to Metgasco pursuant to this Scheme and any subsequent transfer by Metgasco or its successors in title), any transfer or transmission application or other request received after the Record Date or received prior to the Record Date but not in registrable or actionable form.

6.2 Option Register

- (a) Elk must register registrable transmission applications or transfers of Elk Listed Options in accordance with clause 6.1(b) at or before the Record Date, provided that nothing in this clause 6.2(a) requires Elk to register a transfer that would result in an Elk Optionholder holding a parcel of Elk Listed Options that is less than a 'marketable parcel' (as defined in the operating rules of ASX).

- (b) If this Scheme becomes Effective, a Scheme Optionholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Options or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Elk will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Consideration, Elk must maintain the Option Register in accordance with the provisions of this clause 6.2 until the Consideration has been provided to the Scheme Optionholders. The Option Register in this form will solely determine entitlements to the Consideration.
- (d) All statements of holding for Elk Listed Options (other than statements of holding in favour of Metgasco) will cease to have effect after the Record Date as documents of title in respect of those options and, as from that date, each entry current at that date on the Option Register (other than entries in respect of Metgasco) will cease to have effect except as evidence of entitlement to the Consideration in respect of Elk Listed Options relating to that entry.
- (e) As soon as possible after the Record Date, and in any event within one Business Day after the Record Date, Elk will ensure that details of the names, Registered Addresses and holdings of Elk Listed Options for each Scheme Optionholder as shown in the Option Register as at the Record Date are available to Metgasco in the form Metgasco reasonably requires.

7 Quotation of Elk Listed Options

- (a) Elk will apply to ASX to suspend trading on the ASX in Elk Listed Options with effect from the close of trading on the Effective Date.
- (b) Elk will apply:
 - (i) for termination of the official quotation of Elk Listed Options on the ASX; and
 - (ii) to have itself removed from the official list of ASX,
 in each case with effect on and from the close of trading on the trading day immediately following the Implementation Date.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Elk may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Metgasco has consented; and
- (b) each Scheme Optionholder agrees to any such alterations or conditions to which counsel for Elk has consented.

8.2 Scheme Optionholders' agreements and warranties

- (a) Each Scheme Optionholder:

- (i) agrees to the transfer of their Elk Listed Options together with all rights and entitlements attaching to those options in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Elk Listed Options constituted by or resulting from this Scheme; and
 - (iii) acknowledges that this Scheme binds Elk and all Scheme Optionholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Optionholder is deemed to have warranted to Metgasco, and appointed and authorised Elk as its attorney and agent to warrant to Metgasco, that:
- (i) all their Scheme Options (including any rights and entitlements attaching to those options) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind; and
 - (ii) they have full power and capacity to transfer their Scheme Options to Metgasco together with any rights attaching to those options.

Elk undertakes that it will provide such warranty to Metgasco as agent and attorney of each Scheme Optionholder.

8.3 Title to and rights in Scheme Options

- (a) To the extent permitted by law, the Scheme Options transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Upon the Scheme becoming Effective, Metgasco will be beneficially entitled to the Scheme Options to be transferred to it under this Scheme pending registration by Elk of Metgasco in the Option Register as the holder of the Scheme Options.

8.4 Appointment of sole proxy

Upon the Scheme becoming Effective and until Elk registers Metgasco as the holder of all Scheme Options in the Option Register:

- (a) each Scheme Optionholder is deemed to have appointed Metgasco as attorney and agent (and directed Metgasco in each such capacity) to appoint any director, officer, secretary or agent nominated by Metgasco as its sole proxy and, where applicable or appropriate, corporate representative to attend Optionholders' meetings, exercise the votes attaching to the Scheme Options registered in their name and sign any Optionholders' resolution;
- (b) no Scheme Optionholder may itself attend or vote at any Optionholders' meetings or sign any Optionholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));

- (c) each Scheme Optionholder must take all other actions in the capacity of a registered holder of Scheme Options as Metgasco reasonably directs; and
- (d) each Scheme Optionholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Metgasco and any director, officer, secretary or agent nominated by Metgasco under that clause may act in the best interests of Metgasco as the intended registered holder of the Scheme Options.

