Guildford Coal Limited
Level 7, 490 Upper Edward Street
Spring Hill QLD 4000
Telephone: 07 3005 1533
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GUILDFORD
COAL

7 January 2014

ASX ANNOUNCEMENT

708A (12D) Cleansing Notice

Guildford Coal Limited (ASX: GUF) (The Company) ***re-submits*** the attached notice under section 708(12D) of the Corporations Act, as modified by ASIC Class Order [CO 10/322] in relation to an offer and issue of convertible notes by the Company with a face value of US$10,000,000 to OCP Asia (Hong Kong) Limited, any associated body corporate and any fund managed or advised by any of them (OCP Asia). The notice is being re-submitted due to a procedural delay in the finalisation of documentation resulting in the previous notice expiring under the condition that the cleaning notice must not be issued any earlier than 2 business days prior to issue of the securities.

For further information please contact Peter Kane, Group Managing Director, 07 3005 1533.

Peter Kane
Group Managing Director

Guildford Coal Limited
Corporations Act
section 708(12D) notice

Guildford Coal Limited - section 708(12D) notice

This is a notice under section 708(12D) of the Corporations Act, as modified by ASIC Class Order [CO 10/322] in relation to an offer and issue of convertible notes by Guildford Coal Limited (the Company) with a face value of US$10,000,000 to OCP Asia (Hong Kong) Limited, any associated body corporate and any fund managed or advised by any of them **(OCP Asia)**.

The effect of the offer and issue of the convertible notes on the Company will be that the Company will raise US$ 10,000,000 before costs. The proceeds from the issue of the convertible notes will be used to pay fees and expenses associated with the advisory and arrangement costs associated with the offer and issue of the convertible notes and for working capital purposes in relation to the Company's Mongolian assets.

As a result of the issue of the convertible notes, the Company will be indebted to the convertible noteholders for the amount of US$10,000,000.

The expenses associated with the advisory and arrangement costs associated with the offer and issue of the convertible notes is approximately US$750,000.

Rights and liabilities of convertible notes

The rights and liabilities of the convertible notes are summarised below.

The terms of the Convertible Notes will include customary terms for convertible notes and include the key terms set out below. The full terms of the convertible notes are set out at Attachment A. Defined terms used below have the meanings given to them in the full terms set out at Attachment A.

(a) **Status:** unlisted and convertible into fully paid ordinary shares of the Company (**Shares**).

(b) **Face value:** US$10,000,000.

(c) **Transfer:** the Convertible Notes are fully transferable (either in whole or in part) to another sophisticated or professional investor (as those terms are defined in the Corporations Act).

(d) **Maturity:** 18 months from their Issue Date.

(e) **Coupon:** 12% per annum payable on a semi-annual basis.

(f) **Security:** security from the Company and certain wholly owned subsidiaries of the Company over all of their assets and undertaking (the **Security**), limited to the amounts outstanding under the Convertible Notes and the Notes. The Security is to be released once all amounts outstanding under both the Convertible Notes and the Notes are redeemed or converted.

(g) **Events of Default:** customary events of default (including, but not limited to, insolvency of the Company, the ASX suspending trading in the Company's Shares for 10 consecutive trading days, and material breaches of the law, the ASX Listing Rules, or the terms and conditions of the Convertible Notes). The holders of the

Convertible Notes may accelerate and redeem the Convertible Notes at any time while an Event of Default is continuing, following which the Convertible Notes Redemption Amount will be immediately due and payable and the Security may be enforced.

(h) **Convertible Notes Redemption Amount:** an amount equal to a 15% internal rate of return (including coupons already paid at the point of redemption) on the outstanding principal amount of the Convertible Notes up to the date on which the Convertible Notes are redeemed (**Redemption Date**), provided that, if the Redemption Date falls during the 6 month period immediately following the Issue Date, the Convertible Notes Redemption Amount will be calculated as if the Redemption Date occurred on the date falling 6 months after the Issue Date.

(i) **Early Redemption of the Convertible Notes:** subject to no Event of Default subsisting, the Company can elect to redeem the outstanding Convertible Notes, in whole only, on any date that falls 30 days after their Issue Date by:

  (i) paying the Convertible Notes Redemption Amount; and

  (ii) issuing the Convertible Warrants (see the section below entitled 'Rights and liabilities of Convertible Warrants' for the terms of the Convertible Warrants).

(j) **Redemption on Change of Control:** holders of outstanding Convertible Notes may elect to redeem their outstanding Convertible Notes (in whole but not in part) following a change of control of the Company, following which the Company will redeem the Convertible Notes by:

  (i) paying the Convertible Notes Redemption Amount; and

  (ii) issuing the Convertible Warrants (see the section below entitled 'Rights and liabilities of Convertible Warrants' for the terms of the Convertible Warrants).

(k) **Delisting Put Right:** holders of outstanding Convertible Notes may elect to redeem their outstanding Convertible Notes (in whole but not in part) if the Company's Shares cease to be listed or are suspended for a period of 20 consecutive trading days, following which the Company will redeem the Convertible Notes by:

  (i) paying the Convertible Notes Redemption Amount; and

  (ii) issuing the Convertible Warrants (see the section below entitled 'Rights and liabilities of Convertible Warrants' for the terms of the Convertible Warrants).

(l) **Mandatory Redemption:** all outstanding Convertible Notes will be redeemed by the Company on the Maturity Date by paying the Convertible Notes Redemption Amount.

(m) **Conversion:** convertible into Shares at the holder's option at any time up to 7 business days before the maturity date, for an initial conversion price of A$0.30 per Share (the **Initial Note Conversion Price**). The Initial Conversion Price may be adjusted to take into consideration the following adjustments events (once adjusted, if applicable, this is the **Conversion Price**):

  (i) any consolidation, reclassification, reorganisation or subdivision of the Shares;

(ii) any Shares issued and credited as fully paid to Shareholders by way of capitalisation of profits or reserves;

(iii) any capital distribution made by the Company to the Shareholders;

(iv) any:

(A) Shares; or

(B) options, warrants or rights to subscribe for Shares,

which are issued to the Shareholders at any price other than the market price for Shares as at the date of issuance;

(v) any:

(A) marketable securities (other than Shares or options, warrants or rights to subscribe for Shares) (**Non Share Marketable Securities**); or

(B) any options, warrants or rights to subscribe for Non Share Marketable Securities,

which are issued to the Shareholders;

(vi) any Shares issued at a price less than the market price for the Shares immediately prior to the first public announcement of the terms of such issuance;

(vii) any marketable securities issued which contain rights of conversion into, or exchange or subscription for, Shares at any price which is less than the market price for the Shares immediately prior to the first public announcement of the terms of such issuance;

(viii) any modification to the terms of any marketable securities (which contain rights of conversion into, or exchange or subscription for, Shares) which results in the conversion, exchange or subscription price for the Shares being less than the market price for Shares immediately prior to the first public announcement of the proposals for such modification;

(ix) any offers made for marketable securities by any person or entity, including the Company, which the Shareholders are entitled to participate in;

(x) any:

(A) Shares; or

(B) marketable securities which contain rights of conversion into, or exchange or subscription for, Shares,

which are issued at a price which is less than the Initial Note Conversion Price (as calculated at the date of the first public announcement of the terms of such issuance); or

(xi) any modification to the terms of marketable securities (which contain rights of conversion into, or exchange or subscription for, Shares) which results in the conversion, exchange or subscription price for the Shares being less than the Initial Note Conversion Price (as calculated at the date of the first public announcement of the proposals for such modification),

(together, the **Adjustment Events**).

(n) **Number of Shares on conversion**: The number of Shares issued upon conversion of each Convertible Note will be calculated by dividing the Outstanding Amount by the Conversion Price of the Convertible Note. The Conversion Price is currently set at A$0.30 per Share but is subject to a number of adjustment events (which are set out above). Accordingly, the Conversion Price applied at the time of conversion may in fact be lower than A$0.30. The **Outstanding Amount** is the amount owing by the Company under the Convertible Note and any capitalised or accrued but uncapitalised interest and calculated in AUD based on the USD/AUD exchange rate on the Convertible Notes Issue Date.

Rights and liabilities of Convertible Warrants

The rights and liabilities of the Convertible Warrants are summarised below.

The terms of the Convertible Warrants will include customary terms for convertible warrants and include the key terms set out below. The full terms of the Convertible Warrants are set out at Attachment A. Defined terms used below have the meanings given to them in the full terms set out at Attachment A.

(a) **Status:** unlisted and convertible into Shares.

(b) **Transfer**: the Convertible Warrants are fully transferable (either in whole or in part) to another sophisticated or professional investor (as those terms are defined in the Corporations Act).

(c) **Expiry Date**: 18 months from their issue date.

(d) **Exercise**: exercisable at the holder's option in exchange for Shares.

(e) **Exercise Price**: an initial exercise price of A$0.30 per Share (the **Initial Convertible Warrant Conversion Price**). The Initial Convertible Warrant Conversion Price or the number of Shares over which the warrants then outstanding are exercisable may be adjusted to take into account the following:

(i) any of the Adjustment Events which occurred prior to the issue date of the Convertible Warrants;

(ii) any pro-rata or bonus issue to the Shareholders during the period from the issue date of the Convertible Warrants until the Expiry Date (the **Convertible Warrant Exercise Period**); or

(iii) any reorganisation (including a consolidation, sub-division, reduction or return) of the Company's issued capital during the Convertible Warrant Exercise Period.

Rights and liabilities of ordinary shares of Company

The rights and liabilities of ordinary shares of the Company (which the convertible notes convert into) can be summarised as follows.

The rights and liabilities attaching to ownership of Shares arise from a combination of the constitution of the Company, statute, the ASX Listing Rules and general law.

A summary of the significant rights and liabilities attaching to Shares is set out below. This summary is not exhaustive nor does it constitute a definitive statement of the rights and liabilities of ordinary shareholders in the Company.

Voting at a general meeting

Subject to the constitution and any rights or restrictions attached to a class of Shares, every shareholder present in person or by proxy, attorney or representative at a meeting of ordinary shareholders has one vote on a show of hands and one vote on a poll for every Share held. A poll may be demanded by the chair of the meeting, and 5 ordinary shareholders (or their proxy, attorney or representative) entitled to vote on the resolution, or an ordinary shareholder or ordinary shareholders who together hold at least 5% of the votes that may be cast on the resolution on a poll.

Meeting of Members

Each ordinary shareholder is entitled to receive notice of and to attend general meetings of the Company and to receive all notices, accounts and other documents required to be sent to shareholders under the constitution, the Corporations Act or the Listing Rules.

Dividends

The directors may resolve to pay any dividend they think appropriate. Dividends declared will (subject to any special rights or restrictions attaching to a class of shares in the Company created under any arrangement as to dividend) be payable on shares in accordance with the Corporations Act and the constitution.

Transfer of Shares

A shareholder may transfer Shares by a proper transfer effected in accordance with any computerised or electronic system established or recognised by ASX or the Corporations Act for the purpose of facilitating transfers in Shares or by an instrument in writing in any usual form or in any other form approved by the directors that is permitted by law or by another method permitted by the Corporations Act. The directors may refuse to register a transfer of Shares where the refusal to register the transfer is permitted under the Corporations Act, constitution and the Listing Rules.

Issue of further GUF Shares

The directors may (subject to the restrictions on the issue of Shares imposed by the constitution, the Listing Rules and the Corporations Act) allot, issue, grant options in respect of, or otherwise dispose of, further Shares as they see fit.

Winding Up

Subject to any rights or restrictions attached to a class of shares in the Company, on a winding up of the Company, any surplus must be divided among the shareholders in the proportions which the amount paid on the shares of a shareholder is of the total amounts paid and payable on the shares of all shareholders.

Unmarketable parcels

Subject to the Corporations Act, the Listing Rules and ASTC Settlement Rules, the Company may sell the shares of a shareholder who holds less than a marketable parcel of shares.

Share buy-back

Subject to the provisions of the Corporations Act, the Listing Rules and the ASTC Settlement Rules, the Company may buy back shares in itself on any terms and at any time determined by the directors.

Variation of class rights

Unless otherwise provided by the constitution and by the terms of issue of a class of shares, the rights attaching to any class of shares may be varied by:

- a special resolution passed at a meeting of the holders of that class of shares; or
- the consent in writing of the holders of at least 75% of the votes that may be cast in respect of that class of shares.

Alteration of the constitution

The constitution can only be amended by special resolution passed by at least three-quarters of shareholders present and voting at a general meeting of the Company. The Company must give at least 28 days written notice of its intention to propose a resolution as a special resolution.

Additional Information

The Company is a disclosing entity for the purposes of the Corporations Act. As a disclosing entity, it is subject to regular reporting and disclosure obligations. Broadly, these obligations require the Company to prepare both yearly and half yearly financial statements, a report on the operations of the Company during the relevant accounting period together with an audit or review report by the Company's auditor.

Copies of these and other documents lodged with ASIC may be obtained from or inspected at an ASIC office and on the Company's website at www.guildfordcoal.com.au.

The Company must ensure that ASX is continuously notified of information about specific events and matters as they arise for the purpose of ASX making the information available to investors on ASX.

The Company has an obligation under the ASX Listing Rules (subject to certain limited exceptions) to notify ASX immediately of any information concerning it of which it becomes aware , which a reasonable person would expect to have a material effect on the price or value of its quoted securities.

The Company will provide a copy of any of the following documents free of charge to the subscriber of the convertible notes, any holder of convertible notes or any shareholder who requests a copy:

- The annual financial report for the year ended 30 June 2013;
- Any continuous disclosure notices by the Company in the period after the lodgement of the annual financial report for the year ended 30 June 2013 and before lodgement of this announcement with ASX.

All requests for copies of the above documents should be addressed to:

The Company Secretary
Guildford Coal Limited
Level 7
490 Upper Edward Street
Spring Hill Qld 4000

These documents are also available from the Company's website at www.guildfordcoal.com.au.

Peter Kane
Group Managing Director
Guildford Coal Limited

Attachment A

HERBERT
SMITH
FREEHILLS

Deed

Execution version

Note Trust Deed

Guildford Coal Limited (Company)

Madison Pacific Trust Limited (Note Trustee)

101 Collins Street Melbourne Vic 3000 Australia
GPO Box 128A Melbourne Vic 3001 Australia

Telephone +61 3 9288 1234 Facsimile +61 3 9288 1567
www.herbertsmithfreehills.com DX 240 Melbourne

HERBERT
SMITH
FREEHILLS

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Note trust deed

Date ▸ 20 December 2013

Between the parties

Company	**Guildford Coal Limited** ABN 35 143 533 537 of Level 7, 490 Upper Edward Street, Spring Hill QLD 4000, Australia
Note Trustee	**Madison Pacific Trust Limited** Company number 1619851 of 1708 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong
Recitals	1 The Company proposes to issue Notes from time to time. 2 The Note Trustee has agreed for valuable consideration to act as Note Trustee of the trust declared by and on the terms of this deed. 3 The Note Trustee has agreed to hold the assets referred to in clause 2.1 on trust for the Beneficiaries on the terms and conditions set out in this Deed.
This deed witnesses:	that, for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

HERBERT SMITH FREEHILLS

1 Definitions and interpretation

1.1 Definitions

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

Term	Meaning
Accounting Standards	Australian Accounting Standards, including Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board and the Corporations Act.
Account Bank	Macquarie Bank Limited (ABN 35 143 553 537).
Account Control Deed	the deed entitled "account control deed" between the Company, the Note Trustee and the Account Bank.
Agent	each of the Paying Agent, the Settlement Agent, the Transfer Agent, the Conversion Agent, the Registrar and the Detachable Warrant Registrar.
Agency Agreement	the Agency Agreement dated on or about the date of this deed between the Company, the Registrar, the Note Trustee, the Transfer Agent, the Conversion Agent, the Paying Agent and the Detachable Warrant Registrar.
Amortising Note Certificate	a Global Amortising Note Certificate or a Definitive Amortising Note Certificate.
Amortising Note Conditions	the terms and conditions of the Amortising Notes set out in Schedule 4 (*Amortising Note Conditions*) and, with respect to Amortising Notes represented by a Global Amortising Note Certificate, as modified by the provisions of the relevant Global Amortising Note Certificate.
Amortising Note Maturity Date	in relation to an Amortising Note, 36 months after the Issue Date.
Amortising Notes	the Amortising Notes to be issued by the Company pursuant to the Subscription and Implementation Deed at the Face Value of US$10,000 per Amortising Note, in registered form comprising the aggregate initial principal amount of up to US$55,000,000 and for the time being outstanding or, as the context may require, a

Term	Meaning
	specific number or principal amount of them, and "**Amortising Note**" means each of them.
Amortising Noteholder	a person in whose name an Amortising Note is registered in the Amortising Note Register and includes an Initial Amortising Noteholder and any transferee of any interest of an Initial Amortising Noteholder and any Amortising Noteholder.
Amortising Note Register	a register of Amortising Noteholders maintained by the Registrar on behalf of the Company in which is entered the name and address of Amortising Noteholders whose Amortising Notes are carried on that Amortising Note Register, the amount of Amortising Notes held by each Amortising Noteholder and the date of issue and transfer of those Amortising Notes and any other particulars which the Company sees fit or as required under a Transaction Document.
Arranger	has the meaning given in the Settlement Agreement.
ASX Listing Rules	the listing rules of the ASX.
Australian Securities Exchange or ASX	the securities exchange conducted by ASX Limited (ABN 98 008 624 691).
AUD, Australian Dollars or A$	the lawful currency of Australia.
Authorisation	includes any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a Government Agency.
Beneficiary	each of the following: 1 the Note Trustee; 2 a Noteholder; 3 an Agent; or 4 any successor or permitted substitute or assign of any of the above.
Bill	a bill of exchange as defined in the *Bills of Exchange Act 1909* (Cth).

Term	Meaning
Business Day	a day, other than on a Saturday or Sunday, on which banks are open for general banking business in Sydney and Hong Kong, in the case of an Agent the city where the specified office of the relevant Agent is located and, in the case of surrender of Note Certificates, the place where such Note Certificates are surrendered.
Cash Dividend	1 a Dividend which is to be paid or made in cash; or 2 a Dividend in cash which is announced but is to be, or may at the election of a Shareholder be, satisfied by the issue or delivery of Ordinary Shares or other property; or 3 a capitalisation of profits or reserves which is announced but which is to be, or may at the election of a Shareholder be, satisfied by the payment of cash, other than an issue of Ordinary Shares to which paragraph 5.2 *(Conversion Price)* of the Convertible Note Conditions applies.
Cash Settlement Amount	the amount equal to: 1 the number of Ordinary Shares which would be deliverable to a Convertible Noteholder following the exercise of its Conversion Right under paragraph 5.1 *(Conversion Right)* of the Convertible Note Conditions; multiplied by 2 the average Volume Weighted Average Price of an Ordinary Share for the period from (and including) the date falling 10 Dealing Days prior to the date of the Cash Settlement Notice (or, in the case of a Mandatory Cash Settlement, the Conversion Notice) was given to (and including) the date falling 10 Dealing Days after the Cash Settlement Notice (or, in the case of a Mandatory Cash Settlement, the Conversion Notice) was given.
Cash Settlement Notice	has the meaning given in paragraph 5.10(b) (*Cash Settlement Options*) of the Convertible Note Conditions.
Cash Settlement Option	has the meaning given in paragraph 5.10(a) (*Cash Settlement Options*) of the Convertible Note Conditions.
Change of Control	Without the prior written consent of the Note Trustee (acting on the instructions of all Noteholders): 1 TheChairmen1 ceases to have a relevant interest in 30% or more of the Ordinary Shares (as to votes or paid up value) other than where TheChairmen1 engages in a solvent reconstruction or demerger pursuant to which TheChairmen1's

Term	Meaning
	relevant interest in the Company is distributed in full on a pro rata basis to its members (the **Demerger**); or 2 prior to the completion of the Demerger, a person and its associates (acting alone or in concert) have a relevant interest in more Ordinary Shares (as to votes or paid up value) than TheChairmen1; or 3 after the completion of the Demerger, Mr Craig Ransley ceases to retain his relevant interest in the Ordinary Shares (as to votes or paid up value) on the same pro rata basis as was held prior to the completion of the Demerger. Provided that relevant interest referred to in each of the above paragraphs shall be determined only after dis-applying the impact of any Ordinary Shares issued by the Company pursuant to: 4 the Terra Agreement; 5 the Springsure Agreement; 6 the Gleneagle Warrants; 7 the exercise of the Convertible Warrants; or 8 the exercise of Detachable Warrants. In this definition **relevant interest** and **associate** have the same meaning as in chapter 6 of the Corporations Act.
Change of Control Notice	has the meaning given to it in: 1 condition 6.2 of the Convertible Note Conditions; or 2 condition 6.2 of the Amortising Note Conditions, as applicable.
Change of Control Period	the period from the date of the Change of Control Notice to the date falling 10 Business Days prior to the Change of Control Put Date.
Change of Control Put Date	the date that is 30 days after the date on which the Company gives the Note Trustee a Change of Control Notice.
CHESS	has the meaning given in paragraph 5.6(d)(1) (*Conversion procedures*) of the Convertible Note Conditions.
Clearing Systems	Euroclear and Clearstream or any other clearing system designated by the Company and approved by the Note Trustee (together with Euroclear and Clearstream).

Term	Meaning
Clearstream	Clearstream Banking, societe anonyme, incorporated under the laws of the Grand Duchy of Luxembourg or any successor securities clearing agency.
Closed Period	has the meaning given to it in: 1 condition 3.4 of the Convertible Note Conditions; or 2 condition 3.4 of the Amortising Note Conditions, as applicable.
Closing Price	in relation to Ordinary Shares on any Dealing Day, the closing price for the Ordinary Shares as published by or derived from the Relevant Stock Exchange on that Dealing Day, provided that if on that Dealing Day the Ordinary Shares have been quoted cum-Dividend or cum-any other entitlement to which the Ordinary Shares to be issued on exercise of a Conversion Right on that Dealing Day would not be entitled the closing price shall be deemed to be the actual amount thereof reduced by an amount equal to the Fair Market Value of that Dividend or entitlement as at the date of the first public announcement of that Dividend or entitlement.
Clyde Park	Clyde Park Coal Pty Ltd ABN 53 150 452 190.
Clyde Park Asset	1 any Marketable Security issued by Clyde Park to the Company or any of the Company's Subsidiaries; or 2 any asset, right, interest or property of Clyde Park or otherwise in relation to the Clyde Park Project.
Clyde Park Project	the project involving the following Mining Tenements: 1 EPC 1250 and 1260, each owned by Clyde Park; and 2 EPC 2503 and 2504, each owned by the Company.
Collateral Security	any present or future Encumbrance, Guarantee or other document or agreement created or entered into by the Company or any other person as security for, or to credit enhance, the payment of any of the Secured Moneys.
Common Depositary	Elavon Financial Services Limited.

Term	Meaning
Completion Date	has the meaning given in the Subscription and Implementation Deed.
Conditions	the Convertible Note Conditions and the Amortising Note Conditions
Conversion Agent	Elavon Financial Services Limited, UK Branch.
Conversion Date	has the meaning given in paragraph 5.1 *(Conversion Right)* of the Convertible Note Conditions.
Conversion Notice	has the meaning given in paragraph 5.1 (*Conversion Right*) of the Convertible Note Conditions.
Conversion Price	the conversion price determined in accordance with paragraph 5.2 (*Conversion Right*) of the Convertible Note Conditions.
Conversion Property	has the meaning given in paragraph 5.1 (*Conversion Right*) of the Convertible Note Conditions.
Conversion Right	has the meaning given in paragraph 5.1 (*Conversion Right*) of the Convertible Note Conditions.
Convertible Note Certificate	a Global Convertible Note Certificate or Definitive Convertible Note Certificate.
Convertible Note Conditions	the terms and conditions of the Convertible Notes set out in Schedule 3 (*Convertible Note Conditions*) and, with respect to Convertible Notes represented by a Global Convertible Note Certificate, as modified by the provisions of the relevant Global Convertible Note Certificate.
Convertible Note Maturity Date	in relation to a Convertible Note, 18 months after the Issue Date.
Convertible Notes	the Convertible Notes to be issued by the Company pursuant to the Subscription and Implementation Deed with a Face Value of US$10,000 per Convertible Note, in registered form comprising the aggregate initial principal amount of up to US$10,000,000 and for

Term	Meaning
	the time being outstanding or, as the context may require, a specific number or principal amount of them, and Convertible Note means each of them.
Convertible Noteholder	a person in whose name an Convertible Note is registered in the Convertible Note Register and includes an Initial Convertible Noteholder and any transferee of any interest of an Initial Convertible Noteholder and any Convertible Noteholder.
Convertible Note Register	a register of Convertible Noteholders maintained by the Registrar on behalf of the Company in which is entered the name and address of Convertible Noteholders whose Convertible Notes are carried on that Convertible Note Register, the amount of Convertible Notes held by each Convertible Noteholder and the date of issue and transfer of those Convertible Notes and any other particulars which the Company sees fit or as required under a Transaction Document.
Convertible Warrant	The convertible warrants described in paragraph 6.1 (*Early payments*) of the Convertible Warrant Conditions, to be created and issued by the Company pursuant to this deed and the Convertible Warrant Conditions, the terms and conditions of which are set out in Schedule 6 (Convertible Warrant Conditions).
Convertible Warrant Certificate	a certificate in the form of Attachment 1 to the Convertible Warrant Conditions issued by the Registrar in respect of a Convertible Warrant.
Convertible Warrant Conditions	the terms and conditions set out in Schedule 6 (*Convertible Warrant Conditions*).
Convertible Warrant Conversion Price	the meaning given in paragraph 7(b)(2) of the Convertible Warrant Conditions.
Convertible Warrant Notice	a notice issued by a Noteholder containing all of the required information set out paragraph 7 of the Convertible Warrant Conditions.
Convertible Warrant Register	the register of holders of Convertible Warrants maintained by the Company in accordance with paragraph 3 of the Convertible Warrant Conditions.

Term	Meaning
Convertible Warrantholder	a person in whose name a Convertible Warrant is registered on the Register.
Corporations Act	the *Corporations Act 2001* (Cth).
Current Market Price	in respect of an Ordinary Share on any date, the average of the Volume Weighted Average Prices of an Ordinary Share for the five consecutive Dealing Days ending on that date, provided that 1 if on any such Dealing Day, the Volume Weighted Average Price is based on a price cum-Dividend (or cum- any other entitlement), the Volume Weighted Average Price of an Ordinary Share on that day for the purposes of applying this definition to Ordinary Shares that do not rank for the Dividend (or entitlement) in question is deemed to be the actual amount thereof reduced by an amount equal to the Fair Market Value of that Dividend (or entitlement) per Ordinary Share as at the date of first public announcement of that Dividend (or entitlement); 2 if on any such Dealing Day the Volume Weighted Average Price is based on a price ex-Dividend (or ex-any other entitlement), the Volume Weighted Average Price of an Ordinary Share on that day for the purposes of applying this definition to Ordinary Shares that do rank for the Dividend (or entitlement) in question is deemed to be the actual amount thereof increased by an amount equal to the Fair Market Value of that Dividend (or entitlement) per Ordinary Share as at the date of first public announcement of that Dividend (or entitlement); and if on any such Dealing Day the Volume Weighted Average Price of an Ordinary Share is not available, then the Current Market Price is the average of such Volume Weighted Average Prices which are available for such Dealing Days if there are at least two such prices and is the Current Market Price as determined in good faith by the Company if there are not at least two such prices.
Dealing Day	a day on which the Relevant Stock Exchange or other relevant stock exchange or securities market is open for business, other than a day on which the Relevant Stock Exchange or relevant stock exchange or securities market is scheduled to or does close prior to its regular weekday closing time.
Default Rate	the rate of 14% per annum.
Definitive Certificate	a Definitive Amortising Note Certificate or a Definitive Convertible Note Certificate and **Definitive Certificates** means all of them.
Definitive Amortising	a definitive certificate in respect of Amortising Notes, in

Term	Meaning
Note Certificate	substantially the form of Part 1 of Schedule 2 (*Form of Amortising Note Certificate*).
Definitive Convertible Note Certificate	a definitive certificate in respect of Convertible Notes, in substantially the form of Part 1 of Schedule 1 (*Form of Convertible Note Certificate*).
Delisting Put Date	has the meaning given to it in: 1 condition 6.4 of the Convertible Note Conditions; and 2 condition 5.4 of the Amortising Note Conditions, as applicable.
Detachable Warrant Deed	has the meaning given in the Subscription and Implementation Deed.
Detachable Warrant Registrar	Madison Pacific Trust Limited.
Detachable Warrant Register	has the meaning given in the Detachable Warrant Deed.
Detachable Warrants	has the meaning given in the Detachable Warrant Deed.
Disposal	has the meaning given in Clause 7.1(j)(2).
Disputing Party	the meaning given in paragraph 13(e) of the Convertible Warrant Conditions.
Dividend	any dividend, distribution or payment made in respect of the Company's equity share capital or to Shareholders as a class whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account (and for these purposes a distribution of assets includes without limitation an issue of Ordinary Shares, or other Marketable Securities credited as fully or partly paid up by way of capitalisation of profits or reserves), including payment pursuant to a buy-back of Ordinary Shares but excluding an issue of Ordinary Shares to which paragraph 5.2 (*Conversion Price*) of the Convertible Note Conditions applies.

Term	Meaning
Early Payment Date	in relation to any Convertible Note, has the meaning given in paragraph 6.1(c) (*Early payment*) of the Convertible Note Conditions, and in relation to any Amortising Note, has the meaning given in paragraph 5.1(c) (*Early payment*) of the Amortising Note Conditions.
Existing Security	any Encumbrance created under the general security agreement dated 29 April 2013 between the Company and the Note Trustee.
Encumbrance	an interest or power: 1 reserved in or over an interest in any asset, excluding any retention of title arising in the ordinary course of business; or 2 created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power, by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes any agreement to grant or create any of the above and includes a security interest within the meaning of section 12(1) of the PPSA.
Euroclear	Euroclear Banking S.A./N.V. or any successor securities clearing agency.
Event of Default	an event specified Clause 8.1(*Events of Default*) of this deed.
Exercise Period	the meaning given in paragraph 6 of the Convertible Warrant Conditions.
Face Value	in relation to each Note, the principal amount of US$10,000.
Fair Market Value	with respect to any property or asset on any date, the fair market value of that property or asset as determined in good faith by the Company, provided that: 1 the Fair Market Value of a Cash Dividend referred to in paragraph 1 of the definition of 'Cash Dividend' shall be the amount of such Cash Dividend; 2 the Fair Market Value of a Cash Dividend referred to in paragraphs 2 or 3 of the definition of 'Cash Dividend' shall be the greater of: • the cash amount that is to be, or that a Shareholder may

Term	Meaning
	elect to be, paid; and • the Current Market Price of the Ordinary Shares or, as the case may be, Fair Market Value of the other property that is to be, or that a Shareholder may elect to be, issued or delivered as at the later of the date of the first public announcement of the relevant Dividend or capitalisation (as the case may be) and the date on which the number of Ordinary Shares or amount of other property which may be issued or transferred is determined; 3 the Fair Market Value of any other cash amount shall be the amount of such cash; 4 the Fair Market Value of Marketable Securities that are publicly traded in a market of adequate liquidity (as determined by the Company) shall equal the arithmetic mean of the daily Volume Weighted Average Prices (or, in the case of options, warrants or other rights, the daily Closing Prices) of such Marketable Securities during the period of five Dealing Days on the relevant market commencing on such date (or, if later, the first such Dealing Day such Marketable Securities are publicly traded); 5 the Fair Market Value of Marketable Securities not covered by paragraph 4 shall be determined in good faith by the Company on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price and dividend yield of the Marketable Securities, the volatility of such market price, prevailing interest rates and the terms of such Marketable Securities; 6 amounts declared or paid or payable in other currencies are to be translated into the Relevant Currency at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the Cash Dividend in the Relevant Currency, in the case of paragraph 1 or 2, or at the Prevailing Rate on that date in any other case; and 7 in the case of paragraphs 1, 2 and 3, any withholding or deduction required to be made on account of Tax and any associated Tax credit are to be disregarded.
Fee Letter	has the meaning given in the Subscription and Implementation Deed.
Financial Indebtedness	any debt or other monetary liability in respect of moneys borrowed or raised or any financial accommodation including under or in respect of any: 1 loan or advance of financial accommodation; 2 Bill, bond, debenture, note or similar instrument; 3 acceptance, endorsement or discounting arrangement;

Term	Meaning
	4 Guarantee in respect of any moneys borrowed or raised or any financial accommodation; 5 finance or capital Lease; 6 agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service for more than 90 days; 7 obligation to deliver goods or provide services paid for in advance by any financier; 8 agreement for the payment of capital or premium on the redemption of any preference shares; 9 interest or currency swap or hedge arrangement, financial option, futures contract or analogous transaction (the amount of such Financial Indebtedness being the market to market value of the relevant transaction); or 10 counter indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution, and irrespective of whether the debt or liability: 11 is present or future; 12 is actual, prospective, contingent or otherwise; 13 is at any time ascertained or unascertained; 14 is owed or incurred alone or severally or jointly or both with any other person; or 15 comprises any combination of the above.
Gleneagle Warrants	1 12 million warrants with an initial exercise price of $0.55 originally issued to Gleneagle Securities Nominees Pty Ltd; and 2 20 million bond conversion warrants with an initial exercise price of $0.50 originally issued to Gleneagle Securities Nominees Pty Ltd.
Global Certificate	a Global Amortising Note Certificate or a Global Convertible Note Certificate and **Global Certificates** means both of them.
Global Amortising Note Certificate	a global certificate in respect of the Amortising Notes, in substantially the form of Part 2 of Schedule 2 (*Form of Amortising Note Certificate*).
Global Convertible Note Certificate	a global certificate in respect of the Convertible Notes, in substantially the form of Part 2 of Schedule 1 (*Form of Convertible Note Certificate*).

Term	Meaning
Government Agency	any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
Group	the Company and its Subsidiaries from time to time.
GST	the goods and services tax levied under the GST Act.
GST Act	the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
Guarantee	any guarantee, suretyship, letter of credit, letter of comfort or any other obligation: 1 to provide funds (whether by the advance or payment of money, the purchase of or subscription for shares or other securities, the purchase of assets or services, or otherwise) for the payment or discharge of; 2 to indemnify any person against the consequences of default in the payment of; or 3 to be responsible for, any debt or monetary liability or obligation (whether or not it involves the payment of money) of another person or the assumption of any responsibility or obligation in respect of the insolvency or the financial clause of any other person.
Immediately Available Funds	cash, bank cheque or telegraphic or other electronic means of transfer of cleared funds into a bank account nominated in advance by the payee in US$.
Independent Financial Institution	an independent investment bank of international repute acting as an expert appointed by the Note Trustee, acting on the instructions of the Majority Noteholders, at the cost of the Company for the purposes, and at the times, set out in the Transaction Documents.
Initial Amortising Noteholder	has the meaning given in the Subscription and Implementation Deed.
Initial Convertible Noteholder	has the meaning given in the Subscription and Implementation Deed.

Term	Meaning
Initial Noteholder	an Initial Amortising Noteholder or an Initial Convertible Noteholder and **Initial Noteholders** means all of the Initial Amortising Noteholders and Initial Convertible Noteholders.
Interest Payment Date	the last day of each Interest Period.
Interest Period	in respect of a Note, each successive period of 6 months following the Issue Date.
Interest Record Date	the 7th day before the due date for the payment of any interest under a Note.
Interest Rate	12% per annum.
IRR	an internal rate of return expressed as the discount rate (being expressed as an semi-annualised rate and calculated on an semi-annual compounding basis) which, when applied to the series of outflows and inflows in respect of the Note, produces a net present value of those cash values equal to zero, where: 1 the Face Value of the Note is designated as an outflow on the Issue Date; and 2 any proceeds paid to the Noteholder in respect of the Note on the redemption (net of any withholding or deduction on in respect of Tax) are designated as an inflow on the date on which such proceeds are received.
Issue Date	means the date on which the Notes are issued to the Initial Noteholders in accordance with the Subscription and Implementation Deed.
Lease	a lease, charter, hire purchase, hiring agreement or any other agreement under which any property is or may be used or operated by a person other than the owner.
Majority Noteholders	Noteholders by Ordinary Resolution.
Mandatory Cash Settlement	a cash settlement required to be made by the Company in accordance with paragraph 5.9 of the Convertible Note Conditions (*Mandatory Cash Settlement*).

