

1 August 2017

## **Amendment to Subordinated Capital Notes Terms of Issue**

Yancoal Australia Ltd today announced that it has amended the terms of issue of the Subordinated Capital Notes (SCNs) (Amending Deed).

The amendment has been agreed with Yancoal SCN Limited and Australian Executor Trustees Limited in accordance with clause 14.1 of the Unsecured Note Trust Deed dated 24 November 2014 (Trust Deed).

The amendment has been made to facilitate the equity raising as announced today.

The amendment changes the terms of the SCNs (which are attached to the Trust Deed) so that a holder of SCNs can elect a higher conversion price than the conversion price determined under the previous terms. This will result in a holder receiving fewer shares upon conversion than they would have been issued if they had elected to convert under the previous terms. The amendments also allow a holder to convert the SCNs at a time as specified by Yancoal SCN Limited in a notice provided to the ASX. In the context of the equity raising, this will allow Yanzhou Coal Mining Company Limited (the controlling shareholder of Yancoal Australia Ltd) to convert their SCNs at a conversion price of USD0.10 (the same as the offer price under the equity raising), even if adjustment provisions would otherwise have the effect of reducing the conversion price, and for the SCNs to be converted into ordinary shares at the same time that the ordinary shares have been issued under the equity raising. Other holders may also elect to convert their SCNs at such higher price, although Yancoal Australia Ltd does not expect them to do so.

The amendment is considered not to be materially prejudicial to the interests of holders of SCNs as a whole and is effected pursuant to the attached Amending Deed.



HERBERT  
SMITH  
FREEHILLS

Yancoal SCN amendment

## Amending deed

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Yancoal SCN Limited

Yancoal Australia Limited

Australian Executor Trustees Limited

[patrick.lowden@hsf.com](mailto:patrick.lowden@hsf.com)



## Amending deed

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Date ► 1 AUGUST 2017

### Between the parties

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<b>Issuer</b>	<b>Yancoal SCN Limited</b> ACN 602 841 556 of 363 George Street, Sydney, NSW 2000
<b>Guarantor</b>	<b>Yancoal Australia Limited</b> ABN 82 111 859 119 of 363 George Street, Sydney, NSW 2000
<b>Note Trustee</b>	<b>Australian Executor Trustees Limited</b> ABN 84 007 869 794 of Level 22, 207 Kent Street, Sydney NSW 2000 in its capacity as trustee of the trust established by the Relevant Document.

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<b>Recitals</b>	<ol style="list-style-type: none"><li>1 The Issuer, Guarantor and Note Trustee are party to the Relevant Document.</li><li>2 Clause 14.1 of the Relevant Document authorises the Issuer, Guarantor and Note Trustee to amend the Relevant Document without the consent of Holders.</li><li>3 The Issuer, Guarantor and Note Trustee wish to amend the Relevant Document in the manner set out in this deed.</li></ol>
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<b>This deed witnesses</b>	that, for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:
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## 1 Definitions and interpretation

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### 1.1 Deed components

This deed includes any schedule.

### 1.2 Definitions

The meanings of the terms used in this document are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Effective Date</b>	the date of this deed.
<b>Notes</b>	the subordinated perpetual convertible unsecured capital notes issued by the Issuer under a prospectus dated 24 November 2014.
<b>Relevant Document</b>	the deed entitled 'Unsecured Note Trust Deed' dated 24 November 2014 between, the Issuer, the Guarantor and Australian Executor Trustees Limited ABN 84 007 869 794.

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### 1.3 Incorporated definitions

A word or phrase, other than one defined in clause 1.2, defined in the Relevant Document has the same meaning when used in this deed.

## 2 Amendment

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### 2.1 Amendment to Relevant Document

Pursuant to clause 14.1 of the Relevant Document, on and with effect from the Effective Date, the Terms of Issue as set out under Attachment 1 of the Relevant Document are amended as set out in Schedule 1.

### 2.2 Amendments not to affect validity, rights, obligations

- (a) The amendments to the Relevant Document in clause 2.1 do not affect the validity or enforceability of the Relevant Document or the Notes.



- (b) Nothing in this deed prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Relevant Document or the Notes before the Effective Date.

### **2.3 Confirmation**

On and with effect from the Effective Date, each party to this deed which is a party to the Relevant Document is bound by the Relevant Document as amended by this deed

### **2.4 Guarantor acknowledgments**

The Guarantor confirms that its obligations under the Relevant Document continue to apply despite the amendments contemplated or effected by this deed.

## **3 General**

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### **3.1 Governing law and jurisdiction**

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

### **3.2 Further action**

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

### **3.3 Limitation of liability**

Clause 9.7 of the Relevant Document applies to this deed as if set out in full in this deed.

### **3.4 Counterparts**

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.



HERBERT  
SMITH  
FREEHILLS

## Schedules

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**Amended Terms of Issue**

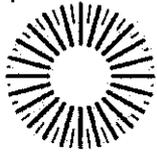
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## Schedule 1

### Amended Terms of Issue

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## Terms of Issue

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### 1 Form, denomination, title and information

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#### 1.1 Form

The Subordinated Capital Notes are perpetual, convertible, subordinated and unsecured notes of the Issuer, constituted by the Note Trust Deed and issued in registered form by entry in the Register.

#### 1.2 Face Value

Each Subordinated Capital Note is issued fully paid and with a Face Value of US\$100.

#### 1.3 Title and transfer

Title to all Subordinated Capital Notes will be determined, and the Subordinated Capital Notes may be transferred, as provided in the Note Trust Deed. Except as provided in the Note Trust Deed or required by law, the Issuer will not recognise any person other than the registered Holder as having any title to, or interest in, a Subordinated Capital Note.

#### 1.4 Quotation

The Issuer must use all reasonable endeavours and furnish any documents, information and undertakings as may be reasonably necessary in order to ensure that the Subordinated Capital Notes are, and remain until Redeemed or Converted in accordance with these Terms of Issue, quoted on the Official List of ASX.

#### 1.5 Evidence of holdings

The Issuer must provide to each Holder such statements of the holdings of the Subordinated Capital Notes of the Holder as the Issuer is required to give under the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules. Subordinated Capital Note certificates will not be issued unless the Issuer determines that certificates should be made available or are required to be made available by law.

#### 1.6 Note Trust Deed

Holders are entitled to the benefit of, and are bound by the provisions of, the Note Trust Deed. The Note Trust Deed has been lodged with ASIC, and is available for inspection by Holders at the office of the Note Trustee.



## 1.7 No other rights

The Subordinated Capital Notes confer no rights on a Holder:

- (a) to vote at any meeting of shareholders of the Issuer or Yancoal;
- (b) to subscribe for new securities or to participate in any bonus issues of securities of the Issuer or Yancoal; or
- (c) to otherwise participate in the profits or property of the Issuer or Yancoal, except as set out in these Terms of Issue or the Note Trust Deed.

## 1.8 Provision of information by Holders

If requested by the Issuer, the Holders must provide certain information required by the Issuer or the Note Trustee in order to comply with any applicable law, including the United States Foreign Account Tax Compliance Act.

## 2 Status and subordination

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### 2.1 Status and subordination of the Subordinated Capital Notes

- (a) The Subordinated Capital Notes are direct, unsecured and subordinated debt obligations of the Issuer.
- (b) Each Subordinated Capital Note ranks for payment in a Winding Up of the Issuer:
  - (1) after all Senior Ranking Obligations;
  - (2) equally with each other Subordinated Capital Note and all Equal Ranking Obligations; and
  - (3) ahead of all Junior Ranking Obligations.
- (c) In order to give effect to the ranking specified in clause 2.1(b), in any Winding Up of the Issuer, the claims of Holders are limited to the extent necessary to ensure that:
  - (1) all holders of Senior Ranking Obligations receive payment in full before any payment is made to Holders; and
  - (2) Holders of the Subordinated Capital Notes and holders of any Equal Ranking Obligations receive payments on a pro-rata basis.
- (d) Neither the Note Trustee nor any Holder has any right to prove in a Winding Up of the Issuer in respect of the Subordinated Capital Notes, except on the basis set out in clauses 2.1(b) and 2.1(c).
- (e) Neither the Note Trustee nor any Holder may exercise voting rights as a creditor in respect of the Subordinated Capital Notes in a Winding Up of the Issuer to defeat the subordination in this clause.

### 2.2 Status and subordination of the Subordinated Guarantee

- (a) The Issuer's obligations in respect of the Subordinated Capital Notes have been guaranteed to the Note Trustee under the Subordinated Guarantee, which is a direct, unsecured and subordinated obligation of Yancoal.



- (b) The Subordinated Guarantee ranks for payment in a Winding Up of Yancoal:
  - (1) after all Senior Ranking Obligations;
  - (2) equally with all Equal Ranking Obligations; and
  - (3) ahead of all Junior Ranking Obligations.
- (c) In order to give effect to the ranking specified in clause 2.2(b), in any Winding Up of Yancoal, the claims of the Note Trustee are limited to the extent necessary to ensure that:
  - (1) all holders of Senior Ranking Obligations receive payment in full before any payment is made to Holders; and
  - (2) holders of any Equal Ranking Obligations receive payments on a pro-rata basis.
- (d) The Note Trustee has no right to prove in a Winding Up of Yancoal in respect of the Subordinated Guarantee, except on the basis set out in clauses 2.2(b) and 2.2(c).
- (e) The Note Trustee may not exercise voting rights as a creditor in respect of the Subordinated Guarantee in a Winding Up of Yancoal to defeat the subordination in this clause.

### 3 Distributions

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#### 3.1 Distributions

Each Subordinated Capital Note carries an entitlement to be paid interest on its Face Value in respect of each Distribution Period from (and including) the Issue Date to (but excluding):

- (a) the last day of the Distribution Period immediately preceding its Conversion Date; or
- (b) its Redemption Date,

subject to and in accordance with this clause 3.