8.5 Authority given to Elk

On the Effective Date, each Scheme Optionholder, without the need for any further act, irrevocably appoints Elk and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Metgasco and Elk undertakes in favour of each Scheme Optionholder that it will enforce the Deed Poll against Metgasco on behalf of and as agent and attorney for Scheme Optionholders; and
- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and Elk accepts such appointment. Elk, as attorney and agent of each Scheme Optionholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

8.6 Binding effect of this Scheme

This Scheme binds Elk and all of the Scheme Optionholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Elk.

9 General

9.1 Stamp duty

Metgasco will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in connection with the transfer by the Scheme Optionholders of the Scheme Options to Metgasco pursuant to this Scheme; and
- (b) indemnify each Scheme Optionholder against any liability arising from failure to comply with clause 9.1(a).

9.2 Consent

Each Scheme Optionholder consents to Elk doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Elk, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Elk's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an Elk Optionholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

9.5 Further action

Elk must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

None of Elk or Metgasco, nor any of their respective directors, officers or secretaries, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Schedule 1 — Dictionary

1 Dictionary

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the “Australian Securities Exchange”.

Business Day has the meaning given in the Listing Rules.

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

Consideration means, in respect of each Scheme Option, 0.6727 Metgasco Options for each Scheme Option held by that Scheme Optionholder as otherwise adjusted by clause 4.2(a) of the Implementation Deed.

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

Court means the Federal Court of Australia.

Deed Poll means the deed poll to be entered into by Metgasco before 5:00pm on the Business Day prior to the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Elk to convene the Scheme Meetings is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), in respect of the provision of the Consideration.

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

Elk Listed Option means a listed option to acquire an Elk Listed Option, as set out in Schedule 2 of the Implementation Deed.

Elk Listed Option means a fully paid ordinary share in the capital of Elk.

Elk Optionholder means a holder of one or more Elk Listed Options, as shown in the Elk Listed Option Register.

End Date means 30 June 2015 or such later date as Metgasco and Elk agree in writing.

Government Agency means any government or any governmental, statutory or judicial entity or authority, or any minister, department, office or delegate of any government, whether in Australia or elsewhere. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC), and any stock exchange (including the ASX).

Implementation Deed means the scheme implementation deed dated on or about 19 December 2014 between Metgasco and Elk relating to (among other things) the implementation of this Scheme.

Implementation Date means the fifth Business Day after the Record Date or such other date as Elk and Metgasco agree in writing.

Listing Rules means the official listing rules of ASX.

Metgasco means Metgasco Limited ACN 088 196 383 of Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales 2060, Australia.

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

Metgasco Option means an unlisted option to acquire a Metgasco Share on terms based on the agreed ratio in clause 4.2(c) of the Implementation Deed, but otherwise equivalent to the Elk Listed Options.

Option Register means the register of holders of Elk Listed Options and Elk Unlisted Options maintained in accordance with the Corporations Act.

Record Date means 7:00pm on the fifth Business Day after the Effective Date.

Registered Address means, in relation to an Elk Optionholder, the address shown in the Option Register as at the Record Date.

Scheme means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Metgasco and Elk.

Scheme Meeting means the meeting of Elk Optionholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Option means an Elk Listed Option held by a Scheme Optionholder as at the Record Date.

Scheme Optionholder means an Elk Optionholder as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Options for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Options.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard, with such hearing being the **Second Court Hearing**.

Share Registry means Computershare Investor Services Pty Ltd.

2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.

- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
 - (vi) this Scheme includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars.