Term	Meaning
Marketable Securities	any securities including, without limitation, Ordinary Shares, or options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares.
Material Adverse Effect	a material adverse effect on: 1 the Company's ability to perform and comply with any of its obligations under a Transaction Document; or 2 the enforceability of a Transaction Document or the priority of the Security.
Maturity Date	each of: 1 the Amortising Note Maturity Date; and 2 the Convertible Note Maturity Date.
Meeting Procedures	the procedures and other provisions contained in Schedule 5 (Provisions for meetings of Noteholders).
Mining Tenement	1 Each of EPC 2057, EPC 2058, EPC 2503, EPC 2504, EPC 1300, EPC 1394, EPC 1477, EPC 1478, EPC 1479, EPC 1480, EPC 1573, EPC 1574, EPC 1576, EPC 2046, EPC 2047, EPC 2048, EPC 2049, EPC 2105, EPC 1890, EPC 1892, EPC 1893, EPC 1962, EPC 1963, EPC 1964, EPC 1822, EPC 1870, EPC 2003, EPC 1872; and 2 any interest in any mining tenement or other lease, licence or tenement authorising or allowing prospecting or exploration for or mining or processing of minerals which is acquired by or granted to the Grantor and which is in any way related to or connected with a Mining Tenement, and includes: 3 any applications for mining tenements issued or to be issued in place of; and 4 any applications for mining tenements issued or to be issued in respect of; and 5 any mining tenements issued in place of, those tenements referred to in paragraphs (1) and (2) above, and includes any such mining tenement as renewed, extended, modified or varied (and **Mining Tenements** means any two or more of them).
Net Proceeds	the consideration received or receivable by the Company or any of its Subsidiaries for any Disposal by the Company or any of its Subsidiaries and after deducting:

Term	Meaning
	1 any expenses which are reasonably incurred by the Company or any of its Subsidiaries with respect to that Disposal to persons other than the Company or any of its Subsidiaries; and 2 any Tax incurred and required to be paid by the seller in connection with that Disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance).
Noble Facilities Agreement	the Facilities Agreement dated 4 September 2012 (as amended on 24 September 2012 and further amended in December 2013) between Tellus Commoditites Pte Ltd, Terra Energy LLC, Tellus Marketing Pte Ltd, Alag Tvesh LLC, Tsagaan Uvuljuu, the Company and Noble Resources International Pte, Ltd.
Noble Security	each of the following Encumbrances entered into in connection with the Noble Facilities Agreement: 1 Singaporean law assignment of rights under certain coal sale agreements granted by Tellus Commodities Pte. Ltd. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 2 Singaporean law assignment of rights under certain coal sale agreements granted by Tellus Marketing Pte. Ltd. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 3 Singaporean law account charge granted by Tellus Commodities Pte. Ltd. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 4 Mongolian law pledge of coal stockpile granted by Tellus Commodities Pte. Ltd. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 5 Mongolian law pledge of coal stockpile granted by Tellus Marketing Pte. Ltd. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 6 Mongolian law pledge of coal stockpile granted by Terra Energy LLC to Noble Resources International Pte. Ltd. and dated 26 October 2012; 7 Mongolian law pledge of coal stockpile granted by Alag Tvesh LLC. to Noble Resources International Pte. Ltd. and dated 26 October 2012; 8 Mongolian law pledge of coal stockpile granted by Tsagaan Uvuljuu LLC to Noble Resources International Pte. Ltd. and dated 26 October 2012; 9 Mongolian law share pledge granted by Terra Energy LLC to Noble Resources International Pte. Ltd. in respect of its shares in Tsagaan Uvuljuu LLC, dated 26 October 2012; 10 Mongolian law share pledge granted by Tellus Marketing Pte. Ltd. to Noble Resources International Pte. Ltd. in respect of its shares in Alag Tvesh LLC, dated 26 October 2012;

Term	Meaning
	11 Guarantee from Tsagaan Uvuljuu guaranteeing all obligations of the 'Obligors' under the 'Transaction Documents' dated 26 October 2012;
	12 Supplemental Singaporean law assignment of rights under certain coal sale agreements to be granted by Tellus Commodities Pte. Ltd. to Noble Resources International Pte. Ltd;
	13 ·Supplemental Singaporean law assignment of rights under certain coal sale agreements to be granted by Tellus Marleting Pte. Ltd. to Noble Resources International Pte. Ltd;
	14 Supplemental Singaporean law account charge to be granted by Tellus Commodities Pte. Ltd. to Noble Resources International Pte. Ltd;
	15 Amendment agreement to be entered into between Tellus Commodities Pte. Ltd. and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law pledge of coal stockpile between Tellus Commodities Pte. Ltd. and Noble Resources International Pte. Ltd. dated 26 October 2012;
	16 Amendment agreement to be entered into between Tellus Marketing Pte. Ltd. and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law pledge of coal stockpile between Tellus Marketing Pte. Ltd. and Noble Resources International Pte. Ltd. dated 26 October 2012;
	17 Amendment agreement to be entered into between Terra Energy LLC and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law pledge of coal stockpile between Terra Energy LLC and Noble Resources International Pte. Ltd. dated 26 October 2012;
	18 Amendment agreement to be entered into between Tsagaan Uvuljuu LLC and Noble Resources International Pte. Ltd. in respect of first ranking Mongolian law pledge of coal stockpile between Tsagaan Uvuljuu LLC and Noble Resources International Pte. Ltd. dated 26 October 2012;
	19 Amendment agreement to be entered into between Alag Tvesh LLC and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law pledge of coal stockpile between Alag Tvesh LLC and Noble Resources International Pte. Ltd. dated 26 October 2012;
	20 Amendment agreement to be entered into between Terra Energy LLC and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law share pledge granted in favour of Noble Resources International Pte. Ltd. by Terra Energy LLC over its shares in Tsagaan Uvuljuu LLC dated 26 October 2012;
	21 Amendment agreement to be entered into between Tellus Marketing Pte. Ltd. and Noble Resources International Pte. Ltd. in respect of the first ranking Mongolian law share pledge granted in favour of Noble Resources International Pte. Ltd. by Tellus Marketing Pte. Ltd. over its shares in Alag Tvesh LLC

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Term	Meaning
	dated 26 October 2012; 22 Mongolian law pledge over coal stockpile to be entered into between Noble Resources International Pte. Ltd. and Tellus Commodities Pte. Ltd; 23 Mongolian law pledge over coal stockpile to be entered into between Noble Resources International Pte. Ltd. and Tellus Marketing Pte. Ltd; 24 Mongolian law pledge over coal stockpile to be entered into between Noble Resources International Pte. Ltd. and Terra Energy LLC; 25 Mongolian law pledge over coal stockpile to be entered into between Noble Resources International Pte. Ltd. and Tsagaan Uvuljuu LLC; 26 Mongolian law pledge over coal stockpile to be entered into between Noble Resources International Pte. Ltd. and Alag Tvesh LLC; 27 Mongolian law share pledge to be granted in favour of Noble Resources International Pte. Ltd. by Terra Energy LLC over its shares in Tsagaan Ulvuljuu LLC; and 28 Mongolian law share pledge to be granted in favour of Noble Resources International Pte. Ltd. by Tellus Marketing Pte. Ltd. over its shares in Alag Tvesh LLC.
Non-Cash Dividend	any Dividend which is not a Cash Dividend.
Note Certificate	a Definitive Certificate or a Global Certificate and includes any replacement Note Certificates issued pursuant to the Conditions and **Note Certificates** means all Definitive Certificates and Global Certificates.
Note Party	1 a Noteholder (including a Noteholder acquiring an interest in a Note by reason of transfer or another dealing with a Note); or 2 the Note Trustee.
Noteholder and holder	a Convertible Noteholder or an Amortising Noteholder and **Noteholders** and **holders** means all Convertible Noteholders and Amortising Noteholders.
Note	means a Convertible Note or an Amortising Note, and **Notes** means all of the Convertible Notes and Amortising Notes.

Term	Meaning
Officer	1 in relation to the Company, a director or a secretary, or a person notified to be an authorised officer, of the Company; or 2 in relation to the Note Trustee, any person whose title includes the word 'Director', 'Managing Director', 'Manager' or 'Vice President', and any other person appointed by the Note Trustee to act as its authorised officer for the purposes of this deed.
Ordinary Resolution	1 a resolution which is affirmed, at a meeting of Noteholders convened and conducted in accordance with the Meeting Procedures, by more than 50 per cent of the total number of votes cast at that meeting by all persons present and entitled to vote; or 2 a written resolution passed in accordance with the Meeting Procedures and signed by Noteholders holding Notes with an Outstanding Principal Amount that is more than 50 per cent of the Total Outstanding Principal Amount of Noteholders entitled to vote.
Ordinary Shares	fully paid ordinary shares in the capital of the Company.
Outstanding Note	in relation to a Note on any date, a Note which has not been redeemed, converted or otherwise cancelled.
Outstanding Principal Sum	in relation to any Outstanding Note at any particular time, the Face Value of that Note less the amount of any: 1 Prepayment which has been made in respect of that Outstanding Note; 2 in relation to any Convertible Note, the Outstanding Principal Sum of that Convertible Note that has been converted in accordance with the Convertible Note Conditions; and 3 in relation to any Amortising Note, the amount of any scheduled repayments that have been made in accordance paragraph 5.7 of the Amortising Note Conditions or the Set-Off Amount set-off in accordance paragraph 5.6 of the Amortising Note Conditions.
Paying Agent	Elavon Financial Services Limited, UK Branch.
Permitted Encumbrance	1 every lien created by operation of law (other than the PPSA) securing an obligation that is not yet due; 2 every lien or retention of title arrangement securing the unpaid balance of purchase money for property acquired in the ordinary course of ordinary business under an instalment contract on the supplier's standard terms where such unpaid

Term	Meaning
	balance is not yet due; 3 every lien for the unpaid balance of moneys owing for repairs where such unpaid balance is not yet due; 4 the Security; 5 each Noble Security; 6 prior to the Completion Date, the Existing Security; 7 every Encumbrance arising solely by operation of the PPSA in the proceeds of an asset which is the subject of a lien or retention of title arrangement referred to in item 2 of this definition or any Commingled product or mass of which it becomes part, where the obligation secured by that Encumbrance is limited to the unpaid balance of the purchase money for the original asset and that unpaid balance is not yet due; or 8 any Encumbrance in relation to personal property (as defined in the PPSA and to which the PPSA applies) that is created or provided for by: • a transfer of an Account of Chattel Paper; • a PPS Lease; or • a Commercial Consignment, (as each of those terms are defined in the PPSA) that is not a security interest within the meaning of section 12(1) of the PPSA.
Permitted Financial Indebtedness	1 Financial Indebtedness (including trade or other similar Financial Indebtedness incurred in the ordinary course of business) which does not exceed, in aggregate for the Borrower and each Subsidiary, \$A50,000 (or its equivalent) in any financial year and does not cumulatively exceed \$A250,000 (or its equivalent); and 2 Financial Indebtedness up to US\$50,000,000 incurred under the Noble Facilities Agreement.
Potential Event of Default	anything which with notice, time or both would become an Event of Default.
Power	any right, power, authority, discretion or remedy conferred on the Note Trustee by any Transaction Document or any applicable law.
PPSA	the *Personal Property Securities Act* 2009 (Cth).
PPSA Retention of	all present and future PPSA retention of title property of the

Term	Meaning
Title Property	Company as defined in section 51F of the *Corporations Act*.
Prepayment	a prepayment of all or part of a Note made in accordance with paragraph 7.1(ff) (*Prepayment*).
Prepayment Date	the day on which the Paying Agent receives a Prepayment.
Prevailing Rate	in respect of any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12 p.m. (Sydney time) on that date as appearing on the Relevant Page or if such rate cannot be determined on that day, the rate prevailing as at or about 12 p.m. (Sydney time) on the immediately preceding day on which such rate can be so determined.
Pro Rata Basis	the application of a payment or prepayment to, or right or entitlement of, Noteholders (or a particular class thereof) to particular Notes and the relevant Noteholders calculated using the following formula: $A = \frac{B}{C} \times D$ Where: **A** is the pro rata entitlement of a particular Note and the corresponding Noteholder to that payment, prepayment, right or entitlement. **B** is the Outstanding Principal Sum of the relevant Note on the date the calculation is to be made. **C** is the Total Outstanding Principal Sum (or where the payment or prepayment is to, or the right or entitlement is of, a particular class of Noteholders, the sum of the Outstanding Principal Sum of the Outstanding Notes in that class). **D** is the total amount of the payment, prepayment, right or entitlement to be so applied. For the avoidance of doubt, if at any time the amount of A exceeds B, the amount of such excess shall be applied on a Pro Rata Basis against the remaining Notes (or the relevant class thereof) using the above formula.
Prospectus	has the meaning given in the Subscription and Implementation Deed.
Receiver	a receiver or receiver and manager appointed under any Security.

Term	Meaning
Redemption Date	in relation to any Note, the date on which that Note is redeemed and repaid in full in accordance with the Conditions, including as applicable any Early Payment Date, Change of Control Put Date, Delisting Put Date or the relevant Maturity Date or otherwise.
Redemption Price	1 in respect of a Convertible Note, an amount in USD equal to such percentage of the Outstanding Principal Sum of the relevant Convertible Note as would be required to be paid to ensure that the Convertible Noteholder receives (taking into account all interest paid on or prior to the Redemption Date) an IRR of 15% per annum calculated on a semi-annual basis on that Convertible Note up until the Redemption Date, provided that if the Redemption Date falls on a date that is before the 6 month anniversary of the Issue Date, the Redemption Date for the purposes of this calculation shall be taken to be the date that falls on the 6 month anniversary of the Issue Date; and 2 in respect of an Amortising Note, an amount in USD equal to such percentage of the Outstanding Principal Sum of the relevant Amortising Note as would be required to be paid to ensure that the Amortising Noteholder receives (taking into account all interest paid on or prior to the Redemption Date) an IRR of 15% per annum calculated on a semi-annual basis on that Amortising Note up until the Redemption Date, provided that if the Redemption Date falls on a date that is before the 12 month anniversary of the Issue Date, the Redemption Date for the purposes of this calculation shall be taken to be the date that falls on the 12 month anniversary of the Issue Date.
Reference Date	the meaning given in paragraph 5.7 of the Convertible Note Conditions.
Register	the Convertible Note Register or the Amortising Note Register, and **Registers** means both of them.
Registrar	Elavon Financial Services Limited, UK Branch.
Regulation S	has the meaning given in clause 3.11 (*US Securities Act*).
Related Body Corporate	a related body corporate as defined in section 50 of the Corporations Act.
Relevant Currency	Australian Dollars or, if at the relevant time or for the purposes of the relevant calculation or determination, the Australian Securities Exchange is not the Relevant Stock Exchange, the currency in

Term	Meaning
	which the Ordinary Shares are then quoted or traded on the Relevant Stock Exchange.
Relevant Page	the relevant page on Bloomberg or such other information service provider that displays the relevant information.
Relevant Stock Exchange	the Australian Securities Exchange or, if at the relevant time the Ordinary Shares are not listed and admitted to trading on the Australian Securities Exchange, the principal stock exchange or securities market on which the Ordinary Shares are listed or dealt in.
Relevant Tax	any Tax assessed, levied, imposed or collected by a Government Agency of the Commonwealth of Australia (or any other jurisdiction in which it is domiciled or resident or to whose taxing authority it is subject) or any political subdivision therein or thereof.
Scheduled Repayment Date	in relation to each Amortising Note, the dates set out in the table in paragraph 5.7 of the Amortising Note Conditions.
Secured Account	1 in relation to any amount or dealing in US$, the US$ account; and 2 in relation to any amount or dealing in A$, the A$ account, in each case in the name of the Company opened with the Account Bank and pledged to the Note Trustee under the Security and which is a "Credit Account" as that term is defined in the Account Control Deed.
Secured Moneys	all debts and monetary liabilities of the Company or Security Provider to a Beneficiary under or in relation to the Transaction Documents and in any capacity, irrespective of whether the debts or liabilities: 1 are present or future; 2 are actual, prospective, contingent or otherwise; 3 are at any time ascertained or unascertained; 4 are owed or incurred by or on account of the Company or Security Provider alone, or severally or jointly with any other person; 5 are owed to or incurred for the account of a Beneficiary alone, or severally or jointly with any other person; 6 are owed to any other person as agent (whether disclosed or

Term	Meaning
	not) for or on behalf of a Beneficiary; 7 are owed or incurred as principal, interest, fees, charges, Taxes, damages (whether for breach of contract or tort or incurred on any other ground), losses, costs or expenses, or on any other account; 8 are owed to or incurred for the account of a Beneficiary directly or as a result of: • the assignment or transfer to a Beneficiary of any debt or liability of the Company or a Security Provider; or • any other dealing with any such debt or liability; 9 are owed to or incurred for the account of a Beneficiary before the date of this deed or before the date of any assignment of this deed to a Beneficiary by any other person or otherwise; or comprise any combination of the above.
Secured Property	property which is the subject of a Security.
Security Provider	the Company any each member of the Group who grants Security.
Security	1 the General Security Agreement between the Company and the Note Trustee dated on or about the date of this deed; 2 each General Security Agreement between the Note Trustee and one or more Subsidiaries of the Company dated on or about the date of this deed; 3 the Account Control Deed; or 4 any Collateral Security.
Set-Off Amount	has the meaning given in paragraph 5.6 of the Amortising Note Conditions.
Settlement Agent	Elavon Financial Services Limited, UK Branch
Settlement Agreement	the Note Issuance Settlement Agency Agreement dated on or about the date of this deed between the Company and the Settlement Agent.
Shareholder	the person in whose name a share in the capital of the Company is registered in the register of members or the Company.

Term	Meaning
Special Resolution	1 a resolution which is affirmed, at a meeting of Noteholders convened and conducted in accordance with the Meeting Procedures, by more than 66 2/3 per cent of the total number of votes cast at that meeting by all persons present and entitled to vote; or 2 a written resolution passed in accordance with the Meeting Procedures and signed by Noteholders holding Notes with an Outstanding Principal Amount that is more than 66 2/3 per cent of the Total Outstanding Principal Amount of Noteholders entitled to vote.
Springsure Agreement	the Springsure Share Sale Agreement between the Company and Resco Projects Pty Limited dated 2 April 2012, and as assigned from Resco to TheChairmen1, in the forms provided to the Note Trustee on or before the date of this deed.
Subsidiary	1 a subsidiary as defined in section 46 of the Corporations Act; or 2 an entity that is controlled by the Company within the meaning of section 50AA of the Corporations Act.
Subscription and Implementation Deed	the Subscription and Implementation Deed dated on or about the date of this deed and made between the Company, the initial Noteholders, the initial Detachable Warrantholders and the Note Trustee.
Tax	1 any tax including the GST, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or 2 any income, tax or charge, which is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above.
Terra Agreement	the Restructure Agreement between the Company and Terra Holdings Limited dated 2 November 2012 in the form provided to the Note Trustee on or before the date of this deed.
The Chairmen1	The Chairmen1 Pty Ltd (ACN 137 271 642).
Total Outstanding Principal Sum	at any time, the aggregate sum of the Outstanding Principal Sum of all Outstanding Notes at that time.

Term	Meaning
Transaction Document	1 this deed; 2 the Subscription and Implementation Deed; 3 the Detachable Warrant Deed; 4 the Agency Agreement; 5 the Settlement Agreement; 6 each Fee Letter; 7 each Security; 8 each Note; 9 each Warrant; or 10 any other document which the parties agree, now or in the future, is a Transaction Document for the purposes of this deed.
Transfer Agent	Elavon Financial Services Limited, UK Branch.
Transfer Form	the form of transfer for a Note provided for in the relevant Note Certificate or Conditions, and if none is provided, the form customarily used by the Transfer Agent.
Trust	the trust in relation to the Notes and the Security established under this deed.
Trust Fund	1 the amount held by the Note Trustee under clause 2 (*Declaration of trust*); 2 the benefit of all covenants, undertakings, representations, warranties, rights, powers, benefits and remedies in favour of or conferred on the Note Trustee under the Transaction Documents (other than a right to be paid fees or to be indemnified or compensated in its corporate capacity and any related power); 3 all money paid to the Note Trustee under this deed; and 4 any other property which the Note Trustee acquires to hold on the trusts of this deed, including: • any Security Interest, Guarantee or right of the Note Trustee or obligation to the Note Trustee; and • any proceeds of the above or any investment of the proceeds.
Trustee Insolvency Event	in respect of the Note Trustee, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any

Term	Meaning
	of its property (other than property held by it on trust), being unable to pay its debts or otherwise insolvent, taking any step that could result in the Note Trustee becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.
US$	the lawful currency of the United States of America.
US Securities Act	the meaning given in clause 3.11 (*US Securities Act*).
Volume Weighted Average Price or **VWAP**	in respect of a Marketable Security on any Dealing Day, the volume-weighted average price of such Marketable Security published by or derived: 1 in the case of an Ordinary Share, from Bloomberg page AQR; 2 in any other case, from the principal stock exchange or securities market on which such Marketable Security is then listed or quoted or dealt in, if any; or 3 in any case, such other source as shall be determined to be appropriate by the Company on such Dealing Day, provided that on any Dealing Day on which such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of the Marketable Security is deemed to be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined.
Warrants	the Convertible Warrants and the Detachable Warrants.

1.2 Interpretation

(a) Headings and bold type are for convenience only and do not affect the interpretation of this deed.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of any gender include all genders.

(d) Other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning.

(e) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual.

(f) A reference to any thing (including any right) includes a part of that thing but nothing in this clause 1.2(f) implies that performance of part of an obligation constitutes performance of the obligation.

(g) A reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this deed.

(h) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.

(i) Save for any references to the Terra Agreement and the Springsure Agreement, a reference to a document includes all amendments or supplements to, or replacements or novations of, that document.

(j) A reference to a party to a document includes that party's successors and permitted assignees.

(k) A promise on the part of 2 or more persons binds them jointly and severally.

(l) A reference to an agreement other than this deed includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.

(m) A reference to an asset includes all property of any nature, including a business, and all rights, revenues and benefits.

(n) A reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.

(o) A reference to a document includes any agreement in writing, or any certificate, notice, deed, instrument or other document of any kind.

(p) No provision of this deed will be construed adversely to a party because that party was responsible for the preparation of this deed or that provision.

(q) Where this deed confers any power or authority on a person that power or authority may be exercised by that person acting personally or through an agent or attorney.

(r) An Event of Default or Potential Event of Default is 'continuing' or 'subsisting' if it has not been remedied to the satisfaction of the non-defaulting party or waived by the non-defaulting party before a power, right or other acting relating to it is exercised or taken.

(s) References to any issue or offer or grant to Shareholders or existing Shareholders 'as a class' or 'by way of rights' shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or existing Shareholders, as the case may be, other than Shareholders or existing Shareholders, as the case may be, to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant.

(t) In making any calculation or determination provided for in this deed of Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as the Company, as applicable, considers appropriate to reflect any consolidation or sub-division of the Ordinary Shares or any issue of

Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event.

(u) Any term not defined in this deed but given a meaning in the Conditions, will be given the same meaning in this deed when used in relation to or connection with any Convertible Note or Amortising Note as it is given in the relevant Conditions.

1.3 Interpretation of inclusive expressions

Specifying anything in this deed after the words 'include' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 Deed components

This deed includes any schedule.

2 Declaration of trust

2.1 Holding of Trust Fund on trust

The Note Trustee declares that it holds the sum of US$10 and will hold the Trust Fund (including the benefit of the Security), on trust at any time for itself and the persons who are Beneficiaries at that time.

2.2 Period

The trust established under this deed commences on the date of this deed and, unless terminated at an earlier date, terminates on the eightieth anniversary of the date of this deed.

2.3 Name of trust

The trust is to be known as the *Guildford Coal Security Trust II.*

2.4 Beneficiaries

(a) Subject to clause 2.4(b), the Beneficiaries are the persons beneficially entitled to the Trust Fund on the terms of this deed. They hold that beneficial entitlement as equitable tenants in common so that the share that each of them has of that beneficial entitlement is determined in accordance with this deed and the Subscription and Implementation Deed.

(b) If, but only so long as, the acquisition of, transfer to or holding (**Dealing**) by a Beneficiary of a beneficial interest in an interest as a secured party in property comprised in the Secured Property (**Property**) would give rise to:

(1) ad valorem stamp duty in any jurisdiction in Australia as administered by the relevant Government Agency for that jurisdiction, or

(2) a contravention of any law or policy or directive of a Government Agency in Australia (which, if not having the force of law, is one with which prudent persons have the custom of complying),

then

(3) that Beneficiary will not hold any beneficial interest in that Property, but will hold a beneficial interest in any proceeds of the sale of that Property by the Note Trustee.

Without limitation, if the Dealing would contravene or give rise to a notification requirement under Australia's Foreign Investment Policy, as published by the Treasurer of the Commonwealth of Australia from time to time, or the Foreign Acquisitions and Takeovers Act 1975 (Cth), clause 2.4(b)(3) will apply until the Treasurer has stated that there is no objection to the Beneficiary's Dealing in the Property.

3 The Notes

3.1 Obligations

The obligations of the Company under the Notes are constituted by this deed and the Subscription and Implementation Deed.

3.2 Covenant to pay and undertaking to comply

As separate and independent obligations the Company undertakes in favour of the Note Trustee in respect of each Note:

(a) to pay to the Paying Agent, as described below, the principal, any interest and any other amounts the Company is obliged to pay or repay in respect of each Note in accordance with the Transaction Documents; and

(b) to duly and punctually observe, fulfil, perform and comply with all the covenants, conditions and obligations imposed upon it by or under the Subscription and Implementation Deed.

The Company must pay all amounts payable to the Paying Agent under clause 3.2(a) in accordance with the terms of the Transaction Documents (including the Conditions).

3.3 Registered form

The Notes are to be issued in registered form.

3.4 Denomination

Unless at a relevant time a Global Certificate has been issued to represent the Notes, the Notes shall be denominated in US$ and in principal Face Value amounts of US$10,000 or integral multiples thereof.

3.5 Title

(a) Subject to paragraph (b), title to a Note is vested absolutely in the person entered in the relevant Register as the holder of the Note and passes by transfer and registration in accordance with this deed, in each case subject to rectification of the relevant Register for fraud or error.

(b) At any time during which the Notes are represented by a Global Certificate, the rules of the relevant Clearing System will, to the extent of any inconsistency with the terms of the Transaction Documents, govern transfer and ownership of the Notes.

(c) A Note registered in the name of more than one person is held by those persons as joint tenants.

(d) The Company is entitled to deal exclusively with a Noteholder as if it were (and it will be taken to be) the absolute beneficial owner of a Note and is not obliged to enter in any Register or otherwise recognise any right to or interest in a Note other than the title of that Noteholder.

3.6 Status

The Notes are direct, unsubordinated, secured obligations of the Company and shall rank:

(a) equally among themselves; and

(b) as first priority secured obligations ahead of any unsubordinated and unsecured obligations of the Company other than those mandatorily preferred by law.

3.7 Registration of Notes

The Company must ensure that Registers for the Notes are maintained at all times by the Registrar so as to show at all times the names and addresses of the Noteholders, details of the Notes held by them and details of all transfers, redemptions, exchanges and conversions of the Notes and such other details as are required to be shown by law or which the Company determines should be recorded in the Register and in accordance with the Conditions.

3.8 Transferability

Subject to clause 3.11 (*US Securities Act*), the Notes may be transferred by each Noteholder without the consent of the Company pursuant to this deed provided that such transfer complies with all of the following provisions:

(a) the transfer is, in whole or in part, in multiples of Notes with an aggregate face value of US$1,000,000;

(b) the Noteholder complies with all applicable laws and regulations, including the relevant provisions of the Corporations Act and the ASX Listing Rules; and

(c) the transfer is from the Noteholder to a sophisticated investor or a professional investor (as those terms are defined in the Corporations Act).

3.9 Transfer procedures

(a) Interests in Notes held in a Clearing System will be transferrable only in accordance with the rules and regulations of that Clearing System. If a Note is lodged in the Euroclear system or another Clearing System the Company will not recognise any such interest other than the interest of Euroclear or that other Clearing System, as appropriate, while that note is lodged in that Clearing System.

(b) In relation to a Note not lodged within a Clearing System, a Noteholder may request the transfer of a Note by lodging with the Company a duly completed Transfer Form signed by the transferor and the transferee, together with the Definitive Certificate (if any) for the Notes to be transferred and such evidence as the Company may require to prove:

(1) the identity of the transferor and the transferee, their respective authorities to execute and effect transfer of the Note and that the requirements of this clause 3 in relation to the transfer are satisfied; and

(2) that any Taxes applicable to the transfer have been paid.

(c) Subject to this clause 3, upon receipt of the Transfer Form, the Company will:

(1) enter the transferee's name in the Register; and

(2) deliver a Definitive Certificate to the transferee in respect of the Note or Notes transferred and, in the case of a transfer of part only of the Note or Notes represented by the existing Definitive Certificate, deliver a new Definitive Certificate to the transferor for the untransferred balance of such Notes, 10 Business Days after receipt of a valid Transfer Form in accordance with paragraph (b) above.

(d) Definitive Certificates required to be delivered under paragraph (c) above are to be delivered at the specified office of the Company or, if so requested by the transferee or transferor (as the case may be), sent by uninsured mail to such address as is requested by the transferee or transferor (as the case may be). Definitive Certificates sent by mail to a transferee or transferor are sent at the risk (and, if sent by other than ordinary mail, at the expense) of the transferee or transferor.

(e) The transferor of a Note remains the holder of that Note until the name of the transferee is recorded in the Register as the holder of that Note.

3.10 Estates

A person becoming entitled to a Note as a consequence of the death or bankruptcy of a Noteholder or of a vesting order, or a person administering the estate of a Noteholder and entitled by law to do so, may apply for the transfer of the Note as if it was the holder of the Note or, if so entitled, become registered as the Noteholder of the Note upon producing such evidence as to that entitlement or status as the Company considers sufficient.

3.11 US Securities Act

Terms used in this paragraph have the meanings given to them by Regulation S under the US Securities Act (Regulation S).

(a) The Notes have not been and will not be registered under the Securities Act 1993 (as amended) of the United States of America (US Securities Act), and may not be offered or sold within the United States or to, or for the account or benefit of, United States persons except in certain transactions exempt from registration requirements of the US Securities Act.

(b) Each Noteholder represents and agrees that it will not offer, sell or deliver the Notes within the United States, its territories and possessions or to, or for the account or benefit of, United States persons.

4 Rights and obligations of Noteholders

4.1 Benefit

The Notes confer on each Noteholder the benefit of the undertakings, representations and warranties given by the Company under this deed and the other Transaction Documents together with all applicable rights, and subject to all applicable restrictions and obligations, arising under this deed and the other Transaction Documents.

4.2 Direction to hold this deed

Each Noteholder is deemed to have irrevocably directed the Company that the original of this deed be delivered to the Note Trustee to hold on its behalf, and to have irrevocably appointed and authorised the Note Trustee to hold this deed on its behalf in Hong Kong.

4.3 Production of this deed

(a) The Company acknowledges, in addition to the Noteholders rights under clause 5.9 (*Information and copies of documents*), the right of each Noteholder to the production of this deed in accordance with this clause.

(b) Within 5 Business Days (or such earlier time as the Noteholder reasonably requires) of receipt by the Company of a request from a Noteholder to do so, the Company must provide to that Noteholder:

(1) a certified copy of this deed if required in connection with any legal proceeding, claim or action brought by such Noteholder in relation to its rights under this deed or the Notes (**Relevant Proceeding**); or

(2) the original of this deed to a court if the Company is satisfied (acting reasonably) that:

(A) such document is required by a court order in connection with any Relevant Proceeding;

(B) the relevant Noteholder has taken reasonable steps to ensure that such document will not be lost, damaged or destroyed; and

(C) such document will be returned to the Company on request and is capable of being made available in respect of any other legal proceeding, claim or action brought by another Noteholder in relation to such other Noteholder's rights under this deed.

4.4 Untraceable Noteholders

Subject to applicable law, where the Company:

(a) is required to pay any amount to a Noteholder; and

(b) has made reasonable efforts to locate the Noteholder but is unable to do so,

then those amounts:

(1) must be paid by the Note Trustee to the Company, if the Note Trustee has actual possession and control of such moneys;

(2) are to be held by the Company for the Noteholder in a non-interest bearing deposit with a bank selected by the Company until the Noteholder or any legal personal representative of the Noteholder claims the amount or the amount is paid by the Company according to the legislation relating to unclaimed moneys; and

(3) if those amounts have not been claimed by the Noteholder or any legal personal representative of the Noteholder for a period of 12 months after the relevant Maturity Date, those amounts will become the property of the Company and the Noteholder ceases to have any claim in relation to such amounts.

Without limiting clause 5.14 (*Certificates*), the Note Trustee may rely on a certificate signed by an Officer of the Company to the effect that the matters set out in clauses 4.4 (a) and (b) are satisfied. The Note Trustee is not liable to any Noteholder for any moneys paid to the Company under this clause 4.4. The Company indemnifies the Note Trustee from any and all costs, losses, liabilities, expenses, demands or claims suffered or incurred by the Note Trustee in respect of any moneys paid to the Company under this clause 4.4.

5 Note Trustee

5.1 Authority

Each Beneficiary (including each Noteholder) is taken to have:

(a) appointed the Note Trustee as trustee to undertake the duties set out in the Transaction Documents to which it is a party in its capacity as trustee of the Noteholders;

(b) authorised the Note Trustee to enter into, execute and deliver any Transaction Document to which it is intended or expressed to be a party in its capacity as trustee of the Noteholders and the other Beneficiaries;

(c) authorised the Note Trustee in its capacity as trustee of the Noteholders and the other Beneficiaries to exercise the powers expressly vested in it under the Transaction Documents, together with all other powers reasonably incidental to those powers, and to exercise the rights, remedies and discretions of the Noteholders and the other Beneficiaries subject to the terms of this deed;

(d) ratified and confirmed the execution and delivery of any Transaction Document executed and delivered by the Note Trustee on or prior to the date of this deed to which it is intended or expressed to be a party as agent for those Noteholders;

(e) given notice of and agreed to be bound by each Transaction Document applicable to it; and

(f) authorised the Note Trustee to act in accordance with any Special Resolution or Ordinary Resolution (as applicable) in respect of the Notes held by that Noteholder, subject to the Transaction Documents.

5.2 Note Trustee's duties to Noteholders

The Note Trustee agrees to exercise its rights and comply with its obligations under the Transaction Documents to which it is a party, in each case having regard to:

(a) the interests of the Noteholders as a whole, and to each class of Noteholders, as applicable; and

(b) its fiduciary obligations as trustee to the Noteholders under this deed.

5.3 Additional powers

The Note Trustee may:

(a) subject to clause 8 (*Events of Default*) of this deed, at any time seek from the Noteholders a direction (by Ordinary Resolution or Special Resolution as appropriate) in relation to any matter it thinks appropriate;

(b) subject to the Subscription and Implementation Deed, and clause 5.6 (*Limits on duties*), give any consent or do any other matter or thing necessary or appropriate in connection with the exercise of its powers or performance of its duties under or in respect of the Transaction Documents;

(c) obtain, rely on or decline to act on:

    (1) any document or notice it reasonably believes to be genuine and correct; and

    (2) advice and statements of lawyers, accountants and other experts and consultants reasonably selected by it;

(d) employ or appoint (as agent, delegate, contractor, attorney or otherwise) such persons (if any) as may be necessary for it to carry out its obligations under the Transaction Documents, provided that the Note Trustee is and at all times remains liable subject to clause 5.7 (*No liability*) for the acts and omissions of any person it employs or appoints or who acts as its agent under this paragraph and for the payment of the remuneration, costs and expenses of that person;

(e) where requested by any Noteholder provide that Noteholder with any credit or other information in its possession concerning the affairs, financial condition or business of any party to a Transaction Document (but excluding any information pertaining to another Noteholder) subject to the Noteholder providing any reasonable undertakings requested by the Note Trustee in relation to the confidentiality of the material provided; and

(f) subject to the Transaction Documents, deal with any property comprising the Trust Fund.

5.4 Calculations binding

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained by the Note Trustee in accordance with the Transaction Documents, are (in the absence of fraud, gross negligence or wilful default or manifest error) prima facie evidence of the matters referred to in them in respect of the relevant Notes.

5.5 No representation

Each Noteholder acknowledges that the Note Trustee has not made any representation or given any warranty upon which the Noteholder has relied, except to the extent expressly set out in this deed. Without limitation, each Noteholder acknowledges that its decision to acquire any Note and the terms upon which it made the acquisition was made without reliance on any statement, opinion, forecast or other representation (including a representation by omission) by the Note Trustee.

5.6 Limits on duties

The Note Trustee has no duties or responsibilities except those expressly set out in the Transaction Documents to which it is a party or which it countersigns by way of acknowledgement or that the Note Trustee has expressly agreed to undertake in writing. In particular, it has no duty or responsibility:

(a) to exercise any right, remedy or power (including, without limitation, to take proceedings or other action against or in relation to the Company to enforce the Company's obligations under any Transaction Document) or, as contemplated by clause 5.10 (*Note Trustee to observe directions*), to comply with any directions given to it by the Majority Noteholders (or (if required) by such other number of Noteholders or by all Beneficiaries) unless it is indemnified to its satisfaction against all judgments, suits, actions, proceedings, claims and demands for which it may thereby become liable and all losses, liabilities (including legal costs on a full indemnity basis), costs, charges, damages and expenses which it may incur in so doing despite any other provision of any Transaction Document which imposes a duty on it to do so;

(b) to provide any Noteholder (or any other person) with any credit or other information concerning the affairs, an Event of Default, financial condition or business of any person which may come into the Note Trustee's possession and each Noteholder acknowledges that it has made and will continue to make independently and without reliance on the Note Trustee its own investigations into the affairs of the Company and any other party it considers relevant;

(c) to keep itself informed as to the enforceability, performance or observance by any party to any Transaction Document of any of that party's obligations under that document;

(d) to exercise any right, power or remedy it may have to inspect property or books belonging to another person;

(e) to do anything which would or might, in its opinion acting in good faith, be contrary to any law, regulation or official directive or render it liable to any person, despite any other provision of any Transaction Document which imposes a duty on it to do so;

(f) to exercise any right, remedy or power, or if it has otherwise sought from Noteholders a direction as to whether it should exercise, or as to the manner of exercise of, the right, remedy or power, pending a discussion of the Majority Noteholders or such other number of Noteholders as specified by the Transaction Documents, despite any other provision of any Transaction Document which imposes a duty on it to do so; or

(g) to take any action which it may or would otherwise be obliged to take unless the Note Trustee is indemnified to its satisfaction against

(1) all actions, proceedings, claims and demands to which the Note Trustee may render itself liable by taking such action;

(2) all costs, charges and expenses which the Note Trustee may incur in taking such action; and

(3) all management time spent by employees or officers of the Note Trustee which will be charged at the Note Trustee's standard hourly rates prevailing from time to time provided that such rates have been notified to the Company in writing.

5.7 No liability

In addition to any protection under any statute or contained in this deed, the Note Trustee will not be liable to any Noteholder or other Beneficiary or otherwise be responsible for any loss or damage:

(a) occurring as a result of any act or omission of the Note Trustee as permitted by this deed or the Note Trustee exercising, failing to exercise or purporting to exercise any Power except to the extent to which the loss or damage was caused by its fraud, gross negligence or wilful default;

(b) caused by the acts or omissions of an agent, delegate, contractor or attorney so long as the Note Trustee exercised due care in appointing that agent, delegate, contractor or attorney unless the agent, delegate, contractor or attorney is a related body corporate of the Note Trustee;

(c) occurring as a result of any other matter or thing done by any party to a Transaction Document other than the Note Trustee in relation to any Transaction Document, except to the extent to which the loss or damage was caused by its fraud, gross negligence or wilful default; or

(d) occurring as a result of the inadequacy, invalidity or unenforceability of any Transaction Document (other than against the Note Trustee) or any provision of any Transaction Document (including as a result of failing to register the relevant Transaction Document) except to the extent to which the relevant inadequacy, invalidity or unenforceability was caused by the fraud, gross negligence or wilful default (not being negligence in relation to the negotiation or form or content of the relevant Transaction Document) of the Note Trustee.

5.8 Note Trustee's liability

The limitation of the Note Trustee's liability under this clause 5.8 applies despite any other provisions of this deed and any other Transaction Documents and extends to all Obligations of the Note Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed or any other Transaction Document and to the extent of any inconsistency between the operation of this clause 5.8

and any other provision of this deed or any other Transaction Document, the terms of this clause 5.8 will prevail.

(a) The Note Trustee enters into this deed and the Transaction Documents as trustee of the Trust and in no other capacity.

(b) The Company acknowledges that the Note Trustee incurs the Obligations solely in its capacity as trustee of the Trust and that the Note Trustee will cease to have any obligation under this deed and the other Transaction Documents in respect of the Trust if the Note Trustee ceases for any reason to be trustee of the Trust (without limiting the rights of any party to any Transaction Document that arose before the Note Trustee ceased to be the trustee of the Trust).

(c) Except in the case of and to the extent of fraud, gross negligence or wilful default on the part of the Note Trustee, the Note Trustee will not be liable to pay or satisfy any Obligations except out of the Assets of the Trust against which it is actually indemnified in respect of any liability incurred by it as trustee of the Trust.

(d) Except in the case of and to the extent of fraud, gross negligence or wilful default on the part of the Note Trustee, the Company may enforce its rights against the Note Trustee arising from non-performance of the Obligations only to the extent of the Note Trustee's right of indemnity out of the Assets of the Trust.

(e) Except in the case of and to the extent of fraud, gross negligence or wilful default on the part of the Note Trustee, if the Company does not recover all money owing to it arising from non-performance of the Obligations it may not seek to recover the shortfall by:

    (1) bringing proceedings against the Note Trustee in its personal capacity; or

    (2) applying to have the Note Trustee put into administration or wound up or applying to have a receiver or similar person appointed to the Note Trustee or proving in the administration or winding up of the Note Trustee.

(f) Except in the case of and to the extent of fraud, gross negligence or wilful default on the part of the Note Trustee, the Company waives its rights and releases the Note Trustee from any personal liability whatsoever, in respect of any loss or damage:

    (1) which they may suffer as a result of any:

        (A) breach by the Note Trustee of any of its Obligations; or

        (B) non-performance by the Note Trustee of the Obligations; and

    (2) which cannot be paid or satisfied out of the Assets of the Trust of which the Note Trustee is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.

(g) The Company acknowledges that the whole of this deed is subject to this clause 5.8 and the Note Trustee shall in no circumstances be required to satisfy any liability of the Note Trustee arising under, or for non-performance or breach of any Obligations under or in respect of, this deed or under or in respect of any other Transaction Document to which it is expressed to be a party out of any funds, property or assets other than the Assets of the Trust under the Note Trustee's control and in its possession as and when they are available to the

Note Trustee to be applied in exoneration for such liability PROVIDED THAT if the liability of the Note Trustee is not fully satisfied out of the Assets of the Trust as referred to in this clause 5.8, the Note Trustee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the Trust have been reduced by reasons of fraud, gross negligence or wilful default by the Note Trustee in the performance of the Note Trustee's duties as trustee of the Trust.