#### 3.2 Distribution Rate determination

- (a) Subject to clauses 3.2(b), (c) and (d) and clause 3.4, the Distribution payable on each Subordinated Capital Note in respect of any Distribution Period ending on a Distribution Payment Date is payable on that Distribution Payment Date and is the amount calculated in accordance with the following formula:

$$\text{Distribution} = \frac{\text{Distribution Rate} \times \text{US\$100}}{2}$$

where:

**Distribution Rate** is the Distribution Rate on the first day of the Distribution Period.

- (b) If a Distribution Payment Date falls less than 5 Business Days prior to the Redemption Date then the Distribution that would otherwise be payable on that Distribution Payment Date will not be payable on that Distribution Payment Date but will instead be added to the Distribution payable under clause 3.2(c) on the Redemption Date.



- (c) The Distribution payable on each Subordinated Capital Note in respect of the Distribution Period ending on its Redemption Date if the Redemption Date is not a Distribution Payment Date is payable on the Redemption Date as part of the Redemption Amount and is calculated according to the formula:

$$\text{Distribution} = \frac{\text{Distribution Rate} \times \text{US\$100} \times \text{N}}{365}$$

where:

**Distribution Rate** is the Distribution Rate on the first day of the Distribution Period; and

**N** is the number of days in the Distribution Period.

- (d) The Distribution payable on each Subordinated Capital Note in respect of the first Distribution Period is payable on the first Distribution Payment Date and is the amount calculated in accordance with the following formula:

$$\text{Distribution} = \frac{\text{Distribution Rate} \times \text{US\$100} \times \text{N}}{365}$$

where:

**Distribution Rate** is the Distribution Rate on the Issue Date; and

**N** is the number of days in the Distribution Period.

- (e) A Distribution will not be payable on a Subordinated Capital Note in respect of any Distribution Period if the Subordinated Capital Note is Converted before the date on which the Distribution for that Distribution Period is payable.
- (f) The Distribution Rate (as defined in clause 12) will be reset:
- (1) on each Reset Date based on the Market Rate at that time;
  - (2) on the Second Reset Date so as to include the Step Up; and
  - (3) on the first Distribution Payment Date following a Change of Control Event so as to include the Change of Control Step Up,

in each case to the extent that the Subordinated Capital Notes have not been Redeemed or Converted prior to that time.

### 3.3 Determination and notification of Distribution Rates and Distribution payable

- (a) The Issuer must promptly determine the:
- (1) Distribution Rate which will apply on or after each date on which the Distribution Rate is to be reset under clause 3.2(f);
  - (2) the amount of the Distribution that will (subject to this clause 3) be payable on each Subordinated Capital Note in respect of each Distribution Period for which the Distribution Rate referred to in clause 3.3(a)(1) is applicable; and
  - (3) if the Subordinated Capital Notes are to be Redeemed, the amount of the Distribution to be paid on each Subordinated Capital Note under clause 3.2(c),

and promptly notify ASX of that determination.



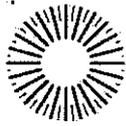
- (b) The determination by the Issuer of all Distribution Rates and amounts required to be determined by it under these Terms of Issue is, in the absence of manifest error, final and binding on the Note Trustee and each Holder.

### 3.4 Distributions are perpetually deferrable and non-compounding

- (a) Subject to clause 3.4(b) and 3.5(a), the Issuer may, in its sole discretion, elect to defer payment of all or any part of the Distribution otherwise payable on the Subordinated Capital Notes on a Distribution Payment Date until such time as the Issuer elects to pay it under clause 3.4(c) or the Subordinated Capital Notes are required to be Redeemed.
- (b) The Issuer must notify the Note Trustee and ASX not later than the 5<sup>th</sup> Business Day prior to the Record Date for a Distribution Payment Date if the Distribution that would otherwise be payable on that Distribution Payment Date will be deferred.
- (c) The Issuer has no obligation to pay any amount of the Distribution deferred under this clause except as part of the Redemption Amount of the Subordinated Capital Notes if the Subordinated Capital Notes are required to be Redeemed. However, the Issuer may in its discretion elect to pay such amount as an Optional Distribution Payment at any time on not less than 5 Business Days' notice to the Note Trustee and ASX.
- (d) No additional Distribution or other amount is payable by the Issuer in respect of any Distribution deferred under this clause.

### 3.5 Restrictions on deferral

- (a) Subject to clause 3.5(c), the Issuer may not elect under clause 3.4(a) to defer payment of a Distribution that would otherwise be payable on a Distribution Payment Date if, since the Distribution Payment Date preceding that Distribution Payment Date (or in the case of the first Distribution Payment Date, since the Issue Date), Yancoal has undertaken a Restricted Action.
- (b) If, in accordance with clause 3.4(a), any Distribution is not paid to the Holders in full on a Distribution Payment Date, then, subject to clause 3.5(c), the Issuer must not and procure that Yancoal does not undertake a Restricted Action until such time as the Unpaid Distribution Amount has been paid as an Optional Distribution Payment or all Subordinated Capital Notes have been Converted or Redeemed.
- (c) For the purposes of the Terms of Issue, a "**Restricted Action**" means:
  - (1) a declaration, determination or payment of a dividend or distribution from the income or capital of Yancoal;
  - (2) a return of any capital or undertaking to buy-back or repurchase; or
  - (3) a payment of any interest,in relation to any Equal Ranking Obligations or Junior Ranking Obligations, other than:
  - (4) pro-rata dividends, distributions or payments on Equal Ranking Obligations;
  - (5) any action taken in connection with an employment contract, employee share scheme, employee rights or option plan, or similar arrangement with, or for the benefit of, any one or more employees, officers, directors or consultants of the Issuer, Yancoal or their Related Bodies Corporate;



- (6) any dividend, distribution, return of capital, buy-back, repurchase or payment only in the form of, or for a consideration provided by Yancoal only in the form of, or where any amount paid by Yancoal is mandatorily invested in, securities, warrants, options or other rights where the securities, or the securities issuable upon exercise of the warrants, options or other rights, constitute Equal Ranking Obligations (where the action relates to Equal Ranking Obligations) or Junior Ranking Obligations (in any case); or
- (7) any repayment or redemption of Equal Ranking Obligations or Junior Ranking Obligations which Yancoal is obliged to pay or undertake on the legal maturity date of such Equal Ranking Obligations or Junior Ranking Obligations.

## 4 Conversion

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### 4.1 Conversion Notice

- (a) Subject to this clause 4, a Holder may request Conversion of the Subordinated Capital Notes held by it by giving a Conversion Notice to the Issuer and Yancoal at any time during the period commencing on the day falling 40 days after the Issue Date and ending on the date which falls 30 years from the Issue Date (**Conversion Period**).
- (b) A request under clause 4.1(a) requesting a Conversion may be in relation to some or all of the Holder's Subordinated Capital Notes, subject to the aggregate Face Value of the Subordinated Capital Notes the subject of the Conversion Notice being at least the lesser of US\$5,000 or the balance of the Holder's holding of Subordinated Capital Notes.
- (c) Once given by a Holder, a Conversion Notice cannot be withdrawn without the written consent of the Issuer and Yancoal, which they may choose to provide at any time (and any such consent may either be given in writing, or in the case of a consent applying to Holders or a class of Holders generally, by notice to ASX). If a Conversion Notice is withdrawn in accordance with this clause 4.1(c), it must not be acted upon and will be of no further force or effect despite any other provisions in this clause 4.
- (d) A Conversion Notice must be accompanied by such evidence of the authority of the person signing it as is reasonably acceptable to the Issuer and Yancoal and may be treated by the Issuer and Yancoal as not being a valid Conversion Notice unless and until such evidence is actually received by the Issuer and Yancoal.
- (e) A Conversion Notice must include:
  - (1) such information as may be required by the Issuer in relation to the Holder's voting power in Yancoal to enable the Issuer and Yancoal to determine the maximum number of Yancoal Ordinary Shares that the Holder is able to acquire on the Conversion Date without contravening section 606 of the Corporations Act (or without exceeding such lesser percentage voting power in Yancoal as the Holder may specify in the Conversion Notice as being the percentage voting power that it does not wish to exceed as a result of Conversion of the Subordinated Capital Notes which are subject to the Conversion Notice) (**the Maximum Number**); and



- (2) a warranty that the information referred to in clause 4.1(e)(1) is correct and that the Holder will not breach any other applicable law as a result of the Conversion (and that the Holder either (i) is not, and is not acting on behalf of or for the account or benefit of, a U.S. person (as defined in Regulation S under the US Securities Act) and is acquiring the Yancoal Ordinary Shares the subject of the Conversion Notice in an offshore transaction within the meaning of Regulation S; or (ii) is an institutional "accredited investor" within the meaning of Rule 501 under the Securities Act and is acquiring the Yancoal Ordinary Shares the subject of the Conversion Notice in a private transaction exempt from or not subject to the registration requirements of the Securities Act, in which case the Yancoal Ordinary Shares to be delivered to such Holder will be "restricted securities" within the meaning of Rule 144(a)(3) of the Securities Act and such Holder will be required to make certain representations and agreements as to, among other matters, its eligibility to acquire such securities and restrictions on transfer of such securities; or (iii) is otherwise acquiring the Yancoal Ordinary Shares the subject of the Conversion Notice in a transaction exempt from or not subject to the registration requirements of the Securities Act, and to the extent the Yancoal Ordinary Shares delivered in such transaction are "restricted securities", making the representations and agreements as referred to in (ii) above),

and the Issuer and Yancoal may rely on such information without further enquiry (or, if it so chooses, may require additional substantiation of such information).