Attachment D — Deed poll

Deed poll

Metgasco Limited

In favour of each person registered as a holder of fully paid ordinary shares in Elk as at the Record Date (other than Foreign Shareholders)

In favour of each person registered as a holder of fully paid listed options to acquire Elk Shares as at the Record Date (other than Foreign Optionholders)

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Parties

- 1 Metgasco Limited ACN 088 196 383 of Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales 2060, Australia (**Metgasco**)
 - 2 In favour of each person registered as a holder of fully paid ordinary shares in Elk as at the Record Date (other than Foreign Shareholders) (**Scheme Shareholders**)
 - 3 In favour of each person registered as a holder of fully paid listed options to acquire Elk Shares as at the Record Date (**Scheme Optionholders**)
-

Background

- A Metgasco and Elk have entered into the Implementation Deed, under which Metgasco has agreed to enter into this deed poll.
- B Metgasco is entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders and Scheme Optionholders to undertake the actions attributed to Metgasco under the Scheme, subject to the satisfaction of certain conditions and in accordance with the Implementation Deed and the Scheme.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

Unless the context otherwise requires, terms defined in the Share Scheme and the Option Scheme have the same meaning when used in this deed poll except that, for the purposes of this deed poll, 'Scheme' is taken to mean both the Share Scheme and the Option Scheme, and Consideration has the meaning given in clause 4.2(a) of the Implementation Deed.

1.2 Interpretation

Clause 2 of Schedule 1 of the Share Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

1.3 Nature of deed poll

Metgasco acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder and Scheme Optionholder in accordance with its terms even though the Scheme Shareholders and Scheme Optionholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder and Scheme Optionholder irrevocably appoints Elk and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Metgasco.

2 Conditions

2.1 Conditions

The obligations of Metgasco under this deed poll are conditional on and subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Metgasco under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date,

unless Elk and Metgasco otherwise agree in accordance with the Implementation Deed.

2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

- (a) Metgasco is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder and Scheme Optionholder retains the rights they have against Metgasco in respect of any breach of this deed poll which occurs before it was terminated.

3 Scheme obligations

Subject to clause 2, in consideration for the transfer to Metgasco of all Scheme Shares by the Scheme Shareholders and all Scheme Options by the Scheme Optionholders, Metgasco undertakes in favour of each Scheme Shareholder and Scheme Optionholder to provide the Consideration to each Scheme Shareholder and Scheme Optionholder, in each case subject to and in accordance with the terms of the Scheme.

4 Warranties

Metgasco represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll; and
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Metgasco has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6 Further assurances

Metgasco will do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

7 General

7.1 Stamp duty

Metgasco must:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in connection with the transfer by the Scheme Shareholders of the Scheme Shares, and the transfer by Scheme Optionholders of the Scheme Options, to Metgasco pursuant to the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder and Scheme Optionholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Notices

- (a) Any notice or other communication to Metgasco in connection with this deed poll must be:
 - (i) in legible writing in English;
 - (ii) signed by the person making the communication or that person's duly authorised agent; and
 - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Metgasco

Attention: Sean Hooper, Company Secretary, Metgasco Limited
Address: Level 11, 2 Elizabeth Plaza, North Sydney, New South Wales
2060, Australia
Email: sean.hooper@metgasco.com.au
with a copy (for information purposes only) to:
jwilliamson-noble@gtlaw.com.au

- (b) Any notice or other communication given in accordance with clause 7.2(a) will be deemed to have been duly given as follows:
 - (i) if delivered by hand, on delivery;
 - (ii) if sent by pre-paid post, on receipt; and

(iii) if sent by email:

(A) when the sender receives an automated message confirming delivery;
or

(B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,

whichever happens first.

(c) Any notice that, pursuant to clause 7.2(b), would be deemed to be given:

(i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and

(ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

7.3 Cumulative rights

The rights, powers and remedies of Metgasco, the Scheme Shareholders and the Scheme Optionholders under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

7.4 Waiver and variation

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed poll by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- (c) A provision of this deed poll may not be varied unless the variation is agreed to by Elk in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme, in which event Metgasco must enter into a further deed poll in favour of the Scheme Shareholders and Scheme Optionholders giving effect to the variation.

7.5 Governing law and jurisdiction

- (a) This deed poll is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

7.6 Assignment

- (a) The rights created by this deed poll are personal to Metgasco and each Scheme Shareholder and Scheme Optionholder, and must not be dealt with at law or in equity without the prior written consent of Metgasco.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

Execution page

Executed as a deed

Executed in accordance with section 127 of the *Corporations Act 2001* by **Metgasco Limited** (ACN 088 196 383) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)