(h) The parties agree that no act or omission of the Note Trustee (including any related failure to satisfy any Obligations) will constitute fraud, gross negligence, negligence or wilful default of the Note Trustee for the purposes of this clause 5.8 to the extent to which the act or omission was caused or contributed to by any failure of any person (other than a Related Body Corporate of the Note Trustee) to fulfil its obligations relating to the Trust or by any other act or omission of any other person (other than a Related Body Corporate of the Note Trustee).

(i) No attorney, agent or other person appointed in accordance with this deed has authority to act on behalf of the Note Trustee in a way which exposes the Note Trustee to any personal liability (except in accordance with the provisions of this clause 5.8), and no act or omission of such a person (other than a Related Body Corporate of the Note Trustee) will be considered fraud, gross negligence, negligence or wilful default of the Note Trustee for the purposes of this clause 5.8.

The parties to this deed irrevocably and unconditionally agree that, notwithstanding anything to the contrary in this deed or in any other Transaction Document, the Note Trustee shall not in any event be liable for a failure or delay in the performance of its obligations hereunder if it is prevented from so performing its obligations by any existing or future acts of government authority, acts of God, flood, war (whether declared or undeclared), terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, aircraft collision, accidental or mechanical and electrical breakdown.

(j) The Note Trustee is not obliged to do anything or refrain from doing anything under or in connection with this deed or any other Transaction Document (including incur a liability) unless the Note Trustee's liability is limited in the same manner as set out in this clause 5.8 or otherwise in a manner satisfactory to the Note Trustee (in its absolute discretion).

(k) In this clause 5.8:

(1) '**Obligations**' means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Note Trustee under or in respect of this deed or any other Transaction Document; and

(2) '**Assets**' includes all assets, property and rights real and personal of any value whatsoever.

5.9 Information and copies of documents

The Note Trustee agrees to make copies of the Transaction Documents applicable to a Noteholder (other than the Notes) available for inspection to that Noteholder on reasonable written notice during its normal business hours at its offices in Hong Kong, or otherwise at any other place specified with the agreement of the Company.

5.10 Note Trustee to observe directions

The Note Trustee agrees to comply with each direction, and any conditions of such direction, given to it by the Majority Noteholders or such other number of Noteholders as is specified under the Transaction Documents (or (where so specified) of all Beneficiaries).

5.11 No need for enquiry

(a) None of the Company, a Noteholder or agent for any person (except the Note Trustee) need enquire, or may suspend the performance of any obligation pending receipt of the results of any enquiry, as to whether any act or omission of the Note Trustee is authorised by the Noteholders or the Beneficiaries at any time.

(b) The Note Trustee need not give notice to any person or persons of the execution of this deed.

5.12 Other dealings by Note Trustee

(a) The Note Trustee, each related body corporate of the Note Trustee, and each of their respective officers, agents and directors may:

   (1) on his, her or its own account, acquire, hold and otherwise deal with Notes and rights and interests in Notes;

   (2) on his, her or its own account:

      (A) contract with any Noteholder or the Company;

      (B) contract with any related body corporate of any of them;

      (C) contract with itself as trustee;

      (D) transact any banking, financial or agency services with any person with whom it, he or she may so contract; and

      (E) enter into and perform any contract or transaction with any person with whom it, he or she may so contract, being a contract or transaction which could otherwise be entered into and performed (without breach of obligation or duty) were the Note Trustee not the trustee under this deed; and

   (3) act in any representative capacity (including as administrator, trustee, receiver, receiver and manager, Controller (as defined in the Corporations Act), attorney, agent or as a fiduciary) of any person with whom he, she or it may so contract.

(b) If the Note Trustee is or becomes a Convertible Noteholder or an Amortising Noteholder, it has the same rights and powers under this deed in that capacity as any other Convertible Noteholder or Amortising Noteholder, as the case may be. It may exercise those rights and powers as if it were not acting as trustee. However, the right of the Note Trustee to enter into and perform contracts and transactions to which clause 5.12(a)(2) refers must not be construed to override any duty it may have to act in good faith in what it perceives to be the best interests of the Noteholders (or a particular class of Noteholders, if applicable) and does not relieve the Note Trustee of any liability it would otherwise have for gross negligence, fraud or wilful default by it or any of its related bodies corporate or any of their respective officers, agents, employees or delegates.

(c) For the avoidance of doubt, if the Note Trustee becomes a Noteholder in its personal capacity, its rights, obligations, remedies and powers as a Noteholder will be the same as each other Noteholder in respect of the same class of Notes.

5.13 No liability to account

Subject to clause 5.12(b) (*Other dealings by Note Trustee*), an act, matter or thing done pursuant to, in consequence of or incidental to, something permitted under clause 5.12 (*Other dealings by Note Trustee*):

(a) is not prohibited;

(b) does not constitute a breach of any obligation or any duty, either expressed or implied into this deed or arising under or implied into any fiduciary relationship established or arising under this deed; and

(c) does not render any person liable to account for any profits or benefits arising as a result of or in connection with, any such act, matter or thing.

5.14 Certificates

The Note Trustee:

(a) may accept and act on any information, statement, certificate, report, balance sheet or account supplied by the Company or any auditor or Officer of the Company or any Clearing System in which a Note is held; and

(b) may accept and act upon the statements and opinions contained in any statement, certificate, report, balance sheet, or account given under this deed as conclusive evidence of the contents,

and the Note Trustee need not:

(c) call for further evidence other than that certificate, statement, report, balance sheet or account; or

(d) enquire as to the accuracy of such a document,

(unless there is manifest error on the face of the document) and the Note Trustee will not be responsible for any loss, damage, cost, expense or liability that may be occasioned by relying on such a document.

5.15 Assumptions as to authenticity

The Note Trustee and each of its officers, employees, related bodies corporate and agents is not required to ascertain or enquire as to the authenticity or accuracy of any notice, certificate, statement, report or other document delivered or given to it for the purposes of or in connection with any Transaction Document, and is entitled to rely upon and is not obliged to verify the same unless there is a manifest error on the face of any such document.

5.16 Replacement of Note Trustee

(a) Subject to the appointment of a successor as provided in this clause:

(1) the Note Trustee may resign at any time by giving not less than 30 days prior written notice to the Noteholders and the Company; or

(2) the Majority Noteholders may remove the Note Trustee from office. That removal will take effect:

(A) if the Note Trustee is not in breach or default under any Transaction Document and no Trustee Insolvency Event has occurred, on the date specified for such removal, which date must be at least 30 days after the date on which the Note Trustee receives notice of the removal; or

(B) if the Note Trustee is in breach or default under any Transaction Document or a Trustee Insolvency Event has occurred, on the date specified.

(b) Upon notice of resignation or removal of the Note Trustee, the Noteholders have the right to appoint a successor approved, except while an Event of Default is subsisting, by the Company.

(c) If no successor is appointed within the relevant resignation or removal period of the Note Trustee:

(1) the replaced Note Trustee may, on behalf of the Noteholders, appoint a successor approved, except while an Event of Default is subsisting, by the Company or, if the Company has not provided its approval (or otherwise) to the proposed successor within 5 Business Days of a request from the replaced Note Trustee to do so, a successor of good repute; and

(2) if the replaced Note Trustee does not appoint a successor pursuant to clause 5.16(c)(1) and, except while an Event of Default is subsisting, the Company (acting reasonably) may determine the identity of and appoint a successor Note Trustee.

(d) On the appointment of a successor Note Trustee and on execution by the replaced Note Trustee and the successor Note Trustee of all documentation which is required for the replaced Note Trustee to effect the appointment of the successor Note Trustee and to transfer to the successor Note Trustee the benefit of all rights and obligations (but not the pre-existing liabilities) of the replaced Note Trustee under the Transaction Documents:

(1) the successor Note Trustee will have all the rights, powers and obligations (but not the pre-existing liabilities) of the replaced Note Trustee; and

(2) the replaced Note Trustee will be discharged from its rights, powers and obligations, provided that it will remain liable for anything done or omitted to be done by it while it was acting as Note Trustee.

(e) No removal or retirement of the Note Trustee under this clause 5.16 is effective unless and until a successor Note Trustee has accepted the office of the Note Trustee pursuant to clause 5.16(g).

(f) The Company shall not unreasonably withhold or delay its approval of any proposed successor Note Trustee and shall respond as soon as practicable to any request for approval. While an Event of Default is subsisting, the Company's approval will not be required.

(g) The Company and the replaced Note Trustee agree to do all things and execute all documents necessary or desirable to permit or facilitate the appointment of the successor Note Trustee. Without limitation the replaced Note Trustee must immediately upon termination of its appointment becoming effective, deliver to the successor Note Trustee (or at its direction) all books documents, records, accounts and property relating to the Trust Fund. The replaced Note Trustee may, at its own expense, take and keep copies of such books, documents, records, accounts and property delivered under this clause.

(h) The cost of the appointment of a successor Note Trustee (including any legal costs and Taxes) is to be borne by the Company, except where:

(1) the Note Trustee is removed pursuant to clause 5.16(a)(2)(A), in which case the cost is to borne by the Noteholders in proportion to their respective exposure under the Notes except where (acting in good faith) they consider they have acted reasonably and have removed the Note Trustee after consultation with the Company in which case the cost shall be borne by the Company; or

(2) the Note Trustee is removed as a result of its fraud, gross negligence or wilful default, in which case the cost is to be borne by the outgoing Note Trustee.

(i) Upon the replacement of the replaced Note Trustee, the replaced Note Trustee will be entitled, unless a Trustee Insolvency Event has occurred, to the payment of compensation owed to it by the Company and to the reimbursement of all reasonable and properly incurred out-of-pocket expenses incurred in connection with all services rendered by it under this deed, as provided in clause 5.18 (*Remuneration and costs*).

(j) For the purposes of clause 5.16(h), 'Taxes' means present and future taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any authority of the Commonwealth of Australia or any political subdivision or taxing authority of it (including without limitation stamp and transaction duties) (together with any related interest, penalties and expenses in connection with them) except if imposed on the overall net income of the Note Trustee, and it includes GST except to the extent that the Note Trustee is entitled to claim an input tax credit for that GST.

5.17 Notice of change of offices and insolvency

The Note Trustee must promptly notify the Noteholders and the Company of:

(a) the appointment of a successor Note Trustee under clause 5.16 (*Replacement of Note Trustee*);

(b) the occurrence of a Trustee Insolvency Event; and

(c) any change in its details for the purposes of receiving notices or other communications under the Transaction Documents.

5.18 Remuneration and costs

The Company shall pay to the Note Trustee by way of remuneration for its services as trustee such fees and out of pocket expenses as are separately agreed between the Company and the Note Trustee.

5.19 Representations and warranties by the Note Trustee

The Note Trustee represents and warrants for the benefit of the Company and each Noteholder that on the Issue Date:

(a) **(due incorporation)** it is duly incorporated and has the corporate power to own its property and to carry on its business as is now being conducted;

(b) **(constitution)** the execution, delivery and performance of such of the Transaction Documents to which it is a party does not violate its constitution;

(c) **(corporate power)** it has the power, and has taken all corporate and other action required, to enter into such of the Transaction Documents to which it is a party and to authorise the execution and delivery of those Transaction Documents and the performance of its obligations under those Transaction Documents;

(d) **(filings)** it has filed all corporate notices and effected all registrations with the Australian Securities and Investments Commission and all of those filings and registrations are current, complete and accurate;

(e) **(legally binding obligation)** each Transaction Document to which it is a party constitutes its valid and legally binding obligation enforceable in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally) subject to any necessary stamping and registration;

(f) **(execution, delivery and performance)** the execution, delivery and performance by it of each Transaction Document to which it is a party does not violate any law, or any document or agreement to which it is a party or which is binding on it or any of its assets;

(g) **(authorisation)** all consents, licences, approvals and authorisations of every Government Agency required to be obtained by it in connection with the execution, delivery and performance of each Transaction Document to which it is a party have been obtained and are valid and subsisting; and

(h) **(immunity)** it does not, nor do its assets enjoy immunity from any suit or execution.

The representations and warranties contained in this clause are deemed to be repeated on the Issue Date, any subsequent date on which Notes are issued in accordance with the Subscription and Implementation Deed and each date on which the Company makes a payment to the Note Trustee under the Transaction Documents (with respect to the facts and circumstances then subsisting).

5.20 Undertaking to comply with laws

The Note Trustee undertakes for the benefit of the Company and each Noteholder that it will at all times comply with all relevant laws in connection with performing its obligations under this deed and other Transaction Documents.

5.21 Trusts separate to Trust Fund

The Note Trustee may hold the benefit of covenants, undertakings, representations, warranties, rights, powers, benefits and remedies conferred on it under a Transaction Document on trust separate from the Trust Fund as provided in that Transaction Document and may hold proceeds of a Transaction Document on trust separate from the Trust Fund as provided in that Transaction Document.

5.22 No obligation to act

The Note Trustee is not obliged to carry out any act or refrain from doing any act (including incurring any liability) under any Transaction Document until such time as it is placed in funds or is otherwise indemnified to its satisfaction against any expense or liability which it may incur as a result of doing so. Under no circumstances will the Note

Trustee be under any obligation to advance or use its own funds for the payment of any costs, expenses or liabilities, except to the extent they arise as a result of its fraud, gross negligence or wilful default.

5.23 Dispute or ambiguity

If there is any dispute or ambiguity in relation to any matter connected with the Transaction Documents, the Note Trustee may (but need not) do one or both of the following:

(a) obtain and rely on advice from any adviser referred to in clause 5.3(c) (*Additional powers*); or

(b) apply to a court for any direction or order the Note Trustee considers appropriate and comply with any such directions or orders.

As long as the Note Trustee is using reasonable endeavours to resolve any dispute or ambiguity, the Note Trustee may (but need not) refuse to do anything in relation to matters affected by the dispute or ambiguity.

5.24 Knowledge of Note Trustee

The Note Trustee will only be taken to have knowledge or notice of or to be aware of anything (including a Potential Event of Default or an Event of Default) if an officer or employee of the Note Trustee with day to day responsibility for the administration of the Trust has actual notice or knowledge or is actually aware of the relevant thing.

5.25 Distribution of Money

This clause applies despite any rule of law or equity to the contrary or the respective dates on which anything is done.

The Note Trustee shall apply all money received or recovered by it which is available for distribution in or towards payment or repayment of the Secured Moneys in the following order.

(a) First: all costs, charges and expenses of the Note Trustee or any Receiver or attorney which are incurred in or are incidental to the actual or attempted exercise or performance of a Power or otherwise in relation to any Transaction Document.

(b) Second: any other outgoings which the Note Trustee or any Receiver or attorney thinks fit to pay.

(c) Third: any Receiver's remuneration.

(d) Fourth: to each holder of a Security Interest of which the Note Trustee is aware and which has priority in relation to the relevant Secured Property, to the extent, and in order, of priority.

(e) Fifth: to itself for the account of the Beneficiaries towards satisfaction of the Secured Moneys, to be applied first to amounts owed to the Note Trustee and each Agent and then rateably among the other Beneficiaries according to their amounts outstanding (including, if any step has been taken to enforce a Security or the Secured Moneys has been declared due before its stated maturity, amounts contingently owing or owing in the future) or in any other manner agreed by the Note Trustee and all Beneficiaries.

(f) Sixth: to each holder of a Security Interest of which the Note Trustee is aware and which ranks after any Security in relation to the relevant Secured Property, to the extent, and in order, of priority.

(g) Seventh: the surplus (if any) belongs to the Company. The surplus will not carry interest.

If the Note Trustee pays the total amount referred to in clauses 5.25 (f) and (g) to the credit of an account in the name of the next ranking holder of a Security Interest or if none, in the name of the Company with any bank carrying on business in Australia, the Note Trustee, Receiver or attorney (as the case may be) will be under no further liability in respect of it.

For the purpose of making an application under this clause, the Note Trustee, or any Receiver or attorney, may purchase one currency with another, whether or not through an intermediate currency, whether spot or forward, in the manner and at the time it thinks fit.

5.26 Money actually received

In applying any money toward satisfaction of the Secured Moneys the Company will be credited only with the money available for that purpose which is actually received by the Note Trustee. The credit will date from the time of receipt.

5.27 Amounts contingently due

If any Secured Money is contingently owing to any Beneficiary at the time of a distribution of an amount under clause 5.25, the Note Trustee may retain any of that amount. If it does, it shall place the amount retained on short term non-interest bearing deposit until the relevant Secured Moneys become actually due or ceases to be contingently owing, and the Note Trustee will then:

(a) pay to that Beneficiary the amount which becomes actually due to it; and

(b) apply the balance of the amount retained (together with interest earned on the deposit) in accordance with clause 5.25.

5.28 Payments through Note Trustee

(a) If so instructed by the Majority Noteholders and notwithstanding the Agency Agreement, after an Event of Default has occurred the Note Trustee shall direct the Company to make all payments of Secured Moneys through the Note Trustee.

(b) On receipt of that direction the Company will make all payments under the Transaction Documents to the Note Trustee on behalf of the Beneficiaries until directed otherwise by the Note Trustee acting on the instructions of the Majority Noteholders.

(c) Subject to clause 5.25, the Note Trustee shall distribute the amount paid in accordance with the Transaction Documents among the Beneficiaries rateably according to their Exposures.

(d) In this clause, **Exposure** means, at any time (but without double counting):

(1) in the case of the Note Trustee or an Agent, the Secured Moneys which the Company is at that time actually or contingently liable to pay to or for the account of it (but not Secured Moneys payable to it for the account of any other Beneficiary or in any other capacity); and

(2) in the case of a Noteholder, the Outstanding Principal Sum in relation to any Outstanding Note(s) issued to it.

5.29 Other Security Interests over Secured Property

(a) The Note Trustee, any Beneficiary and any Receiver or attorney may rely on the certificate of a holder of another Security Interest affecting or purporting to affect any Secured Property as to the amount and property secured by the Security Interest.

(b) The Note Trustee or any Receiver may pay or agree to pay at any time the amount certified by the holder of a Security Interest or purported Security Interest to be necessary to discharge it or some of the indebtedness secured by it, or to acquire it. From the date of payment that amount will be part of the Secured Moneys and the Company shall indemnify the Note Trustee (or if other Beneficiaries indemnify the Note Trustee, those other Beneficiaries) and the Receiver against that amount. This applies whether or not that Security Interest or purported Security Interest was valid or prior, equal or subsequent ranking or the property or money stated in the certificate was secured by it.

5.30 Proportionate Sharing

(a) Whenever a Beneficiary (**Beneficiary A**) receives or recovers any money in respect of any sum due from the Company under a Transaction Document in any way (including by set-off) except through:

(1) payment under a Transaction Document before any of the following has occurred:

(A) the Note Trustee has taken any step to enforce a Security;

(B) an Event of Default has occurred and any Secured Moneys has been declared due and payable ahead of its scheduled maturity; or

(C) the Note Trustee has given a direction under clause 5.28; or

(2) distribution by the Note Trustee under clause 5.25,

then:

(3) Beneficiary A will promptly notify the Note Trustee and pay an amount equal to the amount of that money to the Note Trustee (unless the Note Trustee directs otherwise); and

(4) the Note Trustee will deal with that amount as if it were a payment on account of all sums then payable to the Beneficiaries.

(b) Unless clause 5.30(c) applies:

(1) the payment or recovery will be taken to have been a payment for the account of the Note Trustee and not to Beneficiary A for its own account, and the liability of the Company to Beneficiary A will only be reduced to the extent of any distribution received by Beneficiary A under clause 5.30(a)(4); and

(2) (without limiting clause 5.30(b)(1)) the Company shall indemnify Beneficiary A against a payment under clause 5.30(a)(3) to the extent that (despite clause 5.30(b)(1)) its liability has been discharged by the recovery or payment.

(c) Where:

(1) the money referred to in clause 5.30(a) was received or recovered otherwise than by payment (for example, set-off); and

(2) the Company, or the person from whom the receipt or recovery is made, is insolvent at the time of the receipt or recovery, or at the time of the payment to the Note Trustee, or becomes insolvent as a result of the receipt or recovery or the payment,

then the following will apply so that the Beneficiaries have the same rights and obligations as if the money had been paid by the Company to the Note Trustee for the account of the Beneficiaries and distributed accordingly:

(3) each other Beneficiary will assign to Beneficiary A an amount of the debt owed by the Company to that Beneficiary under the Transaction Documents equal to the amount received by that Beneficiary under clause 5.30(a);

(4) Beneficiary A will be entitled to all rights (including interest and voting rights) under the Transaction Documents in respect of the debt so assigned; and

(5) that assignment will take effect automatically on payment of the distributed amount by the Note Trustee to the other Beneficiaries.

(d) If Beneficiary A is required to disgorge or unwind all or part of the relevant recovery or payment then the other Beneficiaries shall repay to the Note Trustee for the account of Beneficiary A the amount necessary to ensure that all the Beneficiaries share rateably in the amount of the recoveries or payments retained. Clauses 5.30(b) and 5.30(c) apply only to the retained amount.

A Beneficiary who does not accept an invitation to join an action against the Company or does not share in the costs of the action (in each case having been given a reasonable opportunity to do so) is not entitled to share in any amount so recovered.

This clause does not apply to receipts and recoveries by a Beneficiary under arrangements (including credit derivatives and sub-participations) entered into by the

Beneficiary in good faith with parties unrelated to the Company to cover some or all of its risk.

5.31 Note Trustee to act as Arranger

The Note Trustee acknowledges and confirms that it:

(a) has been provided with a copy of the Settlement Agreement and is aware of its terms;

(b) agrees to act as Arranger under the Settlement Agreement;

(c) will provide the Allotment List (as defined in the Settlement Agreement) to the ISA (as defined in the Settlement Agreement) in accordance with the Settlement Agreement; and

(d) will, in consultation with the Issuer, perform any other actions requested of it as Arranger under the Settlement Agreement to which it agrees.

5.32 Note Trustee acting as Arranger and Detachable Warrant Registrar

The Company and each Beneficiary agrees that Madison Pacific Trust Limited when acting in its capacity as Arranger or Detachable Warrant Registrar shall be entitled to the benefit of:

(a) clauses 5.5 (*No representation*), 5.6 (*Limits on Duties*), 5.7 (*No liability*), 5.8 (*Note Trustee's liability*), 5.12 (*Other dealings by Note Trustee*), 5.13 (*No liability to account*), 5.15 (*Assumptions as to authenticity*), 5.22 (*No obligation to act*), 5.23 (*Dispute or ambiguity*) and 5.24 (*Knowledge of Note Trustee*) (**Limitation Clauses**) on the basis that:

  (1) all references to the Note Trustee in the Limitation Clauses included reference to Madison Pacific Trust Limited acting in its capacity as Arranger or Detachable Warrantholder; and

  (2) the Company and each Beneficiary gives each acknowledgement or agreement to Madison Pacific Trust Limited acting in its capacity as Arranger or Detachable Warrantholder as are made by any of the Noteholders, the Company or any Beneficiary to the Note Trustee under those clauses; and

(b) the indemnity from the Company in clause 13 (*General Indemnity*) as if it were an 'Indemnified Party'.

6 Certificates

6.1 Global Certificates

The Convertible Notes and the Amortising Notes will each initially be represented by a Global Certificate in respect of the aggregate principal amount of the Convertible Notes or Amortising Notes (as applicable) shown therein. Each Global Certificate will be registered in the name of a nominee of the Common Depositary. The Global Certificates need not be security printed. The Notes evidenced by a Global Certificate will, subject to their terms, in all respects be entitled to the same benefits under this deed as individual Notes. The Company will then deposit, or procure to be deposited, such Global Certificates with the Common Depositary on terms that such Common Depositary will hold the same for the account of the persons who would otherwise be entitled to receive the Note Certificates in respect of the Notes and successors in title to such persons (following lodgement with Euroclear or another Clearing System, including as appearing in the records of Euroclear or another Clearing System for the time being). The Global Certificates may be exchanged for Definitive Certificates in the limited instances set out in clause 3.2(b) of the Agency Agreement and the Global Certificates.

6.2 Definitive Certificates

Definitive Certificates, if issued, shall be in denominations of US$10,000 (and integral multiples of US$10,000 in excess thereof) and will be security printed and endorsed with the relevant Conditions.

6.3 Signature

The Global Certificates and the Definitive Certificates, if issued, shall be signed manually or in facsimile by:

(a) one or more Officers of the Company duly authorised for the purpose; or

(b) by any duly authorised attorney of the Company,

and authenticated manually by or on behalf of the Registrar upon receipt of the authentication order from the Company as specified in clause 3.1(a) and clause 3.2(d) of the Agency Agreement. Notes represented by Note Certificates (including the Global Certificates) so executed and authenticated will be binding and valid obligations of the Company.

6.4 Redemption

(a) Upon full or partial redemption of any of the Notes for any reason, a notation will be made by the Registrar in the relevant Register reflecting such event.

(b) In the case of any full redemption, all Note Certificates representing the Notes being redeemed in full shall be surrendered to the Registrar and cancelled.

(c) In the case of partial redemption:

   (1) the relevant Global Certificate must be delivered to the Registrar for endorsement of the amount redeemed; and

   (2) any relevant Definitive Certificates must be delivered to the Registrar for cancellation and new Definitive Certificates shall thereupon be issued in amounts reflecting the amount represented by the original Definitive Certificates less the amount redeemed.

6.5 Issue

Issue and delivery of a class of Notes shall be complete on the issue and delivery of the Global Certificate in respect of that class of Notes to the Common Depositary or to a custodian/nominee thereof by or at the order of the Company and completion of the relevant Register by or on behalf of the Registrar.

6.6 Entitlement to treat holder as owner

(a) A Noteholder will (save as otherwise required by law) be treated as the absolute owner of a Note registered in its name for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or any writing on or the theft or loss of the Note Certificate issued in respect of it) and no person will be liable for so treating the holder. All payments made to any such holders shall be valid and, to the extent of the sums so paid, effective to satisfy and discharge the liability for an equivalent amount which is payable in respect of such Note.

(b) Notwithstanding clause 6.6(a) the parties acknowledge and agree that the Common Depositary holds the Global Certificate in respect of each class of Notes referred to in clause 6.1 for and on behalf of each Initial Noteholder in respect of the relevant class of Notes and any subsequent transferee of such Initial Noteholder.

6.7 Replacement Certificates

(a) If a Note Certificate becomes worn out or is defaced or mutilated, then on surrender to the Company of the relevant Note Certificate a replacement Note Certificate will be issued by the Company free of charge in accordance with this clause 5.32.

(b) If a Note Certificate is lost, stolen or destroyed, then:

(1) on presentation of evidence satisfactory to the Company of the loss, theft or destruction of that Note Certificate; and

(2) satisfaction of such other conditions (including the provision of an indemnity) as may be reasonably requested by the Company,

a replacement Note Certificate will be issued by the Company free of charge in accordance with this clause 5.32.

7 Covenants, Representation and Warranties

7.1 General covenants

The Company undertakes to the Note Trustee for and on behalf of the Note Trustee and the Noteholders as follows, except to the extent that the Note Trustee (acting on the instructions of the Majority Noteholders) consents:

(a) **(Notes)** It will comply with the provisions of this deed, including the Conditions, and the other Transaction Documents.

(b) **(Authorisations)** It will ensure that each Authorisation required for:

(1) the execution, delivery and performance by it of the Transaction Documents and the transactions contemplated by those documents;

(2) the validity and enforceability of those documents (including the Notes); and

(3) the carrying on by it and its Subsidiaries of their respective businesses as conducted or contemplated at the date of this deed,

is obtained and promptly renewed and maintained in full force and effect, in the case of (3) only, to the extent necessary to ensure that failures to obtain or renew or maintain such Authorisation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. It will pay, or procure the payment of, all applicable fees due for them.

(c) (**Notice to Note Trustee**) It will notify the Note Trustee as soon as it becomes aware of:

(1) any Event of Default or Potential Event of Default specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto, without waiting for the Note Trustee to take any action;

(2) the occurrence of any Change of Control;

(3) any adjustment or potential grounds for an adjustment to the Conversion Price occurring;

(4) any Material Adverse Effect, or any substantial change in the nature of its or any of its Subsidiaries respective business which would have a Material Adverse Effect;

(5) any material misrepresentation or any breach of undertaking under a Transaction Document;

(6) any Encumbrance becoming enforceable over any Secured Property or any other assets of a Subsidiary; or

(7) any change in its Officers, giving specimen signatures of any new Officer appointed, and, where requested by a Noteholder, evidence satisfactory to the Noteholder of the authority of any Officer;

(d) (**know your customer**) It will supply promptly all documents and other evidence reasonably requested by the Note Trustee, an Agent or a Noteholder in order for the Note Trustee, an Agent or a Noteholder to carry out all 'know your customer' or other similar checks it regards as necessary in relation to the Company (or its Subsidiaries) under all applicable laws and regulations and not already available to the recipient;

(e) (**Corporate existence**) It will do, and shall procure that each of its Subsidiaries does, everything necessary to maintain its respective corporate existence (where applicable, in good standing).

(f) (**Financial statements**) It will supply to the Note Trustee in sufficient copies for each of the Noteholders:

(1) as soon as the same become available, but in any event within 90 days after the end of each of its financial years, its audited consolidated financial statements for that financial year (audited by a firm of independent and internationally recognised auditors, in accordance with the Accounting Standards); and

(2) as soon as the same become available, but in any event within 60 days after the end of each half of each of its financial years, its unaudited consolidated financial statements for that financial half year.

(g) (**Information**) It will supply to the Note Trustee:

(1) a copy of:

(A) all financial statements, reports, circulars, notices, proxy statements and similar documents which are issued to the holders of its Ordinary Shares or its creditors generally or (save for such documents as are issued in the ordinary course of administration of a facility) its principal bank lenders generally, and

(B) each regular or periodic report, each registration statement (without exhibits except as expressly requested by such holder), and each prospectus and all amendments thereto filed by the Company or any of its Subsidiaries with any Government Agency or securities exchange and of all press releases and other statements made available generally by the Company or any of its Subsidiaries to the holders of its securities concerning developments that are material in relation to the business, operations, affairs, financial condition, assets, properties or prospects of the Company or its Subsidiary, as the case may be, in each case as soon as practicable (but not later than 30 days) after their date of issue and make available to the Agents (without cost to the Agents) as many written copies as they may reasonably require in order to satisfy requests in writing from the Noteholders from time to time,

provided that public release of such document or information to the ASX will be deemed to satisfy the requirements of this clause 7.1(g);

(2) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current or pending against it or any of its Subsidiaries and which might reasonably be expected, if adversely determined, to have a Material Adverse Effect;

(3) such opinions, certificates, information and evidence as the Note Trustee requires (and requests in writing) and in such form as the Note Trustee requires (and, in any event, no later than 14 Business Days after any request by the Note Trustee) and which is necessary for the discharge or exercise of the duties, trusts, powers, authorities and discretions vested in the Note Trustee under this deed or by operation of law; and

(4) promptly, and in any event within 30 days of receipt thereof, copies of any notice to the Company or any of its Subsidiaries from any Government Agency relating to any order, ruling, statute or other law or regulation that could reasonably be expected to have a Material Adverse Effect.

(h) (**Compliance with law**) It will comply, and shall procure that each of its Subsidiaries complies, in all material respects with all laws and stock exchange requirements applicable to it or any of its Subsidiaries.

(i) (**Pari passu ranking**) It will ensure that its payment obligations under the Transaction Documents and the Notes at all times rank at least pari passu with all its other present and future unsubordinated and unsecured payment obligations.

(j) (**Negative undertakings**) For so long as any Notes remain outstanding, the Company must not, and must procure that its Subsidiaries do not

(1) incur or permit to be outstanding Financial Indebtedness, other than Permitted Financial Indebtedness or Financial Indebtedness subordinated on terms approved by the Note Trustee;

(2) sell, assign, transfer or otherwise dispose of or cease to hold, or part with possession of, or create a right to or an interest over (each, a

Disposal) all or any part of any Mining Tenement or Marketable Security forming part of the Secured Property, unless:

(A) in relation to the Clyde Park Assets:

a. the proceeds of the Disposal of those Clyde Park Assets are (in aggregate) A$100,000,000 or more (or a Disposal of Clyde Park Assets for more than A$100,000,000 has previously occurred as permitted under this paragraph (A)); and

b. the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(B) the value of that Secured Property subject to a Disposal does not exceed A$500,000, and (unless the proceeds of Disposal of the relevant Secured Property are being applied towards the acquisition of replacement assets) the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(C) the prior consent of the Note Trustee (acting on the instructions of the Majority Noteholders) is obtained (such consent not to be unreasonably withheld or delayed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; or

(D) such Disposal occurs as a result of an express obligation on it to sell or transfer Ordinary Shares pursuant to the terms of any shareholder agreement (however called) binding on the Company (as in force as at the date of this deed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; and

(3) create, permit, suffer to exist, or agree to, any interest or Encumbrance (other than a Permitted Encumbrance) over all or any part of the Secured Property.

(k) (**Mergers, etc.**) It will not enter into, and shall procure that none of its Subsidiaries enters into, any amalgamation, demerger, merger or reconstruction or conveyance or transfer of all or a substantial part of its properties and assets to any person unless, in the case of Subsidiaries only, the surviving entity or the person that acquires the properties and assets is:

(1) the Subsidiary concerned;

(2) the Company or a wholly-owned Subsidiary; or

(3) in the case of an amalgamation, demerger, merger, reconstruction, transfer or conveyance by a Subsidiary that is not a wholly-owned Subsidiary (the **Merging Subsidiary**), a Subsidiary of the Company in which the Company's aggregate direct or indirect ownership interest is at least as great in percentage terms as its aggregate direct and indirect ownership interest in the Merging Subsidiary.

(l) (**Loans out**) It will not be, and shall procure that none of its Subsidiaries is, a creditor in respect of any Financial Indebtedness in excess of A$250,000, other than where the debtor is a wholly-owned Subsidiary of the Company.

(m) **(Amendments to constituent documents)** It will not, and shall procure that none of its Subsidiaries amend its or their constituent documents in a manner which has a Material Adverse Effect.

(n) **(Insurance)** It will maintain, and cause each of its Subsidiaries to maintain, with financially sound and reputable insurers, insurance with respect to their respective assets and properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is reasonably prudent having regard to the nature of its assets, properties and business.

(o) **(Maintenance of properties)** It will maintain and keep, and cause each of its Subsidiaries to maintain and keep, or cause to be maintained and kept, their respective assets and properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, provided that this clause shall not prevent the Company or any of its Subsidiaries from discontinuing the operation, maintenance and keeping of any of its assets and properties if such discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(p) **(Use of proceeds)** The Company will use the net proceeds from the issue of the Notes in accordance with the Subscription and Implementation Deed.

(q) **(Pay Taxes)** It will file, and cause each of its Subsidiaries to file, all tax returns required to be filed in any jurisdiction and to pay and discharge or cause its Subsidiaries to pay or discharge, all Taxes shown to be due and payable on such returns and all other Taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent such Taxes and assessments have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become an Encumbrance on properties or assets of the Company or any of its Subsidiaries, provided that neither the Company nor any of its Subsidiaries need pay any such Tax or assessment or claims if:

(1) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with applicable Accounting Standards on the books of the Company; or

(2) the non-payment of all such Taxes, assessments and claims could not reasonably be expected to have a Material Adverse Effect.

(r) **(Change of business)** It will not, and shall procure that none of its Subsidiaries, take action whether by acquisition or otherwise which alone or together would materially alter the nature of its or its Subsidiary's business taken as a whole as conducted at the date of this deed and which has, or could reasonably be expected to have, a Material Adverse Effect.

(s) **(Note Trustee)** To the extent permitted by law, it will provide the Note Trustee with all information relating to its and its Subsidiaries' affairs as may be required for the Note Trustee to discharge its duties and obligations as Note Trustee under this deed.

(t) **(Notice of non-payment)** It will use its reasonable endeavours to procure that the Paying Agent notifies the Note Trustee if it becomes aware that the Paying

Agent has not received payment from it on the due dates as required by this deed, the Agency Agreement and the Conditions.

(u) **(Books of account)** It will maintain, and shall procure that each of its Subsidiaries maintains, proper books and accounts at all times and will provide the Note Trustee, and any person appointed by the Note Trustee, during ordinary business hours and on reasonable prior written notice with access to its and its Subsidiaries' books and accounts.

(v) **(Certification)** It will send to the Note Trustee, together with a copy of its annual audited financial reports when made available to the Note Trustee in accordance with clause 7.1(f) and also within 14 days after any written request by the Note Trustee (provided that no more than 2 such requests may be made in any 12 month period, unless the Note Trustee reasonably believes that an Event or Default or Potential Event of Default subsists), a certificate of the Company signed by an Officer on behalf of the Company to the effect that, having made all reasonable enquiries, to the best of the knowledge, information and belief of the Company as at a date (the **Certification Date**) being not more than five days before the date of the certificate:

(1) no Event of Default had occurred since the date of this deed or (if later) the Certification Date of the last such certificate (if any) or, if such an event had occurred, giving details of it; and

(2) the Company has complied with all their respective obligations under the Transaction Documents.

Such certificates shall be accompanied in each case by an up-to-date list of the Directors and Officers of the Company and each of their specimen signatures or a confirmation that the Directors and Officers of the Company have not changed since the last certificate was provided. The Note Trustee shall be entitled to conclusively rely upon certificates of the Company and shall not be liable to any person for relying upon such certificates.

(w) **(Notices to Noteholders)** It will send to the Note Trustee two copies of each notice to be given to Noteholders. All notices shall be at the Company's expense. The Note Trustee shall have no obligation to monitor compliance with such requirements and it shall be the sole responsibility of the Company to ensure such compliance.

(x) **(Changes in Agents)** It will give at least 30 days' prior notice to the Note Trustee and the Noteholders in accordance with paragraph 12 of the Convertible Note Conditions and paragraph 11 of the Amortising Note Conditions of any future appointment, resignation or removal of any Agent or of any change by any Agent of its specified office.

(y) **(Notice of change in law)** It will promptly (and in any event within ten Business Days) upon becoming aware of any material changes in the laws or regulations of Australia adversely affecting the rights of Noteholders in respect of the Notes give notice to the Noteholders and the Note Trustee of such changes in accordance with paragraph 12 of the Convertible Note Conditions and paragraph 11 of the Amortising Note Conditions. The Note Trustee shall have no duty to monitor changes in the law or regulations, shall not be liable to any person for any failure to do so and shall be entitled to conclusively rely upon certificates of the Company.

(z) **(Filing, registration and reporting)** It will duly and punctually comply with or procure that there is complied with all filing, registration, reporting and similar requirements required in accordance with applicable law and regulations from time to time relating in any manner whatsoever to this deed and the Notes.

(aa) **(Notes held by the Company, etc.)** It will send to the Note Trustee as soon as practicable after being so requested in writing by the Note Trustee, solely for the purpose of determining how many Notes are outstanding, a certificate of the Company signed by an Officer of the Company stating the number of Notes held at the date of such certificate by or on behalf of the Company or its Subsidiaries and which have not been cancelled.

(bb) **(Further assurance)** It shall promptly do all acts or execute all documents as may be necessary in the opinion of the Note Trustee to give effect to this deed and any other Transaction Document.

(cc) **(Title documents and further security)** It, without limiting the Security, must:

(1) deposit with the Note Trustee, or as the Note Trustee directs, all the title documents and executed blank transfers in respect of any of its Secured Property, immediately on the acquisition of the interest; and

(2) permit the Note Trustee to retain the title documents and executed blank transfers until the Security is fully discharged in accordance with its terms.