- (f) If on the Conversion Date in respect of a Conversion Notice the Issuer or Yancoal determines in good faith that the number of Yancoal Ordinary Shares that would be required to be issued as a result of the Conversion of the Subordinated Capital Notes the subject of the Conversion Notice exceeds the Maximum Number, then:
- (1) the notice will be deemed to relate only to the maximum number of those Subordinated Capital Notes as can be Converted into in a number of Yancoal Ordinary Shares that does not exceed the Maximum Number;
  - (2) the Issuer must Convert that number of the Subordinated Capital Notes; and
  - (3) the balance of the Subordinated Capital Notes will be treated as having never been the subject of a Conversion Notice.
- (g) A Holder must not deal with, transfer, dispose of or encumber any Subordinated Capital Notes the subject of a Conversion Notice once that Conversion Notice has been given. Subject to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules, the Issuer may refuse to register a transfer of any Subordinated Capital Notes the subject of a Conversion Notice and may arrange for the Subordinated Capital Notes to be subject to a holding lock or make other arrangements to ensure that the Subordinated Capital Notes are not dealt with by the Holder.
- (h) Where the Issuer and Yancoal have received a valid Conversion Notice in respect of any particular Subordinated Capital Notes, any Conversion Notice subsequently received will be taken to apply only to the Subordinated Capital Notes which were not the subject of the prior Conversion Notice. The Yancoal Directors may apply such adjustments (if any) as the Yancoal Directors consider to be reasonably necessary to reflect this.
- (i) If the Issuer issues a Redemption Notice or Resale Notice then a Holder may not (subject to clause 4.9) give a Conversion Notice in respect of any Subordinated Capital Notes to be Redeemed or subject to the Resale after the Conversion Cut-



off Time prior to the specified Redemption Date or Resale Date (as the case may be), unless the Issuer fails to Redeem the Subordinated Capital Notes on that date in accordance with the applicable Redemption Notice, or the Purchaser fails to pay the Purchase Price for the Subordinated Capital Notes on that date in accordance with the applicable Resale Notice, in which case the Holder may give a Conversion Notice at any time prior to the Redemption or Resale (as the case may be) of its Subordinated Capital Notes (or, if sooner, the expiry of the Conversion Period). To avoid doubt, for the purpose of this clause 4.1(i):

- (1) Subordinated Capital Notes which a Holder has elected will not be subject to a Resale under clause 5.4(c) are not to be treated as being subject to that Resale; and
- (2) Subordinated Capital Notes which have been acquired by the relevant Purchaser following the issue of a Resale Notice are no longer treated as being subject to the Resale to which that Resale Notice related.

## 4.2 Conversion process

- (a) Where a Subordinated Capital Note is to be Converted under these Terms of Issue, on the Conversion Date:
  - (1) the Issuer will redeem the Subordinated Capital Note for its Face Value, and apply the whole of that amount as payment to Yancoal by way of subscription by the Holder of the Subordinated Capital Note for the number of new Yancoal Ordinary Shares to be issued to the Holder calculated in accordance with clause 4.3; and
  - (2) the Issuer must cause to be issued to the relevant Holder the number of Yancoal Ordinary Shares calculated in accordance with clause 4.3.
- (b) By delivering a Conversion Notice, the relevant Holder irrevocably and unconditionally:
  - (1) directs that the amount payable under this clause 4.2 is to be applied as provided for in this clause and acknowledges and agrees that it has no right to payment in any other way;
  - (2) consents to be a member of Yancoal and agrees to be bound by the constitution of Yancoal; and
  - (3) acknowledges and agrees that the Issuer has no obligation to pay, and the Holder has no right to receive, any accrued Distributions or Unpaid Distribution Amounts in respect of the Subordinated Capital Notes the subject of the Conversion Notice.
- (c) Any issue of Yancoal Ordinary Shares under this clause 4.2 will have effect on and from, and be deemed to have been made on, the Conversion Date.
- (d) Yancoal Ordinary Shares issued on Conversion must rank equally with all other fully paid Yancoal Ordinary Shares other than in respect of any dividend or other entitlement for which the applicable record date falls prior to the Conversion Date.
- (e) The Issuer will procure that Yancoal uses all reasonable endeavours to procure the listing of the Yancoal Ordinary Shares issued on Conversion of the Subordinated Capital Notes on ASX.



### 4.3 Conversion Price

- (a) The number of Yancoal Ordinary Shares to which a Holder is entitled upon Conversion of Subordinated Capital Notes is determined by the following formula:

**Number of Yancoal Ordinary Shares = AFV / Holder Conversion Price**

Where:

**AFV** is the aggregate Face Value of the Subordinated Capital Notes being Converted by the Holder.

**Conversion Price** is US\$0.10, as adjusted under clause 4.

**Holder Conversion Price** is, in respect of any Conversion:

- (1) unless paragraph (2) applies, the Conversion Price; or  
(2) if the Holder specifies in the Conversion Notice (or has otherwise notified the Issuer in circumstances where the Issuer has received such notice and acknowledged it will apply to the relevant Conversion) that it wishes the relevant Conversion to occur at a specified price higher than the Conversion Price, the higher price so specified.

- (b) Where the number of Yancoal Ordinary Shares to be issued to a Holder under clause 4.2(a) includes a fraction, that fraction will be disregarded.

### 4.4 Adjustments to Conversion Price for rights issues or bonus issues

- (a) Subject to clauses 4.4(b) and 4.4(c), if Yancoal makes a rights issue (including an issue of the kind known as a 'jumbo issue' or 'accelerated entitlement offer', where offers to certain institutional holders, or beneficial holders, are made in advance of offers to other holders) or bonus issue (in either case being a pro rata issue) of Yancoal Ordinary Shares to holders of Yancoal Ordinary Shares generally, the Conversion Price will be adjusted immediately under the following formula:

$$CP = CPo \times \frac{1/P \times (RD \times P) + (RN \times A)}{(RD + RN)}$$

Where:

**CP** means the Conversion Price applying immediately after the application of this formula;

**CPo** means the Conversion Price applying immediately before the application of this formula;

**P** means the VWAP during the period from (and including) the first Business Day after the announcement of the rights or bonus issue to ASX up to (and including) the last Business Day of trading cum rights or bonus issue (or if there is no period of cum rights or bonus issue trading, an amount reasonably determined by the Yancoal Directors as representing the value of an Ordinary Share cum the rights or bonus issue);

**RD** means the number of Yancoal Ordinary Shares on issue immediately before the issue of new Yancoal Ordinary Shares under the rights or bonus issue;

**RN** means the number of Yancoal Ordinary Shares issued under the rights or bonus issue; and

**A** means the subscription price per Ordinary Share for a rights issue (and is zero in the case of a bonus issue).



- (b) No adjustment to the Conversion Price will occur if **A** exceeds **P**.
- (c) Clause 4.4(a) does not apply to Yancoal Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a dividend reinvestment plan.
- (d) For the purpose of this clause 4.4, an issue will be regarded as a pro rata issue notwithstanding that Yancoal does not make offers to some or all Yancoal Ordinary Shareholders with registered addresses outside Australia, provided that in so doing Yancoal is not in contravention of the ASX Listing Rules.

#### 4.5 Adjustments to Conversion Price for off market buy-backs

- (a) Subject to clause 4.5(b), if Yancoal undertakes an off market buy-back under a buy-back scheme which but for any applicable restrictions on transfer would be generally available to holders of Yancoal Ordinary Shares (or otherwise cancels Yancoal Ordinary Shares for consideration), the Conversion Price will be adjusted immediately using the following formula:

$$CP = CPo \times \frac{1}{P} \times \frac{(BD \times P) - (BN \times A)}{(BD - BN)}$$

Where:

**CP** means the Conversion Price applying immediately after the application of this formula;

**CPo** means the Conversion Price applying immediately before the application of this formula;

**P** means the VWAP during the 20 Business Days before the announcement to ASX of the buy-back (or cancellation);

**BD** means the number of Yancoal Ordinary Shares on issue immediately before the buy-back (or cancellation);

**BN** means the number of Yancoal Ordinary Shares bought back (or cancelled); and

**A** means the buy-back (or cancellation) price per Ordinary Share.

- (b) No adjustment to the Conversion Price will occur if **P** exceeds **A**.

#### 4.6 Adjustment to Conversion Price for dividends and return of capital

If:

- (a) at any time prior to the First Reset Date Yancoal pays any dividend to holders of Yancoal Ordinary Shares;
- (b) on or at any time after the First Reset Date Yancoal pays any dividend to holders of Yancoal Ordinary Shares other than an Ordinary Dividend; or
- (c) at any time Yancoal makes a pro rata return of capital to holders of Yancoal Ordinary Shares without cancellation of any Yancoal Ordinary Shares.

(a **Relevant Distribution**) the Conversion Price will be adjusted under the following formula:

$$CP = CPo \times \frac{P - RD}{P}$$

Where:

**CP** means the Conversion Price applying immediately after the application of this formula;



**CPo** means the Conversion Price applying immediately before the application of this formula;

**P** means the VWAP during the period from (and including) the first Business Day after the announcement to ASX of the Relevant Distribution up to and including the last Business Day of trading cum the Relevant Distribution (or if there is no period of cum Relevant Distribution trading, an amount reasonably determined by the Yancoal Directors as representing the value of an Ordinary Share cum the Relevant Distribution); and

**RD** means with respect to the Relevant Distribution, the amount of the cash and/or the value (as reasonably determined by the Yancoal Directors) of any other property distributed to holders of Yancoal Ordinary Shares per Ordinary Share (or such lesser amount such that the difference between P and RD is greater than zero).

#### **4.7 Adjustments to Conversion Price for reconstructions, etc**

Where the Yancoal Ordinary Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities, the Conversion Price shall be adjusted by the Issuer as it reasonably considers appropriate (consistently with the way in which the exercise price and number of Yancoal Ordinary Shares (as applicable) the subject of an option over Yancoal Ordinary Shares would have been adjusted under the ASX Listing Rules) and having first obtained a letter from a reputable, international organisation independent to the Issuer and Yancoal with expertise in Australian financial market products which states that it considers the adjustment appropriate (consistently with the way in which the exercise price and number of Yancoal Ordinary Shares (as applicable) the subject of an option over Yancoal Ordinary Shares would have been adjusted under the ASX Listing Rules).

#### **4.8 Other adjustments to Conversion Price**

Despite the provisions of clauses 4.4 to 4.7, where:

- (a) the effect of any of the adjustment provisions set out in clauses 4.4 to 4.7 is not, in the opinion of the Issuer, appropriate in any particular circumstances (including because more than one adjustment provision applies); or
- (b) any other event other than payment of an Ordinary Dividend occurs in relation to Yancoal that in the Issuer's opinion may have a dilutive or concentrative effect on the value of the Yancoal Ordinary Shares,

and, in the opinion of the Issuer, such occurrence would affect the relative values of Subordinated Capital Notes and the Yancoal Ordinary Shares, the Issuer may:

- (c) make such adjustment to the Conversion Price as it considers appropriate or necessary to maintain that relativity; or
- (d) extend an entitlement to the Holders to participate in such event based upon the number of Yancoal Ordinary Shares to which those Holders would have been entitled if their Subordinated Capital Notes had been Converted on a date nominated by the Issuer to maintain the relativity,

provided that the Issuer will act reasonably and in good faith in determining whether clauses 4.8(a) or 4.8(b) apply in any particular circumstance or event and (if so) in determining what (if any) action should be taken under clauses 4.8(c) or 4.8(d). In forming any opinion or making any determination under this clause the Issuer will obtain and rely upon the opinion of a reputable, international organisation independent to the Issuer and Yancoal with expertise in Australian financial market products.



#### 4.9 Notification of conversions

If by the Conversion Cut-off Time prior to any Monthly Conversion Date, Redemption Date, ~~or~~ Resale Date or Special Conversion Date, the Issuer has received Conversion Notices in respect of Subordinated Capital Notes which would result in a number of Yancoal Ordinary Shares being issued on the following Monthly Conversion Date, Redemption Date, ~~or~~ Resale Date or Special Conversion Date (the **Relevant Conversion Date**) such that the total number of Yancoal Ordinary Shares on issue would be more than 10% greater than:

- (a) if no ASX Notification (as defined below) has previously been issued, the total number of Yancoal Ordinary Shares on issue at the Issue Date; or
- (b) if one or more ASX Notifications have previously been issued, the total number of Yancoal Ordinary Shares on issue immediately following Conversion of Subordinated Capital Notes on the Relevant Conversion Date which immediately followed the most recent ASX Notification,

then the Issuer must:

- (c) by no later than 10 Business Days before the Relevant Conversion Date (**ASX Notification Date**) notify ASX of that fact and the total number of Yancoal Ordinary Shares that would be issued pursuant to those Conversion Notices assuming all Subordinated Capital Notes the subject of those Conversion Notices were Converted (**ASX Notification**);
- (d) between the period commencing on the ASX Notification Date and ending on the date which is 7 Business Days prior to the Relevant Conversion Date (**Relevant Period**), permit Holders to submit Conversion Notices (or additional Conversion Notices in the case of those Holders who have already submitted Conversion Notices) to Convert Subordinated Capital Notes on the Relevant Conversion Date;
- (e) on each Business Day during the Relevant Period, notify ASX of the number of Subordinated Capital Notes for which Conversion Notices have been received since the ASX Notification Date and the number of Yancoal Ordinary Shares that would be issued pursuant to those Relevant Conversion Notices assuming all Subordinated Capital Notes the subject of those Conversion Notices on the Relevant Conversion Date were Converted; and
- (f) treat the Conversion Date for each Conversion Notice received during the Relevant Period (or before such later date as the Issuer may agree with the relevant Holder) as being the Relevant Conversion Date.

#### 4.10 Determination and notification of adjustments

- (a) The Issuer must promptly determine all adjustments to the Conversion Price required under this clause 4 and must promptly notify ASX of that determination.
- (b) The Issuer's determination is, in the absence of manifest error, final and binding on the Note Trustee and each Holder.



## 5 Redemption and purchase

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### 5.1 Redemption on Winding Up

If an order is made by a court of competent jurisdiction, or an effective resolution is passed, for the Winding Up of the Issuer or Yancoal, the Issuer must Redeem each Subordinated Capital Note for its Redemption Amount.

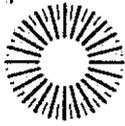
### 5.2 Redemption at the option of the Issuer

(a) **(Redemption – Issuer's optional redemption)**

- (1) The Issuer may elect to Redeem all or some of the Subordinated Capital Notes on the First Reset Date or any Distribution Payment Date thereafter at their Redemption Amount by giving not less than 30 Business Days' notice of such Redemption to the Note Trustee, the Holders and ASX.
- (2) If the Issuer elects to Redeem some but not all of the Subordinated Capital Notes under clause 5.2(a)(1), such Redemption must be made on a pro-rata basis in respect of all Holders' Subordinated Capital Notes on issue at the relevant time, subject to such adjustments as the Issuer or the Registry considers necessary or appropriate to take into account the effect of such Redemption on marketable parcels and whole numbers of any other Subordinated Capital Notes remaining on issue.
- (3) The Issuer may give notice under this clause before the First Reset Date provided the Redemption Date specified in the notice falls on a Business Day on or after the First Reset Date.

(b) **(Redemption - Redemption event)**

- (1) If:
  - (A) a Tax Event occurs;
  - (B) an Accounting Event occurs; or
  - (C) a Change of Control Event occurs,the Issuer may Redeem all (but not some) of the Subordinated Capital Notes at any time on the Redemption Date nominated in accordance with this clause 5.2(b) for their Redemption Amount.
- (2) The Issuer may only Redeem a Subordinated Capital Note under this clause 5.2(b) if:
  - (A) the Issuer has given at least 30 Business Days' (and no more than 45 Business Days') notice to the Note Trustee, the Holders and ASX nominating the Redemption Date upon which the Issuer proposes to Redeem the Subordinated Capital Notes; and
  - (B) before the Issuer gives the notice under paragraph (A), the Note Trustee has received a certificate signed by two directors of the Issuer that the event or circumstances entitling the Issuer to Redeem the Subordinated Capital Notes has occurred.



(c) **(Redemption – clean up option)**

- (1) If at any time the aggregate principal amount of the Subordinated Capital Notes Outstanding is less than 10% of the aggregate principal amount of the Subordinated Capital Notes originally issued, the Issuer may Redeem all (but not some) of the Subordinated Capital Notes that remain outstanding for their Redemption Amount.
- (2) The Issuer may only Redeem a Subordinated Capital Note under this clause 5.2(c) if:
  - (A) the Issuer has given at least 30 Business Days' (and no more than 45 Business Days') notice to the Note Trustee, the Holders and ASX nominating the Redemption Date upon which the Issuer proposes to Redeem the Subordinated Capital Notes; and
  - (B) the proposed Redemption Date nominated by the Issuer is a Distribution Payment Date.

(d) **(Effect of notice)**

Notice under this clause 5.2 is irrevocable and on the Redemption Date specified in the notice the Issuer must, subject to clause 5.2(e), Redeem each Subordinated Capital Note at its Redemption Amount. The accidental or inadvertent failure to give notice to an individual Holder will not invalidate notice under this clause.

(e) **(Conversion)**

Notwithstanding the issue of a Redemption Notice, a Holder may give a Conversion Notice in respect of any of its Subordinated Capital Notes which are the subject of the Redemption Notice up to the Conversion Cut-off Time before the relevant Redemption Date (or such later date as may be permitted under clause 4.9 or as the Issuer may agree with the relevant Holder), and only Subordinated Capital Notes for which Conversion Notices have not been so given or are treated as having not been given will be Redeemed on the specified Redemption Date.

### 5.3 Failure to Redeem

If the Issuer fails to Redeem the Subordinated Capital Notes when due, Distributions will continue to accrue on the Subordinated Capital Notes at the rate applicable to them on their Redemption Date and must be paid to the relevant Holders upon Redemption of the Subordinated Capital Notes.

### 5.4 Resale

- (a) The Issuer may elect that Resale occur in relation to all or (subject to clause 5.4(b)) some of the Subordinated Capital Notes on any date (the **Resale Date**) that the Issuer would be entitled to nominate as a Redemption Date for the Subordinated Capital Notes by giving a Resale Notice at least 30 Business Days (and no more than 45 Business Days) before the Resale Date to the Note Trustee, the Holders and ASX.
- (b) The Issuer may not elect that a Resale occur in relation to less than all the Subordinated Capital Notes without the consent of any Holder whose Subordinated Capital Notes are not to be subject to the Resale.
- (c) Any Holder whose Subordinated Capital Notes are the subject of a Resale Notice may by notice to the issuer at any time prior to the Conversion Cut-off Time for the



Resale Date (or prior to such later time to which the time for delivery of Conversion Notices may be extended under clause 4.9) elect that their Subordinated Capital Notes will not be subject to the Resale. The delivery by a Holder of a Conversion Notice in respect of any Subordinated Capital Notes will be treated as an election that those Subordinated Capital Notes not be subject to the Resale for the purposes of this clause (and for this purpose, if the Holder has sought Conversion of a number of Subordinated Capital Notes that exceeds the Maximum Number as defined in clause 4.1(f), then it will still be treated as having delivered a Conversion Notice in respect of such excess number of Subordinated Capital Notes, despite clauses 4.1(f)(1) and 4.1(f)(3)).