(dd) **(Registration and perfection)** It must ensure that the Security is perfected and registered in relation to all the Secured Property and PPSA Retention of Title Property in all jurisdictions in which it must be registered and filed to ensure enforceability, validity and priority against all persons and to be effective as a security.

(ee) **(jurisdiction of domicile)** It will not change the jurisdiction in which it is domiciled or resident or to whose taxing authority it is subject generally unless it would not thereafter be required pursuant to the then current laws and regulations to withhold or deduct for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of such jurisdiction or any political subdivision thereof or therein having power to tax in respect of any payment on or in respect of the Notes.

(ff) **(Prepayment)**

(1) If the Company is required by the terms of this deed or the Conditions to apply any amount as a Prepayment (**Prepayment Amount**), it will immediately notify the Paying Agent and the Note Trustee and pay that Prepayment Amount to the Paying Agent in Immediately Available Funds.

(2) All Prepayment Amounts paid to the Paying Agent shall be applied:

(A) firstly, in payment of all interest accrued but unpaid on the Outstanding Notes up to the Prepayment Date, on a Pro Rata Basis among all Noteholders;

(B) secondly, in prepayment of the Outstanding Principal Sum of each Outstanding Note on a Pro Rata Basis among all Noteholders;

(C) thirdly, in prepayment of the balance of the relevant Redemption Price on a Pro Rata Basis among all Noteholders;

(D) fourthly to the Note Trustee to discharge any other outstanding Secured Moneys; and

(E) the balance to the Company.

(3) The Company shall not (subject to the Agency Agreement) repay or prepay any Note except at the times and in the manner expressly provided for in this deed or the Conditions.

(gg) (**Secured Accounts**) The Company will ensure that the following amounts are deposited into the relevant Secured Account immediately upon receipt by the Company:

(1) all revenues (other than payments to the Company of less than A$10,000 or its equivalent), including:

(A) amounts under any indemnities and any amounts in respect of liquidated or other damages;

(B) the net proceeds from any disposals of assets;

(C) any other amounts received by the Company from any Subsidiary;

(D) any amounts received under a swap, option, hedge, forward, futures or similar transaction;

(E) the proceeds of any claim or payment under an insurance policy or otherwise in relation to loss, damage, destruction or compulsory acquisition of any property or asset of the Company or any Subsidiary; and

(F) (any amount claimed or received under a performance bond.

(2) The Company will have sole signing rights to the Secured Accounts, provided that the Note Trustee will have sole signing rights:

(A) while an Event of Default is continuing; or

(B) if the Note Trustee gives notice to the Company that, in its opinion (acting reasonably) the Company has made withdrawals from the Secured Account in relation to the Principal Sum other than in accordance with the uses set out in clause 7.1(p) (*Use of Proceeds*).

(3) Despite any other provision of a Transaction Document, following notice from the Note Trustee to the Company, no withdrawal may be made from the Secured Accounts if an Event of Default has occurred or is continuing or would occur as a result of the withdrawal, except with the prior written consent of the Note Trustee or to pay the Secured Money.

(hh) (**Reporting and information on Secured Accounts**) The Company will provide the following to the Note Trustee, in sufficient copies for the Noteholders, as soon as practicable (but within 10 days after the end of a calendar month (the **Relevant Month**)), a certificate:

(1) setting out the amount standing to the credit of the Secured Account as at the last day of the Relevant Month; and

(2) confirming that all withdrawals of Loan Note Proceeds from the Secured Account during the Relevant Month were used in accordance with clauses 7.1(p) (*Use of Proceeds*).

7.2 Covenants relating to Ordinary Shares and Conversion Rights

The Company undertakes to the Note Trustee for and on behalf of the Note Trustee and the Noteholders as follows, except to the extent that the Note Trustee (acting on the instructions of the Majority Noteholders) consents:

(a) **(Maintenance of listing)** It will use reasonable endeavours to ensure that its issued and outstanding Ordinary Shares shall be admitted to listing and to trading on the Australian Securities Exchange.

(b) **(Listing expenses)** It will pay any expenses levied by the ASX and any Taxes levied in the jurisdiction in which the ASX is located relating to the issue of, and all expenses of obtaining listing for, Ordinary Shares arising pursuant to any conversion of the Convertible Notes.

(c) **(Reduction of capital)** It will not make any reduction or redemption of, or buyback any of, its issued share capital or any uncalled liability in respect thereof except, in each case:

(1) pursuant to the terms of issue of the relevant share capital; or

(2) where the reduction, redemption or buyback is permitted by applicable law and the Note Trustee is advised by an Independent Financial Institution, acting as expert, that the interests of the Convertible Noteholders in the Conversion Rights will not be prejudiced by such reduction; or

(3) where the reduction, redemption or buyback is permitted by applicable law and results in (or would, but for the provisions of paragraph 5.4 of the Convertible Note Conditions relating to the carry forward of adjustments, result in) an adjustment to the Conversion Price.

(d) **(Conversion Rights)** It will reserve, free from any pre-emptive or similar rights, out of its ordinary share capital the full number of Ordinary Shares liable to be issued on full conversion of the Convertible Notes and will ensure that all Ordinary Shares will be duly and validly issued as fully-paid upon such conversion and shall ensure that all Ordinary Shares deliverable upon conversion of Convertible Notes will be duly and validly issued as fully-paid and non-assessable and shall rank pari passu with and will be fully fungible with the Ordinary Shares then outstanding.

(e) **(Offers, schemes, etc.)** If an offer or scheme is made available to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all), such Shareholders other than the offeror and/or any associate or associates of the offeror) to acquire all or a portion of the Ordinary Shares and if such offer comes to the knowledge of the Company, it will give notice in writing of such offer or scheme to the Note Trustee and to the Convertible Noteholders as soon as practicable after acquiring such knowledge stating that details concerning such offer or scheme may be obtained from the specified offices of the Agents and, where such an offer or scheme has been recommended by the board of directors of the Company or where such an offer has become or been declared unconditional in all respects, use its reasonable endeavours to procure that a like offer or scheme is extended to the Convertible Noteholders and the holders of any Ordinary Shares issued during the period of the offer or scheme arising out of Conversion Rights.

(f) **(Closure of register of members)** Unless so required by the Convertible Note Conditions or any applicable law or for the purposes of determining entitlements to any Dividend or other entitlement, it will not close its register of members or take any other action which prevents the transfer of its Ordinary Shares generally (unless, under the law as then in effect, the Convertible Notes may be converted legally and the Ordinary Shares issued on conversion may (subject to this deed and the Convertible Note Conditions or any limitation imposed by law) be transferred (as between transferor and transferee although not as against the Company) at all times while the register is closed or such other action is effective); nor take any action which prevents the conversion of the Convertible Notes in accordance with this deed and the Convertible Note Conditions or the issue of Ordinary Shares in respect of them.

(g) (**Lock up**) During the period commencing on the Issue Date and ending 90 days thereafter the Company will not, and will procure that none of its Subsidiaries will, enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, any of the economic consequences of ownership of Ordinary Shares, whether any such swap or transaction is to be settled by delivery of Ordinary Shares or other securities, in cash or otherwise other than, in each case:

(1) the Convertible Notes and the Detachable Warrants;

(2) pursuant to the terms of any securities convertible into, or exchangeable for, Ordinary Shares issued, and as in force, as at the date of this deed or pursuant to the Convertible Notes or the Detachable Warrants;

(3) pursuant to the terms of any employee share option scheme complying in all respects with the laws, rules or regulations of any applicable Government Agency, including the ASX; or

(4) as consideration for any acquisition of shares and/or assets of another person on terms approved by Majority Noteholders (such approval not to be unreasonably withheld).

(h) (**Other conversions**) Procure that no securities of the Company are converted into or exchanged by or on behalf of the Company for Ordinary Shares and that no rights or warrants to subscribe for or purchase Ordinary Shares are permitted by or on behalf of the Company to be exercised, otherwise in each case than in accordance with their terms of issue (except to the extent that any modification of the terms of issue is either taken into account by an adjustment to the Conversion Price, or is such that it does not require to be taken into account by an adjustment to the Conversion Price, of the Notes or such terms are mandatorily amended by any change in the law or regulations of Australia).

(i) (**Other issues**) It will not, and will procure that none of its Subsidiaries will, issue or pay up any Marketable Securities, in either case by way of capitalisation of profits or reserves, other than:

(1) by the issue of fully paid Ordinary Shares to Shareholders and other holders of shares in the capital of the Company which by their terms entitle the holders thereof to receive Ordinary Shares; or

(2) by the issue of Ordinary Shares paid up in full (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash Dividend; or

(3) by the issue of fully paid equity share capital (other than Ordinary Shares) to the holders of equity share capital of the same class and other holders of shares in the capital of the Company which by their terms entitle the holders thereof to receive equity share capital (other than Ordinary Shares); or

(4) by the issue of Ordinary Shares or any equity share capital to, or for the benefit of, any employee or contractor or former director, employee or contractor (or the personal company of any such person or their spouses or relatives), in each case, of the Company or any of its Subsidiaries or any associated company or to trustees to be held for the benefit of any such person, in any such case pursuant to an employees' share or option scheme whether for all employees, directors, or executives or any one or more of them;

(5) by the issue of Ordinary Shares pursuant to the Terra Agreement;

(6) by the issue of Ordinary Shares pursuant to the Springsure Agreement; or

(7) by the issue of Ordinary Shares on exercise of the Gleneagle Warrants,

unless, in any such case, the same constitutes a Dividend or otherwise gives rise, subject to paragraph 5.4 (*Adjustment to Conversion Price*) of the Convertible Note Conditions (or would, but for the provisions of paragraph 5.5 (*Rounding*) of the Convertible Note Conditions) relating to rounding and the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;

(j) (**Modification**) It:

(1) will not, and will procure that none of its Subsidiaries will, modify the rights attaching to the Ordinary Shares with respect to voting, dividends or liquidation nor issue any other class of share capital but nothing in this clause 7.2(j) shall prevent:

(A) any consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision of the Ordinary Shares; or

(B) any modification of such rights which is not materially prejudicial to the interests of the holders of the Notes; or

(C) any modification of rights attaching to the Ordinary Shares,

where prior thereto the Company shall have determined either that no adjustment is required or that an adjustment resulting in a decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly);

(2) will procure that no Marketable Securities (whether issued by the Company or any Subsidiary of the Company or procured by the Company or any Subsidiary of the Company to be issued or issued by any other person pursuant to any arrangement with the Company or any Subsidiary of the Company) issued without rights to convert into, or exchange or subscribe for, Ordinary Shares shall subsequently be granted such rights and that at no time shall there be in issue Ordinary Shares of differing nominal values;

(k) (**Offers**) It will, if any offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) other than the offeror or any associate (as defined in Section 11 of the Corporations Act)) to acquire the whole or any part of the issued Ordinary Shares, or if any person proposes a scheme with regard to such acquisition, give notice of such offer or scheme to the Noteholders at the same time as any notice thereof is sent to the Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the Specified Offices of the Company and, where such an offer or scheme has been recommended by the board of directors of the Company, or where such an offer has become or been declared unconditional in all respects, use all reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Ordinary Shares issued during the period of the offer or scheme arising out of the exercise of the Conversion Rights by the Noteholders;

(l) **(Not to prevent issue of fully paid shares)** It will not:

(1) take any action, and shall procure that no action is taken, that would otherwise result in the inability to issue Ordinary Shares on conversion as fully paid, issue Convertible Warrants as required on any Early Repayment Date, or otherwise comply with this deed; or

(2) make any issue, grant or distribution or any other action taken if the effect thereof would be that, on the exercise of Conversion Rights, Ordinary Shares could not, under any applicable law then in effect, be legally issued as fully paid.

(m) **(Dividends)** For so long as any Convertible Notes remain outstanding, it must not make or pay any Dividend unless a corresponding amount of interest is paid on the Convertible Notes in accordance with paragraph 4 (Interest) of the Convertible Note Conditions.

7.3 Representations and Warranties

The Company represents and warrants to each Note Party as to each of the matters specified in Schedule 7 (*Representations and warranties*) as at the date of this deed.

7.4 Repetition of warranties

The representations and warranties given under clause 7.3 (*Representations and warranties*) are taken to be made:

(a) on the Issue Date of each Note; and

(b) on each date on which a payment is made by the Company to a Note Party,

from the date of this deed until all moneys owing by the Company to each Note Party are irrevocably paid and satisfied in full, on the basis of the facts and circumstances as at each such date respectively.

7.5 Reliance

(a) The Company acknowledges that it has not entered into this deed or the Security in reliance on any representation, warranty, promise or statement made by a Note Party or any person on behalf of a Note Party.

(b) The Company acknowledges that each Note Party has entered into the Transaction Documents in reliance on the representations and warranties given by the Company under this deed.

8 Events of Default, acceleration and enforcement

8.1 Events of Default

Each of the events or circumstances set out in this Clause 8.1 is an Event of Default:

(a) **(Obligations under Transaction Documents)**:

(1) The Company fails to pay any amount payable by it to a Note Party (including by or through the Paying Agent) under a Transaction Document when due (other than where the failure is caused solely by an administrative or technical error in the transmission of funds and such failure is remedied within two Business Days); or

(2) the Company fails to deliver Ordinary Shares as and when such Ordinary Shares are required to be delivered following the conversion of a Convertible Note; or

(3) the Company fails to comply with any of its obligations under a Transaction Document (other than as covered in sub-paragraphs (i) or (ii) above) and, in the reasonable opinion of the Majority Noteholders, such failure cannot be remedied within 15 days or, if in the opinion of the Majority Noteholders that failure can be remedied within 15 days, the Company does not remedy the failure within that period.

(b) **(Winding up, arrangements, insolvency etc)**

(1) Except for the purpose of a solvent reconstruction or amalgamation previously approved by the Majority Noteholders:

(A) an administrator, receiver, receiver and manager or liquidator or a like or similar officer is appointed in respect of the Company or any Subsidiary or any of their respective assets or undertakings or a court order is made or a resolution passed for the winding-up or dissolution of the Company or any Subsidiary (or proceedings are commenced or an application is made for the winding up of the Company or any Subsidiary and not withdrawn or dismissed within 10 Business Days or an effective resolution is passed for the winding up of the Company or a Subsidiary), or the Company or any Subsidiary ceases or threatens to cease to carry on business, except in any such case for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation on terms approved by the Note Trustee;

(B) the Company or any of its Subsidiaries ceases, suspends or threatens to cease or suspend the conduct of all or substantially all of its business or disposes of or threatens to dispose of substantially all of its assets.

(2) The Company or any of its Subsidiaries:

(A) is or states that it is insolvent or unable to pay its debts;

(B) is or may be presumed under the Corporations Act to be insolvent;

(C) fails to comply in a material manner with the provisions of the Corporations Act or the ASX Listing Rules;

(D) stops, suspends or threatens to stop or suspend payment of its debts generally; or

(E) makes or enters into a general assignment or an arrangement or composition or compromise with or for the benefit of its creditors (other than in connection with a reconstruction, amalgamation, reorganisation, merger or consolidation permitted under paragraph (A));

(c) **(Cross default)** A payment default, event of default or similar event (however defined) occurs in relation to any Financial Indebtedness of the Company or any of its Subsidiaries in an amount equal to or in excess of A$2,500,000 or its equivalent in any currency or currencies (as reasonably determined on the basis of the middle spot rate for the relevant currency against the dollar as quoted by any internationally recognised bank of good repute on the day on which payment default, event of default or similar event occurs).

(d) **(Financial Indebtedness)** Financial Indebtedness of the Company totalling at least $2,500,000 or its equivalent:

(1) is not paid when due (or within an applicable grace period) except where it is being contested in good faith; or

(2) becomes due and payable, or capable of being declared due and payable, before its stated maturity, except as a result of an exercise of a prepayment right in the absence of default;

(e) **(Judgment)** A final judgment or judgments of a court or courts of competent jurisdiction for the payment of money aggregating in excess of A$1,000,000 (or its equivalent in the relevant currency of payment) are rendered against the Company or any Subsidiary and not bonded, discharged or stayed pending appeal within 14 days after entry thereof, or are not discharged within 14 days after the later of the expiration of such stay;

(f) **(Execution)** A distress, attachment, execution or other legal process is levied or enforced on or against any of the property, assets or revenues of the Company or any Subsidiary (individually or in the aggregate) which is not discharged, removed, stayed or paid within 14 days or a receiver, receiver and manager, administrative receiver or similar officer is appointed to the Company or a Subsidiary or any of their respective assets of undertakings;

(g) **(Revocation of Authorisation)** An Authorisation, contract or agreement which is required for:

(1) the performance by the Company of a Transaction Document, or to the validity and enforceability of a Transaction Document; or

(2) the conduct of the Company's or any of its Subsidiaries' business,

is repealed, revoked or terminated or expires and is not replaced by another Authorisation, contract or agreement acceptable to the Majority Noteholders.

(h) **(Vitiation of documents)**

(1) All or any material right or obligation under a Transaction Document is terminated or is or becomes void, illegal, invalid, unenforceable or of limited force and effect;

(2) a party becomes entitled to terminate, rescind or avoid all or part of a Transaction Document; or

(3) the Company alleges or claims that an event described in sub-paragraph (i) has occurred or that it is entitled as described in sub-paragraph (ii).

(i) (**Compulsory acquisition**)

(1) All or any part of the assets of the Company or any of its Subsidiaries are compulsorily acquired by or by order of a Government Agency or under law;

(2) a Government Agency orders the sale, vesting or divesting of all or any part of the assets of the Company or any of its Subsidiaries; or

(3) a Government Agency takes a step for the purpose of any of the above or proposes or threatens to do any of the above,

and that action has a Material Adverse Effect or would reasonably be expected to have a Material Adverse Effect if carried out.

(j) (**Illegality, etc.**) A law or anything done by a Government Agency wholly or partially renders illegal, prevents or restricts the performance or effectiveness of a material right or obligation under a Transaction Document or it is or will become otherwise unlawful or illegal for the Company to perform or comply with any one or more of its material obligations under any of the Transaction Documents.

(k) (**Enforcement against assets**)

(1) A receiver and manager, receiver or similar officer is appointed to call in or manage;

(2) an Encumbrance is enforced over; or

(3) a distress, attachment or other execution is levied or enforced over,

all or a material part of the assets and undertaking of the Company or a Subsidiary of the Company.

(l) (**Misrepresentation**) A representation, warranty or statement by or on behalf of the Company in a Transaction Document, or in a document provided under or in connection with a Transaction Document, is not true or misleading in a material respect when made.

(m) (**Litigation**) Any litigation, arbitration or proceeding is pending or threatened in writing against the Company or any of its Subsidiaries that is likely to have a Material Adverse Effect.

(n) (**Material adverse change**) Any other event or series of events, whether related or not, occurs which has, or could reasonably be expected to have, a Material Adverse Effect.

(o) (**Ordinary Shares**) the Ordinary Shares cease to be quoted on the Australian Securities Exchange, or trading in Ordinary Shares on the Australian Securities Exchange is suspended for 10 consecutive Dealing Days or more.

Neither the Note Trustee nor any of the Agents shall be required to take any steps to ascertain whether an Event of Default or any event which could lead to the occurrence of an Event of Default has occurred and shall be entitled to assume that no such event has occurred until they have received written notice to the contrary.

8.2 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing, the Note Trustee at its discretion may (but will not be obliged to) and if so requested in writing by the holders of not less than 25 per cent. of the Outstanding Principal Sum of the aggregate Notes then outstanding or if so directed by a Special Resolution will (subject, in each case, to being indemnified or provided with security by the Noteholders to its satisfaction on a Pro Rata Basis), give notice to the Company that the Convertible Notes and Amortising Notes are, and they will accordingly thereby become, immediately due and repayable at their Redemption Price.

8.3 Enforcement

At any time after the Notes have become due and repayable in accordance with Clause 8.2 (*Acceleration*), then the Note Trustee may at its discretion and without further notice, take such proceedings (including proceedings against the Company) as it may think fit to enforce repayment of all of the Notes at their respective Redemption Prices (including any Default Interest), the payment of all other Secured Moneys and to enforce the provisions of this deed, but it will not be bound to take any such proceedings unless:

(a) it has been directed by a Special Resolution of the Noteholders to do so; and

(b) it has been indemnified and/or provided with security to its satisfaction.

No Noteholder will be entitled to proceed directly against the Company unless the Note Trustee, having become bound to do so, fails to do so within a reasonable period of being so bound, and such failure is continuing.

9 Meetings of Noteholders, Modification and Waiver

9.1 Meetings of Noteholders

(a) All Ordinary Resolutions and Special Resolutions must be made and passed in accordance with the Meeting Procedures.

(b) The Meeting Procedures are incorporated by reference into this deed, and will be binding on all Note Parties in accordance with its terms.

(c) A Special Resolution is required to be passed by all Noteholders:

   (1) to modify the due date for any payment in respect of a Note;

   (2) to modify the Face Value, Outstanding Principal Amount or any other principal amount in relation to a Note;

   (3) to modify any rate of interest or the amount of any accrued and unpaid interest with respect to a class of Notes or Redemption Price in respect of a class of Notes;

   (4) to change the currency of payment of a Note;

   (5) to modify or cancel the Conversion Rights, any Noteholders rights to or on redemption or Prepayment of a Note, any put options described in the Conditions or any scheduled repayment in relation to an Amortising Note;

(6) to modify the provisions concerning the quorum required at any meeting of the Noteholders or the majority required to pass a Special Resolution (in a meeting or in writing); or

(7) to pass a resolution in respect of any other matter specified as requiring a Special Resolution in these Convertible Note Conditions or in any of the Notes Documents.

9.2 Modification and Waiver

The Note Trustee may agree, without the consent of Noteholders, to:

(a) any modification (except as mentioned in clause 9.1 above) to, or the waiver or authorisation of any breach or proposed breach of, the Notes Documents which is not, in the opinion of the Note Trustee, materially prejudicial to the interests of the Noteholders (taken as a whole), Amortising Noteholders or Convertible Noteholders; or

(b) any modification to the Convertible Notes, Amortising Notes or Transaction Documents which, in the Note Trustee's opinion, is of a formal, minor or technical nature or to correct a manifest error or to comply with mandatory provisions of law.

Any such modification, waiver or authorisation will be binding on the Noteholders and, unless the Note Trustee agrees otherwise, any such modifications will be notified by the Company to the Noteholders as soon as practicable thereafter.

9.3 Interests of Noteholder

In connection with the exercise of its functions (including but not limited to those in relation to any proposed modification, authorisation or waiver), the Note Trustee must have regard to the interests of the Noteholders (taken as a whole), Amortising Noteholders or Convertible Noteholders as classes and must not have regard to the consequences of such exercise for individual Noteholders, nor will any Noteholder be entitled to claim from the Company or the Note Trustee, any indemnification or payment in respect of any tax consequences of any such exercise upon individual Noteholders except to the extent provided for in the Note Conditions or any undertakings given in addition thereto or in substitution therefor pursuant to this deed.

9.4 Certificates/Reports

Any certificate or report of any expert or other person called for by or provided to the Note Trustee (whether or not addressed to the Note Trustee) in accordance with or for the purpose of the Transaction Documents may be relied upon by the Note Trustee as sufficient evidence of the facts therein (and will, in the absence of manifest error, be conclusive and binding on all parties, including without limitation the Noteholders).

10 Notices

10.1 Notices to the Company or Note Trustee

(a) A notice or other communication to the Company or the Note Trustee in connection with this deed must be in legible writing and in English.

(b) A notice or other communication to the Company in connection with this deed must be given to the following address or as subsequently notified to the Note Trustee:

Address: Guildford Coal Limited

Level 7, 490 Upper Edward Street

Spring Hill QLD 2300

Australia

Fax: +61 7 3834 3385

Email: MarkR@guildfordcoal.com.au.

(c) A notice or other communication to the Note Trustee in connection with this deed must be given to the following address or as subsequently notified by the Note Trustee:

Address: 1708 17th Floor

Tower One, Admiralty Centre

18 Harcourt Road

Hong Kong

Fax: +852 2599 9501

Email: Trustee@madisonpac.com; jhatch@madisonpac.com

10.2 Notices to Noteholders

A notice or other communication from the Note Trustee to a Noteholder in connection with a Note must be in writing and may be given by:

(a) sent by email to the address notified to the Company, the Note Trustee or the Clearing System from time to time; or

(b) prepaid post (airmail if posted to or from a place outside Australia) or delivery to the address of the Noteholder as shown in the relevant Register at 5.00pm (local time in the place where the Register is kept) 3 Business Days prior to the dispatch of the relevant notice or communication; or

(c) facsimile to the facsimile number of the Noteholder as last notified to the Noteholder prior to 5.00pm (local time in the place where the relevant Register is kept) 3 Business Days prior to the dispatch of the relevant notice or communication; or

(d) an advertisement published in *The Australian Financial Review* or any other newspaper or newspapers circulating in Australia generally.

If the Company gives a notice or other communication to a Noteholder that also affects the Note Trustee it must at the same time give a copy of that notice or communication to the Note Trustee.

10.3 Effective receipt of notice

A notice or other communication is regarded as given and received:

(a) if it is sent by email:

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

(2) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first; and

(b) if it is delivered or sent by fax:

(1) by 5.00 pm (local time in the place of receipt) on a Business Day - at the local time on that day which equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety; or

(2) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day,

unless the recipient has notified the sender that it has not received all pages in legible form; and

(c) if it is sent by mail:

(1) within Australia – 3 Business Days after posting; or

(2) to or from a place outside Australia – 7 Business Days after posting.

Communications sent by email are taken to be signed by the named sender.

11 Discharge and release

(a) By force of this clause 11, the Company will immediately be discharged and released from its liabilities, obligations and covenants under this deed when the Outstanding Principal Sum for each Note, any accrued but not yet due and payable interest and any unpaid interest as at the date and all other amounts owing under or in respect of a Note have been fully and finally paid or each Note has been otherwise redeemed or satisfied.

(b) The Note Trustee must then, if required by the Company, execute a confirmation of release in favour of the Company (which includes a statement that the requirements of this clause have been satisfied) and terminate this deed and this deed will terminate on such a release being given. The Note Trustee is, to the extent permitted by law, discharged and released from its obligations, covenants and liabilities under this deed with effect from the termination of this deed.

(c) Nothing in this clause 11 releases the Company or the Note Trustee from any liability arising as a consequence, and to the extent, of fraud, gross negligence or wilful default on the part of the Company under or in connection with the Transaction Documents or the Note Trustee in the performance of its duties as trustee of the Trust.

(d) Without prejudice to any rights of any Beneficiary arising as a result of any breach by the Company of a Transaction Document prior to the date of conversion or redemption of all the Notes, the obligations of and the representations and warranties given by the Company solely in respect of a Note will terminate and cease to have force or effect with respect to the relevant Noteholder immediately and automatically upon:

(1) conversion or redemption of all the Notes held by that Noteholder; and

(2) if applicable, the issue of the relevant Convertible Warrants pursuant to the terms of Clause 12 (Convertible Warrants), the Convertible Warrant Conditions and the Convertible Note Conditions.

12 Convertible Warrants

12.1 The Convertible Warrants

The obligations of the Company under the Convertible Warrants are constituted by, and specified in, clause 12 of deed and the Convertible Warrant Conditions.

12.2 Undertaking to comply

The Company undertakes to each Convertible Warrantholder, in respect of each Convertible Warrant for which that Convertible Warrantholder's name is inscribed in the Convertible Warrant Register, to duly and punctually observe, fulfil, perform and comply with all the covenants, conditions and obligations imposed upon it under clause 12 of this deed and the Convertible Warrant Conditions.

12.3 Appointment of Convertible Warrant Registrar

The Company may act as Convertible Warrant Registrar or may appoint another person as Convertible Warrant Registrar. The Company shall ensure the Convertible Warrant Registrar establishes and maintains a Convertible Warrant Register in such place as the Company may specify and do the other things the Convertible Warrant Registrar is required to do under this Deed.

12.4 Rights of Convertible Warrantholders

(a) Each Convertible Warrantholder and any person claiming through a Convertible Warrantholder has the benefit of, may enforce its rights under clause 12 of this deed and the Convertible Warrant Conditions in its own name independently from each other Convertible Warrantholder even though such Warrantholder or person is not a party to, or was not in existence at the time of execution and delivery of, this Deed.

(b) Each Convertible Warrantholder is deemed to have notice of, and be bound by, this deed and the Convertible Warrant Conditions.

12.5 Convertible Warrantholders Bound

Each Convertible Warrantholder, and any person claiming through or under a Convertible Warrantholder, is bound by this deed and the Convertible Warrant Conditions.

12.6 Provision of Deed to Convertible Warrantholders

(a) On the date that any Convertible Warrant is issued, the Company shall deposit a copy of this deed with the Convertible Warrant Registrar who shall hold it until the date on which all of the obligations under this deed (including without limitation, the Convertible Warrant Conditions) in relation to the Convertible Warrants have been discharged in full.

(b) Each Convertible Warrantholder is taken to have irrevocably nominated and authorised the Registrar to hold this deed on behalf of that Convertible Warrantholder.

(c) Within five Business Days of the Registrar receiving a written request from a Convertible Warrantholder to do so, the Registrar must provide to that Convertible Warrantholder a certified copy of this deed.

12.7 Representations and Warranties

The Company represents and warrants to each Convertible Warrantholder as to each of the matters specified in paragraph 1.1 to 1.5, 2 and 3 of Schedule 7 (*Representations and Warranties*) to the extent relevant to the Company only on the date each Convertible Warrant is issued.

12.8 Survival

So long as any Convertible Warrants have or may be issued under or in connection with this deed, this Clause 12 (*Convertible Warrants*) and the Convertible Warrant Conditions shall survive the repayment and redemption in full of the Notes and any discharge or release granted in respect thereof.

13 General indemnity

13.1 Indemnity by the Company

For the purposes of this clause 13, '**Indemnified Party**' means each Beneficiary, any director, officer, authorized representative, employee, agent, delegate, attorney or Related Body Corporate of a Beneficiary or any receiver or receiver and manager appointed under the Security.

(a) The Company shall indemnify the Indemnified Parties against any claim, action, damage, loss, liability, cost charge expense or payment which that Indemnified Party pays, suffers, incurs or is liable for in respect of any of the following:

(1) any Event of Default or breach of a Transaction Document;

(2) any exercise or attempted exercise of any right, power or remedy under any Transaction Document or any failure to exercise any right, power or remedy;

(3) the Secured Property or the existence of any interest in or control, right, power or remedy with respect to the Secured Property;

(4) a Note requested to be issued not being issued for any reason (including failure to fulfil a condition precedent but excluding default by the Noteholder);

(5) the Noteholder receiving payments of principal in respect of any Note other than on an Interest Payment Date relating to the Note for any reason, including prepayment in accordance with this deed;

(6) an Indemnified Party acting in connection with a Transaction Document in good faith on facsimile instructions purporting to originate from the offices of the Company or to be given by an Officer of the Company; or

(7) any Loss which an Indemnified Party suffers or incurs in any applicable jurisdiction in connection with the Notes, Warrants and other Transaction Documents except to the extent that such Loss is attributable to the fraud, wilful misconduct or gross negligence of an Indemnified Party.

(b) Failure by an Indemnified Party to act, or action by it, due to lack on instructions, or to the terms of instructions, from the Noteholders is not, nor will ever be, fraud, wilful misconduct or gross negligence of that Indemnified Party for the purposes of this clause 13.1.

(c) The Company's liability this clause 13.1 will cease immediately upon:

(1) each Note having been redeemed and fully repaid by the Company in accordance with the Conditions; or

(2) each Convertible Warrant required to be issued under the Convertible Note Conditions and this deed having been issued in compliance with the Convertible Note Conditions and this deed.

whichever is the latest date.

13.2 Claims and proceedings

(a) An Indemnified Party must promptly notify the other party (**Indemnifying Person**) in writing. The Indemnified Party must consult in good faith with the Indemnifying Person as to the identity of the lawyers to be appointed to represent the Indemnified Party and must keep the Indemnifying Party regularly informed in connection with the action. The Indemnified Party must not effect a settlement or compromise without the written consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed. If the Indemnifying Person does not respond to a request for approval or consent within such reasonable period as specified by the Indemnified Party (being not less than 5 Business Days unless a shorter period is required by the circumstances), the Indemnified Party will be free to act and such action will be at the cost of the Indemnifying Person.

(b) Any claim made by the Indemnified Party under an indemnity must be accompanied by a statement giving reasonable details of the calculation of the amount in respect of which such indemnity is claimed.

13.3 Currency indemnity

If, at any time:

(a) a Note Party receives or recovers any amount payable by the Company for any reason including, but not limited to:

(1) any judgment or order by any Government Agency;

(2) any breach of this deed;

(3) the liquidation or bankruptcy of the Company or any proof or claim in that liquidation or bankruptcy; or

(4) any other thing into which the obligations of the Company may have become merged; and

(b) the currency in which the payment is made is not United States Dollars,

the Company indemnifies each Note Party against any shortfall between the amount payable in US$ and the amount actually or notionally received or recovered by each Noteholder after the payment is converted or translated into US$ Dollars, by the Noteholder or through its bankers by purchasing one currency with another whether or not through an intermediate currency, whether spot or forward, in the manner and amounts and at the time it thinks fit acting in good faith.

14 General

14.1 Governing law and jurisdiction

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

(b) The parties irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

(c) Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

(d) Each party irrevocably waives any immunity in respect of its obligations under this deed that it may acquire from the jurisdiction of any court or any legal process for any reason including the service of notice, attachment before judgment, attachment in aid of execution or execution.

14.2 Prohibition and enforceability

(a) Any provision of, or the application of any provision of, this deed or any Power which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.

(b) Any provision of, or the application of any provision of, this deed which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

14.3 Indemnities

Any indemnity in a Transaction Document is a continuing obligation, independent of the Company's other obligations under that Transaction Document and continues after the Transaction Document ends and survives the removal and resignation of the Note Trustee. It is not necessary for the Note Trustee to incur expense or make payment before enforcing a right of indemnity under a Transaction Document.

14.4 PPSA

Notwithstanding any other provision of this deed or any other Transaction Document, the Note Trustee:

(a) is not responsible for ensuring that the PPSA is complied with in relation to the Transaction Documents or for ensuring the accuracy, completeness or effectiveness (as the case may be) of any registration, perfection or priority of any security interest; and

(b) will not be liable to any person for any loss arising in relation to the Transaction Documents in connection with the PPSA, the PPS Register (as defined in the PPSA), any defect in registration or loss of priority in connection therewith or any failure of any person to comply with its obligations in this clause 14.

14.5 General PPSA Provisions

To the extent that a security interest (as defined in the PPSA) is created under a Transaction Document, the following applies.

(a) No Beneficiary need give any notice under the PPSA (including a notice of a verification statement) under or arising out of anything relating to that security interest or Transaction Document unless the notice is required by the PPSA and the giving of it cannot be excluded.

(b) The Company waives its right to receive anything from any Beneficiary under section 275 of the PPSA, and will not make any request of any Beneficiary under that section.

(c) Each party contracts out of each provision of the PPSA which section 115 permits, except sections 117, 118, 123, 126, 128, 129, 134(1) and 135. However, each of those sections is contracted out of to the extent that a provision in it would be contrary to or limit an express or implied right on the part of a Beneficiary provided for in the relevant Transaction Document.

(d) Any disposal or other exercise of any right, power or remedy under this deed will only be taken to be made under a provision which has not been excluded in clause 14.5(c), if the relevant secured party so elects.

14.6 Variation

A variation of this deed must be in writing and signed by the parties.

14.7 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.

14.8 Attorneys

Each of the attorneys executing this deed states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

14.9 Survival of obligations

(a) Each representation or warranty in a Transaction Document survives the execution and delivery of the Transaction Documents and the issue of the Notes.

(b) Each indemnity, reimbursement or similar obligation in a Transaction Document:

(1) is a continuing, separate and independent obligation;

(2) is payable on demand; and

(3) survives termination or discharge of the relevant Transaction Document and repayment of financial accommodation.

Where a party is obliged to indemnify another party against a loss, cost, charge, liability, expense, deficiency or other amount, it will pay on demand from time to time the amount stated by the other party to be the amount indemnified against.

14.10 Moratorium legislation

To the full extent permitted by law all legislation which at any time directly or indirectly:

(a) lessens, varies or affects in favour of the Company any obligation under a Transaction Document; or

(b) delays, prevents or prejudicially affects the exercise by a Note Party or an Agent of any right, power or remedy conferred by a Transaction Document,

is excluded from the Transaction Documents.

14.11 Interest on overdue amounts

(a) Interest accrues on each unpaid amount which is due and payable by the Company under or in respect of any Transaction Document (including interest under this clause):

(1) on a daily basis up to the date of actual payment from (and including) the due date or, in the case of an amount payable by way of reimbursement or indemnity, the date of disbursement or loss, if earlier;

(2) both before and after judgment (as a separate and independent obligation); and

(3) at the Default Rate,

except where the relevant Transaction Document provides otherwise.

(b) The Company must pay interest accrued under this clause on demand and on the last Business Day of each calendar quarter. That interest is payable in the currency of the unpaid amount on which it accrues.

14.12 Payments

Each payment in respect of the Notes will be made by the Company to the relevant Noteholder, either:

(a) by transfer to the Paying Agent who will transfer the amount of such payment to an account as notified to the Paying Agent by the relevant Noteholder (in accordance with the Agency Agreement); or

(b) by effecting settlement through the exchange settlement account of the Noteholder (Euroclear or another Clearing System, as applicable) notified by the Noteholder.

14.13 Delay in payment

A Note Party will not be entitled to any payment for any delay after the due date in receiving the amount due:

(a) a result of the due date not being a Business Day;

(b) if a Noteholder is late in surrendering the relevant Definitive Certificate (if any); or

(c) if a Noteholder does not provide the necessary account details for payment in accordance with this deed.

14.14 Fractions

When making payments to a Note Party, if the relevant payment in aggregate to the Note Party is not of an amount which is a whole multiple of the smallest unit of the relevant currency in which such payment is to be made, such payment will be rounded down to the nearest unit.

14.15 Adjustment of dates for payment

(a) If a payment on a Note is due to be made on a day which is not a Business Day, the due date for that payment will be the following Business Day but no adjustment will be made to the amount due.

(b) If a payment on a Note is due to be made to an account on a Business Day on which banks are not open for general banking business in the city in which the account is located, a Noteholder is not entitled to the payment until the next Business Day on which banks in such city are open for general banking business and is not entitled to any additional interest or other payment in respect of the delay.

14.16 Payments in gross

(a) Subject to clause 14.17 (*GST*) and clause 5.6 of the Amortising Note Conditions (*Surrender on Exercise of Detachable Warrants*), all payments which the Company is required to make on the Notes must be made without

    (1) set-off or counterclaim; or

    (2) any deduction or withholding for any Tax or any other reason unless the Company is required to make the deduction or withholding by applicable law.

(b) If the Company is obliged to make a deduction in respect of Tax from a payment under a Transaction Document:

(1) it shall promptly pay the amount deducted to the appropriate Government Agency;

(2) within 30 days of the end of the month in which the deduction is made, it shall give the Noteholders the original receipt (or other documents acceptable to the Noteholders) evidencing the payment; and

(3) on the due date it shall pay the relevant Noteholders an additional amount so that the relevant Noteholders receive a net amount (after allowance for any further deduction and any Tax on the additional amount) equal to the amount it would have received if no deduction had been made. It shall indemnify each Noteholder against the Tax and any amounts recoverable from the Noteholders in respect of the Tax.

(c) The Company waives any statutory or other right to recover from the Noteholders any amount paid under this clause.

14.17 GST

(a) Terms defined in the GST Act have the same meaning in this clause 14.17 (*GST*) unless provided otherwise.