- (d) If the Issuer issues a Resale Notice:
- (1) each Holder that has not given notice under clause 5.4(c) is taken irrevocably to offer to sell the relevant number of their Subordinated Capital Notes to the Purchaser on the Resale Date for a cash amount per Subordinated Capital Note equal to the Purchase Price (and to have appointed the Issuer as its agent and attorney to do and execute all things and documents which the Issuer considers may be necessary or desirable in connection with that offer and any resulting sale);
  - (2) subject to payment by the Purchaser on or before the Resale Date (or thereafter as contemplated by clause 5.4(e)) of the Purchase Price to a Holder whose Subordinated Capital Notes are to be subject to the Resale, all right, title and interest in those Subordinated Capital Notes will be transferred from the Holder to the Purchaser on the Resale Date; and
  - (3) if the Purchaser does not pay the Purchase Price to the relevant Holders on the Resale Date, the relevant number of Subordinated Capital Notes will not be transferred to the Purchaser and a Holder has no claim on the Issuer as a result of that non-payment.
- (e) Clause 7 will apply to payments by the Purchaser as if the Purchaser was the Issuer. If any payment to a particular Holder is not made or treated as made on the Resale Date because of any error by or on behalf of the Purchaser, the relevant Subordinated Capital Notes of that Holder will not be transferred until payment is made but the transfer of all other relevant Subordinated Capital Notes will not be affected by the failure.
- (f) Notwithstanding the issue of a Resale Notice and that the Holder may not have elected that its Subordinated Capital Notes not be subject to the relevant Resale, a Holder may give a Conversion Notice in respect of any of its Subordinated Capital Notes which are subject to the Resale at any time before the Conversion Cut-off Time before the relevant Resale Date (or such later date as may be permitted under clause 4.9 or as the Issuer may agree with the relevant Holder), and only Subordinated Capital Notes for which Conversion Notices have not been so given will be subject to the Resale on the specified Resale Date.

## 5.5 Purchase

- (a) The Issuer, Yancoal and any of Yancoal's other Subsidiaries may at any time purchase Subordinated Capital Notes in the open market or otherwise and at any price.
- (b) Subordinated Capital Notes purchased under this clause 5.5 may be held, resold or cancelled at the discretion of the purchaser (and, if the Subordinated Capital Notes are to be cancelled, the Issuer), subject to compliance with any applicable law or requirement of ASX.



## **5.6 Cancellation**

Subordinated Capital Notes Redeemed, or purchased by Yancoal, the Issuer or another Subsidiary of Yancoal which the purchaser and the Issuer elect to cancel, will be cancelled by the Issuer and may not be resold.

## **6 Enforcement**

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### **6.1 Consequences of a default**

- (a) Subject to clause 6.1(b) and the Note Trust Deed, if the Issuer or Yancoal is being wound up and the Issuer has become obliged to Redeem the Subordinated Capital Notes under clause 5.1 or if the Issuer or Yancoal is in default of payment or performance of any of its other obligations in respect of the Subordinated Capital Notes, the Subordinated Guarantee or the Note Trust Deed, the Note Trustee may take any action permitted by the Note Trust Deed to enforce the Subordinated Capital Notes, the Subordinated Guarantee or the Note Trust Deed.
- (b) The Note Trustee is not bound to take any action referred to in clause 6.1(a) to enforce the rights of the Holders against the Issuer or Yancoal in respect of the Subordinated Capital Notes or any other action pursuant to or in connection with the Note Trust Deed or the Subordinated Capital Notes unless:
  - (1) it shall have been so directed by a Holder Resolution or so requested in writing by the Holders of at least 10% of the aggregate of the principal amount of all Subordinated Capital Notes Outstanding (ignoring any Subordinated Capital Notes held by the Issuer, Yancoal or any of Yancoal's other Subsidiaries and not cancelled); and
  - (2) it shall have been indemnified or secured (by way of advance payment or otherwise) to its satisfaction in respect of all liabilities, costs, charges, damages and expenses (including any management time) which it may incur, as more fully set out in the Note Trust Deed.

### **6.2 Enforcement by Note Trustee, Holders**

The rights of the Note Trustee and the Holders to take any action against the Issuer or Yancoal to enforce the Subordinated Capital Notes or the Note Trust Deed are limited as provided in the Note Trust Deed.

### **6.3 Conversion right to remain exercisable**

The right to Convert remains exercisable in accordance with these Terms of Issue notwithstanding any action taken by the Note Trustee under this clause 6 to enforce any provision of these Terms of Issue or the Note Trust Deed at any time up to the date the Subordinated Capital Notes are Redeemed.



## 7 Payments

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### 7.1 Payment of principal

Payments of the Redemption Amount in respect of a Subordinated Capital Note (including all Distributions payable on Redemption of the Subordinated Capital Note) will be made to the person registered at 10:00am on the relevant Redemption Date as the Holder of that Subordinated Capital Note.

### 7.2 Payment of Distributions

Distributions payable in respect of a Subordinated Capital Note (other than Distributions payable on Redemption of the Subordinated Capital Note) will be made to the person registered at the Record Date for that payment as the Holder of that Subordinated Capital Note.

### 7.3 Manner of payment

- (a) Amounts payable to a Holder in respect of the Subordinated Capital Notes will be paid by direct credit to an account nominated by the Holder at an Australian financial institution by notice to the Registry not less than eight calendar days before the date for payment.
- (b) Unless a Holder elects to receive payments in respect of its Subordinated Capital Notes in US Dollars, the Issuer will use the amount payable in US Dollars to purchase Australian Dollars from an Australian financial institution at the exchange rate quoted to the Issuer by that financial institution and pay the amount received in Australian Dollars (after deducting any applicable fees, charges or commissions) to the specified account. The Issuer is not obliged to make any payment in Australian Dollars in accordance with this paragraph until such time after the due date for payment as is reasonably required to effect the required conversion and payment arrangements and is not obliged to pay any additional Distributions or other amount to the Holder in respect of such delay.
- (c) An election under clause 7.3(b) must be made in the Holder's application form or by subsequent notice in a form approved by the Issuer and lodged with the Registry not less than eight calendar days before the relevant payment date. The Issuer may assume that the account nominated by a Holder who has made such an election is an account to which payments may be made in US Dollars.
- (d) Where a payment cannot be made in accordance with clauses 7.3(a) and 7.3(b) (as applicable) because a Holder has not provided account details, or the Issuer determines that the account details are incorrect or the relevant account has been closed or is not an account to which the relevant payment can be made, the Issuer is under no obligation to make the relevant payment until the required account details have been provided.
- (e) Where a payment is due on a day that is not a Business Day, or cannot be made in accordance with clause 7.3(a) on the due date because a financial institution is not open for business (or is not open for business in the place where the account is kept) on that date, the Issuer is under no obligation to make the relevant payment until the next Business Day on which payment can be made.
- (f) The Holder is not entitled to any interest or other amount in respect of a delay in payment under clauses 7.3(b), 7.3(c), 7.3(d) or 7.3(e).



#### 7.4 Payment subject to fiscal laws

The Issuer's obligations to make payments on the Subordinated Capital Notes are subject to all applicable laws.

#### 7.5 Payments net of deductions

- (a) The Issuer may deduct from any Distribution or other amount payable to a Holder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. For the purposes of this paragraph, any amount deducted by the Issuer in accordance with:
- (1) sections 1471 to 1474 of the Internal Revenue Code of the United States of America (or any associated regulations or other official guidance); or
  - (2) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (1) above; or
  - (3) any agreement pursuant to the implementation of paragraphs (1) or (2) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction,
- will be deemed to be a deduction required by law.
- (b) The Issuer will pay the full amount deducted to the relevant revenue authority within the time allowed for such payment without incurring a penalty under the applicable law and will, if required by any Holder, deliver to that Holder the relevant receipt issued by the revenue authority without unreasonable delay after it is received by the Issuer.

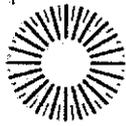
#### 7.6 Payments generally

Payments in respect of the Subordinated Capital Notes and the Subordinated Guarantee will be made in accordance with the provisions relating to payment set out in clause 4.2 (Payments) of the Note Trust Deed.