(b) Notwithstanding any other provision of a Transaction Document, in the event that a Note Party must pay any GST on any supply made by it to the Company under or in connection with a Transaction Document, the Note Party may, in addition to any amount or consideration payable under that Transaction Document, recover from the Company an additional amount on account of that GST, such amount to be calculated by multiplying the relevant amount or consideration payable by the recipient for the relevant supply by the prevailing GST rate.

(c) Notwithstanding any other provisions of the Transaction Documents, in the event that a Note Party must pay any GST in relation to a taxable supply that is made to it under or in connection a Transaction Document, the Note Party may in addition to any other amounts, recover from the Company that GST less the amount of any input tax credit to which the indemnitee is entitled in respect of that payment.

(d) The Note Party must issue a tax invoice to the recipient of a supply referred to in paragraph (b) above no later than 10 Business Days after payment by the recipient of the GST inclusive consideration for that supply.

(e) Any additional amount on account of GST recoverable from the Company pursuant paragraph (b) above or paragraph (c) above shall be calculated without any deduction or set off of any other amount and is payable by the Company upon demand by the Note Party whether such demand is by means of an invoice or otherwise.

14.18 Determination, statement and certificate

Except where otherwise provided in a Transaction Document, any determination, statement or certificate by a Note Party or an Agent or an Officer of a Note Party or an Agent provided for in a Transaction Document is conclusive.

14.19 Officers

The Company irrevocably authorises each Note Party to rely on a certificate by a person purporting to be its director or secretary as to the identity and signatures of its Officers. The Company warrants that those persons have been authorised to give notices and communications under or relating to the Transaction Documents.

HERBERT SMITH FREEHILLS

Schedule 1

Form of Convertible Note Certificates

Part 1: Definitive Convertible Note Certificate

ISIN:	**XS1008568328**
COMMON CODE	**[#]**
CERTIFICATE NUMBER:	**[#]**
INITIAL PRINCIPAL AMOUNT OF NOTES:	**[#]**
ISSUE DATE:	**[#]**
MATURITY DATE:	**[#]**

Guildford Coal Limited
(ABN 35 143 533 537)
of Level 7, 490 Upper Edward Street, Spring Hill, QLD 4000
Australia

US$10,000,000 Convertible Notes Due [ ] July 2015 (the "Notes")
convertible into Ordinary Shares of Guildford Coal Limited

THE CONVERTIBLE NOTES AND THE SECURITIES TO BE DELIVERED UPON EXERCISE OF THE RELEVANT CONVERSION RIGHTS ATTACHING TO THE NOTES HAVE NOT BEEN REGISTERED UNDER THE US SECURITIES ACT OF 1933, AS AMENDED (THE "US SECURITIES ACT"). THE EXERCISE OF THE CONVERSION RIGHTS ATTACHED TO THE CONVERTIBLE NOTES MAY NOT BE EXERCISED BY OR ON BEHALF OF ANY US PERSON (AS DEFINED IN REGULATION S UNDER THE US SECURITIES ACT).

This Definitive Convertible Note Certificate represents Notes in the aggregate initial principal amount of US$**[#]**.

The Notes are issued pursuant to the Company's constituent documents and a resolution of the board of directors of the Company dated 20 December 2013 and are constituted by the Note Trust Deed dated 20 December 2013 between the Company and the Note Trustee (the **Note Trust Deed**) as amended or supplemented from time to time. Terms not otherwise defined in this Definitive Convertible Note Certificate will have the meaning given in the Note Trust Deed.

This Definitive Convertible Note Certificate is subject to the provisions of the Note Trust Deed and the Convertible Note Conditions.

The Convertible Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and deemed to have notice of, the provisions of the Note Trust Deed and the Convertible Note Conditions. Copies of the Note Trust Deed and the Convertible Note Conditions are available for inspection by Convertible Noteholders at the registered office of the Note Trustee, being at the date of this Convertible Note Certificate, 1708 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong.

This is to certify that:

....

of ....

....

is the person registered in the register maintained by the Registrar in relation to the Notes (the **Convertible Note Register**) as the duly registered holder or, if more than one person is so registered, the first-named of such persons (the **Holder**) of:

US$ ....

in aggregate initial principal amount of the Notes.

The Company, for value received, hereby promises to pay the Holder of this Definitive Convertible Note Certificate on [*] or on such earlier date or dates as such amounts become due and payable in respect of the Notes and to otherwise comply with the provisions of the Note Trust Deed and the Convertible Note Conditions.

The Notes in respect of which this Definitive Convertible Note Certificate is used are convertible into fully paid equity shares of the Company with full voting rights (**Ordinary Shares**) of the Company, subject to and in accordance with the Convertible Note Conditions and the Note Trust Deed.

This Definitive Convertible Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Convertible Note Register and only the Holder of this Definitive Convertible Note Certificate as named in the Convertible Note Register is entitled to payment in respect of this Definitive Convertible Note Certificate.

This Definitive Convertible Note Certificate will not be valid for any purpose until it has been authenticated for and on behalf of Elavon Financial Services Limited as Registrar.

Executed in accordance with section 127 of the *Corporations Act 2001* by affixing the common seal of **Guildford Coal Limited** in the presence of:

Director Signature	Director/Secretary Signature
Print Name	Print Name

Issued as of [#]

Certificate of Authentication

This Definitive Convertible Note Certificate is authenticated (without recourse, warranty or liability) for and on behalf of the Registrar as the duly authorised issue of Notes in an aggregate initial principal amount of US$**[#]** by the Company:

Signed for and on behalf of **Elavon Financial Services Limited** (without recourse, warranty or liability)

____
Signature

TERMS AND CONDITIONS OF THE CONVERTIBLE NOTES

FORM OF TRANSFER

FOR VALUE RECEIVED ...., being the registered holder of this Definitive Convertible Note Certificate, hereby transfers to

....

....

of ....

....

....

US$ .... in aggregate initial principal amount of the US$10,000,000 Convertible Notes due [ ] July 2015 (the **Notes**) of Guildford Coal Limited (the **Company**) and irrevocably requests and authorizes Elavon Financial Services Limited, in its capacity as Registrar in relation to the Notes (or any successor to Elavon Financial Services Limited, in its capacity as such) to effect the relevant transfer by means of appropriate entries in the Convertible Note Register kept by it.

Date: ....

By: ....

(duly authorized)

Notes:

The name of the person by or on whose behalf this form of transfer is signed must correspond with the name of the registered holder as it appears on the face of this Definitive Convertible Note Certificate.

(a) A representative of such registered holder should state the capacity in which he signs, *eg.* executor.

(b) The signature of the person effecting a transfer must conform to any list of duly authorized specimen signatures supplied by the registered holder or be certified by a recognized bank, notary public or in such other manner as the Registrar may require.

(c) Any transfer of Convertible Notes must be in an amount equal to US$10,000 or any integral multiple thereof.

NOTE TRUSTEE

Madison Pacific Trust Limited

Company number 1619851
1708 17th Floor Tower One
Admiralty Centre
18 Harcourt Road
Hong Kong

PAYING AGENT, SETTLEMENT AGENT, TRANSFER AGENT, CONVERSION AGENT AND REGISTRAR

Elavon Financial Services Limited
Block E, Cherrywood Business Park
Loughlinstown, Dublin, Ireland
acting through its UK Branch from its offices at 5th Floor
125 Old Broad Street, London, EC2N 1AR
United Kingdom

Part 2: Global Convertible Note Certificate

ISIN:	**XS1008568328**
COMMON CODE:	[*]
CERTIFICATE NUMBER:	[*]
INITIAL PRINCIPAL AMOUNT OF NOTES:	[*]
ISSUE DATE:	[*]
MATURITY DATE:	[*]

Guildford Coal Limited
(ABN 35 143 533 537)
of Level 7, 490 Upper Edward Street, Spring Hill, QLD 4000
Australia

GLOBAL CONVERTIBLE NOTE CERTIFICATE

US$10,000,000 Convertible Notes Due [ ] July 2015 (the "Convertible Notes") convertible into Ordinary Shares of Guildford Coal Limited

THE CONVERTIBLE NOTES AND THE SECURITIES TO BE DELIVERED UPON EXERCISE OF THE RELEVANT CONVERSION RIGHTS ATTACHING TO THE NOTES HAVE NOT BEEN REGISTERED UNDER THE US SECURITIES ACT OF 1933, AS AMENDED (THE "US SECURITIES ACT"). THE EXERCISE OF THE CONVERSION RIGHTS ATTACHED TO THE CONVERTIBLE NOTES MAY NOT BE EXERCISED BY OR ON BEHALF OF ANY US PERSON (AS DEFINED IN REGULATION S UNDER THE US SECURITIES ACT).

This Global Convertible Note Certificate represents Convertible Notes in the aggregate initial principal amount of US$10,000,000.

The Convertible Notes are issued pursuant to the Company's constituent documents and a resolution of the board of directors of the Company dated 20 December 2013 and are constituted by the Note Trust Deed dated 20 December 2013 between the Company and the Note Trustee (the **Note Trust Deed**) as amended or supplemented from time to time. Terms not otherwise defined in this Global Convertible Note Certificate will have the meaning given in the Note Trust Deed.

This Global Convertible Note Certificate is subject to the provisions of the Note Trust Deed and the Convertible Note Conditions.

The Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and deemed to have notice of, the provisions of the Note Trust Deed, the Convertible Note Conditions and the Agency Agreement, as modified by the provisions of this Global Convertible Note Certificate. Copies of the Note Trust Deed and the Convertible Note Conditions are available for inspection by Convertible Noteholders at the registered office of the Note Trustee, being at the date of this Global Convertible Note Certificate, 1708 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong.

The Company hereby certifies that USB Nominees (UK) Limited is, at the date hereof, entered in the Convertible Note Register as the holder of Convertible Notes in the aggregate initial principal amount of US$10,000,000 or such other amount as is shown on the Convertible Note Register as being represented by this Global Convertible Note Certificate and is duly endorsed (for information purposes only) in the third column of Schedule A to this Global Convertible Note Certificate. For value received, the Company promises to pay the person who appears at the relevant time on the Convertible Note Register as holder of the Convertible Notes in respect of which this Global Convertible Note Certificate is issued such amount or amounts as will become due in respect of such Convertible Notes and otherwise to comply with the Convertible Note Conditions.

The Convertible Notes in respect of which this Global Convertible Note Certificate is used are convertible into fully paid equity shares of the Company with full voting rights (**Ordinary Shares**) of the Company, subject to and in accordance with the Convertible Note Conditions and the Note Trust Deed.

Convertible Noteholders, or following lodgement of the Global Certificate with Euroclear or Clearstream (or any alternative clearing system as defined below), accountholders at Euroclear or Clearstream (or any alternative clearing system as defined below) who have interests in Convertible Notes in respect of which this Global Convertible Note Certificate is issued and held on behalf of such clearing system credited to their accounts (**beneficial owners**) will be entitled (as described below) to have title to such Convertible Notes registered in their names and to receive individual Definitive Convertible Note Certificates if either: (a) the Common Depositary or any successor to the Common Depositary notifies the Company in writing that it is at any time unwilling or unable to act as a depositary and a successor depositary is not appointed by the Company within 90 days of receipt of such notice by the Company; or (b) Euroclear or Clearstream (or any other clearing system (an **alternative clearing system**) as will have been designated by the Company and approved by the Note Trustee on behalf of which the Convertible Notes evidenced by this Global Convertible Note Certificate may be held) is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so.

In such circumstances (i) the Company will cause sufficient individual Definitive Convertible Note Certificates to be executed and delivered to the Registrar for completion, authentication and despatch to the relevant Convertible Noteholders and (ii) any beneficial owner who wishes to have title to its Convertible Notes registered in its name and to receive a Definitive Convertible Note Certificate must provide the Registrar with a written order containing instructions and such other information as the Company and the Registrar may require to effect such registration in accordance with the Note Trust Deed and to complete, execute and deliver such individual Definitive Convertible Note Certificates and must procure the presentation of this Global Convertible Note Certificate to the Registrar for annotation in respect of the Convertible Notes so transferred.

This Global Convertible Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Convertible Note Register and only the Holder of this Global Convertible Note Certificate as named in the Convertible Note Register is entitled to payment in respect of this Global Convertible Note Certificate.

The Convertible Note Conditions are modified as set out above and as follows in so far as they apply to the Convertible Notes in respect of which this Global Convertible Note Certificate is issued.

This Global Convertible Note Certificate will not be valid for any purpose until it has been authenticated for and on behalf of Elavon Financial Services Limited as Registrar.

Meetings

The registered holder of this Global Convertible Note Certificate will be treated as being two persons for the purposes of any quorum requirements of a meeting of holders of Convertible Notes and, at any such meeting, as having one vote in respect of each US$10,000 in initial principal amount of Convertible Notes for which this Global Convertible Note Certificate is issued or represents and the registered holder will cast each such vote in accordance with the written instructions, if any, of the beneficial owner of each such US$10,000. The Note Trustee may allow a beneficial owner of the Convertible Notes in respect of which this Global Convertible Note Certificate has been issued to attend and speak at a meeting of holders of the Convertible Notes on appropriate proof of his identity and interest.

Cancellation

Cancellation of any Convertible Notes by the Company following its redemption, conversion or purchase will be effected by a reduction in the Outstanding Principal Sum of the Convertible Notes in the register of holders of the Convertible Notes. This Global Convertible Note Certificate will be presented to the Registrar for annotation of such reduction.

Note Trustee's Powers

In considering the interests of holders of the Convertible Notes while this Global Convertible Note Certificate is registered in the name of a nominee for a clearing system, the Note Trustee may, to the extent it considers it appropriate to do so in the circumstances, (a) have regard to any information as may have been made available to it by or on behalf of the relevant clearing system or its operator as to the identity of the beneficial owners (either individually or by way of category) and (b) consider such interests on the basis that such beneficial owners were the holders of the Convertible Notes in respect of which this Global Convertible Note Certificate is issued.

Conversion

Subject to the requirements of Euroclear and Clearstream, or other Clearing System, the Conversion Rights attaching to the Convertible Notes in respect of which this Global Convertible Note Certificate is issued may be exercised by the presentation thereof to or to the order of the Paying Agent of one or more Conversion Notices duly completed by or on behalf of the beneficial owner of such Convertible Notes and presentation of this Global Convertible Note Certificate to the Paying Agent for annotation in respect of the Outstanding Principal Amount of the Convertible Notes so converted. The exercise of the Conversion Right will be notified by the Paying Agent to the Registrar and the holder of this Global Convertible Note Certificate.

Payment

Payments of principal in respect of Convertible Notes represented by this Global Convertible Note Certificate will be made against presentation and, if no further payment falls to be made in respect of the Convertible Notes, surrender of this Global Convertible Note Certificate to or to the order of the Paying Agent or such other paying agent as will have been notified to the holders of the Convertible Notes for such purpose. Presentation of this Global Convertible Note Certificate will not be required for payment of interest unless no further payment falls to be made in respect of the relevant Convertible Notes after such payment.

Notices

So long as the Convertible Notes are represented by this Global Convertible Note Certificate and this Global Convertible Note Certificate is held on behalf of Euroclear or another Clearing System, notices to holders of the Convertible Notes may be given by delivery of the relevant notice to Euroclear or another Clearing System, for communication by it to entitled accountholders in substitution for notification as required by the Convertible Note Conditions of the Convertible Notes.

Redemption option of the holders of the Convertible Notes

The redemption option in paragraphs 5.3 and 5.4 of the Convertible Note Conditions may be exercised by the holder of this Global Convertible Note Certificate giving notice to the Paying Agent or Transfer Agent of the Outstanding Principal Sum of Convertible Notes in respect of which the option is exercised and presenting this Global Convertible Note Certificate for endorsement or exercise within the time limits specified in those Convertible Note Conditions.

Redemption at the option of the Company

The option of the Company provided for in paragraph 5.1 of the Convertible Note Conditions will be exercised by the Company giving notice to the holders of the Convertible Notes within the time limits set out in and containing the information required by the Convertible Note Conditions of the Convertible Notes.

Mandatory Redemption at Convertible Note Maturity Date

All Convertible Notes that have not otherwise been redeemed, cancelled or converted in accordance with the terms of the Convertible Note Conditions will be redeemed and the Redemption Price in relation to the Convertible Notes will be repaid on the Convertible Note Maturity Date as required by the Convertible Note Conditions.

Enforcement

For the purposes of enforcement of the provisions of the Note Trust Deed against the Note Trustee, the persons named in a certificate of the holder of the Convertible Notes in respect of which this Global Convertible Note Certificate is issued will be recognised as the beneficiaries of the trusts set out in the Note Trust Deed as if they were themselves the holders of Convertible Notes.

Transfers

Transfers of interests in the relevant Convertible Notes represented by this Global Convertible Note Certificate will be effected through the records of Euroclear and Clearstream and their respective participants in accordance with the rules and procedures of Euroclear and Clearstream and their respective direct and indirect participants.

This Global Convertible Note Certificate is governed by, and will be construed in accordance with New South Wales law.

Executed in accordance with section 127 of the *Corporations Act 2001* by **Guildford Coal Limited**:

Director Signature	Director/Secretary Signature
Print Name	Print Name

Issued as of [*]

Certificate of Authentication

This Global Convertible Note Certificate is authenticated (without recourse, warranty or liability) for and on behalf of the Registrar as the duly authorised issue of Convertible Notes in an aggregate initial principal amount of US$10,000,000 by the Company.

Signed for and on behalf of **Elavon Financial Services Limited** (without recourse, warranty or liability)

____

Signature

Schedule A

Schedule of increases or reductions in principal amount of the Convertible Notes in respect of which this Global Convertible Note Certificate is issued

The following increase/reductions in the principal amount of Convertible Notes in respect of which this Global Convertible Note Certificate is issued have been made as a result of (i) exercise of the Conversion Right attaching to the Convertible Notes or (ii) redemption of the Convertible Notes or (iii) issue of Definitive Convertible Note Certificates in respect of the Convertible Notes or (iv) purchase and cancellation of the Convertible Notes or (v) any Prepayment of the Convertible Notes:

Date of issue of Global Convertible Note Certificate/Conversion/ Redemption/Purchase and cancellation/Issue of Definitive Convertible Note Certificates/ Prepayment (stating which)	Amount of increase/decrease in principal amount of Convertible Notes	Principal amount of Convertible Notes following such issue/increase /decrease	Notation made by or on behalf of the Registrar

Schedule B

Interest payments in respect of this Global Convertible Note Certificate

The following payments of interest in respect of this Global Convertible Note Certificate and the Convertible Notes represented by this Global Convertible Note Certificate have been made:

Date made	Amount of Interest/principal due and payable	Amount of interest paid	Notation made by or on behalf of the Paying Agent

FORM OF TRANSFER

FOR VALUE RECEIVED ...., being the registered holder of this Global Convertible Note Certificate, hereby transfers to

....

....

of ....

....

....

US$ .... in aggregate initial principal amount of the US$10,000,000 Convertible Notes due [ ] July 2015 (the **Convertible Notes**) of Guildford Coal Limited (the **Company**).

Date: ....

By: ....

(duly authorized)

Notes:

(a) A representative of the Convertible Noteholder should state the capacity in which he signs, *eg.* executor.

(b) The signature of the person effecting a transfer will conform to any list of duly authorized specimen signatures supplied by the registered holder or be certified by a recognized bank, notary public or in such other manner as the Registrar may require.

(c) Any transfer of Convertible Notes will be in an amount equal to US$10,000 or any integral multiple thereof.

NOTE TRUSTEE

Madison Pacific Trust Limited

Company number 1619851
1708 17th Floor Tower One
Admiralty Centre
18 Harcourt Road
Hong Kong

PAYING AGENT, SETTLEMENT AGENT, TRANSFER AGENT, CONVERSION AGENT AND REGISTRAR

Elavon Financial Services Limited
Block E, Cherrywood Business Park
Loughlinstown, Dublin, Ireland
acting through its UK Branch from its offices at 5th Floor
125 Old Broad Street, London, EC2N 1AR
United Kingdom

Schedule 2

Form of Amortising Note Certificates

Part 1: Definitive Amortising Note Certificate

ISIN:	**XS1008568914**
COMMON CODE	**[#]**
CERTIFICATE NUMBER:	**[#]**
INITIAL PRINCIPAL AMOUNT OF NOTES:	**[#]**
ISSUE DATE:	**[#]**
MATURITY DATE:	**[#]**

Guildford Coal Limited
(ABN 35 143 533 537)
of Level 7, 490 Upper Edward Street, Spring Hill, QLD 4000
Australia

US$55,000,000 Amortising Notes Due [ ] January 2017 (the "Notes")

THE AMORTISING NOTES HAVE NOT BEEN REGISTERED UNDER THE US SECURITIES ACT OF 1933, AS AMENDED (THE "US SECURITIES ACT").

This Definitive Amortising Note Certificate represents Notes in the aggregate initial principal amount of US$**[#]**.

The Notes are issued pursuant to the Company's constituent documents and a resolution of the board of directors of the Company dated 20 December 2013 and are constituted by the Note Trust Deed dated 20 December 2013 between the Company and the Note Trustee (the **Note Trust Deed**) as amended or supplemented from time to time. Terms not otherwise defined in this Amortising Note Certificate will have the meaning given in the Note Trust Deed.

This Definitive Amortising Note Certificate is subject to the provisions of the Note Trust Deed and the Amortising Note Conditions.

The Amortising Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and deemed to have notice of, the provisions of the Note Trust Deed and the Amortising Note Conditions. Copies of the Note Trust Deed and the Amortising Note Conditions are available for inspection by Amortising Noteholders at the registered office of the Note Trustee, being at the date of this Definitive Amortising Note Certificate, 1708 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong.

This is to certify that:

....

of ....

....

is the person registered in the register maintained by the Registrar in relation to the Notes (the **Amortising Note Register**) as the duly registered holder or, if more than one person is so registered, the first-named of such persons (the **Holder**) of:

US$ ....

in aggregate initial principal amount of the Notes.

The Company, for value received, hereby promises to pay the Holder of this Definitive Amortising Note Certificate on [*] or on such earlier date or dates as such amounts as will become due and payable in respect of the Notes and to otherwise comply with the provisions of the Note Trust Deed and the Amortising Note Conditions.

This Definitive Amortising Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Amortising Note Register and only the Holder of this Definitive Amortising Note Certificate as named in the Amortising Note Register is entitled to payment in respect of this Definitive Amortising Note Certificate.

This Definitive Amortising Note Certificate will not be valid for any purpose until it has been authenticated for and on behalf of Elavon Financial Services Limited as Registrar.

Executed in accordance with section 127 of the *Corporations Act 2001* by affixing the common seal of **Guildford Coal Limited** in the presence of:

Director Signature	Director/Secretary Signature
Print Name	Print Name

Issued as of [#]

Certificate of Authentication

This Definitive Amortising Note Certificate is authenticated (without recourse, warranty or liability) for and on behalf of the Registrar as the duly authorised issue of Notes in an aggregate initial principal amount of US$**[#]** by the Company:

Signed for and on behalf of **Elavon Financial Services Limited** (without recourse, warranty or liability)

____
Signature

TERMS AND CONDITIONS OF THE AMORTISING NOTES

FORM OF TRANSFER

FOR VALUE RECEIVED ...., being the registered holder of this Definitive Amortising Note Certificate, hereby transfers to

....

....

of ....

....

....

US$ .... in aggregate an initial principal amount of the US$55,000,000 Amortising Notes due [ ] January 2017 (the **Notes**) of Guildford Coal Limited (the **Company**) and irrevocably requests and authorizes Elavon Financial Services Limited, in its capacity as Registrar in relation to the Notes (or any successor to Elavon Financial Services Limited, in its capacity as such) to effect the relevant transfer by means of appropriate entries in the Amortising Note Register kept by it.

Date: ....

By: ....

(duly authorized)

Notes:

The name of the person by or on whose behalf this form of transfer is signed must correspond with the name of the registered holder as it appears on the face of this Definitive Amortising Note Certificate.

(a) A representative of such registered holder should state the capacity in which he signs, *eg.* executor.

(b) The signature of the person effecting a transfer will conform to any list of duly authorized specimen signatures supplied by the registered holder or be certified by a recognized bank, notary public or in such other manner as the Registrar may require.

(c) Any transfer of Notes will be in an amount equal to US$10,000 or any integral multiple thereof.

NOTE TRUSTEE

Madison Pacific Trust Limited

Company number 1619851
1708 17th Floor Tower One
Admiralty Centre
18 Harcourt Road
Hong Kong

PAYING AGENT, SETTLEMENT AGENT, TRANSFER AGENT AND REGISTRAR

Elavon Financial Services Limited
Block E, Cherrywood Business Park
Loughlinstown, Dublin, Ireland
acting through its UK Branch from its offices at 5th Floor
125 Old Broad Street, London, EC2N 1AR
United Kingdom

Part 2: Global Amortising Note Certificate

ISIN:	**XS1008568914**
COMMON CODE:	**[*]**
CERTIFICATE NUMBER:	**[*]**
INITIAL PRINCIPAL AMOUNT OF NOTES:	**[*]**
ISSUE DATE:	**[*]**
MATURITY DATE:	**[*]**

Guildford Coal Limited
(ABN 35 143 533 537)
of Level 7, 490 Upper Edward Street, Spring Hill, QLD 4000
Australia

GLOBAL AMORTISING NOTE CERTIFICATE

US$55,000,000 Amortising Notes Due [ ] January 2017 (the "Amortising Notes")

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE US SECURITIES ACT OF 1933, AS AMENDED (THE "US SECURITIES ACT").

This Global Amortising Note Certificate represents Amortising Notes in the aggregate initial principal amount of US$55,000,000.

The Amortising Notes are issued pursuant to the Company's constituent documents and a resolution of the board of directors of the Company dated 20 December 2013 and are constituted by the Note Trust Deed dated 20 December 2013 between the Company and the Note Trustee (the **Note Trust Deed**) as amended or supplemented from time to time. Terms not otherwise defined in this Global Amortising Note Certificate will have the meaning given in the Note Trust Deed.

This Global Amortising Note Certificate is subject to the provisions of the Note Trust Deed and the Amortising Note Conditions.

The Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and deemed to have notice of, the provisions of the Note Trust Deed, the Amortising Note Conditions and the Agency Agreement, as modified by the provisions of this Global Amortising Note Certificate. Copies of the Note Trust Deed and the Amortising Note Conditions are available for inspection by Amortising Noteholders at the registered office of the Note Trustee, being at the date of this Global Amortising Note Certificate, 1708 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong.

The Company hereby certifies that USB Nominees (UK) Limited is, at the date hereof, entered in the Amortising Note Register as the holder of Amortising Notes in the aggregate initial principal amount of US$55,000,000 or such other amount as is shown on the Amortising Note Register as being represented by this Global Amortising Note Certificate and is duly endorsed (for information purposes only) in the third column of Schedule A to this Global Amortising Note Certificate. For value received, the Company promises to pay the person who appears at the relevant time on the Amortising Note Register as holder of the Amortising Notes in respect of which this Global Amortising Note Certificate is issued such amount or amounts as will become due in respect of such Amortising Notes and otherwise to comply with the Amortising Note Conditions.

Amortising Noteholders, or following lodgement of the Global Certificate with Euroclear (or any alternative clearing system as defined below), accountholders at Euroclear (or any alternative clearing system as defined below) who have interests in Amortising Notes in respect of which this Global Amortising Note Certificate is issued and held on behalf of such clearing system credited to their accounts (**beneficial owners**) will be entitled (as described below) to have title to such Amortising Notes registered in their names and to receive individual Definitive Amortising Note Certificates if either: (a) the Common Depositary or any successor to the Common Depositary notifies the Company in writing that it is at any time unwilling or unable to act as a depositary and a successor depositary is not appointed by the Company within 90 days of receipt of such notice by the Company; or (b) Euroclear (or any other clearing system (an **alternative clearing system**) as will have been designated by the Company and approved by the Note Trustee on behalf of which the Amortising Notes evidenced by this Global Amortising Note Certificate may be held) is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so.

In such circumstances (i) the Company will cause sufficient individual Definitive Amortising Note Certificates to be executed and delivered to the Registrar for completion, authentication and despatch to the relevant Amortising Noteholders and (ii) any beneficial owner who wishes to have title to its Amortising Notes registered in its name and to receive a Definitive Amortising Note Certificate must provide the Registrar with a written order containing instructions and such other information as the Company and the Registrar may require to effect such registration in accordance with the Note Trust Deed and to complete, execute and deliver such individual Definitive Amortising Note Certificates and must procure the presentation of this Global Amortising Note Certificate to the Registrar for annotation in respect of the Amortising Notes so transferred.

This Global Amortising Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Amortising Note Register and only the Holder of this Global Amortising Note Certificate as named in the Amortising Note Register is entitled to payment in respect of this Global Amortising Note Certificate.

The Amortising Note Conditions are modified as set out above and as follows in so far as they apply to the Amortising Notes in respect of which this Global Amortising Note Certificate is issued.

This Global Amortising Note Certificate will not be valid for any purpose until it has been authenticated for and on behalf of Elavon Financial Services Limited as Registrar.

Meetings

The registered holder of this Global Amortising Note Certificate will be treated as being two persons for the purposes of any quorum requirements of a meeting of holders of Amortising Notes and, at any such meeting, as having one vote in respect of each US$10,000 in initial principal amount of Amortising Notes for which this Global Amortising Note Certificate is issued or represents and the registered holder will cast each such vote in accordance with the written instructions, if any, of the beneficial owner of each such US$10,000. The Note Trustee may allow a beneficial owner of the Amortising Notes in respect of which this Global Amortising Note Certificate has been issued to attend and speak at a meeting of holders of the Amortising Notes on appropriate proof of his identity and interest.

Cancellation

Cancellation of any Amortising Notes by the Company following its redemption or purchase will be effected by a reduction in the Outstanding Principal Sum of the Amortising Notes in the register of holders of the Amortising Notes. This Global Amortising Note Certificate will be presented to the Registrar for annotation of such reduction.

Note Trustee's Powers

In considering the interests of holders of the Amortising Notes while this Global Amortising Note Certificate is registered in the name of a nominee for a dearing system, the Note Trustee may, to the extent it considers it appropriate to do so in the circumstances, (a) have regard to any information as may have been made available to it by or on behalf of the relevant clearing system or its operator as to the identity of the beneficial owners (either individually or by way of category) and (b) consider such interests on the basis that such beneficial owners were the holders of the Amortising Notes in respect of which this Global Amortising Note Certificate is issued.

Payment

Payments of principal in respect of Amortising Notes represented by this Global Amortising Note Certificate will be made against presentation and, if no further payment falls to be made in respect of the Amortising Notes, surrender of this Global Amortising Note Certificate to or to the order of the Paying Agent or such other paying agent as will have been notified to the holders of the Amortising Notes for such purpose. Presentation of this Global Amortising Note Certificate will not be required for payment of interest unless no further payment falls to be made in respect of the relevant Amortising Notes after such payment.

Notices

So long as the Amortising Notes are represented by this Global Amortising Note Certificate and this Global Amortising Note Certificate is held on behalf of Euroclear or another Clearing System, notices to holders of the Amortising Notes may be given by delivery of the relevant notice to Euroclear or another Clearing System, for communication by it to entitled accountholders in substitution for notification as required by the Amortising Note Conditions of the Amortising Notes.

Redemption Option of the holders of the Amortising Notes

The redemption option in paragraphs 5.3, 5.4 and, if applicable, 5.6 of the Amortising Note Conditions may be exercised by the holder of this Global Amortising Note Certificate giving notice to the Paying Agent or Transfer Agent of the Outstanding Principal Sum of Amortising Notes in respect of which the option is exercised and presenting this Global Amortising Note Certificate for endorsement or exercise within the time limits specified in those Amortising Note Conditions.

Redemption at the Option of the Company

The option of the Company provided for in paragraph 5.1 of the Amortising Note Conditions will be exercised by the Company giving notice to the holders of the Amortising Notes within the time limits set out in and containing the information required by the Amortising Note Conditions of the Amortising Notes.

Mandatory Scheduled Repayment

The Amortising Notes that have not otherwise been redeemed or cancelled in accordance with the terms of the Amortising Note Conditions will be amortised in accordance with the terms of the Amortising Note Conditions. On the Amortising Note Maturity Date, all Amortising Notes that have not otherwise been redeemed or cancelled in accordance with the terms of the Amortising Note Conditions will be redeemed and the balance of the Redemption Price in relation to the Amortising Notes will be repaid on the Amortising Note Maturity Date as required by the Amortising Note Conditions.

Enforcement

For the purposes of enforcement of the provisions of the Note Trust Deed against the Note Trustee, the persons named in a certificate of the holder of the Amortising Notes in respect of which this Global Amortising Note Certificate is issued will be recognised as the beneficiaries of the trusts set out in the Note Trust Deed as if they were themselves the holders of Amortising Notes.

Transfers

Transfers of interests in the relevant Amortising Notes represented by this Global Amortising Note Certificate will be effected through the records of Euroclear and Clearstream and their respective participants in accordance with the rules and procedures of Euroclear and Clearstream and their respective direct and indirect participants.

This Global Amortising Note Certificate is governed by, and will be construed in accordance with New South Wales law.

Executed in accordance with section 127 of the *Corporations Act 2001* by **Guildford Coal Limited**:

Director Signature	Director/Secretary Signature
Print Name	Print Name

Issued as of [*]

Certificate of Authentication

This Global Amortising Note Certificate is authenticated (without recourse, warranty or liability) for and on behalf of the Registrar as the duly authorised issue of Amortising Notes in an aggregate initial principal amount of US$55,000,000 by the Company:

Signed for and on behalf of **Elavon Financial Services Limited** (without recourse, warranty or liability)

____
Signature

Schedule A

Schedule of increases or reductions in principal amount of the Amortising Notes in respect of which this Global Amortising Note Certificate is issued

The following increase/reductions in the principal amount of Amortising Notes in respect of which this Global Amortising Note Certificate is issued have been made as a result of (i) redemption of the Amortising Notes or (ii) issue of Definitive Amortising Note Certificates in respect of the Amortising Notes or (iii) purchase and cancellation of the Amortising Notes or (iv) any Prepayment of the Amortising Notes:

Date of issue of Global Amortising Note Certificate/ Redemption/Purchase and cancellation/Issue of Definitive Amortising Note Certificates/ Prepayment (stating which)	Amount of increase/decrease in principal amount of Amortising Notes	Principal amount of Amortising Notes following such issue/increase /decrease	Notation made by or on behalf of the Registrar

Schedule B

Interest payments in respect of this Global Amortising Note Certificate

The following payments of interest in respect of this Global Amortising Note Certificate and the Amortising Notes represented by this Global Amortising Note Certificate have been made:

Date made	Amount of Interest due and payable	Amount of interest paid	Notation made by or on behalf of the Paying Agent

FORM OF TRANSFER

FOR VALUE RECEIVED ...., being the registered holder of this Global Amortising Note Certificate, hereby transfers to

....

....

of ....

....

....

US$ .... in aggregate initial principal amount of US$55,000,000 Amortising Notes due [ ] January 2017 (the **Amortising Notes**) of Guildford Coal Limited (the **Company**).

Date: ....

By: ....

(duly authorized)

Notes:

(a) A representative of the Amortising Noteholder should state the capacity in which he signs, *eg.* executor.

(b) The signature of the person effecting a transfer will conform to any list of duly authorized specimen signatures supplied by the registered holder or be certified by a recognized bank, notary public or in such other manner as the Registrar may require.

(c) Any transfer of Amortising Notes will be in an amount equal to US$10,000 or any integral multiple thereof.

NOTE TRUSTEE

Madison Pacific Trust Limited

Company number 1619851
1708 17th Floor Tower One
Admiralty Centre
18 Harcourt Road
Hong Kong

PAYING AGENT, SETTLEMENT AGENT, TRANSFER AGENT AND REGISTRAR

Elavon Financial Services Limited
Block E, Cherrywood Business Park
Loughlinstown, Dublin, Ireland
acting through its UK Branch from its offices at 5th Floor
125 Old Broad Street, London, EC2N 1AR
United Kingdom

HERBERT
SMITH
FREEHILLS

Schedule 3

Convertible Note Conditions

The issue of up to US$10,000,000 in aggregate initial principal amount of Convertible Notes due July 2015 (the **Maturity Date**) (the **Convertible Notes**) of Guildford Coal Limited (the **Company**) was authorised by a resolution of the Board of Directors of the Company passed on 20 December 2013.

The Convertible Notes will be issued on the Issue Date and are constituted by a trust deed (the **Note Trust Deed**) dated 20 December 2013 between the Company and Madison Pacific Trust Limited (the ***Note Trustee***), as Note Trustee for the Noteholders. Elavon Financial Services Limited is the paying agent (the **Paying Agent**), transfer agent (the **Transfer Agent**), conversion agent (the **Conversion Agent**), settlement agent (the **Settlement Agent**) and registrar (the **Registrar**) (the Paying Agent, the Conversion Agent, the Transfer Agent, the Settlement Agent and the Registrar are referred to collectively as the **Agents** and individually as an **Agent**) in relation to the Notes.

The Convertible Notes have the benefit of the Security.

The statements in these terms and conditions (these **Convertible Note Conditions**) include summaries of, and are subject to, the detailed provisions of the Note Trust Deed. Copies of the Note Trust Deed, the Agency Agreement, the Securities and the other Transaction Documents are available for inspection by Noteholders at the registered office of the Note Trustee being at the date hereof at 1708 17th Floor Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong and at the specified offices of each of the Agents. The Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and are deemed to have notice of, all the provisions of the Note Trust Deed.

Terms not otherwise defined in these Convertible Note Conditions have the meaning given in the Note Trust Deed.

1 Form, Denomination and Title

1.1 Convertible Notes

(a) The aggregate initial principal amount of the Convertible Notes is limited to US$10,000,000.

(b) The Convertible Notes will be issued in denominations of US$10,000 or integral multiples thereof.

(c) Upon issue, the Convertible Notes will be represented by a Global Convertible Note Certificate. The Global Convertible Note Certificate will be issued and deposited with the Common Depositary, on behalf of the Convertible Noteholders, and following lodgement of the Convertible Notes with a Clearing System, for that Clearing Systems. The Convertible Notes represented by the Global Convertible Note Certificate will be registered in the name of, or a nominee of, the Common Depositary.

1.2 Title and Convertible Note Register

(a) The Company will at all times keep, or cause to be kept, at the specified office of the Registrar, in accordance with the terms of the Agency Agreement, the Convertible Note Register which will show the nominal amount of the Convertible Notes, the date of issue and all subsequent transfers and changes of ownership thereof and the names and addresses of the Convertible Noteholders.

(b) The Company will recognise the Convertible Noteholder whose name appears in the Convertible Note Register as if it were (and it will be taken to be) the absolute owner of the Convertible Note recorded in its name in the Convertible Note Register without regard to any other record or instrument. Title to the Convertible Notes passes only by transfer and registration in the Convertible Note Register as described in paragraph 3 below.

(c) The Company need not take notice of any other interest in, or claim to, a Convertible Note, except as ordered by a court of competent jurisdiction or required by law.

(d) In these Convertible Note Conditions, **Convertible Note Noteholder** and (in relation to a Convertible Note) **holder** means the person in whose name a Convertible Note is registered in the Convertible Note Register.

Accountholders with the Clearing Systems who hold interests in Convertible Notes represented by the Global Convertible Note Certificate may be treated as the holders of the Convertible Notes for certain purposes specified in the Global Convertible Note Certificates.

1.3 Manifest errors

The making of, or the giving effect to, a manifest error in an inscription into the Convertible Note Register will not avoid the constitution, issue or transfer of a Convertible Note. The Registrar must correct any manifest error of which it becomes aware.

2 Status of the Notes; Negative Pledge; Security

(a) Subject to the Security, the Convertible Notes constitute direct, unsubordinated, unconditional, senior and secured obligations of the Company and will at all times rank *pari passu* and without any preference or priority among themselves. The payment obligations of the Company under the Convertible Notes will rank equally with the payment obligation of the Company under the Amortising Notes. The payment obligations of the Company under the Convertible Notes will rank at least equally with all unsubordinated and unsecured debt of the Company other than debt preferred by operation of laws that are mandatory and of general application.

(b) The ranking of Convertible Notes is not affected by the date of registration of any Convertible Noteholder in the Convertible Note Register.

(c) Each Convertible Note is a separate debt of the Company and may be transferred separately from any other Convertible Note in accordance with paragraph 3 below.

(d) For so long as any Convertible Notes remain outstanding, the Company must not, and must procure that its Subsidiaries do not:

(1) (in the case of the Company only) make or pay any Dividend unless a corresponding amount of interest is paid on the Convertible Notes in accordance with paragraph 4 (*Interest*) of these Convertible Note Conditions;

(2) incur or permit to be outstanding Financial Indebtedness, other than Permitted Financial Indebtedness or Financial Indebtedness subordinated on terms approved by the Note Trustee;

(3) sell, assign, transfer or otherwise dispose of or cease to hold, or part with possession of, or create a right to or an interest over (each, a **Disposal**) all or any part of any Mining Tenement or Marketable Security forming part of the Secured Property, unless:

(A) in relation to the Clyde Park Assets:

(i) the proceeds of the Disposal of those Clyde Park Assets is (in aggregate) A$100,000,000 or more (or a Disposal of Clyde Park Assets for more than A$100,000,000 has previously occurred as permitted under this sub-paragraph (A)); and

(ii) upon receipt by the Company, the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(B) the value of that Secured Property subject to a Disposal does not exceed A$500,000; and (unless the proceeds of Disposal of the relevant Secured Property are being applied towards the acquisition of replacement assets) the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(C) the prior consent of the Note Trustee (acting on the instructions of the Majority Noteholders) is obtained (such consent not to be unreasonably withheld or delayed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; or

(D) such Disposal occurs as a result of an express obligation on it to sell or transfer Ordinary Shares pursuant to the terms of any shareholder agreement (however called) binding on the Company (as in force as at the date of this deed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; and

(4) create, permit, suffer to exist, or agree to, any interest or Encumbrance (other than a Permitted Encumbrance) over all or any part of the Secured Property.

(5) If the Company is required by the terms of this Note Trust Deed or the Conditions to apply any amount as a Prepayment (Prepayment Amount):

(A) it will immediately notify the Paying Agent and the Note Trustee and pay that Prepayment Amount to the Paying Agent in Immediately Available Funds; and

(B) all Prepayment Amounts paid to the Paying Agent will be applied:

(i) firstly, in payment of all interest accrued but unpaid on the Outstanding Notes up to the Prepayment Date, on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(ii) secondly, in prepayment of the Outstanding Principal Sum of each Outstanding Note on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(iii) thirdly, in prepayment of the balance of the Redemption Price on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(iv) fourthly to the Note Trustee to discharge any other outstanding Secured Moneys; and

(v) the balance to the Company.

(e) The Convertible Notes have the benefit of the Encumbrances created under the Security to be provided by the Company as security for the payment and performance obligations of the Company under the Transaction Documents as more specifically described in the Note Trust Deed.

(f) The Company will procure that the Security, and the Encumbrances created thereunder, will always remain in full force and effect, in favour of the Note Trustee for the benefit of itself and the Convertible Noteholders, perfected, of the relevant priority which it is expressed to have and over the relevant assets it is expressed to create security over.

(g) The Note Trustee will not be under any duty to monitor or ensure compliance by the Company of its obligations under this paragraph 2 and will not be responsible to Convertible Noteholders for any loss arising from any failure to do so (except for loss arising from the wilful misconduct, fraud or gross negligence of the Note Trustee). If there has been an Event of Default, the Note Trustee may, in accordance with the provisions of these Convertible Note Conditions, the Note Trust Deed and the Security enforce the Security by, inter alia, taking possession or disposing of or realising the relevant assets. The Note Trustee will not be bound to take any such proceedings or action unless it is indemnified and/or receives security to its satisfaction.

3 Transfers of Convertible Notes; Issue of Convertible Note Certificates

3.1 Transfer of Convertible Notes

(a) Transfers and exchanges of Convertible Notes are subject to paragraphs 3.4 and 3.5 and the terms of the Agency Agreement.

(b) A Convertible Note may be transferred or exchanged by delivery of the Convertible Note Certificate issued in respect of that Convertible Note, with the form of transfer on the back duly completed and signed in accordance with these Convertible Note Conditions.

(c) Every form of transfer must be signed by the holder and, where jointly held, by all joint holders or its or their attorney(s) duly authorised in writing (or, where any holder is a corporate entity, given under its common seal) and the holder(s) will be deemed to remain the owner of the Convertible Note to be transferred until the name of the transferee(s) is or are entered in the Convertible Note Register in respect of that Convertible Note.

(d) Every form of transfer must be deposited at the specified office of the Registrar, accompanied by the Convertible Note Certificate for the Convertible Note to be transferred and, if the form is executed by some other person on a holder's behalf, the written authority of that person to do so.

Transfers of interests in the Convertible Notes evidenced by the Global Convertible Note Certificate will be effected in accordance with the rules of the Clearing System.

3.2 Delivery of new Convertible note Certificates

(a) Each new Convertible Note Certificate to be issued upon a transfer or exchange of Notes will, within seven Business Days of receipt by the Registrar of the form of transfer duly completed and signed, be made available for collection at the specified office of the Registrar or, if so requested in the form of transfer, be mailed (at the cost of the Company) by uninsured mail at the risk of the holder entitled to such Convertible Notes to the address specified in the form of transfer. The form of transfer is available at the specified office of the Registrar.

Except in the limited circumstances described herein, owners of interests in the Convertible Notes will not be entitled to receive physical delivery of Convertible Notes.

(b) Where only part of the Outstanding Principal Sum of Convertible Notes (being that of one or more Convertible Notes) in respect of which a Convertible Note Certificate (other than a Global Convertible Note Certificate) is issued, is to be transferred, redeemed or converted, a new Convertible Notes Certificate in respect of the Convertible Notes not so transferred, redeemed or converted will, within seven Business Days of the delivery of the original Convertible Note Certificate to the Registrar or other relevant Agent, be made available for collection at the specified office of the Registrar or the relevant Agent or, if so requested in the form of transfer or redemption be mailed (at the cost of the Company) by uninsured mail at the risk of the holder of the Convertible Notes not so transferred, redeemed or converted to the address of such holder appearing on the Convertible Note Register.

3.3 Formalities Free of Charge

Registration of a transfer of Convertible Notes and issuance of new Convertible Note Certificates will be effected without charge to a Convertible Noteholder by or on behalf of the Company, the Registrar or any Agent, but only upon:

(a) receipt by the Registrar of the form of transfer duly completed and signed;

(b) payment by such Convertible Noteholder (or the giving of such indemnity as the Company may require) in respect of any Tax or other governmental charges which may be imposed in relation to such transfer; and

(c) the Company or the Paying Agent being satisfied that the regulations contained in, or made in accordance with the Agency Agreement, concerning such transfer of Convertible Notes have been complied with.

3.4 Closed Periods

No Convertible Noteholder may require to be registered, and the Company is not required to arrange for the registration of, the transfer of a Convertible Note:

(a) during the period of seven days ending on (and including) the dates for redemption pursuant to paragraph 5.1;

(b) after a Conversion Notice has been delivered with respect to such Convertible Note;

(c) after a Change of Control Put Exercise Notice or a Delisting Put Notice has been deposited in respect of such Convertible Note; and

(d) during the period of seven days ending on (and including) any Interest Record Date.

Each such period is referred to herein as a **Closed Period**.

3.5 Regulations

All transfers of Convertible Notes and entries on the Convertible Note Register will be made subject to the detailed regulations concerning transfer of Convertible Notes scheduled to the Agency Agreement. The regulations may be changed by the Company, with the prior written approval of the Note Trustee and the Registrar. A copy of the regulations from time to time in force will be mailed (at the Company's expense) by the Registrar to any Convertible Noteholder upon written request and will also be available for inspection at the specified office of the Paying Agent.

4 Interest

4.1 Interest rate

Interest will accrue from day to day on the Outstanding Principal Sum of each Convertible Note at the Interest Rate from the Issue Date until the date on which all amounts due and payable under the Convertible Note have been fully and finally repaid provided that the Notes cease to bear interest on the Conversion Date for the whole of the Outstanding Principal Sum of that Convertible Note and any day fixed for redemption under paragraph 6 of the Convertible Note Conditions provided further that the Convertible Notes are so converted or redeemed on such date.

4.2 Payment of interest

(a) The Company will pay all accrued interest on each Interest Payment Date and on the Conversion Date for the relevant Convertible Note in relation to the whole or part of the Convertible Note that is converted.

(b) Interest for each Interest Period will be calculated on the basis of the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th day of a month, in which case the month that includes that last day will not be considered to be shortened to a 30-day month, or (ii) the last day of the Interest Period is the last day of the month of February, in which case the month of February will not be considered to be lengthened to a 30-day month)).

(c) If any Interest Payment Date would otherwise fall on a date which is not a Business Day, it will be postponed to the next Business Day unless it would thereby fall into the next calendar month, in which case it will be brought forward to the preceding Business Day.

(d) Interest payments will be made in the manner set out in the Agency Agreement.

(e) Despite anything to the contrary in a Transaction Document, any payments of interest payable by the Company on a Conversion Date for Convertible Notes (if not an Interest Payment Date) will be paid directly by the Company to the relevant Convertible Noteholder in accordance with the details for such payment specified in the relevant Conversion Notice. Neither the Note Trustee nor the Agents will be responsible or liable for:

(1) making any such payments; or

(2) any failure of the Company to make such payments.

5 Conversion

5.1 Conversion Right

(a) Subject to these Convertible Note Conditions, each Convertible Noteholder has the right (a **Conversion Right**) to convert the whole or part of a Convertible Note into a number of Ordinary Shares (the **Conversion Property**) determined by dividing the Outstanding Principal Sum (or the relevant part thereof) to be converted by the price (the **Conversion Price**) determined in accordance with paragraph 5.2 *(Conversion Price)* and in effect on the date (the **Conversion Date**) specified in the notice of exercise of the Conversion Right (a **Conversion Notice**) given to the Company by the Convertible Noteholder in accordance with paragraph 5.6 *(Conversion procedures)*.

(b) The Conversion Right in respect of a Convertible Note may only be exercised in accordance with paragraph 5.6 *(Conversion procedures)*.

(c) Upon the exercise of the Conversion Right in respect of a Convertible Note:

(1) the Convertible Note is cancelled or, if the exercise is in respect of part only of the Convertible Note, the Outstanding Principal Sum of the Convertible Note will be reduced by the amount in respect of which the Conversion Right is exercised; and

(2) the Company will issue or procure the transfer to the holder of the Convertible Note (or as directed by the holder in the Conversion Notice) the Conversion Property and any Additional Conversion Property required under paragraph 5.3 *(Additional Conversion Property)*.

5.2 Conversion Price

Subject to paragraph 5.4 *(Adjustment to Conversion Price)*, the initial Conversion Price is the US$ equivalent of A$0.30 determined by converting the A$0.30 amount into a US$ amount at the Prevailing Rate on the Issue Date. Upon the happening of any of the events described below, the Conversion Price is, subject to paragraph 5.4 *(Adjustment to Conversion Price)* and paragraph 5.12 (*Application of adjustment provisions)*, to be adjusted as follows:

(a) If and whenever there will be a consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision in relation to the Ordinary Shares, the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision by the following fraction:

$$\frac{A}{B}$$

where:

A is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision, as the case may be; and

B is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision, as the case may be.

Such adjustment will become effective on the date the consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or subdivision, as the case may be, takes effect.

(b) If and whenever the Company will issue any Ordinary Shares credited as fully paid to the Shareholders as a class by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) other than:

(1) where any such Ordinary Shares are or are to be issued instead of the whole or part of a Dividend in cash which the Shareholders would or could otherwise have elected to receive; or

(2) where the Shareholders may elect to receive a Dividend in cash in lieu of such Ordinary Shares,

the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such issue by the following fraction:

$$\frac{A}{B}$$

where:

A is the aggregate number of Ordinary Shares in issue immediately before such issue; and

B is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment will become effective on the date of issue of such Ordinary Shares.

(c) If and whenever the Company will pay or make any Dividend (including as a result of a distribution in kind in respect of Marketable Securities in Terra Energy LLC) to Shareholders as a class, other than a Cash Dividend in respect of which a corresponding amount of interest is paid on the Notes in accordance with paragraph 4 (*Interest*) of these Convertible Note Conditions, the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to the relevant Dividend by the following fraction:

$$\frac{A-B}{A}$$

where:

A is the Current Market Price of one Ordinary Share on (i) the Dealing Day immediately preceding the first date on which the Ordinary Shares are traded on the Relevant Stock Exchange ex- the relevant Dividend or, (ii) in the case of a purchase, redemption or buy-back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares by or on behalf of the Company or any Subsidiary of the Company, the date on which such Ordinary Shares (or depositary or other receipts or certificates) are purchased, redeemed or bought back; and

B is the portion of the Fair Market Value of the aggregate Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Dividend by the number of Ordinary Shares in issue on the date referred to in "A".

Such adjustment will become effective on the date on which the Dividend is paid or made or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares, on the date such purchase, redemption or buy back is made or, in any such case if later, the first date upon which the Fair Market Value of the relevant Dividend is capable of being determined as provided herein.

For the purposes of the above, the Fair Market Value of a Cash Dividend will (subject as provided in the definition of 'Fair Market Value') be determined as at the date of the first public announcement of the relevant Dividend, and in the case of a Non-Cash Dividend, the Fair Market Value of the relevant Dividend will be the Fair Market Value of the relevant property or assets.

(d) If and whenever the Company will issue Ordinary Shares to Shareholders as a class by way of rights, or issue or grant to Shareholders as a class by way of rights options, warrants or other rights to subscribe for or purchase any Ordinary Shares, in each case otherwise than at a price per Ordinary Share which is at least equal to the Current Market Price per Ordinary Share on the Dealing Day immediately preceding the first date on which the Ordinary Shares are traded on the Relevant Stock Exchange ex-options, ex-warrants or ex-rights (the 'ex-date'), the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue at close of business on the Dealing Day immediately preceding the ex-date;

B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares issued by way of rights, or for the options or warrants or other rights issued by way of rights and for the total number of Ordinary Shares deliverable on the exercise thereof, would purchase at such Current Market Price per Ordinary Share; and

C is the number of Ordinary Shares issued or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment will become effective on the date of issue of such Ordinary Shares, options, warrants or other rights.

(e) If any Marketable Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase any Ordinary Shares) will be issued to Shareholders as a class by way of rights or there will be granted to Shareholders as a class by way of rights any options, warrants or other rights to subscribe for or purchase any Marketable Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase Ordinary Shares), the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A-B}{A}$$

where:

A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the first date on which the Ordinary Shares are traded on the Relevant Stock Exchange ex-rights, ex-options or ex-warrants (the 'ex-date'); and

B is the Fair Market Value on the Dealing Day immediately preceding the ex-date of the portion of the rights attributable to one Ordinary Share.

Such adjustment will become effective on the date of issue of the Marketable Securities or grant of such rights.

(f) If and whenever the Company will issue (otherwise than as mentioned in paragraph (d) above) any Ordinary Shares (other than Ordinary Shares issued on conversion of the Convertible Notes or exercise of the Detachable Warrants or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of, Ordinary Shares) otherwise than at a price per Ordinary Share which is at least equal to the Current Market Price per Ordinary Share on the Dealing Day immediately preceding the date of the first public announcement of the terms of such issue, the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue immediately before the issue of such Ordinary Shares;

B is the number of Ordinary Shares which the aggregate Fair Market Value of the consideration (if any) receivable for the issue of such Ordinary Shares would purchase at such Current Market Price per Ordinary Share; and

C is the number of Ordinary Shares to be issued pursuant to such issue of such Ordinary Shares.

Such adjustment will become effective on the date of issue of such Ordinary Shares.

(g) If and whenever the Company or any Subsidiary or (at the direction or request of or pursuant to any arrangements with the Company or any Subsidiary of the Company) any other company, person or entity (otherwise than as mentioned in paragraphs (d), (e) or (f) above) will issue any Marketable Securities (other than the Convertible Notes or Detachable Warrants), which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, Ordinary Shares (or will grant any such rights in respect of existing Marketable Securities so issued) or Marketable Securities which by their terms could be redesignated as Ordinary Shares or will issue or grant any options, warrants or rights to convert into, purchase or subscribe for Ordinary Shares, and the Fair Market Value of the consideration per Ordinary Share receivable upon conversion, exchange, subscription, purchase or redesignation is less than the Current Market Price per Ordinary Share on the Dealing Day immediately preceding the date of the first public announcement of the terms of such issue or grant, the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue immediately before such issue or grant (but where the relevant Marketable Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued by the Company for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued);

B is the number of Ordinary Shares which the Fair Market Value of the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription or purchase attached to such Marketable Securities or upon the exercise of any such options, warrants or rights or, as the case may be, for the Ordinary Shares to be issued or to arise from any such redesignation would purchase at such Current Market Price per Ordinary Share; and

C is the maximum number of Ordinary Shares to be issued or otherwise made available upon conversion or exchange of such Marketable Securities or upon the exercise of such right of subscription attached thereto or upon exercise of such options, warrants or rights at the initial conversion, exchange, exercise or subscription price or rate or, as the case may be, the maximum number of Ordinary Shares which may be issued or arise from any such redesignation;

provided that if at the time of issue of the relevant Marketable Securities or date of issue or grant of such options, warrants or rights (as used in this paragraph (g) the Specified Date) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Marketable Securities are converted or exchanged or rights of subscription, purchase or conversion are exercised or, as the case may be, such Marketable Securities are redesignated or at such other time as may be provided) then for the purposes of this paragraph (g), 'C' will be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment will become effective on the date of issue of such Marketable Securities or, as the case may be, the grant of such rights.

(h) If and whenever there will be any modification of the rights of conversion, exchange or subscription attaching to any such Marketable Securities (other than the Convertible Notes or the Detachable Warrants) as are mentioned in paragraph (g) above (other than in accordance with the terms (including terms as to adjustment) applicable to such Marketable Securities upon issue or pursuant to any previous modification of their terms) so that following such modification the Fair Market Value of the consideration per Ordinary Share receivable has been reduced and is less than the Current Market Price per Ordinary Share on the Dealing Day immediately preceding the date of the first public announcement of the proposals for such modification, the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately prior to such modification by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue immediately before such modification (but where the relevant Marketable Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Company or any Subsidiary of the Company (or at the direction or request or pursuant to any arrangements with the Company or any Subsidiary of the Company) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired);

B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription attached to the Marketable Securities so modified would purchase at such Current Market Price per Ordinary Share or, if lower, the existing conversion, exchange or subscription price of such Marketable Securities; and

C is the maximum number of Ordinary Shares which may be issued or otherwise made available upon conversion or exchange of such Marketable Securities or upon the exercise of such rights of subscription attached thereto at the modified conversion, exchange or subscription price or rate but giving credit in such manner as a the Company will consider appropriate for any previous adjustment under this paragraph or paragraph (g) above;

provided that if at the time of such modification (as used in this paragraph (h) the Specified Date) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Marketable Securities are converted or exchanged or rights of subscription are exercised or at such other time as may be provided) then for the purposes of this paragraph (h), 'C' will be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange or subscription had taken place on the Specified Date.

Such adjustment will become effective on the date of modification of the rights of conversion, exchange or subscription attaching to such Marketable Securities.

(i) If and whenever the Company or any Subsidiary of the Company or (at the direction or request of or pursuant to any arrangements with the Company or any Subsidiary of the Company) any other company, person or entity will offer any Marketable Securities (other than Convertible Notes or the Detachable Warrants) in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Marketable Securities may be acquired by them (except where the Conversion Price falls to be adjusted under paragraphs (b), (c), (d), (f) or (g) above (or would fall to be so adjusted if the relevant issue or grant was at less than the Current Market Price per Ordinary Share on the relevant Dealing Day) or under paragraph (e) above) the Conversion Price will be adjusted by multiplying the Conversion Price in force immediately before the making of such offer by the following fraction:

$$\frac{A-B}{A}$$

where:

A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the date on which the terms of such offer are first publicly announced; and

B is the Fair Market Value on the date of such announcement of the portion of the relevant offer attributable to one Ordinary Share.

Such adjustment will become effective on the first date on which the Ordinary Shares are traded ex-rights on the Relevant Stock Exchange.

(j) If and whenever:

(1) the Company will issue any Ordinary Shares (other than Ordinary Shares issued on conversion of the Convertible Notes or Detachable Warrants or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of, Ordinary Shares) at a price per Ordinary Share which is less than the Conversion Price as at the date of the first public announcement of the terms of such issue; or

(2) the Company or any Subsidiary of the Company or (at the direction or request of or pursuant to any arrangements with the Company or any Subsidiary of the Company) any other company, person or entity will issue any Marketable Securities, which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, Ordinary Shares (or will grant any such rights in respect of existing Marketable Securities so issued) or Marketable Securities which by their terms could be redesignated as Ordinary Shares or will issue or grant any options, warrants or rights to convert into, purchase or subscribe for Ordinary Shares, and the Fair Market Value of the consideration per Ordinary Share receivable upon conversion, exchange, subscription, purchase or redesignation is less than the Conversion Price as at the date of the first public announcement of the terms of such issue or grant,

the Conversion Price will be reduced so as to equal the price at which the Ordinary Shares are issued as referred to in paragraph 5.2(j)(1)or the Fair Market Value of the consideration per Ordinary Share receivable as referred to in paragraph 5.2(j)(2) (as applicable).

Such adjustment will be made on the date of the issue or grant referred to in paragraph 1275.2(j)(1) or 5.2(j)(2)(as applicable).

(k) If and whenever there will be any modification of the rights of conversion, exchange or subscription attaching to any such Marketable Securities (other than the Convertible Notes or Detachable Warrants) as are mentioned in paragraph (j) above (other than in accordance with the terms (including terms as to adjustment) applicable to such Marketable Securities upon issue or pursuant to any previous modification of their terms) so that following such modification the Fair Market Value of the consideration per Ordinary Share receivable has been reduced and is less than the Conversion Price on the Dealing Day immediately preceding the date of the first public announcement of the proposals for such modification, the Conversion Price will be adjusted as it would be if there was a new issue of Marketable Securities at the relevant modified consideration per Ordinary Share subject to any further adjustments that the Company considers appropriate to take into account the terms on which such Marketable Securities were in issue immediately prior to such modification.

(l) Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this paragraph 5.2 have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Company or the Convertible Noteholder, a modification to the operation of the adjustment provisions is required to give the intended result, such modification will be made to the operation of the adjustment provisions as may be advised by the Company to be in its opinion appropriate to give the intended result and provided further that, for the avoidance of doubt, the issue of Ordinary Shares pursuant to the exercise of Conversion Rights will not result in an adjustment to the Conversion Price.

(m) For the purpose of any calculation of the consideration receivable or price pursuant to paragraphs (d), (f), (g), (h), (j) and (k), the following provisions will apply:

(1) the aggregate consideration receivable or price for Ordinary Shares issued for cash will be the amount of such cash;

(2) (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Marketable Securities will be deemed to be the consideration or price received or receivable for any such Marketable Securities and (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription or purchase attached to any Marketable Securities or upon the exercise of any options, warrants or rights will be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Marketable Securities or, as the case may be, for such options, warrants or rights which are attributed by the Company to such rights of subscription or purchase or, as the case may be, such options, warrants or rights or, if no part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the date of the first public announcement of the terms of issue of such Marketable Securities or, as the case may be, such options, warrants or rights, plus in the case of each of (x) and (y) above, the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Marketable Securities, or upon the exercise of such rights of subscription or purchase attached thereto or, as the case may be, upon exercise of such options, warrants or rights and (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription or purchase attached to, such Marketable Securities or, as the case may be, upon the exercise of such options, warrants or rights will be the aggregate consideration or price referred to in (x) or (y) above (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate;

(3) if the consideration or price determined pursuant to [(i) or (ii)] above (or any component thereof) will be expressed in a currency other than the Relevant Currency it will be converted into the Relevant Currency at the Prevailing Rate on the date of the first public announcement of the terms of issue of such Ordinary Shares or, as the case may be, Marketable Securities; and

(4) in determining consideration or price pursuant to the above, no deduction will be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Marketable Securities or options, warrants or rights, or otherwise in connection therewith.

(n) In no event will the Conversion Price be increased under this paragraph 5.2 except pursuant to paragraph 5.2(a) where there is a consolidation of Ordinary Shares.

(o) If the Company issues any Ordinary Shares pursuant to:

(1) the Springsure Share Sale Agreement dated 2 April 2012 between the Company and Resco Projects Pty Limited (the Springsure Shares), the issuance of the Springsure Shares will not cause the Conversion Price to be adjusted;

(2) the Terra Agreement, the issue of those Ordinary Shares will not cause the Conversion Price to be adjusted;

(3) the Gleneagle Warrants, the issue of those Ordinary Shares upon exercise of the Gleneagle Warrants will not cause the Conversion Price to be adjusted; and

(4) the exercise of the Detachable Warrants, the issue of those Ordinary Shares will not cause the Conversion Price to be adjusted.

(p) The Company must give notice of any adjustments to the Conversion Price to the Note Trustee promptly after the determination thereof.

(q) All calculations of any nature whatsoever under the Note Trust Deed, the Conditions and the Agency Agreement will be performed by the Company unless otherwise specified. Neither the Note Trustee nor any Agent will be liable in any respect for the accuracy or inaccuracy in any calculation or formulae under the Note Trust Deed, the Convertible Note Conditions or the Agency Agreement whether by the Company, auditors or any Independent Financial Institution or any other person so nominated or authorised by the Company for such purposes.

(r) Notwithstanding any other provision of the Note Trust Deed or these Convertible Note Conditions, the rights of any Convertible Noteholder will be changed to the extent necessary to comply with the ASX Listing Rules, including, without limitation, as they apply to a reorganisation of capital undertaken by the Company at the time of the reorganisation. For the avoidance of doubt, if there are any inconsistencies between the ASX Listing Rules and the adjustment mechanisms provided in this paragraph 5.2, the ASX Listing Rules will apply.

5.3 Additional Conversion Property

Subject to paragraph 5.4 *(Adjustment to Conversion Price)*, if the Conversion Date in relation to the conversion of a Convertible Note falls after:

(a) a consolidation, reclassification, reorganisation (including reconstructions and buy-backs) or sub-division referred to in paragraph 5.2 (a) *(Conversion Price)*;

(b) the record date or other due date for the establishment of entitlement for an issue, distribution, grant or offer (as the case may be) referred to in paragraph 5.2(b), (c), (d), (e) or (i) *(Conversion Price)*; or

(c) an issue or grant referred to in paragraph (f) or (g) *(Conversion Price)*,

which in any case results in an adjustment to the Conversion Price under paragraph 5.2 *(Conversion Price)* after the Conversion Date, then the Company must issue or procure the transfer to the converting Convertible Noteholder or its Nominee in accordance with the instructions contained in the Conversion Notice such additional number of Ordinary Shares (if any) (the **Additional Conversion Property**) as, together with the Conversion Property (and any fraction of an Ordinary Share not required to be issued or transferred because of paragraph 5.4 *(Adjustment to Conversion Price)*), is equal to the number of Ordinary Shares which would have been required to be issued or transferred on conversion of the Convertible Note (or the relevant part thereof) if the adjustment had occurred immediately prior to the relevant Conversion Date.

5.4 Adjustment to Conversion Price

Notwithstanding any other provision of these Convertible Note Conditions, no adjustment will be made to the Conversion Price where Ordinary Shares or other Marketable Securities (including rights, warrants and options) are issued, transferred, offered, exercised, allotted, appropriated, modified or granted:

(a) to, or for the benefit of executive officers of the Company pursuant to any officers' share or option scheme; or

(b) for an issue price equal to or more than the current market price (determined using the average of the Volume Weighted Average Prices of the relevant Ordinary Shares or Marketable Securities for the 10 consecutive Dealing Days ending on the date of issue, offer, exercise, allotment, appropriation, modification or grant) of such Ordinary Shares or Marketable Securities.

5.5 Rounding

(a) On any adjustment, the resultant Conversion Price, if not an integral multiple of $0.001, will be rounded down to the nearest whole multiple of $0.001. No adjustment will be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than 1% of the Conversion Price then in effect. Any adjustment not required to be made, and/or any amount by which the Conversion Price has been rounded down, will be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment will be made on the basis that the adjustment not required to be made had been made at the relevant time.

(b) Fractions of Ordinary Shares will not be delivered on conversion or pursuant to paragraph 5.3 (*Additional Conversion Property*) and no cash payment or other adjustment will be made in lieu thereof. However, if a holder exercises the Conversion Right in respect of more than one Convertible Note at the same time and the Ordinary Shares to be delivered on conversion or pursuant to paragraph 5.3 (*Additional Conversion Property*) are to be registered in the same name, the number of such Ordinary Shares to be delivered in respect thereof will be calculated on the basis of the aggregate Outstanding Principal Sum of such Convertible Notes (or the relevant part thereof as permitted under paragraph 5.1 (*Conversion Right*)) being so converted and rounded down to the nearest whole number of Ordinary Shares.

5.6 Conversion procedures

(a) Subject to paragraph 5.6(b), the holder of a Convertible Note may exercise its Conversion Right in relation to that Convertible Note at any time on or after the Issue Date and up to 7 Business Days before the Maturity Date by delivering to the specified office of the Company during normal business hours a duly completed and signed Conversion Notice, together with the Convertible Note Certificate for the Convertible Note (if any) and such evidence as Company may require to prove:

(1) the identity of the converting holder, its authority to execute the Conversion Notice and that the requirements of this paragraph 5.6 in relation to the conversion are satisfied; and

(2) that any Taxes payable in connection with the conversion (other than those to be paid by the Company under paragraph 5.9 (Mandatory Cash Settlement) have been paid.

(b) A Convertible Noteholder may exercise its Conversion Rights any number of times and in such amounts as it determines until all its Convertible Notes have been converted, provided that the minimum value of Convertible Notes to be converted at any time is US$1,000,000.

(c) A Conversion Notice is not effective until the Convertible Note Certificate (if any) and any evidence required under paragraph 5.6(a) has been delivered in accordance with that paragraph or, if delivered after normal business hours or on a day that is not a Business Day, on the next Business Day. A Conversion Notice, once delivered, is irrevocable.

(d) Ordinary Shares to be issued or transferred on exercise of Conversion Rights will be issued or transferred, as specified in the Conversion Notice, either:

(1) in uncertificated form through the securities trading system known as the Clearing House Electronic Sub-register System operated by ASX Settlement and Transfer Corporation Pty Ltd (***CHESS***); or

(2) in uncertificated form registered in the Company's Company-Sponsored Subregister,

in the name of the Noteholder or as otherwise directed by it in the relevant Conversion Notice, and where paragraph (i) applies will be credited to the CHESS account specified in the Conversion Notice, or if the Convertible Noteholder does not specify a valid CHESS account in the Conversion Notice, entered in the Company's Company-Sponsored Subregister, within a period of 4 Business Days after the Conversion Date, and the Company must apply on the date of issue for quotation on the Relevant Stock Exchange of any Ordinary Shares issued.

(e) Statements of holdings for Ordinary Shares issued on exercise of Conversion Rights through CHESS will be dispatched by the Company by mail free of charge as soon as practicable but in any event within 10 Business Days after the relevant Conversion Date.

(f) If a Convertible Note Certificate has been issued for a Convertible Note converted in accordance with these Convertible Note Conditions, the Convertible Note Certificate will be cancelled and (if so determined by the Company) a new Convertible Note Certificate for the balance of the Convertible Notes which are not converted will be issued in lieu thereof and the Company will deliver a new Convertible Note Certificate to the Convertible Noteholder at the specified office of the Company or (at the risk and, if mailed at the request of the Convertible Noteholder otherwise than by ordinary mail, at the expense of the Convertible Noteholder) mail the new Convertible Note Certificate by uninsured mail to such address as the Convertible Noteholder may request.

5.7 Ordinary Shares to be fully paid and equal ranking

Ordinary Shares to be issued or transferred as Conversion Property or Additional Conversion Property:

(a) will be fully paid; and

(b) will in all respects rank pari passu with the fully paid Ordinary Shares on issue on the relevant Conversion Date (in the case of Conversion Property) or date (**Reference Date**) upon which the adjustment giving rise to the requirement to deliver the Additional Conversion Property becomes effective (in the case of Additional Conversion Property), except for any rights, distributions or payments the record date or other date for the establishment of entitlement for which falls prior to the relevant Conversion Date or Reference Date or for which the Conversion Property or Additional Conversion Property cannot rank pari passu with such Ordinary Shares under applicable law.

5.8 Undertakings relating to Conversion

The Company undertakes to each Convertible Noteholder that it will be able to issue Ordinary Shares without the need for Shareholder approval to satisfy the conversion rights attaching to the Convertible Notes and it will do everything within its control (including, for the avoidance of doubt, preparing and lodging a prospectus and/or a cleansing notice under the Corporation Act) to ensure that such Ordinary Shares will, on and from the date that is 5 Dealing Days after the relevant Conversion Date, at all times thereafter be freely transferrable on the ASX.

5.9 Mandatory Cash Settlement

(a) Notwithstanding paragraph 5.8 *(Undertakings relating to Conversion)*, in the event that the Company is not able to issue Ordinary Shares or such Ordinary Shares are not freely transferable on the ASX, the Company will be required to make a cash settlement payment in respect of those Ordinary Shares to the Paying Agent (on behalf of the relevant Noteholder) by payment of the relevant Cash Settlement Amount.

(b) The Cash Settlement Amount must be paid by the Company on the Business Day following the 10th Dealing Day after the date that the relevant Conversion Notice was issued.

5.10 Cash Settlement Option

(a) On receipt of a valid Conversion Notice from a Convertible Noteholder the Company may, in lieu of issuing all or any of the relevant Ordinary Shares to that Convertible Noteholder, elect to make a cash settlement payment in respect of those Ordinary Shares by payment of the relevant Cash Settlement Amount (the **Cash Settlement Option**).

(b) The Company must elect to exercise the Cash Settlement Option within 2 Business Days of receipt of the Conversion Notice by issuing to the relevant Convertible Noteholder notice in writing confirming that it wishes to exercise the Cash Settlement Option (the **Cash Settlement Notice**).

(c) The Cash Settlement Amount must be paid by the Company to the Note Trustee on the Business Day following the 10th Dealing Day after the date that the Cash Settlement Notice was issued.

5.11 Taxes

Each Convertible Noteholder exercising a Conversion Right must pay any Taxes imposed on the Convertible Noteholder in any jurisdiction in connection with the conversion of a Convertible Note.

5.12 Application of adjustment provisions

(a) No adjustment will be made to the Conversion Price under paragraph 5.2 *(Conversion Price)* that will adversely affect the rights or entitlements of either a Convertible Noteholder or the Company and/or the economic benefit that either party is entitled to derive as at the date of this deed and as contemplated by the transaction set out in this deed, disregarding the operation of paragraph 5.2 *(Conversion Price)*.

(b) However, if following the occurrence of any of the events described in paragraph 5.2 *(Conversion Price)*, and notwithstanding that an adjustment was not made to the Conversion Price, if such an event adversely affect the rights or entitlements of either a Convertible Noteholder or the Company and/or the economic benefit that either party is entitled to derive as at the date of this deed and as contemplated by the transaction set out in this deed (disregarding the operation of paragraph 5.2 *(Conversion Price)*), an adjustment must be made to the Conversion Price to remove any such adverse effect.

(c) Where there would otherwise be an adjustment to the Conversion Price under paragraph 5.2(j) *(Conversion Price)* and any other adjustment provision in paragraph 5.2 *(Conversion Price)* would also apply, the relevant adjustment provision which applies is the provision which results in the greatest reduction to the Conversion Price.

6 Redemption

6.1 Early payment

(a) Subject to paragraph 6.1(d), at any time after the date falling 30 days after the Issue Date, the Company may, if no Event of Default is subsisting, elect to redeem all (but not any part only) of the Convertible Notes that have not then been redeemed, cancelled or in respect of which a Noteholder has not exercised a Conversion Right (the **Redemption Notes**).

(b) Despite paragraph 6.1(a), the Security will remain in full force and effect, and will not be discharged by the Note Trustee, unless and until the Company has complied with its obligations to repay all of the Secured Moneys in accordance with the terms of the Transaction Documents.

(c) If the Company elects to exercise its right to redeem the Redemption Notes:

(1) the Company must notify the Note Trustee in writing of its intention to redeem the Redemption Notes and must specify a day (**Early Payment Date**) on which such redemption will occur, provided that such Early Payment Date must be a Business Day;

(2) the Company must on the Early Payment Date pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Redemption Notes on issue at that time; and

(d) the Company must, on the Early Payment Date, issue Convertible Warrants to the Convertible Noteholders (or their Nominees) whose Redemption Notes are redeemed under this paragraph 6.1 on the terms and conditions as set out in Clause 12 (Convertible Warrants) of the Note Trust Deed and the Convertible Warrant Conditions.

6.2 Notice of Change of Control

Following the occurrence of a Change of Control, the Company will give to the Note Trustee a notice (a **Change of Control Notice**) within 14 calendar days of the first day on which it becomes aware of such Change in Control. The Change of Control Notice will contain a statement informing Convertible Noteholders of their entitlement to exercise their Conversion Rights and their Redemption Rights (as described in paragraph 6.3 (*Redemption by Convertible Noteholders upon a Change of Control*) below) as provided in these Convertible Note Conditions, as adjusted where appropriate. The Change of Control Notice will also specify:

(a) all information material to Convertible Noteholders concerning the Change of Control;

(b) the Conversion Price immediately prior to the occurrence of the Change of Control;

(c) the VWAP of the Ordinary Shares as at the latest practicable date prior to the publication of such notice; and

(d) such other information relating to the Change of Control as the Note Trustee may reasonably require.

The Note Trustee will not be required to take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur.

6.3 Redemption by Convertible Noteholders upon a Change of Control

(a) Following the occurrence of a Change of Control and receipt of a Change of Control Notice, the holder of each Convertible Note will have the right to require the Company to redeem that Convertible Note (in whole but not in part) on the Change of Control Put Date at the Redemption Price in relation to all Convertible Notes on issue at that time (**Redemption Rights**).

(b) To exercise such right, the holder of the relevant Convertible Note must, at any time in the Change of Control Period, deliver a duly completed and signed notice of exercise, in the form for the time being current, obtainable from the specified office of the Paying Agent or Transfer Agent (a **Change of Control Put Exercise Notice**) to the specified office of the Paying Agent or Transfer Agent.

(c) Subject to the Agency Agreement, payment in respect of any such Convertible Note will be made by transfer to a $US dollar account with a bank in Australia specified by the relevant Convertible Noteholder in the Change of Control Put Exercise Notice.

(d) A Change of Control Put Exercise Notice, once delivered, will be irrevocable and the Company will redeem all Convertible Notes the subject of Change of Control Put Exercise Notices delivered as aforesaid on the relevant Change of Control Put Date.

(e) If a Convertible Noteholder delivers a Change of Control Put Exercise Notice in accordance with paragraph (b) above, the Company must on the Change of Control Put Date:

    (1) subject to the Agency Agreement, pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Convertible Notes on issue at that time; and

(2) issue Convertible Warrants to the Convertible Noteholders (or their Nominees) whose Redemption Notes are redeemed under this paragraph 6.1 on the terms and conditions as set out in Clause 12 (Convertible Warrants) of the Note Trust Deed and the Convertible Warrant Conditions.