### 8 Further issues

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- (a) The Issuer and Yancoal must not issue or guarantee any other bonds, notes or other form or type of securities, or incur or guarantee any indebtedness for moneys borrowed or raised pursuant to any other financial accommodation, in any case where such bonds, notes or other securities or indebtedness are issued or incurred to, or guaranteed by, Yanzhou, or in respect of which Yanzhou has provided (directly or indirectly) equivalent credit support, except:
- (1) (subject to clause 8(b)) bonds, notes, securities or indebtedness arising from utilisation of credit lines or facilities subsisting at the Issue Date (or extensions thereof) or credit lines or facilities (**Replacement Facilities**) established after the Issue Date to replace or extend the maturity of such credit lines or facilities or credit lines or facilities previously established under this paragraph (1) (in each case whether drawn or undrawn);
  - (2) (subject to clause 8(b)) bonds, notes, securities or indebtedness (**Replacement Debt**) issued or incurred after the Issue Date for the



- purpose of refinancing or extending the maturity of any bonds, notes, securities or indebtedness of Yancoal or any of its subsidiaries subsisting at the Issue Date or issued or incurred after the Issue Date as permitted under paragraph (1) or this paragraph (2);
- (3) indebtedness in respect of accrued but uncapitalised interest, fees and other charges;
  - (4) indebtedness in respect of bank guarantees, letters of credit, performance bonds and similar instruments not securing the repayment by Yancoal or any of its subsidiaries of bonds, notes or other securities or indebtedness for moneys borrowed or raised pursuant to any other financial accommodation or of any other moneys due to Yanzhou;
  - (5) indebtedness in respect of bank guarantees, letters of credit and other transactional or short term facilities provided by banks or financial institutions up to a maximum aggregate principal amount outstanding at any time of not more than AUD50,000,000;
  - (6) bonds, notes, securities or indebtedness which comprise Equal Ranking Obligations and are issued or incurred:
    - (A) at a time when the average of the FOB Newcastle 6,322kcal/kg GAR export thermal coal price has exceeded US\$110/tonne over the preceding 30 consecutive trading days, there are no Unpaid Distribution Amounts and Yancoal has fully drawn down all commitments from Yanzhou subsisting at the Issue Date to provide Junior Ranking Obligations; or
    - (B) to refinance other Equal Ranking Obligations previously issued or incurred in compliance with this paragraph (6);
  - (7) indebtedness under the Yanzhou Support Facility or the Yanzhou Distribution Facility, or bonds, notes, securities or indebtedness which comprise Junior Ranking Obligations and in respect of which the Issuer or Yancoal is not obliged to make payments of interest or principal prior to the maturity date of the Yanzhou Support Facility except in circumstances where payments of interest or principal prior to the maturity date may also be required under the Yanzhou Support Facility;
  - (8) after Resale Notices have been given in respect of all of the Subordinated Capital Notes then outstanding (other than any held by Holders who consent under clause 5.4(b) to their Subordinated Capital Notes not being the subject of the Resale Notices) and the Purchase Price has been paid in respect of all Subordinated Capital Notes which are to be subject to the Resale in accordance with clause 5.4;
  - (9) after no Subordinated Capital Notes remain on issue; or
  - (10) with the approval of a Special Resolution.
- (b) For the purposes of clause 8(a)(1) and (2), Replacement Facilities and Replacement Debt:
- (1) may not exceed the amount of the replaced credit lines or facilities, or of the refinanced or extended bonds, notes, securities or indebtedness, as the case may be, or (in either case) its equivalent in other currencies (calculated at the date of establishment, issue or incurrence, as the case may be);
  - (2) may not comprise Senior Ranking Obligations except to the extent that the replaced credit lines or facilities, or the refinanced or extended



- bonds, notes, securities or indebtedness, as the case may be, comprised Senior Ranking Obligations; and
- (3) may not comprise Equal Ranking Obligations except to the extent that the replaced credit lines or facilities, or the refinanced or extended bonds, notes, securities or indebtedness, as the case may be, comprised Senior Ranking Obligations or Equal Ranking Obligations.
- (c) Nothing in these Terms of Issue other than clauses 8(a) and 8(b) limits the ability of the Issuer or Yancoal to issue or incur further Senior Ranking Obligations, Equal Ranking Obligations or Junior Ranking Obligations in such party's absolute discretion from time to time.

## 9 Time limit for claims

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A claim against the Issuer for a payment under the Subordinated Capital Notes and a claim against Yancoal for a payment under the Subordinated Guarantee is void unless made within five years after the date on which payment first became due and payable.

## 10 Amendments

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### 10.1 Amendments without consent

At any time and from time to time, but subject to the Note Trust Deed, compliance with the Corporations Act and all other applicable laws, the Issuer, Yancoal and Note Trustee may without the consent of the Holders, amend these Terms of Issue or the Note Trust Deed (including the Subordinated Guarantee) if the Note Trustee is of the opinion that such amendments are:

- (a) of a formal or technical or minor nature and not materially prejudicial to the interests of the Holders as a whole;
- (b) made to cure any ambiguity or correct any manifest error;
- (c) necessary or expedient for the purpose of enabling the Subordinated Capital Notes to be:
- (1) listed for quotation, or to retain quotation, on any stock exchange; or
  - (2) offered for subscription or for sale under the laws for the time being in force in any place,

and (in the case of each of paragraph (1) and (2) above) the Issuer has provided to the Note Trustee an opinion of independent legal advisers or counsel of recognised standing in New South Wales that such amendment is otherwise not materially prejudicial to the interests of Holders as a whole;

- (d) necessary to comply with:
- (1) the provisions of any statute or the requirements of any statutory authority; or
  - (2) the ASX Listing Rules or the listing or quotation requirements of any stock exchange on which the Issuer may propose to seek a listing or quotation of the Subordinated Capital Notes,



and (in the case of each of paragraph (1) and (2) above) the Issuer has provided to the Note Trustee an opinion of independent legal advisers or counsel of recognised standing in New South Wales that such amendment is otherwise not materially prejudicial to the interests of Holders as a whole; or

- (e) not, and not likely to become, taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment, materially prejudicial to the interests of Holders generally and the Issuer has provided to the Note Trustee an opinion of independent legal advisers or counsel of recognised standing in New South Wales that it is open to the Note Trustee to form the opinion that such amendment is otherwise not materially prejudicial to the interests of Holders as a whole.

## 10.2 Amendments with consent

At any time and from time to time, but subject to the Note Trust Deed, compliance with the Corporations Act and all other applicable laws, the Issuer or Yancoal may amend these Terms or the Note Trust Deed (including the Subordinated Guarantee) if a Special Resolution is passed in favour of such amendment and (if the amendment alters or conflicts with any of the personal rights or obligations of the Note Trustee) the Issuer or Guarantor has obtained the Note Trustee's prior written consent to such amendment.

## 10.3 Notices

Notices under these Terms are to be given in accordance with the provisions of the Note Trust Deed.

# 11 Governing law and jurisdiction

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## 11.1 Governing law

The Subordinated Capital Notes and these Terms are governed by the laws of New South Wales, Australia.

## 11.2 Submission to jurisdiction

The Issuer, Yancoal, the Note Trustee and each Holder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia in connection with matters concerning the Subordinated Capital Notes or these Terms of Issue. The Issuer, Yancoal, the Note Trustee and each Holder waive any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

# 12 Definitions

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The following defined terms apply in these Terms of Issue:

<b>Abnormal Item</b>	includes, but is not limited to, unrealised foreign exchange
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gains or losses on foreign currency denominated borrowings.

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<b>Accounting Event</b>	means a determination is made by the Yancoal Directors or the directors of the Issuer, following receipt by them of an opinion from the auditor of Yancoal or the Issuer, that any change in Accounting Standards has had or will have in the current financial half-year, the effect that the Subordinated Capital Notes would be treated in Yancoal's or the Issuer's financial statements other than as equity.
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<b>Accounting Standards</b>	<ol style="list-style-type: none"><li>1 the accounting standards as defined in the Corporations Act;</li><li>2 the requirements of the Corporations Act for the preparation and content of accounts; and</li><li>3 generally accepted accounting principles and practices consistently applied in Australia, including any domestically accepted international accounting standards, except principles and practices that are inconsistent with those referred to in paragraph 1 or 2 of this definition.</li></ol>
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<b>ASIC</b>	the Australian Securities and Investments Commission.
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<b>ASX</b>	ASX Limited (ABN 98 008 624 691) or the market it operates.
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<b>ASX Listing Rules</b>	the listing rules of ASX as amended or replaced from time to time, except to the extent of any express written waiver by ASX.
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<b>ASX Settlement</b>	ASX Settlement Pty Ltd (ABN 49 008 504 532).
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<b>ASX Settlement Operating Rules</b>	the settlement operating rules of ASX Settlement from time to time.
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<b>AUD or Australian Dollars</b>	the lawful currency of the Commonwealth of Australia.
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<b>Australian Tax Act</b>	the <i>Income Tax Assessment Act 1936</i> (Cth) and, where applicable, the <i>Income Tax Assessment Act 1997</i> (Cth).
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<b>Business Day</b>	has the same meaning as in the Listing Rules, but where used in connection with any Redemption of or payment on the Subordinated Capital Notes, excludes a day on which major trading banks are not open for business in Sydney.
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<b>Change in Law</b>	<ol style="list-style-type: none"><li>1 any amendment to, clarification of, or change (including any announced prospective change), in the laws or treaties or any regulations of Australia or any political subdivision or taxing authority of Australia affecting taxation;</li><li>2 any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (<b>Administrative Action</b>); or</li><li>3 any amendment to, clarification of, or change in, an Administrative Action that provides for a position that differs from the current generally accepted position, in each case, by any legislative body, court, Government Agency or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known.</li></ol>
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<b>Change of Control Event</b>	any one of the following events: <ol style="list-style-type: none"><li>1 a takeover bid (as defined in the Corporations Act) is made by any person (other than Yanzhou or an associate of Yanzhou) to acquire all or some of the Yancoal Ordinary Shares and such offer is, or becomes, unconditional, all regulatory approvals necessary for the acquisition to occur have been obtained and the bidder has or obtains at any time during the offer period a relevant interest in more than 50% of the Yancoal Ordinary Shares on issue; or</li><li>2 a court approves a scheme of arrangement under Part 5.1 of the Corporations Act, which scheme would result in a person (other than Yanzhou or an associate of Yanzhou) having a relevant interest in more than 50% of the Yancoal Ordinary Shares that will be on issue after the scheme is implemented; or</li><li>3 any other step or steps are taken as a result of which the board of Yancoal Directors determine that a person (other than Yanzhou or an associate of Yanzhou) has or will acquire a relevant interest in more than 50% of the Yancoal Ordinary Shares on issue and that such step or steps should be treated as a Change of Control Event for the purposes of these Terms of Issue.</li></ol>
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<b>Change of Control Step Up</b>	5.00% per annum.
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<b>Conversion</b>	a Holder ceasing to hold Subordinated Capital Notes and receiving Yancoal Ordinary Shares in accordance with clause 4.2. <b>Convert</b> and <b>Converted</b> have corresponding meanings.
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<b>Conversion Cut-off Time</b>	5.00pm on the 11 <sup>th</sup> Business Day prior to a Monthly Conversion Date, Redemption Date, or Resale Date or <u>Special Conversion Date (or, in the case of a Special Conversion Date that has not been fixed at the time of the Issuer's notification thereof to ASX,</u>
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the date indicated in that notice as the date on which the Special Conversion Date is expected to occur).