(f) The Note Trustee will not be required to take any steps to ascertain whether a Change of Control or any event which could lead to the occurrence of a Change of Control has occurred.

6.4 Delisting put right

(a) In the event:

(1) the Ordinary Shares cease to be listed; or

(2) the Ordinary Shares cease to be admitted to trading or quoted on the ASX for a period of 20 consecutive Dealing Days.

(each, a **Delisting**) each Convertible Noteholder will have the right (the **Delisting Put Right**), at such Convertible Noteholder's option, to require the Company to redeem in whole but not in part such Convertible Noteholder's Convertible Notes on the 20th Business Day after notice has been given to Convertible Noteholders regarding the Delisting under paragraph 6.4(b) or, if such notice is not given, the 20th Business Day after the Delisting (the **Delisting Put Date**) at the Redemption Price in relation to all Convertible Notes on issue at that time (the **Delisting Put Price**).

(b) Promptly after becoming aware of a Delisting, the Company will procure that notice regarding the Delisting Put Right (a **Delisting Notice**) will be given to the Note Trustee (in accordance with paragraph 6.4(a)) stating:

(1) the Delisting Put Date;

(2) the date of such Delisting and, briefly, the events causing such Delisting;

(3) the date by which the Delisting Put Notice (as defined below) must be given;

(4) the Delisting Put Price and the method by which such amount will be paid;

(5) the name and address of the Paying Agent and Transfer Agent;

(6) briefly, the Conversion Right and the then current Conversion Price;

(7) the procedures that Convertible Noteholders must follow and the requirements that Convertible Noteholders must satisfy in order to exercise the Delisting Put Right or Conversion Right; and

(8) that a Delisting Put Notice, once validly given, may not be withdrawn.

(c) To exercise its rights to require the Company to purchase its Convertible Notes, a Convertible Noteholder must deliver a written irrevocable notice of the exercise of such right (a **Delisting Put Notice**), in the then current form obtainable from the specified office of the Paying Agent or Transfer Agent, to the Paying Agent or Transfer Agent on any Business Day prior to the close of business at the location of the Paying Agent or Transfer Agent, as the case may be on such day and which day is not less than 10 Business Days prior to the Delisting Put Date.

(d) A Delisting Put Notice, once delivered, will be irrevocable and the Company will redeem the Convertible Notes which form the subject of the Delisting Notices delivered as aforesaid on the Delisting Put Date.

(e) If a Convertible Noteholder delivers a Delisting Put Notice in accordance with paragraph (c) above, the Company must on the Delisting Put Date:

(1) subject to the Agency Agreement, pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Convertible Notes on issue at that time; and

(2) issue Convertible Warrants to the Convertible Noteholders (or their Nominees) whose Redemption Notes are redeemed under this paragraph 6.1 on the terms and conditions as set out in Clause 12 (Convertible Warrants) of the Note Trust Deed and the Convertible Warrant Conditions.

(f) The Note Trustee will not be required to take any steps to ascertain whether a Delisting or any event which could lead to the occurrence of a Delisting has occurred.

6.5 Purchase

(a) Subject to the requirements (if any) of any stock exchange on which the Convertible Notes may be listed at the relevant time, the Company or any Subsidiary of the Company may at any time purchase Convertible Notes in the open market or otherwise at any price.

(b) Any purchase by tender will be made available to all Convertible Noteholders alike.

(c) Any Convertible Notes so purchased will be immediately cancelled and cannot be resold or reissued.

6.6 Cancellation

(a) Each Convertible Note is cancelled and of no further force and effect upon:

(1) the Convertible Note being redeemed by the Company in accordance with these Convertible Note Conditions; or

(2) the Conversion Rights in respect of the Convertible Note having been exercised (save that the Company remains bound to fully perform its obligations with respect to such exercise and conversion).

(b) Convertible Note Certificates presented or delivered for the redemption, conversion or transfer of a Convertible Note are, subject to redemption, conversion or transfer being effected, taken to be surrendered and may be cancelled or destroyed by the Company.

(c) The cancellation of a Convertible Note in accordance with paragraph 5.5(a) is without prejudice to the rights attaching to, and the obligations of the Company in respect of, the Convertible Warrants granted to a Convertible Noteholder (or its Nominee) in accordance with this deed.

6.7 Mandatory Redemption at Maturity Date

(a) All Convertible Notes that have not otherwise been redeemed, cancelled or converted in accordance with the terms of these Convertible Note Conditions on the Maturity Date (the **Mature Notes**) will be redeemed in full on the Maturity Date.

(b) On the Maturity Date, the Company will pay to the Paying Agent in full in Immediately Available Funds the unpaid Redemption Price in relation to all of the Mature Notes.

(c) Mandatory Redemption on Prepayment

If as a result of any Prepayment the Company pays the Redemption Price to the Paying Agent in relation to any outstanding Convertible Note in full in Immediately Available Funds (assuming for the purposes of the calculation of the Redemption Price that the Redemption Date is the date all such funds are received by the Paying Agent), those Convertible Notes will be taken to have been redeemed in full on that Redemption Date.

7 Payments

7.1 Principal and interest

(a) Subject to the terms of the Agency Agreement, payment of principal will be made by transfer to the registered account of the relevant Convertible Noteholder or by USD cheque drawn on a bank in Australia mailed to the registered address of such Convertible Noteholder if it does not have a registered account 5 Business Days before the due date. Payment of principal will only be made after surrender of the relevant Convertible Note Certificate at the specified office of any Agent.

(b) Subject to the terms of the Agency Agreement, interest on Notes will be paid in USD on the due date for the payment of interest to the holder shown on the Convertible Note Register at the close of business on the Interest Record Date. Payments of interest on each Convertible Note will be made by transfer to the registered account of the Convertible Noteholder or by USD cheque drawn on a bank in Australia mailed to the registered address of the Noteholder if it does not have a registered account.

7.2 Registered accounts and addresses

For the purpose of this paragraph 7, a Convertible Noteholder's **registered account** means the USD account maintained by it or on its behalf with a bank in Australia, details of which appear on the Convertible Note Register at the close of business on the second Business Day before the due date for payment, and a Convertible Noteholder's **registered address** means its address appearing on the Convertible Note Register at that time.

7.3 Fiscal Laws

All payments are subject in all cases to any applicable laws and regulations in the place of payment, but without prejudice to the provisions of paragraph 9, no commissions or expenses will be charged to the Convertible Noteholders in respect of such payments.

7.4 Payment Initiation

Where payment is to be made by transfer to a registered account, payment instructions (for value on the due date or, if that is not a Business Day, for value on the first following day which is a Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed (at the risk and, if mailed at the written request of the Convertible Noteholder otherwise than by ordinary mail, expense of the Convertible Noteholder) on the due date for payment (or, if it is not a Business Day, the immediately following Business Day) or, in the case of a payment of principal, if later, on the Business Day on which the relevant Convertible Note Certificate is surrendered at the specified office of an Agent.

7.5 Delay in Payment

Convertible Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, if the Convertible Noteholder is late in surrendering its Convertible Note Certificate (if required to do so), or if a cheque mailed in accordance with this paragraph 6 arrives after the due date for payment.

8 Taxation

8.1 Additional payments

If the Company is required to make a deduction or withholding in respect of any Relevant Tax, the Company must:

(a) pay the amount deducted or withheld to the appropriate Government Agency as required by law; and

(b) pay to the Note Party such additional amount (**Additional Amount**) as may be necessary to ensure that the Note Party receives when due a net amount (after any deduction or withholding of any Relevant Tax in respect of each Additional Amount) equal to the full amount it would have received if the deduction or withholding had not been made.

8.2 Stamp duties

(a) The Company will pay or reimburse each Convertible Noteholder and the Note Trustee for all stamp, transaction, registration and similar fees (including fines and penalties) on or in relation to the execution, delivery, or enforcement of any Transaction Document or any payment, receipt or other transaction contemplated by any Transaction Document, except in relation to any transfer by the Convertible Noteholders pursuant to paragraph 3.

(b) The Company will indemnify each Convertible Noteholder and the Note Trustee against any liability resulting from delay or omission to pay the fees referred to in paragraph 10.2(a), except to the extent the liability results from failure by the relevant Convertible Noteholder or the Note Trustee, as the case may be, to pay any fee after having been put in funds (with all necessary documents) to do so by the Company.

8.3 Survival of obligations

The obligations of the Company under this paragraph 8 survive the repayment, redemption or conversion of the principal amount of each Convertible Note and the termination or cancellation of any Transaction Document.

9 Interest on Overdue Amounts

9.1 Accrual

Interest (**Default Interest**) will accrue daily on all amounts due and payable from the due date up to the date of actual payment, before and (as a separate and independent obligation but without duplication) after judgment, at the Default Rate payable monthly in arrears and, if not paid when due, will itself bear interest in accordance with this paragraph 9.1.

9.2 Payment

The Company will pay interest accrued under this paragraph 9 on demand by the relevant Convertible Noteholder and on the last Business Day of each calendar quarter. Accrued interest not paid at that time will be capitalised.

10 Events of Default, acceleration and enforcement

The Convertible Notes are subject to the Events of Default, and the provisions regarding acceleration and enforcement that are set out in Clause 8 (*Events of Default, acceleration and enforcement*) of the Note Trust Deed.

11 Meetings of Noteholders, Modification and Waiver

The Convertible Notes are subject to the provisions of Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed.

12 Notices

All notices to Convertible Noteholders will be validly given if mailed to them at their respective addresses in the Convertible Note Register maintained by the Registrar. Any such notice will be deemed to have been given on the seventh day after being so mailed.

13 Agents

The names of the initial Agents and the Note Trustee and their specified offices are set out below. The Company reserves the right, subject to the prior written approval of the Note Trustee, at any time to vary or terminate the appointment of any Agent and to appoint additional or other Agents or a replacement Registrar. The Company will at all times maintain (i) a Paying Agent, (ii) a Registrar and (iii) in the event it becomes necessary and at the request of the Note Trustee, a Paying Agent, Transfer Agent and Conversion Agent with a specified office in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive. Notice of any such termination or appointment, of any changes in the specified offices of any Agent or the Note Trustee and of any change in the identity of the Registrar or the Paying Agent will be given promptly by the Company to the Convertible Noteholders in accordance with paragraph 13.

Subject to the terms of the Agency Agreement, in acting hereunder and in connection with the Notes, the Agents will act solely as agents of the Company and will not thereby assume any obligations towards, or relationship of agency or trust for, any of the Convertible Noteholders.

14 Indemnification

(a) The Note Trust Deed contains provisions for the indemnification of the Note Trustee and for their relief from responsibility, including provisions relieving them from taking proceedings to enforce repayment unless indemnified and/or secured to their satisfaction.

(b) The Note Trustee is entitled to enter into business transactions with the Company or its Subsidiaries without accounting for any profit.

(c) The Note Trustee will not be responsible for the performance by any other person appointed by the Company in relation to the Convertible Notes and, unless notified in writing to the contrary, will assume that the same are being duly performed.

(d) The Note Trustee will not be liable to any Convertible Noteholder or any other person for any action taken by the Convertible Noteholders or the Note Trustee in accordance with the instructions of the Convertible Noteholders.

(e) The Note Trustee will be entitled to rely on any direction, request or resolution under the provisions of Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed to have been duly given or duly passed in accordance with the Note Trust Deed.

(f) Whenever the Note Trustee is required or entitled by the terms of the Note Trust Deed and these Convertible Note Conditions to exercise any discretion or power, take any action, make any decision or give any direction, the Note Trustee is entitled, prior to their exercising any such discretion or power, taking any such action, making any such decision, or giving any such direction, to seek directions from the Noteholders in accordance with Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed, and the Note Trustee is not responsible for any loss or liability incurred by any person as a result of any delay in it exercising such discretion or power, taking such action, making such decision, or giving such direction where the Note Trustee is seeking such directions.

15 Governing Law

(a) The Convertible Notes, the Convertible Warrants and the Note Trust Deed are governed by the laws of New South Wales.

(b) The Company irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

(c) The Company irrevocably waives any objection to the venue of any legal process in or of the courts of New South Wales on the basis that the process has been brought in an inconvenient forum.

HERBERT SMITH FREEHILLS

Schedule 4

Amortising Note Conditions

The issue of up to US$55,000,000 in aggregate initial principal amount of amortising notes due January 2017 (the **Amortising Notes**) of Guildford Coal Limited (the **Company**) was authorised by a resolution of the Board of Directors of the Company passed on 20 December 2013.

The Amortising Notes will be issued on the Issue Date and are constituted by a trust deed (the **Note Trust Deed**) dated 20 December 2013 between the Company and Madison Pacific Trust Limited (the **Note Trustee**), as Note Trustee for the Noteholders. Elavon Financial Services Limited is the paying agent (the **Paying Agent**), transfer agent (the **Transfer Agent**), settlement agent (the **Settlement Agent**) and registrar (the **Registrar**) (the Paying Agent, the Transfer Agent, the Settlement Agent and the Registrar are referred to collectively as the **Agents** and individually as an **Agent**) in relation to the Notes.

The Amortising Notes have the benefit of the Security.

The statements in these terms and conditions (these **Amortising Note Conditions**) include summaries of, and are subject to, the detailed provisions of the Note Trust Deed. Copies of the Note Trust Deed, the Agency Agreement, the Securities and the other Transaction Documents are available for inspection by Noteholders at the registered office of the Note Trustee being at the date hereof at 1708 17th Floor Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong and at the specified offices of each of the Agents. The Noteholders are entitled to the benefit of the Note Trust Deed and are bound by, and are deemed to have notice of, all the provisions of the Note Trust Deed.

Terms not otherwise defined in these Amortising Note Conditions have the meaning given in the Note Trust Deed.

1 Form, Denomination and Title

1.1 Amortising Notes

(a) The aggregate initial principal amount of the Amortising Notes is limited to US$55,000,000.

(b) The Amortising Notes will be issued in denominations of US$10,000 or integral multiples thereof.

(c) Upon issue, the Amortising Notes will be represented by a Global Amortising Note Certificate. The Global Amortising Note Certificate will be issued and deposited with the Common Depositary, on behalf of the Amortising Noteholders, and following lodgement with a Clearing System, for that Clearing System. The Amortising Notes represented by the Global Amortising Note Certificate will be registered in the name of, or a nominee of, the Common Depositary.

1.2 Title and Amortising Note Register

(a) The Company will at all times keep, or cause to be kept, at the specified office of the Registrar, in accordance with the terms of the Agency Agreement, the Amortising Note Register which will show the nominal amount of the Amortising Notes, the date of issue and all subsequent transfers and changes of ownership thereof and the names and addresses of the Amortising Noteholders.

(b) The Company will recognise the Amortising Noteholder whose name appears in the Amortising Note Register as if it were (and it will be taken to be) the absolute owner of the Amortising Note recorded in its name in the Amortising Note Register without regard to any other record or instrument. Title to the Amortising Notes passes only by transfer and registration in the Amortising Note Register as described in paragraph 3 below.

(c) The Company need not take notice of any other interest in, or claim to, a Amortising Note, except as ordered by a court of competent jurisdiction or required by law.

In these Amortising Note Conditions, **Amortising Note Noteholder** and (in relation to a Amortising Note) **holder** means the person in whose name a Amortising Note is registered in the Amortising Note Register.

Accountholders with the Clearing Systems who hold interests in Amortising Notes represented by the Global Amortising Note Certificate may be treated as the holders of the Amortising Notes for certain purposes specified in the Global Amortising Note Certificates.

1.3 Manifest errors

The making of, or the giving effect to, a manifest error in an inscription into the Amortising Note Register will not avoid the constitution, issue or transfer of an Amortising Note. The Registrar must correct any manifest error of which it becomes aware.

2 Status of the Notes; Negative Pledge; Security

(a) Subject to the Security, the Amortising Notes constitute direct, unsubordinated, unconditional, senior and secured obligations of the Company and will at all times rank *pari passu* and without any preference or priority among themselves. The payment obligations of the Company under the Amortising Notes rank equally with the payment obligations of the Company under the Convertible Notes. The payment obligations of the Company under the Amortising Notes will rank at least equally with all unsubordinated and unsecured debt of the Company other than debt preferred by operation of laws that are mandatory and of general application.

(b) The ranking of Amortising Notes is not affected by the date of registration of any Amortising Noteholder in the Amortising Note Register.

(c) Each Amortising Note is a separate debt of the Company and may be transferred separately from any other Amortising Note in accordance with paragraph 3 (*Transfers of Amortising Notes; Issue of Amortising Note Certificates*) below.

(d) For so long as any Amortising Notes remain outstanding, the Company must not, and must procure that its Subsidiaries do not:

(1) incur or permit to be outstanding Financial Indebtedness, other than Permitted Financial Indebtedness or Financial Indebtedness subordinated on terms approved by the Note Trustee;

(2) sell, assign, transfer or otherwise dispose of or cease to hold, or part with possession of, or create a right to or an interest over (each, a **Disposal**) all or any part of any Mining Tenement or Marketable Security forming part of the Secured Property, unless:

(A) in relation to the Clyde Park Assets:

(i) the proceeds of the Disposal of those Clyde Park Assets is (in aggregate) A$100,000,000 or more (or a Disposal of Clyde Park Assets for more than A$100,000,000 has previously occurred as permitted under this paragraph (A)); and;

(ii) upon receipt by the Company, the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(B) the value of that Secured Property subject to a Disposal does not exceed A$500,000; and (unless the proceeds of Disposal of the relevant Secured Property are being applied towards the acquisition of replacement assets) the Net Proceeds of the Disposal are immediately applied as a Prepayment;

(C) the prior consent of the Note Trustee (acting on the instructions of the Majority Noteholders) is obtained (such consent not to be unreasonably withheld or delayed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; or

(D) such Disposal occurs as a result of an express obligation on it to sell or transfer Ordinary Shares pursuant to the terms of any shareholder agreement (however called) binding on the Company (as in force as at the date of this deed) and the Net Proceeds of the Disposal are immediately applied as a Prepayment; and

(3) create, permit, suffer to exist, or agree to, any interest or Encumbrance (other than a Permitted Encumbrance) over all or any part of the Secured Property.

(4) If the Company is required by the terms of this Note Trust Deed or the Conditions to apply any amount received by it as a Prepayment (**Prepayment Amount**):

(A) it will immediately notify the Paying Agent and the Note Trustee and pay that Prepayment Amount to the Paying Agent in Immediately Available Funds; and

(B) All Prepayment Amounts paid to the Paying Agent will be applied:

(i) firstly, in payment of all interest accrued but unpaid on the Outstanding Notes up to the Prepayment

Date, on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(ii) secondly, in prepayment of the Outstanding Principal Sum of each Outstanding Note on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(iii) thirdly, in prepayment of the balance of the Redemption Price on a Pro Rata Basis among all holders of Convertible Notes and Amortising Notes;

(iv) fourthly to the Note Trustee to discharge any other outstanding Secured Moneys; and

(v) the balance to the Company.

(e) The Amortising Notes have the benefit of the Encumbrances created under the Security to be provided by the Company as security for the payment and performance obligations of the Company under the Transaction Documents as more specifically described in the Note Trust Deed.

(f) The Company will procure that the Security, and the Encumbrances created thereunder, will always remain in full force and effect, in favour of the Note Trustee for the benefit of itself and the Amortising Noteholders, perfected, of the relevant priority which it is expressed to have and over the relevant assets it is expressed to create security over.

(g) The Note Trustee will not be under any duty to monitor or ensure compliance by the Company of its obligations under this paragraph 2 and will not be responsible to the Amortising Noteholders for any loss arising from any failure to do so (except for loss arising from the wilful misconduct, fraud or gross negligence of the Note Trustee). If there has been an Event of Default, the Note Trustee may, in accordance with the provisions of these Amortising Note Conditions, the Note Trust Deed and the Security enforce the Security by, inter alia, taking possession or disposing of or realising the relevant assets. The Note Trustee will not be bound to take any such proceedings or action unless it is indemnified or receives security to its satisfaction.

3 Transfers of Amortising Notes; Issue of Amortising Note Certificates

3.1 Transfer of Amortising Notes

(a) Transfers and exchanges of Amortising Notes are subject to paragraphs 3.4 and 3.5 and the terms of the Agency Agreement.

(b) An Amortising Note may be transferred or exchanged by delivery of the Amortising Note Certificate issued in respect of that Amortising Note, with the form of transfer on the back duly completed and signed in accordance with these Amortising Note Conditions.

(c) Every form of transfer must be signed by the holder and, where jointly held, by all joint holders or its or their attorney(s) duly authorised in writing (or, where any holder is a corporate entity, given under its common seal) and the holder(s) will be deemed to remain the owner of the Amortising Note to be transferred until the name of the transferee(s) is or are entered in the Amortising Note Register in respect of that Amortising Note.

(d) Every form of transfer must be deposited at the specified office of the Registrar, accompanied by the Amortising Note Certificate for the Amortising Note to be transferred and, if the form is executed by some other person on a holder's behalf, the written authority of that person to do so.

Transfers of interests in the Amortising Notes evidenced by the Global Amortising Note Certificate will be effected in accordance with the rules of the Clearing System.

3.2 Delivery of new Amortising Note Certificates

(a) Each new Amortising Note Certificate to be issued upon a transfer or exchange of Notes will, within seven Business Days of receipt by the Registrar of the form of transfer duly completed and signed, be made available for collection at the specified office of the Registrar or, if so requested in the form of transfer, be mailed (at the cost of the Company) by uninsured mail at the risk of the holder entitled to such Amortising Notes to the address specified in the form of transfer. The form of transfer is available at the specified office of the Registrar.

Except in the limited circumstances described herein, owners of interests in the Amortising Notes will not be entitled to receive physical delivery of Amortising Notes.

(b) Where only part of the principal amount of Amortising Notes (being that of one or more Amortising Notes) in respect of which a Amortising Note Certificate (other than a Global Amortising Note Certificate) is issued, is to be transferred or redeemed, a new Amortising Note Certificate in respect of the Amortising Notes not so transferred or redeemed will, within seven Business Days of the delivery of the original Amortising Note Certificate to the Registrar or other relevant Agent, be made available for collection at the specified office of the Registrar or the relevant Agent or, if so requested in the form of transfer or redemption be mailed (at the cost of the Company) by uninsured mail at the risk of the holder of the Amortising Notes not so transferred or redeemed to the address of such holder appearing on the Amortising Note Register.

3.3 Formalities Free of Charge

Registration of a transfer of Amortising Notes and issuance of new Amortising Note Certificates will be effected without charge to a Amortising Noteholder by or on behalf of the Company, the Registrar or any Agent, but only upon:

(a) receipt by the Registrar of the form of transfer duly completed and signed;

(b) payment by such Amortising Noteholder (or the giving of such indemnity as the Company may require) in respect of any Tax or other governmental charges which may be imposed in relation to such transfer; and

(c) the Company or the Paying Agent being satisfied that the regulations contained in, or made in accordance with the Agency Agreement, concerning such transfer of Amortising Notes have been complied with.

3.4 Closed Periods

No Amortising Noteholder may require to be registered, and the Company is not required to arrange for the registration of, the transfer of a Amortising Note:

(a) during the period of seven days ending on (and including) the dates for redemption pursuant to paragraph 5.1;

(b) after a Change of Control Put Exercise Notice or a Delisting Put Notice has been deposited in respect of such Amortising Note; and

(c) during the period of seven days ending on (and including) any Interest Record Date.

Each such period is referred to herein as a **Closed Period**.

3.5 Regulations

All transfers of Amortising Notes and entries on the Amortising Note Register will be made subject to the detailed regulations concerning transfer of Amortising Notes scheduled to the Agency Agreement. The regulations may be changed by the Company, with the prior written approval of the Note Trustee and the Registrar. A copy of the regulations from time to time in force will be mailed (at the Company's expense) by the Registrar to any Amortising Noteholder upon written request and will also be available for inspection at the specified office of the Paying Agent.

4 Interest

4.1 Interest rate

Interest will accrue from day to day on the Outstanding Principal Sum of each outstanding Amortising Note at the Interest Rate from the Issue Date until the date on which all amounts due and payable under the Amortising Note have been fully and finally repaid provided that the Notes cease to bear interest on any day fixed for redemption under paragraph 6 of the Amortising Note Conditions provided further that the Amortising Notes are so redeemed on such date.

4.2 Payment of interest

(a) The Company will pay all accrued interest on each Interest Payment Date for the relevant Amortising Notes.

(b) Interest for each Interest Period will be calculated on the basis of the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th day of a month, in which case the month that includes that last day will not be considered to be shortened to a 30-day month, or (ii) the last day of the Interest Period is the last day of the month of February, in which case the month of February will not be considered to be lengthened to a 30-day month)).

(c) If any Interest Payment Date would otherwise fall on a date which is not a Business Day, it will be postponed to the next Business Day unless it would thereby fall into the next calendar month, in which case it will be brought forward to the preceding Business Day.

(d) Interest payments will be made in the manner set out in the Agency Agreement.

5 Redemption

5.1 Early payment

(a) At any time after the date falling 30 days after the Issue Date, the Company may, if no Event of Default is subsisting, elect to redeem all (but not any part only) of the Amortising Notes that have not then been redeemed or cancelled (the **Redemption Notes**).

(b) Despite paragraph 5.1(a), the Security will remain in full force and effect, and will not be discharged by the Note Trustee, unless and until the Company has complied with its obligations to repay all of the Secured Moneys in accordance with the terms of the Transaction Documents.

(c) If the Company elects to exercise its right to redeem the Redemption Notes:

(1) the Company must notify the Note Trustee in writing of its intention to redeem the Redemption Notes and must specify a day (**Early Payment Date**) on which such redemption will occur, provided that such Early Payment Date must be a Business Day; and

(2) the Company must on the Early Payment Date pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Redemption Notes on issue at that time.

5.2 Notice of Change of Control

Following the occurrence of a Change of Control, the Company will give to the Note Trustee a notice (a **Change of Control Notice**) within 14 calendar days of the first day on which it becomes aware of such Change in Control. The Change of Control Notice will contain a statement informing Amortising Noteholders of their entitlement to exercise their Redemption Rights (outlined in paragraph 5.3 (*Redemption by Amortising Noteholders upon a Change of Control*) below) as provided in these Amortising Note Conditions, as adjusted where appropriate. The Change of Control Notice will also specify:

(a) all information material to Amortising Noteholders concerning the Change of Control; and

(b) such other information relating to the Change of Control as the Note Trustee may reasonably require.

The Note Trustee will not be required to take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur.

5.3 Redemption by Amortising Noteholders upon a Change of Control

(a) Following the occurrence of a Change of Control and receipt of a Change of Control Notice, the holder of each Amortising Note will have the right to require the Company to redeem that Amortising Note (in whole but not in part) on the Change of Control Put Date at the Redemption Price in relation to all Amortising Notes on issue at that time (**Redemption Rights**).

(b) To exercise such right, the holder of the relevant Amortising Note must, at any time in the Change of Control Period, deliver a duly completed and signed notice of exercise, in the form for the time being current, obtainable from the specified office of the Paying Agent or Transfer Agent (a **Change of Control Put Exercise Notice**) to the specified office of the Paying Agent or Transfer Agent.

(c) Subject to the Agency Agreement, payment in respect of any such Amortising Note will be made by transfer to a $US dollar account with a bank specified by the relevant Amortising Noteholder in the Change of Control Put Exercise Notice.

(d) A Change of Control Put Exercise Notice, once delivered, will be irrevocable and the Company will redeem all Amortising Notes the subject of Change of Control Put Exercise Notices delivered as aforesaid on the relevant Change of Control Put Date.

(e) If a Amortising Noteholder delivers a Change of Control Put Exercise Notice in accordance with paragraph (b) above, the Company must on the Change of Control Put Date and subject to the Agency Agreement, pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Amortising Notes on issue at that time.

(f) The Note Trustee will not be required to take any steps to ascertain whether a Change of Control or any event which could lead to the occurrence of a Change of Control has occurred.

5.4 Delisting put right

(a) In the event:

(1) the Ordinary Shares cease to be listed; or

(2) the Ordinary Shares cease to be admitted to trading or quoted on the ASX for a period of 20 consecutive Dealing Days.

(each, a **Delisting**) each Amortising Noteholder will have the right (the **Delisting Put Right**), at such Amortising Noteholder's option, to require the Company to redeem in whole but not in part such Amortising Noteholder's Amortising Notes on the 20th Business Day after notice has been given to Amortising Noteholders regarding the Delisting under paragraph 5.4(b) or, if such notice is not given, the 20th Business Day after the Delisting (the **Delisting Put Date**) at the Redemption Price in relation to all Amortising Notes on issue at that time (the **Delisting Put Price**).

(b) Promptly after becoming aware of a Delisting, the Company will procure that notice regarding the Delisting Put Right (a **Delisting Notice**) will be given to the Note Trustee (in accordance with paragraph 5.4(a) stating:

(1) the Delisting Put Date;

(2) the date of such Delisting and, briefly, the events causing such Delisting;

(3) the date by which the Delisting Put Notice (as defined below) must be given;

(4) the Delisting Put Price and the method by which such amount will be paid;

(5) the name and address of the Paying Agent and Transfer Agent;

(6) the procedures that Amortising Noteholders must follow and the requirements that Amortising Noteholders must satisfy in order to exercise the Delisting Put Right; and

(7) that a Delisting Put Notice, once validly given, may not be withdrawn.

(c) To exercise its rights to require the Company to purchase its Amortising Notes, a Amortising Noteholder must deliver a written irrevocable notice of the exercise of such right (a **Delisting Put Notice**), in the then current form obtainable from the specified office of the Paying Agent or Transfer Agent, to the Paying Agent or Transfer Agent on any Business Day prior to the close of business at the location of the Paying Agent or Transfer Agent, as the case may be on such day and which day is not less than 10 Business Days prior to the Delisting Put Date.

(d) A Delisting Put Notice, once delivered, will be irrevocable and the Company will redeem the Amortising Notes which form the subject of the Delisting Notices delivered as aforesaid on the Delisting Put Date.

(e) If a Amortising Noteholder delivers a Delisting Put Notice in accordance with paragraph (c) above, the Company must on the Delisting Put Date, subject to the Agency Agreement, pay to the Note Trustee in Immediately Available Funds the Redemption Price in relation to all Amortising Notes on issue at that time.

(f) The Note Trustee will not be required to take any steps to ascertain whether a Delisting or any event which could lead to the occurrence of a Delisting has occurred.

5.5 Cancellation

(a) Each Amortising Note is cancelled and of no further force and effect upon the Amortising Note being redeemed by the Company in accordance with these Amortising Note Conditions

(b) Amortising Note Certificates presented or delivered for the redemption or transfer of a Amortising Note are, subject to that redemption or transfer being effected, taken to be surrendered and may be cancelled or destroyed by the Company.

5.6 Surrender on exercise of Detachable Warrants

(a) Each Amortising Noteholder who holds Detachable Warrants may, upon exercise of any Detachable Warrant in accordance with the Detachable Warrant Deed (and in accordance with the Agency Agreement in relation to any Amortising Notes held through a Clearing System), deliver a duly signed and completed notice (a **Detachable Warrant Exercise Notice**) to the Paying Agent, Note Trustee and the Company at their specified office.

(b) Without limiting the requirements of the Detachable Warrant Deed, each Detachable Warrant Exercise Notice shall:

(1) specify a US$ amount of Amortising Notes (being all or any part of the Outstanding Principal Sum of one more Amortising Notes held by that Amortising Noteholder) (**Surrender Face Value**);

(2) specify the pro rata amount of the Redemption Price (assuming for this purpose that the Redemption Date was the day falling 3 Business Days after delivery of the Detachable Warrant Exercise Notice (**Surrender Date**)) payable in relation to the Surrender Face Value of Amortising Notes (**Set-Off Amount**);

(3) specify the number of Detachable Warrants to which the Detachable Warrant Exercise Notice applies and the total amount payable by that Amortising Noteholder in its capacity as Detachable Warrantholder to the Company upon the exercise of those Detachable Warrants under clause 4 (Exercise of Detachable Warrants) of the Detachable Warrant Deed (**Detachable Warrant Exercise Price**),

provided that the Set-Off Amount must be equal to or less than the Detachable Warrant Exercise Price.

(c) On the Surrender Date or, if later, the actual date on which the notes are surrendered, the amount of the Set-Off Amount due by the Company to the relevant Amortising Noteholder shall be set off against the Detachable Warrant Exercise Price due from the relevant Amortising Noteholder in its capacity as a Detachable Warrantholder without need for actual payment by either party in respect of that amount.

(d) A Detachable Warrant Exercise Notice, once delivered, will be irrevocable and the Company will, subject to the administrative parties and the Amortising Noteholders under the Agency Agreement being able to effect the redemptions, redeem the Surrender Face Value of the relevant Amortising Notes on or as close as practicable to the Surrender Date.

(e) The set-off provided for in this paragraph is without prejudice to the obligations of a relevant Warrantholder (as the case may be) to make any payment in relation the balance of any amount due in relation to the Detachable Warrant Exercise Price after the set-off provided for in this clause.

(f) The Paying Agent and Note Trustee will not be required to take any steps to ascertain whether any Detachable Warrant is exercisable or has been exercised in accordance with the Detachable Warrant Deed.

5.7 Scheduled repayment, Prepayment and redemption

Unless previously redeemed or cancelled, the Company will repay the Outstanding Principal Sum amount of each Amortising Note in 4 instalments on the dates and in the amounts set out below by payment to the Paying Agent in full in Immediately Available Funds:

Scheduled Repayment Date	Amount
18 month anniversary of the Issue Date	20% of the Face Value of each Amortising Note
24 month anniversary of the Issue Date	20% of the Face Value of each Amortising Note
30 month anniversary of the Issue Date	20% of the Face Value of each Amortising Note
Maturity Date	the Redemption Price in relation

Scheduled Repayment Date	Amount
	to all Amortising Notes

On each Scheduled Repayment Date specified above, in addition to the payment of the specified amount of the Face Value of the Amortising Notes to be repaid as set out in the table above, the Company must also pay a pro rata amount of the Redemption Price applicable to the specified Outstanding Principal Amount of the Amortising Notes being repaid (assuming for this purpose that the Redemption Date was the Scheduled Repayment Date).

If as a result of any Prepayment or a subsequent scheduled repayment by the Company under this paragraph 5.7 or a set-off under paragraph 5.6 (*Surrender on exercise of Detachable Warrants*) the Company pays or is deemed to have paid the Redemption Price to the Paying Agent in relation to any outstanding Amortising Note in full in Immediately Available Funds (other than in the case of a set-off under paragraph 5.6 (*Surrender on exercise of Detachable Warrants*)) (assuming for the purposes of the calculation of the Redemption Price that the Redemption Date is the date that the Prepayment or Scheduled Repayment Date is received by the Paying Agent or the Surrender Date in relation to a set-off under paragraph 5.6 (*Surrender on exercise of Detachable Warrants*)) before the Amortising Note Maturity Date, the Company will notify the Note Trustee, and those Amortising Notes will be taken to have been redeemed in full on that Redemption Date.

6 Payments

6.1 Principal and interest

(a) Subject to the terms of the Agency Agreement, payment of principal will be made by transfer to the registered account of the relevant Amortising Noteholder or by USD cheque drawn on a bank in Australia mailed to the registered address of such Amortising Noteholder if it does not have a registered account 5 Business Days before the due date. Payment of principal will only be made after surrender of the relevant Amortising Note Certificate at the specified office of any Agent.

(b) Subject to the terms of the Agency Agreement, interest on Notes will be paid in USD on the due date for the payment of interest to the holder shown on the Amortising Note Register at the close of business on the Interest Record Date. Payments of interest on each Amortising Note will be made by transfer to the registered account of the Amortising Noteholder or by USD cheque drawn on a bank in Australia mailed to the registered address of the Noteholder if it does not have a registered account.

6.2 Registered accounts and addresses

For the purpose of this paragraph 6, a Amortising Noteholder's **registered account** means the USD account maintained by it or on its behalf with a bank in Australia, details of which appear on the Amortising Register at the close of business on the second

Business Day before the due date for payment, and a Amortising Noteholder's **registered address** means its address appearing on the Amortising Register at that time.

6.3 Fiscal Laws

All payments are subject in all cases to any applicable laws and regulations in the place of payment, but without prejudice to the provisions of paragraph 9, no commissions or expenses will be charged to the Amortising Noteholders in respect of such payments.

6.4 Payment Initiation

Where payment is to be made by transfer to a registered account, payment instructions (for value on the due date or, if that is not a Business Day, for value on the first following day which is a Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed (at the risk and, if mailed at the written request of the Amortising Noteholder otherwise than by ordinary mail, expense of the Amortising Noteholder) on the due date for payment (or, if it is not a Business Day, the immediately following Business Day) or, in the case of a payment of principal, if later, on the Business Day on which the relevant Amortising Note Certificate is surrendered at the specified office of an Agent.

6.5 Delay in Payment

Amortising Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, if the Amortising Noteholder is late in surrendering its Amortising Note Certificate (if required to do so), or if a cheque mailed in accordance with this paragraph 6 *(Payments)* arrives after the due date for payment.

7 Taxation

7.1 Additional payments

If the Company is required to make a deduction or withholding in respect of any Relevant Tax, the Company must:

(a) pay the amount deducted or withheld to the appropriate Government Agency as required by law; and

(b) pay to the Note Party such additional amount (Additional Amount) as may be necessary to ensure that the Note Party receives when due a net amount (after any deduction or withholding of any Relevant Tax in respect of each Additional Amount) equal to the full amount it would have received if the deduction or withholding had not been made.

7.2 Stamp duties

(a) The Company will pay or reimburse each Amortising Noteholder and the Note Trustee for all stamp, transaction, registration and similar fees (including fines and penalties) on or in relation to the execution, delivery, or enforcement of any Transaction Document or any payment, receipt or other transaction contemplated by any Transaction Document, except in relation to any transfer by the Amortising Noteholders pursuant to paragraph 3.

(b) The Company will indemnify each Amortising Noteholder and the Note Trustee against any liability resulting from delay or omission to pay the fees referred to in paragraph 10.2(a), except to the extent the liability results from failure by the relevant Amortising Noteholder or the Note Trustee, as the case may be, to pay any fee after having been put in funds (with all necessary documents) to do so by the Company.

7.3 Survival of obligations

The obligations of the Company under this paragraph 7 *(Taxation)* survive the repayment or redemption of the principal amount of each Amortising Note and the termination or cancellation of any Transaction Document.

8 Interest on Overdue Amounts

8.1 Accrual

Interest (**Default Interest**) will accrue daily on all amounts due and payable from the due date up to the date of actual payment, before and (as a separate and independent obligation but without duplication) after judgment, at the Default Rate payable monthly in arrears and, if not paid when due, will itself bear interest in accordance with this paragraph 8.1.

8.2 Payment

The Company will pay interest accrued under this paragraph 8 *(Interest on Overdue Amounts)* on demand by the relevant Amortising Noteholder and on the last Business Day of each calendar quarter. Accrued interest not paid at that time will be capitalised.

9 Events of Default, acceleration and enforcement

The Amortising Notes are subject to the Events of Default, and the provisions regarding acceleration and enforcement that are set out in Clause 8 (*Events of Default, acceleration and enforcement*) of the Note Trust Deed.

10 Meetings of Noteholders, Modification and Waiver

The Amortising Notes are subject to the provisions of Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed.

11 Notices

All notices to Amortising Noteholders will be validly given if mailed to them at their respective addresses in the Amortising Note Register maintained by the Registrar. Any such notice will be deemed to have been given on the seventh day after being so mailed.