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<b>Conversion Date</b>	<p>the date on which Subordinated Capital Notes are to be Converted pursuant to a Conversion Notice, being:</p> <ol style="list-style-type: none"><li>1 in the case of a Conversion Notice received after the issue of a Redemption Notice, or Resale Notice <u>or notice of a Special Conversion Date</u> and prior to the Conversion Cut-off Time for the relevant Redemption Date, or Resale Date <u>or Special Conversion Date</u> (or such later time as may be permitted under clause 4.9 or as the Issuer may agree with the relevant Holder), that Redemption Date, or Resale Date <u>or Special Conversion Date</u> or such other date as may be reasonably determined by the Issuer having regard to its obligations to Holders;</li><li>2 in any other case, the first Monthly Conversion Date falling at least 11 Business Days after the receipt of the relevant Conversion Notice (or, in the case of a Conversion Notice to which clause 4.9 applies, the Monthly Conversion Date specified in that clause or as the Issuer may otherwise agree with the relevant Holder or such other date as may be reasonably determined by the Issuer having regard to its obligations to Holders).</li></ol>
<b>Conversion Notice</b>	<p>a notice, in a form prescribed by the Issuer, given by a Holder to the Issuer and Yancoal under clause 4.1.</p>
<b>Conversion Price</b>	<p>has the meaning given in clause 4.3.</p>
<b>Conversion Process</b>	<p>means the process described in clause 4.</p>
<b>Corporations Act</b>	<p><i>Corporations Act 2001</i> (Cth).</p>
<b>Distribution</b>	<p>interest payable on the Subordinated Capital Notes under these Terms of Issue.</p>
<b>Distribution Payment Date</b>	<p>in relation to a Subordinated Capital Note, the last Business Day of each January and July of each year, commencing on 31 July 2015 and falling on or before the Redemption Date.</p>
<b>Distribution Period</b>	<p>in respect of a Subordinated Capital Note:</p> <ol style="list-style-type: none"><li>1 the period beginning on (and including) the Issue Date and ending on (but excluding) the first Distribution Payment Date; and</li><li>2 thereafter, the period beginning on (and including) a</li></ol>

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Distribution Payment Date and ending on (but excluding) the first to occur of:

- the next Distribution Payment Date; or
- the Redemption Date.

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**Distribution Rate**

in respect of each Distribution Period commencing:

- 1 before the First Reset Date, 7.00% per annum;
- 2 on or after the First Reset Date and before the Second Reset Date, the distribution rate calculated in accordance with the following formula and expressed as a percentage per annum:

**Market Rate on the First Reset Date + Margin;**

and

- 3 on or after the Second Reset Date and before a Subsequent Reset Date, the rate calculated in accordance with the following formula and expressed as a percentage per annum:

**Market Rate on the Second Reset Date + Margin + Step Up;**

and

- 4 on or after a Subsequent Reset Date, the rate calculated in accordance with the following formula and expressed as a percentage per annum:

**Market Rate on the most recent Subsequent Reset Date (being the date of calculation if that date is a Subsequent Reset Date) + Margin + Step Up,**

provided that if a Change of Control Event occurs, then on and from the Distribution Payment Date following the date on which the Change of Control Event occurs the applicable Distribution Rate is the aggregate of:

- the rate determined in accordance paragraphs 1, 2, 3 or 4 of this definition (as applicable); and
- the Change of Control Step Up,

expressed as a percentage per annum.

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**Equal Ranking Obligations**

- 1 any obligation in relation to claims of any unsecured, subordinated creditor of the Issuer or Yancoal (as the case may be), or claims of any holder of a preference share in the capital of the Issuer or Yancoal (as the case may be), which claims are expressed to rank equally with the Issuer's obligations under the Subordinated Capital Notes or Yancoal's obligation under the Subordinated Guarantee (as the case may be); and
  - 2 in the case of Yancoal includes the Yanzhou Distribution Facility.
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<b>Face Value</b>	US\$100 per Subordinated Capital Note.
<b>First Reset Date</b>	the first Distribution Payment Date falling at least 5 years after the Issue Date.
<b>Government Agency</b>	any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
<b>Holder</b>	in relation to any Subordinated Capital Note, a person whose name is for the time being registered in the Register as the holder of that Subordinated Capital Note.
<b>Holder Resolution</b>	<ol style="list-style-type: none"><li>1 a resolution passed at a meeting of Holders duly called and held under the Meeting Provisions:<ul style="list-style-type: none"><li>• by more than 50% of the persons voting on a show of hands (unless the second bullet point of this paragraph 1 applies); or</li><li>• if a poll is duly demanded, then by a majority consisting of more than 50% of the votes cast; or</li></ul></li><li>2 if the meeting is by postal ballot or written resolution, then by Holders representing (in aggregate) more than 50% of the principal amount of all of the outstanding Subordinated Capital Notes.</li></ol>
<b>Intercompany Loan</b>	the loan provided by the Issuer to Yancoal on or about the Issue Date out of the proceeds of the issue of the Subordinated Capital Notes.
<b>Issue Date</b>	the date of issue of the Subordinated Capital Notes.
<b>Issuer</b>	Yancoal SCN Limited (ACN 602 841 556).
<b>Issuer Ordinary Share</b>	an ordinary share of the Issuer or shares of any class or classes resulting from any subdivision, consolidation or re-classification of those shares, which as between themselves have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation or dissolution of the Issuer.
<b>Junior Ranking Obligations</b>	<ol style="list-style-type: none"><li>1 any obligation in relation to claims of any unsecured, subordinated creditor of the Issuer or Yancoal (as the case may be) which claims are expressed to rank after the Issuer's or Yancoal's obligations (as the case may be) in</li></ol>



- respect of the Subordinated Capital Notes;
- 2 in respect of Yancoal, all Yancoal Ordinary Shares and its obligations in respect of the Intercompany Loan and the Yanzhou Support Facility; and
  - 3 in respect of the Issuer, all Issuer Ordinary Shares.

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**Listing Rules** the listing rules of ASX, as amended or replaced from time to time.

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**Margin** the difference between 7.00% and the Market Rate as at the Issue Date.

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**Market Rate** on any date (the **Relevant Date**):

- 1 the 5 year semi-annual swap rate for USD swap transactions, expressed as an annual rate, as displayed on the Reuters screen "ISDAFIX1" (or any successor page) (the "**Screen Page**") under the heading "11:00 AM" (as such heading may appear from time to time) as at 11:00 a.m. New York time on the Relevant Date; or
- 2 in the event that the Market Rate does not appear on the Screen Page on the Relevant Date, Market Rate shall mean the percentage rate, expressed as an annual rate, determined on the basis of the 5 year Swap Rate Quotations provided by the Reference Banks to the Issuer at approximately 11.00 a.m. New York time on the Relevant Date. If at least three quotations are provided, the rate for that Relevant Date will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest). If only two quotations are provided, the Market Rate will be the arithmetic mean of the quotations provided. If only one quotation is provided, the Reference Rate will be the quotation provided. If no quotations are provided, the Market Rate will be equal to the last available 5 year semi-annual swap rate for USD swap transactions on the Screen Page, expressed as an annual rate.

Where:

'**5 year Swap Rate Quotations**' means the arithmetic mean of the bid and offered rates for the semi-annual fixed leg (calculated on the basis of a 360-day year of twelve 30-day months) of a fixed-for-floating USD interest rate swap transaction which:

- 1 has a term of 5 years commencing on the relevant Reset Date;
- 2 is in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market; and
- 3 has a floating leg based on the 6-months USD LIBOR rate (calculated on the basis of the actual number of days



elapsed in a 360-day year).

**'Reference Banks'** means five leading swap dealers (as selected by the Issuer in good faith) in the interbank market.

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<b>Meeting Provisions</b>	the provisions for meetings of the Holders set out in Attachment 2 of the Note Trust Deed.
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<b>Monthly Conversion Date</b>	the last day of each calendar month during the Conversion Period.
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<b>Note Trust Deed</b>	the trust deed dated on or about 24 November 2014 between the Issuer, Yancoal and the Note Trustee as amended from time to time.
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<b>Note Trustee</b>	Australian Executor Trustees Limited (ABN 84 007 869 794).
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<b>Optional Distribution Payment</b>	the payment by the Issuer in its discretion of a previously Unpaid Distribution Amount.
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<b>Ordinary Dividend</b>	<p>a regular interim or final dividend paid by Yancoal to holders of Yancoal Ordinary Shares in an amount not exceeding:</p> <ol style="list-style-type: none"><li>1 in the case of an interim dividend, 75% of Yancoal's net profit after tax (pre-Abnormal Items) for the first half of the financial year in respect of which it is paid, as shown in Yancoal's financial statements for that financial half year; or</li><li>2 in the case of any final dividend, in aggregate with any interim dividend paid in respect of the same financial year, 75% of Yancoal's net profit after tax (pre-Abnormal Items) for the financial year in respect of which it is paid, as shown in its financial statements for that financial year.</li></ol>
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<b>Outstanding</b>	in relation to a Subordinated Capital Note means the Subordinated Capital Note has not been Redeemed or Converted or otherwise cancelled.
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<b>Purchase Price</b>	in respect of any Resale of Subordinated Capital Notes, an amount equal to the Redemption Amount that would be payable in respect of the Subordinated Capital Notes if the Subordinated Capital Notes were being Redeemed on the Resale Date.
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<b>Purchaser</b>	one or more third parties selected by the Issuer in its absolute discretion (which can include any of its Related Bodies Corporate, including Yanzhou) and specified in a Resale Notice.
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<b>Record Date</b>	<p>means for payment of a Distribution (other than Distributions payable on Redemption of the Subordinated Capital Note):</p> <ol style="list-style-type: none"><li>1 the date which is eight calendar days before the Distribution Payment Date upon which such Distribution actually falls due for payment; or</li><li>2 such other date as is determined by the directors of the Issuer in their absolute discretion and communicated to ASX not less than seven Business Days before the specified Record Date,</li></ol> <p>or in either case such other date as may be required by ASX.</p>
<b>Redemption</b>	<p>the redemption of a Subordinated Capital Note, other than in connection with its Conversion by payment of its Redemption Amount in accordance with these Terms of Issue. The terms "Redeem" and "Redeemed" have a corresponding meaning.</p>
<b>Redemption Amount</b>	<p>in respect of any Subordinated Capital Note to be Redeemed, the aggregate of:</p> <ol style="list-style-type: none"><li>1 the Face Value of the Subordinated Capital Note; and</li><li>2 the aggregate of any accrued (but unpaid) Distributions up to but not including the Redemption Date and any Unpaid Distribution Amounts in respect of the Subordinated Capital Note,</li></ol> <p>provided that where Redemption is required due to a Winding Up of the Issuer or Yancoal, then accrued (but unpaid) Distributions and Unpaid Distribution Amounts will only be included in the calculation of the Redemption Amount to the extent that funds would be available to the Issuer to meet such payments after the discharge of all other debts of the Issuer.</p>
<b>Redemption Date</b>	<p>in respect of any Subordinated Capital Note, the date for Redemption of that Subordinated Capital Note in accordance with the Terms of Issue.</p>
<b>Redemption Notice</b>	<p>a notice provided by the Issuer in accordance with clause 5.2.</p>
<b>Register</b>	<p>the register of Holders established and maintained in accordance with the Note Trust Deed and, where appropriate, includes:</p> <ol style="list-style-type: none"><li>1 a sub-register conducted by or for the Issuer pursuant to the Corporations Act, the Listing Rules or ASX Settlement Operating Rules; and</li><li>2 any branch register.</li></ol>
<b>Registry</b>	<p>Computershare Investor Services Pty Limited (ABN 48 078 279 277) or such other person appointed by the Issuer to maintain</p>



the Register on the Issuer's behalf from time to time.

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<b>Related Body Corporate</b>	has the meaning given to it in the Corporations Act.
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<b>Resale</b>	a transfer of Subordinated Capital Notes from Holders to a Purchaser in accordance with clause 5.4.
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<b>Resale Date</b>	the date on which a Resale of Notes is scheduled to occur under clause 5.4.
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<b>Resale Notice</b>	a notice given by the Issuer in accordance with clause 5.4 specifying that, subject to clause 5.4, the Subordinated Capital Notes referred to in the notice are to be transferred on a Resale Date specified in the notice to a Purchaser specified in the notice and for a Purchase Price specified in the notice.
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<b>Reset Date</b>	<ol style="list-style-type: none"><li>1 the First Reset Date;</li><li>2 the Second Reset Date; or</li><li>3 a Subsequent Reset Date.</li></ol>
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<b>Restricted Action</b>	has the meaning given to in clause 3.5(c).
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<b>Second Reset Date</b>	the Distribution Payment Date falling five years after the First Reset Date.
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<b>Senior Ranking Obligations</b>	any obligation in relation to claims of any creditors (including subordinated creditors) of the Issuer or Yancoal (as the case may be), other than the Note Trustee (in respect of the principal of and Distributions payable on the Subordinated Capital Notes), the Holders, the holders of Equal Ranking Obligations and the holders of Junior Ranking Obligations.
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<b><u>Special Conversion Date</u></b>	<u>a date (other than a Monthly Distribution Date, Redemption Date or Resale Date) specified in or determined in accordance with a notice given by the Issuer to ASX as being a date on which Conversion may occur.</u>
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<b>Special Resolution</b>	<ol style="list-style-type: none"><li>1 a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:<ul style="list-style-type: none"><li>• by at least 75% of the persons voting on a show of hands (unless the second bullet point of this paragraph 1 applies); or</li></ul></li></ol>
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- if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- 2 a resolution passed by postal ballot or written resolution by Holders representing (in aggregate) at least 75% of the principal amount of all of the outstanding Subordinated Capital Notes,

provided that a resolution will only be treated as passed as a Special Resolution if, in addition to being passed by the requisite majority referred to in paragraph 1 or 2 at least 75% of the votes cast on the resolution by any Holders that are not Related Bodies Corporate of Yancoal (or associates (within the meaning of the Corporations Act) of such Related Bodies Corporate) are cast in favour of the resolution (as determined in good faith by or on behalf of the chairman of the relevant meeting, or by the Issuer in the case of a postal ballot or written resolution).

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<b>Step Up</b>	2.50% per annum.
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<b>Subsequent Reset Date</b>	each Distribution Payment Date falling five years after a previous Reset Date.
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<b>Subordinated Capital Notes</b>	the perpetual, subordinated and unsecured notes issued or to be issued by the Issuer on these Terms of Issue.
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<b>Subordinated Guarantee</b>	the guarantee of the Issuer's obligations in respect of the Subordinated Capital Notes provided by Yancoal to the Note Trustee under clause 5 (Subordinated Guarantee) of the Note Trust Deed.
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<b>Subsidiary</b>	<p>has the meaning given in the Corporations Act, but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and, without limitation:</p> <ol style="list-style-type: none"><li>1 a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and</li><li>2 an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.</li></ol>
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<b>Tax</b>	any tax, levy, impost, deduction, charge or withholding or duty (including stamp duty and transaction duty) imposed by any authority together with any related interest, penalties and expenses in connection with them.
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<b>Tax Event</b>	occurs upon the happening on or after the Issue Date of the Issuer or Yancoal receiving an opinion of a nationally recognised legal counsel or other tax adviser in Australia,
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experienced in such matters that, as a result of a Change in Law after the Issue Date, there is substantial risk that the Issuer or Yancoal would be exposed to a material increase in its costs in relation to the Subordinated Capital Notes, including in relation to Distributions payable under clause 3 or the delivery of Yancoal Ordinary Shares to the Holders.

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<b>Terms of Issue</b>	these terms and conditions of issue.
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<b>Unpaid Distribution Amount</b>	the whole or any part of any Distribution that would otherwise have been payable on a Subordinated Capital Note on a Distribution Payment Date which the Issuer has deferred in accordance with clause 3.4, other than an amount which has been paid pursuant to an Optional Distribution Payment.
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<b>USD, US\$ or US Dollars</b>	the lawful currency of the United States of America.
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<b>VWAP</b>	for any period, the volume weighted average prices for trading in Yancoal Ordinary Shares during that period, excluding for the purposes of this calculation trading which would not be included in the calculation by the ASX of a volume weighted average price, in each case as determined by the Issuer in good faith.
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<b>Winding Up</b>	a winding up, other than in circumstances where a winding up order is made by a court of competent jurisdiction and that order is successfully appealed or permanently stayed within 30 days of that order. The term " <b>wound up</b> " has a corresponding meaning.
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<b>Yancoal</b>	Yancoal Australia Limited (ABN 82 111 859 119).
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<b>Yancoal Director</b>	a Director of Yancoal. References to the <b>Directors</b> are to the Board of Yancoal acting by resolution or through any person to whom it has delegated the relevant matter.
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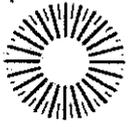
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<b>Yancoal Ordinary Share</b>	an ordinary share of Yancoal or shares of any class or classes resulting from any subdivision, consolidation or re-classification of those shares, which as between themselves have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation or dissolution of Yancoal.
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<b>Yancoal Ordinary Shareholder</b>	a registered holder of Yancoal Ordinary Shares.
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<b>Yanzhou</b>	Yanzhou Coal Mining Company Limited or any of its Subsidiaries (other than Yancoal and its Subsidiaries).
<b>Yanzhou Distribution Facility</b>	the USD807 million Coupon Payment Loan agreement between Yanzhou and Yancoal dated on or around 24 November 2014.
<b>Yanzhou Support Facility</b>	the AUD1.4 billion Debt Support Loan agreement between Yanzhou and Yancoal dated on or around 24 November 2014.

Executed as a deed

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**Issuer**

Signed sealed and delivered by  
**Yancoal SCN Limited**  
by

sign here ▶   
\_\_\_\_\_  
Company Secretary/Director

print name Gregory Fletcher

sign here ▶ Baocai Zhang  
\_\_\_\_\_  
Director

print name 

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**Guarantor**

Signed sealed and delivered by  
**Yancoal Australia Limited**  
by

sign here ▶   
\_\_\_\_\_  
Company Secretary/Director

print name Baocai Zhang

sign here ▶   
\_\_\_\_\_  
Director

print name Gregory Fletcher

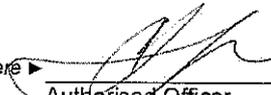
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HERBERT  
SMITH  
FREEHILLS

**Note Trustee**

The Common Seal of  
Australian Executor Trustees Limited was affixed with the authority of:

sign here ▶   
\_\_\_\_\_  
Authorised Officer

print name PINA SPATHIS

sign here ▶   
\_\_\_\_\_  
Authorised Officer

print name Marjorie Hortinela