12 Agents

The names of the initial Agents and the Note Trustee and their specified offices are set out below. The Company reserves the right, subject to the prior written approval of the Note Trustee, at any time to vary or terminate the appointment of any Agent and to appoint additional or other Agents or a replacement Registrar. The Company will at all times maintain (i) a Paying Agent, (ii) a Registrar and (iii) in the event it becomes necessary and at the request of the Note Trustee, a Paying Agent and Transfer Agent with a specified office in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive. Notice of any such termination or appointment, of any changes in the specified offices of any Agent or the Note Trustee and of any change in the identity of the Registrar or the Paying Agent will be given promptly by the Company to the Amortising Noteholders in accordance with paragraph 12.

Subject to the terms of the Agency Agreement, in acting hereunder and in connection with the Notes, the Agents will act solely as agents of the Company and will not thereby assume any obligations towards, or relationship of agency or trust for, any of the Amortising Noteholders.

13 Indemnification

(a) The Note Trust Deed contains provisions for the indemnification of the Note Trustee and for their relief from responsibility, including provisions relieving them from taking proceedings to enforce repayment unless indemnified and/or secured to their satisfaction.

(b) The Note Trustee is entitled to enter into business transactions with the Company or its Subsidiaries without accounting for any profit.

(c) The Note Trustee will not be responsible for the performance by any other person appointed by the Company in relation to the Amortising Notes and, unless notified in writing to the contrary, will assume that the same are being duly performed.

(d) The Note Trustee will not be liable to any Amortising Noteholder or any other person for any action taken by the Amortising Noteholders or the Note Trustee in accordance with the instructions of the Amortising Noteholders.

(e) The Note Trustee will be entitled to rely on any direction, request or resolution under the provisions of Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed to have been duly given or duly passed in accordance with the Note Trust Deed.

(f) Whenever the Note Trustee is required or entitled by the terms of the Note Trust Deed and these Amortising Note Conditions to exercise any discretion or power, take any action, make any decision or give any direction, the Note Trustee is entitled, prior to their exercising any such discretion or power, taking any such action, making any such decision, or giving any such direction, to seek directions from the Noteholders in accordance with Clause 9 (*Meetings of Noteholders, Modification and Waiver*) of the Note Trust Deed, and the Note Trustee is not responsible for any loss or liability incurred by any person as a result of any delay in it exercising such discretion or power, taking such action, making such decision, or giving such direction where the Note Trustee is seeking such directions.

14 Governing Law

(a) The Amortising Notes and the Note Trust Deed are governed by the laws of New South Wales.

(b) The Company irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

(c) The Company irrevocably waives any objection to the venue of any legal process in or of the courts of New South Wales on the basis that the process has been brought in an inconvenient forum.

Schedule 5

Provisions for meetings of Noteholders

1 Definitions

For the purposes of this Schedule 5:

(a) **representative** includes a duly appointed attorney; and

(b) Notes held directly or indirectly by the Company:

(1) will not be counted for the purposes of convening a meeting or constituting a quorum; and

(2) will not entitle the Company (as the case may be) to a vote or be counted for voting purposes (including on any written resolution).

2 Convening meetings

2.1 Entitlement to convene a meeting

(a) The Company:

(1) may convene a meeting of all Noteholders or a class of Noteholders in accordance with paragraph 2.2 of this schedule; and

(2) must convene a meeting of all Noteholders or a class of Noteholders whenever required to do so by law.

(b) The Note Trustee:

(1) may convene a meeting of all Noteholders or a class of Noteholders in accordance with paragraph 2.2 of this schedule;

(2) must convene a meeting of all Noteholders or a class of Noteholders whenever required to do so by law; and

(3) must convene a meeting of Noteholders whenever requested to do so by Noteholders holding in aggregate at least 10 per cent. of the total number of Notes by value in accordance with paragraph 2.2 of this schedule.

2.2 Method of convening a meeting

(a) The Company or the Note Trustee may convene a meeting of all Noteholders or a class of Noteholders by notice given:

(1) to them in accordance with this schedule; and

(2) (subject to paragraph 2.4 of this schedule) to each relevant Noteholder at its address on the Business Day before the notice is given,

at least 10 Business Days before the date for the meeting.

(b) A notice under paragraph (a) must:

(1) state the date, commencement time and location of the meeting;

(2) describe the nature of the business to be considered; and

(3) provide that Noteholders may attend personally or through a representative or proxy appointed and notified to the Company in accordance with paragraph 3.2 of this schedule.

2.3 Failure to notify Noteholder need not invalidate a meeting

A meeting may be validly convened despite:

(a) any accidental omission to give notice to, or the non-receipt of notice by, any person other than the Company or the Note Trustee; or

(b) any change in the identity of the Noteholders from that on the Business Day before the notice of meeting is given.

2.4 Noteholders may waive requirement or abridge period of notice

The Noteholders may unanimously waive the requirement that they be given notice or abridge the period required for the convening of a meeting:

(a) by a statement or statements to that effect signed by them; or

(b) by unanimous resolution (including at that meeting).

2.5 Consequences of failure to notify the Company or the Note Trustee

An omission to give notice to, or the non-receipt of notice by the Company or the Note Trustee under paragraph 2.2(a)(1) of this schedule, within the period specified in that paragraph, invalidates a meeting unless the Company or Note Trustee (as the case may be):

(a) refuses to accept delivery of that notice; or

(b) by notice given in accordance with this schedule to the other of them, waives its right to receive that notice.

3 Attendance at meetings

3.1 Company and Note Trustee

The Company and Note Trustee (through their respective representatives or legal advisers) and their respective financial and legal advisers may attend and speak at any meeting of Noteholders.

3.2 Noteholders

(a) A Noteholder (whether it received notice of the meeting or not) may attend, and speak and vote at, a meeting either personally or through its representative or proxy appointed and notified to the Note Trustee in accordance with this paragraph 3.2.

(b) A Noteholder that is a body corporate, by an instrument executed in accordance with its constituent documents and any applicable law, may authorise a person specified in that instrument to act as its representative at a specified meeting, or at meetings generally, of Noteholders.

(c) A Noteholder (whether a body corporate or not), by an instrument:

(1) if a body corporate, executed in a manner permitted by its constituent documents and any applicable law;

(2) if a natural person, under the Noteholder's hand; or

(3) in either case, under the hand of its attorney,

may appoint a proxy to attend, speak and vote on the Noteholder's behalf at a specified meeting, or at meetings generally, of Noteholders.

(d) An instrument appointing a representative or a proxy must be:

(1) in a form acceptable to the Note Trustee;

(2) lodged with the Note Trustee at least 48 hours before the meeting, adjourned meeting or taking of a poll at which it is to be relied on; and

(3) in the case of an instrument appointing a proxy which is under the hand of an attorney, accompanied by proof reasonably acceptable to the Note Trustee of the attorney's authority.

(e) The Company may in its sole discretion waive any of the requirements in relation to the appointment of a representative or a proxy and approve as valid any instrument appointing a representative or proxy notwithstanding that it does not comply with those requirements or is received or produced at the wrong place or the wrong time.

(f) Unless the instrument provides otherwise, an instrument appointing a representative or a proxy is valid for the meeting to which it relates and for any adjournment of that meeting.

(g) A representative or proxy need not be a Noteholder.

(h) Action taken at a meeting, adjourned meeting or on the taking of a poll by a representative or proxy appointed and notified to the Note Trustee in accordance with this paragraph 3.2 is valid notwithstanding:

(1) any death, unsoundness of mind or dissolution of the Noteholder;

(2) any revocation of the instrument of appointment (or of the authority under which it was executed); or

(3) any transfer of the Note in respect of which the appointment was made,

unless the Note Trustee is made actually aware of this before the meeting or adjourned meeting commences.

(i) An objection may only be raised to the entitlement of a person to attend or vote at a meeting of Noteholders at the meeting in question (or adjournment of it). Any such objection is to be considered by the chairman of the meeting whose decision will be final and conclusive.

(j) Subject to paragraph (e), only the person recorded in the Register as the holder of a Note and no other person may be treated as the legal owner of that Note, whether that person is the beneficial owner of that Note or not, and only that person is entitled to vote (in person or by representative or proxy) in respect of that Note.

(k) If a Note is recorded in the Register as being held in the names of more than one person, those persons taken together count as a single Noteholder in respect of that Note. Without limiting this, only the vote of the most senior such person who tenders a vote (whether in person or by representative or proxy) may be accepted as a vote, to the exclusion of any attempted votes of the other joint holders of that Note (which may not be regarded as valid votes for any purpose). For this purpose, seniority is determined by the order in which names are recorded in the Register in respect of that Note.

3.3 Attendance by telephone

A person (or its representative or proxy) entitled to attend a meeting of Noteholders may do so by telephone or other instantaneous means of conferring (or by any combination of those means) in the manner reasonably determined by the Note Trustee, provided that those means allow each person entitled to attend and speak at the meeting to hear and be heard by each other person attending the meeting, and a person entitled to attend and speak at the meeting who can so hear and be heard is to be taken for all purposes to be present at that meeting. In the case of a vote by a show of hands, a person attending the meeting may indicate by voice whether his hand is raised or not, and is to be counted accordingly.

4 Procedure at meetings

4.1 Quorum

(a) No business may be transacted at a meeting of Noteholders unless a quorum is present at the time the meeting proceeds to business.

(b) The quorum for a meeting of Noteholders, which is to be calculated by reference to Noteholders who:

(1) are present in person or by representative or proxy (even if by the same representative or proxy); and

(2) are entitled to vote at that meeting,

is, subject to paragraph 4.4(c) and (d) of this schedule and otherwise, as follows:

(3) if the meeting is to consider only Ordinary Resolutions, Noteholders who between them hold Notes carrying an entitlement to vote with an aggregate Outstanding Principal Sum of more than 50% of all Notes carrying an entitlement to vote; or

(4) if the meeting is to consider any Special Resolution, Noteholders who between them hold Notes carrying an entitlement to vote with an aggregate Outstanding Principal Sum of more than 66 2/3 % of all Notes carrying an entitlement to vote.

(c) If a quorum is not present within 15 minutes of the announced commencement time for a meeting, the meeting:

(1) if convened pursuant to paragraph 2.1(b) of this schedule, is dissolved; or

(2) in any other case, stands adjourned to such day, and to such time and place, as the Note Trustee determines and notifies in accordance with paragraph 2.2(a) of this schedule to the persons entitled to attend.

4.2 Chairman

(a) The Note Trustee may appoint a person to be chairman at a meeting of Noteholders.

(b) If the Note Trustee does not appoint a person to be chairman of a meeting, or the person appointed is not present within 15 minutes of the announced commencement time for a meeting or is unwilling to act, the Noteholders must appoint a person by resolution to be chairman of that meeting.

(c) The chairman need not be a Noteholder.

(d) The chairman does not have a casting vote.

4.3 Voting

(a) Every question submitted to a meeting will be decided on the basis of votes cast by Noteholders or their representatives.

(b) At any meeting, a declaration by the chairman that a resolution has been carried, carried by a particular majority or lost or not carried is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(c) At a meeting convened for the purpose of considering a resolution, every person who is present and entitled to vote has one vote in respect of each Note of which that person is the Noteholder or in respect of which that person is otherwise entitled to vote.

(d) Any person entitled to more than one vote need not use all votes or cast all the votes to which that person is entitled in the same way.

4.4 Resolutions

(a) Except to the extent provided in paragraph (b), a resolution may be passed as an Ordinary Resolution.

(b) A resolution which would:

(1) require a Special Resolution under clause 9.1 of the Note Trust Deed;

(2) release any party from any liability to the Noteholders;

(3) without limiting paragraph (b)(i) or (ii), adversely affect the rights of any Noteholder;

(4) require the resignation or removal of the Note Trustee; or

(5) amend this schedule,

requires a Special Resolution.

(c) If a resolution relates to the exercise of any discretion or power, the taking of any action, the making of any decision or the giving of any direction, right or entitlement (each, a **Decision**) that is available solely in respect of the Convertible Notes or the Amortising Notes (but not both) or under the Convertible Note Conditions or the Amortising Note Conditions (but not both), or which would affect only the Convertible Noteholders or Amortising Noteholders (but not both), and does not adversely affect the other Noteholders, then only the Convertible Noteholders or Amortising Noteholders (whichever may exercise, take, make give that Decision) will be entitled to vote on that resolution.

(d) If any Special Resolution would adversely affect only the Amortising Noteholders or Convertible Noteholders, or otherwise does not treat Noteholders on a Pro Rata Basis or otherwise rateably or to an equivalent extent, then in addition to that Special Resolution, a further Special Resolution will be required to be passed under which only those Noteholders so adversely or prejudicially affected will be entitled to vote.

(e) A resolution passed at a meeting of Noteholders convened and held in accordance with this schedule binds all Noteholders whether present at the meeting or not.

(f) A resolution passed at a meeting may be reconsidered at that meeting and rescinded by a resolution passed by the same proportion of votes as was required for the initial resolution.

(g) The Note Trustee and the Company:

(1) must give effect to any resolution passed at a meeting of Noteholders convened and held in accordance with this schedule; and

(2) will be taken for all purposes to have been authorised to give effect to that resolution by all Noteholders and will have no liability to any Noteholder for any act or omission done or omitted in the course of doing so,

unless:

(3) to do so would be unlawful;

(4) the resolution contravenes paragraph (b) or (c) above; or

(5) the resolution would require the Company or the Note Trustee to breach a provision of this deed or any other Transaction Document.

4.5 Adjournment

(a) Each of:

(1) the chairman;

(2) the Note Trustee; or

(3) the relevant Noteholders (or their representatives or proxies) by resolution,

may adjourn a meeting (including an adjourned meeting) to such time and place as the Note Trustee or that resolution (as appropriate) determines. The only business which may be transacted at an adjourned meeting is business which might lawfully have been transacted at the meeting from which the adjournment took place.

(b) Except as provided in paragraph 4.1(c)(2) of this schedule, it is not necessary to give notice of an adjourned meeting.

(c) A resolution passed at an adjourned meeting is to be taken to be passed on the day it is actually passed.

4.6 Written Resolutions

(a) Despite the other provisions in this schedule, subject to paragraph 4.4(g) of this schedule, a resolution of Noteholders (including a Special Resolution) may be passed, without any meeting or previous notice being required, by an instrument or instruments in writing signed by Noteholders holding the relevant proportion of Notes required to pass that resolution and entitled to vote and any such instrument is effective upon presentation to the Note Trustee for entry in the minutes referred to in paragraph 5 of this schedule.

(b) A resolution in writing signed by Noteholders may be contained in one document or several documents in like form each signed by one or more relevant Noteholders. Any such document is effective upon presentation to the Note Trustee for entry in the minutes referred to in paragraph 5 of this schedule.

5 Minutes of meetings

5.1 Note Trustee to keep minutes

The Note Trustee must keep minutes of all meetings of Noteholders.

5.2 Minutes conclusive

The minutes of a meeting of Noteholders as kept by the Note Trustee, if signed by the chairman of that meeting or the chairman of the next succeeding meeting of Noteholders, are conclusive evidence, unless the contrary is proved, that the meeting was duly convened and held and that the resolutions and other business to which it refers were duly passed or transacted.

Schedule 6

Convertible Warrant Conditions

1 Creation of Convertible Warrants

Convertible Warrants, upon issue, are obligations of the Issuer owing under the clause 12 of the Note Trust Deed and these Convertible Warrant Conditions and are issued in registered form.

2 Constitution and title

(a) The obligations of the Company under the Convertible Warrants are subject to clause 12 of Note Trust Deed and these Convertible Warrant Conditions.

(b) Each Convertible Warrant is subject to these Convertible Warrant Conditions and may be enforced by each Convertible Warrantholder in its own name. The Convertible Warrantholder is entitled to do so without having to join any other Convertible Warrantholder or any predecessor in title of a Convertible Warrantholder.

(c) Subject to these Convertible Warrant Conditions, a Convertible Warrant may be transferred separately from any other Convertible Warrant.

(d) Entitlement to a Convertible Warrant is conclusively determined by entries in the Convertible Warrant Register, subject to rectification for fraud, or manifest error.

(e) The making of, or giving effect to, a manifest error in an entry in the Convertible Warrant Register will not avoid the creation or transfer of a Convertible Warrant. The Convertible Warrant Registrar will rectify any manifest error of which it becomes aware.

(f) A Convertible Warrant registered in the name of more than one person is held by those persons as joint tenants.

(g) A Convertible Warrant will be registered by name only without reference to any trusteeship, beneficial owner or any other interest therein.

(h) The person whose name appears in the Convertible Warrant Register as the Warrantholder of a Convertible Warrant will be treated by the Company and the Convertible Warrant Registrar as the absolute owner of the Convertible Warrant and none of them is obliged, except as ordered by a court of competent jurisdiction or required by statute, to take notice of any other claim to a Convertible Warrant.

(i) Upon a person becoming registered as the Convertible Warrantholder of a Convertible Warrant, all rights and entitlements arising under the Note Trust Deed (including these Convertible Warrant Conditions) in respect of that Convertible Warrant vest absolutely in the Convertible Warrantholder, so that no person who has previously been registered as the Convertible Warrantholder of the Convertible Warrant has or is entitled to assert against the Company, the Convertible Warrant Registrar or the Convertible Warrantholder of the

Convertible Warrant from time to time any rights, benefits or entitlements in respect of the Convertible Warrant.

(j) Each Convertible Warrantholder shall be recognised by the Company as entitled to its Convertible Warrants free of any equity, set-off or cross claim on the part of the Company against the original or any intermediate holder of such Convertible Warrants.

3 Convertible Warrant Register

The following information (to the extent it is relevant) must be included in the Convertible Warrant Register in respect of each Convertible Warrant

(a) the date on which it is issued by the Company;

(b) the name and address of the Convertible Warrantholder who holds that Convertible Warrant from time to time;

(c) the date on which the Convertible Warrantholder is entered into the Convertible Warrant Register as the holder of that Convertible Warrant;

(d) its initial Convertible Warrant Conversion Price (as defined below and as adjusted from time to time in accordance with these Convertible Warrant Conditions); and

(e) if applicable, the date on which it is exercised.

Any change in the name or address of any Convertible Warrantholder must be notified by the Convertible Warrantholder to the Convertible Warrant Registrar within two Business Days following such change by notice, following which the Convertible Warrant Registrar must update the Convertible Warrant Register accordingly.

4 Inspection of Convertible Warrant Register

The Convertible Warrant Registrar will permit each Convertible Warrantholder to inspect the Convertible Warrant Register to the extent applicable to that Convertible Warrantholder:

(a) on one Business Day's prior notice; and

(b) during normal business hours in the place where the Convertible Warrant Register is kept,

and to take copies of or extracts from it which are applicable to that Convertible Warrantholder only.

5 Convertible Warrant Certificates

(a) Subject to applicable law, each Convertible Warrantholder will be entitled to one Convertible Warrant Certificate in respect of all Convertible Warrants held by it. The Company may, in its discretion, agree to issue more than one Convertible Warrant Certificate in respect of multiple Convertible Warrants held by a Convertible Warrantholder.

(b) Upon a Convertible Warrant being issued, the Convertible Warrant Registrar will issue a Convertible Warrant Certificate in respect of that Convertible Warrant.

(c) Upon a Convertible Warrant being transferred or exercised the Convertible Warrant Registrar will:

(1) cancel the Convertible Warrant Certificate for that Convertible Warrant; and

(2) issue replacement Convertible Warrant Certificates in respect of any remaining Convertible Warrants included in the Convertible Warrant Certificate that have not been so retained, transferred or exercised.

(d) If a Convertible Warrant Certificate becomes worn out or defaced, the Convertible Warrant Registrar will, on delivery of that Certificate to the Convertible Warrant Registrar, cancel the Convertible Warrant Certificate and issue a new Convertible Warrant Certificate in its place.

(e) If a Convertible Warrant Certificate is lost, mutilated or destroyed, the Issuer will procure that the Convertible Warrant Registrar issue a duplicate Convertible Warrant Certificate in its place, provided that the Convertible Warrantholder provides a statutory declaration from the Convertible Warrantholder or a director, secretary or a duly authorised officer of the Convertible Warrantholder that the Convertible Warrant Certificate has been lost or destroyed and has not been pledged, mortgaged, charged, sold or otherwise disposed of and, if lost, that proper searches for the same have been made.

(f) A Convertible Warrant Certificate provides details of the information contained in the Convertible Warrant Register in respect of the Convertible Warrants for which the Convertible Warrantholder named in that Convertible Warrant Certificate is recorded in the Convertible Warrant Register as the holder and is not evidence of title.

6 Convertible Warrants

Convertible Warrants will only be exercisable by a Convertible Warrantholder subject to the Convertible Warrant Conditions and must be exercised within 18 months of the Early Payment Date (**Exercise Period**).

7 Exercise of Convertible Warrants

(a) A Convertible Warrantholder may only exercise the Convertible Warrants by delivering to the Company at any time within the Exercise Period a completed and executed Convertible Warrant Notice.

(b) Any Convertible Warrant Notice issued pursuant to this paragraph 7 must contain, as a minimum, all of the following information:

(1) the full name, details and particulars of the person exercising the Convertible Warrants;

(2) the conversion price of the Convertible Warrants, calculated by the Company and advised by the Company to the Convertible Warrantholder on request, by reference to the Conversion Price of the Convertible Notes on the date the Convertible Notes were redeemed and these Convertible Warrants were issued and as may be adjusted

in accordance with the adjustment mechanisms set out in clause 13 (*Adjustments*) of these Convertible Note Conditions (**Convertible Warrant Conversion Price**); and

(3) a declaration as to the number of Ordinary Shares which the relevant Convertible Warrantholder wishes to be issued in the Company as a result of the exercise of the Convertible Warrants which number shall be an amount equal to the Outstanding Principal Amount of the Convertible Notes redeemed for Convertible Warrants on the date of redemption divided by the Convertible Warrant Conversion Price as advised by the Company under paragraph 7(b)(2) above.

(c) The Company is not obligated to issue any Ordinary Shares unless and until it receives from the relevant Convertible Warrantholder an amount (in Immediately Available Funds) equal to the Convertible Warrant Conversion Price calculated in accordance with paragraph 7(b)(2) above multiplied by the number of Ordinary Shares set out in the declaration by the Convertible Warrantholder in paragraph 7(b)(3).

8 Terms of Convertible Warrants

(a) The Company acknowledges the issue of the Convertible Warrants pursuant to clause 12 of the Note Trust Deed and these Convertible Warrant Conditions and agrees to comply with the terms of the exercise of the Convertible Warrants.

(b) If a Convertible Warrantholder validly exercises the Convertible Warrants then the Company must issue all of the required Ordinary Shares to that Convertible Warrantholder.

(c) Each Convertible Warrantholder acknowledges and agrees that

(1) the Convertible Warrants can only be validly exercised in accordance with the provisions of these Convertible Warrant Conditions; and

(2) the Convertible Warrants can only be exercised within the Exercise Period.

(d) The Company undertakes to the Convertible Warrantholders that:

(1) it will be able to issue Ordinary Shares without the need for Shareholder approval to satisfy the conversion rights attaching to the Convertible Warrants; and

(2) it will do everything within its control to ensure that any Ordinary Shares issued pursuant to the Convertible Warrants will, on and from the date that is 5 Business Days after the relevant Conversion Date, at all times thereafter be freely transferrable on the ASX.

(e) Upon the exercise of the Convertible Warrants and the delivery by the relevant Convertible Warrantholder of the Convertible Warrant Notice, the Company must, subject to paragraph 7(c) being complied with, issue the Ordinary Shares in respect of the Convertible Warrants to the Convertible Warrantholder (or its Nominee) within a period of 4 Business Days of the date upon which the Convertible Warrant Notice was provided to the Company, and the Company must apply on the date of issue for quotation on the Relevant Stock Exchange of any Ordinary Shares issued.

9 Transferability

The Convertible Warrants may be transferred by the Convertible Warrantholder without the consent of the Company pursuant to this paragraph 9 provided that such transfer complies with all of the following provisions:

(a) the Convertible Warrantholder complies with all applicable laws and regulations, including the relevant provisions of the Corporations Act and the ASX Listing Rules; and

(b) the transfer is from the Convertible Warrantholder to a sophisticated investor or a professional investor (as those terms are defined in the Corporations Act).

10 Transfer procedures

(a) The Convertible Warrantholder may request the transfer of a Convertible Warrant by lodging with the Company a duly completed Convertible Note Transfer Form signed by the transferor and the transferee, together with the Convertible Warrant Certificate (if any) for the Convertible Warrants to be transferred and such evidence as the Company may require to prove:

(1) the identity of the transferor and the transferee, their respective authorities to execute and effect transfer of the Convertible Warrant and that the requirements of these Convertible Note Conditions in relation to the transfer are satisfied; and

(2) that any Taxes applicable to the transfer have been paid.

(b) Subject to this clause 10, upon receipt of the Transfer Form, the Company will:

(1) enter the transferee's name in the Convertible Warrant Register; and

(2) deliver a Convertible Warrant Certificate to the transferee in respect of the Convertible Warrant or Convertible Warrants transferred and, in the case of a transfer of part only of the Convertible Warrant or Convertible Warrants represented by the existing Convertible Warrant Certificate, deliver a new Convertible Warrant Certificate to the transferor for the untransferred balance of such Convertible Warrants, 10 Business Days after receipt of a valid application for transfer of the Convertible Warrant in accordance with paragraph 10(a) above.

(c) Convertible Warrant Certificates required to be delivered under paragraph 10(b) above are to be delivered to the specified office of the Company or, if so requested by the transferee or transferor (as the case may be), sent by uninsured mail to such address as is requested by the transferee or transferor (as the case may be). Convertible Warrant Certificates sent by mail to a transferee or transferor are sent at the risk (and, if sent by other than ordinary mail, at the expense of the Convertible Warrantholder) of the transferee or transferor.

(d) The transferor of a Convertible Warrant remains the holder of that Convertible Warrant until the name of the transferee is recorded in the Convertible Warrant Register as the holder of that Convertible Warrant.

11 Closed periods

The Company is not required to arrange for the registration of a transfer of a Convertible Warrant in whole or part:

(a) on any day which is not a Business Day; or

(b) at any time after a Convertible Warrant Notice has been delivered in respect of the Convertible Warrant under clause 7 (*Exercise of Convertible Warrants*).

12 Estates

A person becoming entitled to a Convertible Warrant as a consequence of the death or bankruptcy of a Convertible Warrantholder or of a vesting order, or a person administering the estate of a Convertible Warrantholder and entitled by law to do so, may apply for the transfer of the Convertible Warrant as if it was the holder of the Warrant or, if so entitled, become registered as the Noteholder of the Convertible Warrant upon producing such evidence as to that entitlement or status as the Company considers sufficient.

13 Adjustments

(a) If there is a pro-rata or bonus issue to the holders of Ordinary Shares during the Exercise Period, the Convertible Warrant Conversion Price or the number of Ordinary Shares over which the Convertible Warrants then outstanding are exercisable will be adjusted in accordance with ASX Listing Rules 6.22.2 (in the case of a pro-rata issue) or 6.22.3 (in the case of a bonus issue) as applicable.

(b) If a Reorganisation of the Company's capital occurs during the Exercise Period, the Convertible Warrant Conversion Price or the Ordinary Shares over which the Convertible Warrants then outstanding are exercisable will be adjusted to take account of the Reorganisation in accordance with ASX Listing Rule 7.22.

(c) The adjustments provided for in this clause 13 are cumulative and shall, in the case of adjustments to the Convertible Warrant Conversion Price, be computed to the nearest whole cent and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this clause 13.

(d) The Company must give notice of any adjustments made in accordance with this clause 13 to each Convertible Warrantholder promptly after the determination thereof.

(e) If a dispute arises between the Company and Convertible Warrantholder (the **Disputing Party**) regarding the manner in which an adjustment required by this clause 13 has been made, the dispute shall be conclusively determined by an independent firm of chartered accountants selected by the Company and the Disputing Party, acting reasonably, who shall have access to all necessary records of the Company, and such determination shall be binding upon the Company and all holders of then outstanding Convertible Warrants.

14 Notices

All notices to Convertible Warrantholders will be validly given if mailed to them at their respective addresses in the Convertible Warrant Register maintained by the Convertible Warrant Registrar. Any such notice will be deemed to have been given on the seventh day after being so mailed.

15 Modification and Waiver

(a) Prior to the issue of any Convertible Warrants, these Convertible Note Conditions are subject to the provisions of Clause 9 (Meetings of Noteholders, Modification and Waiver) of the Note Trust Deed and shall be deemed for this purpose to be part of the Convertible Note Conditions.

(b) After the issue of any Convertible Warrant, these Convertible Note Conditions and Clause 12 of the Note Trust Deed may only be amended in writing with the prior written consent of each Convertible Warrantholder and the Company.

16 Governing Law

(a) The Convertible Warrants and these Convertible Warrant Conditions are governed by the laws of New South Wales.

(b) The Company irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

(c) The Company irrevocably waives any objection to the venue of any legal process in or of the courts of New South Wales on the basis that the process has been brought in an inconvenient forum.

Attachment 1 to Convertible Warrant Conditions

Convertible Warrant Certificate

Certificate Number: [*insert number*]

[insert name, ACN, ARBN or ABN (if any)of Company]

(the **Company**)

THIS IS TO CERTIFY that [***insert name, ACN or ABN (if any) and address***] (the **Convertible Warrantholder**) is the registered holder of [***insert number***] Convertible Warrants issued pursuant to the terms of the Note Trust Deed dated [***insert date***] between [***insert parties***].

Signed, sealed and delivered
Guildford Coal Limited]
is fixed to this document in the presence of

sign here ► ______________________________
Company Secretary/Director

print name ______________________________

sign here ► ______________________________
Director

print name ______________________________

This certificate must be surrendered to the Company on transfer or exercise of any Convertible Warrant represented by it.

Dated: 201

Schedule 7

Representations and Warranties

1 Authority

1.1 Authorisation

(a) Each member of the Group has taken all necessary action to authorise the execution, performance and adoption of the Transaction Documents to which it is a party, to authorise its compliance with its obligations and exercise its rights under the Transaction Documents to which it is a party and to allow them to be enforced.

(b) The obligations of each member of the Group under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms subject to any stamping and registration requirements, applicable equitable principles and laws generally affecting creditors' rights.

1.2 Power and title

(a) Each member of the Group has the power to enter into and perform its obligations under the Transaction Documents, to carry out the transactions contemplated by those documents, to own its assets and to carry on its business as now conducted or contemplated.

(b) Each member of the Group has good title to and is the sole legal and beneficial owner of the property the subject of the Security and none of its assets is subject to an Encumbrance that is not a Permitted Encumbrance.

1.3 No legal impediment

Each of the execution, performance, compliance with obligations, exercise of rights under and adoption of the Transaction Documents to which it is a party (and each transaction contemplated by those documents) by each member of the Group:

(a) does not and will not conflict with its constitution or other constituent documents (if any);

(b) does not and will not constitute a breach of any law or obligation by which it is bound or to which any of its assets is subject or cause a limitation on its powers or the powers of its directors to be exceeded;

(c) does not and will not violate in any respect any document or agreement which is binding on it or its assets; and

except as provided by the Transaction Documents, did not and will not

(d) create or impose an Encumbrance on any of its assets; or

(e) allow a person to accelerate or cancel an obligation with respect to Financial Indebtedness, or constitute an event of default, cancellation event, prepayment event or similar event (whatever called) under an agreement relating to

Financial Indebtedness, whether immediately or after notice or lapse of time or both.

1.4 Consents

(a) All Authorisations required before each member of the Group may enter into the Transaction Documents to which it is a party or which are necessary in connection with the performance by the Company of its obligations under the Transaction Documents to which it is a party and its business as now conducted have been obtained or effected and are in full force and effect.

(b) All filings and registrations which are required to be effected, and all amounts which are required to be paid, to ensure that the Transaction Documents to which each member of the Group is a party are legal, valid, binding and admissible in evidence and have the priority that they contemplate have been effected by it and paid or will be effected and paid within the time prescribed by law.

1.5 No breach of laws

(a) Each member of the Group has not committed any breach of, or otherwise failed to comply with the provisions of, any law of any State or Territory of Australia the consequences of which breach would be reasonably likely to affect its ability to comply with its obligations under the Transaction Documents to which it is a party.

(b) Without limiting paragraph 1.5(a) above, the Company has complied in all respects, including in relation to continuous disclosure obligations, with the requirements of the Corporations Act, the ASX Listing Rules and the rules of each other Relevant Stock Exchange and the Company is not withholding any information from public disclosure in reliance on ASX Listing Rule 3.1A that has not been disclosed in writing to the Initial Note Holder prior to the date of this deed.

1.6 No default

(a) No event has occurred which constitutes an Event of Default or Potential Event of Default.

(b) Neither the Company nor any of its Subsidiaries has committed any breach of, or otherwise failed to comply with the provisions of any arrangement, contract, agreement, undertaking or document (including an Authorisation) to which it is a party or by which it is bound the consequences of which default would be reasonably likely to affect the Company's ability to comply with its obligations under the Transaction Documents to which it is a party. Nothing has occurred which constitutes an event of default, cancellation event, prepayment event or similar event (whatever called) under those documents or agreements, whether immediately or after notice or lapse of time or both.

1.7 General

(a) No litigation, arbitration, Tax claim, mediation, conciliation, criminal or administrative proceedings against the Company or a Subsidiary, or any director or Officer of the Company or any Subsidiary, are current, pending or (to the knowledge of any of its officers after due inquiry) threatened that involve a potential liability in excess of A$500,000 (excluding workers' compensation claims) or which, if adversely determined would be likely to have a Material Adverse Effect.

(b) No representation, warranty or other information provided by the Company contains any untrue statement of material fact or omits to state a material fact necessary to ensure that the representation, warranty or information is not misleading.

(c) The Company controls and no other person has the capacity to control each Subsidiary (for this purpose, "control" shall have the meaning given in the Corporations Act).

(d) All information provided by the Company in connection with the Transaction Documents is true and accurate in all material respects at the date of this deed or, if later, when provided. Neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by the Transaction Documents, was or is misleading in any material respect, by omission or otherwise.

(e) All financial projections provided by the Company have been prepared by appropriately qualified persons in good faith and on the basis of the most recently available historical information and on the basis of reasonable assumptions.

(f) The Company has disclosed all material information and documents relating to it, its assets, each Transaction Document and the transactions contemplated by each of them, which are material to an Initial Note Holder or the Note Trustee's decision to enter into the Transaction Documents.

(g) All copies of documents given by or on behalf of the Company to a Note Party are true and complete copies. Those documents are in full force and effect.

(h) The Company is not under investigation by any agency into all or part of its affairs in circumstances material to its business or financial condition.

(i) Any person specified as an Officer of the Company is authorised to sign any requests and other notices on its behalf and do all other things contemplated by the Transaction Documents.

(j) The Company benefits by entering into and performing its obligations under each Transaction Document.

(k) Each member of the Group entering into a Transaction Document has no immunity from the jurisdiction of a court, or from legal process, in any State of, or the Commonwealth of, Australia.

(l) The Company's obligations under the Transaction Documents rank or will rank at least equally with all of its unsecured and unsubordinated indebtedness (other than liabilities mandatorily preferred by law).

(m) Except as disclosed to and approved in writing by the Note Parties all Marketable Securities which are Secured Property are fully paid and there is no agreement, arrangement or understanding under which further Marketable Securities with rights of conversion to shares in the Company may be issued to any person.

(n) It has complied with all laws in relation to Tax in all jurisdictions in which it is subject to Taxes and has paid all Taxes due and payable by it except those for which it has set aside sufficient reserves and which are being contested in good faith (except where failure to pay may have a Material Adverse Effect).

(o) All insurances required under the Transaction Documents are in effect and current and meet the requirements of the Transaction Documents. It has not made any material misrepresentation or omission to its insurers and is not aware of any reason why any of the insurance policies may be terminated or why any insurers may refuse to pay a claim when made.

(p) It holds each Authorisation required for the carrying on by it and its Subsidiaries of their respective businesses as conducted or contemplated at the date of this deed. Each of them is in full force and effect.

2 Solvency

(a) Each member of the Group is solvent and will not become insolvent by entering into and performing its obligations under the Transaction Documents to which it is a party.

(b) No Controller is currently appointed in relation to the Company's property or part thereof.

3 Corporate

(a) Each member of the Group is duly incorporated or formed and validly existing under the laws of the place of the place of its incorporation or formation and is validly existing under those laws;

(b) Each member of the Group is capable of suing and being sued;

(c) Except as disclosed to and agreed by the Note Parties, each member of the Group has not entered into any Transaction Document and does not hold any property:

(1) as a trustee of any trust;

(2) as a partner of a partnership;

(3) as a responsible entity of any registered scheme;

(4) as an agent of an undisclosed principal; or

(5) in any other capacity for the benefit of any person;

(d) (**ASIC determination**) ASIC has not in the 12 months prior to the Completion Date made a determination under section 708A (2) of the Corporations Act in respect of the Shares; and

(e) (**No suspension**) Trading in Ordinary Shares on the ASX were not suspended for more than a total of 5 days during the 12 month period prior to the date on which the Convertible Notes were issued.

HERBERT
SMITH
FREEHILLS

Signing page

Executed as a deed

Company

Signed sealed and delivered for
Guildford Coal Limited
in accordance with s127 of the Corporations Act by:

sign here ►

Company Secretary/~~Director~~

print name KON TSIAKIS

sign here ►

Director

print name Allan Griffith

Note Trustee

Signed sealed and delivered for
Madison Pacific Trust Limited
by:

sign here ►
Director

print name JONATHAN LEE HATCH

sign here ►
Director

print name G. JACQUELINE FANGONIL WALSH

HERBERT
SMITH
FREEHILLS

Deed

Execution version

Subscription and implementation deed

Guildford Coal Limited (**Company**)

Each party listed in Part A of Schedule 1 (as **Initial Convertible Noteholders**)

Each party listed in Part B of Schedule 1 (as **Initial Amortising Noteholders**)

Each party listed in Part C of Schedule 1 (as **Initial Detachable Warrantholders**)

Madison Pacific Trust Limited (**Note Trustee**)

101 Collins Street Melbourne Vic 3000 Australia
GPO Box 128A Melbourne Vic 3001 Australia

Telephone +61 3 9288 1234 Facsimile +61 3 9288 1567
www.herbertsmithfreehills.com DX 240 Melbourne

HERBERT
SMITH
FREEHILLS

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HERBERT SMITH FREEHILLS

HERBERT SMITH FREEHILLS

Date ▸ 20 DECEMBER 2013

Between the parties	
Initial Convertible Noteholder	**Each party listed in Part A of Schedule 1** (*Parties*)
Initial Amortising Noteholder	**Each party listed in Part B of Schedule 1** (*Parties*)
Initial Detachable Warrantholder	**Each party listed in Part C of Schedule 1** (*Parties*)
Company	**Guildford Coal Limited** ABN 35 143 533 537 of Level 7, 490 Upper Edward Street, Spring Hill QLD 4000, Australia
Note Trustee	**Madison Pacific Trust Limited** Company number 1619851 of 1708, 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong
Recitals	1 The Company wishes to create the Notes and Warrants and issue them to the Noteholders. 2 The Initial Convertible Noteholders wish to subscribe for the Convertible Notes on the terms and conditions of this deed and the Note Trust Deed. 3 The Initial Amortising Noteholders wish to subscribe for the Amortising Notes on the terms and conditions of this deed and the Note Trust Deed. 4 The Initial Detachable Warrantholders are granted the Detachable Warrants pursuant to and in accordance with the Prospectus, the Detachable Warrant Deed and this deed.
This deed witnesses as follows:	that in consideration of, among other things, the mutual promises contained in this deed, the parties agree as set out in the operative part of this deed.

1 Definitions and Interpretation

1.1 Definitions

The meaning of terms used in this deed are set out below or, if not set out below, elsewhere in this deed:

Term	Meaning
Agreed Funds Flow	the agreed funds flow as set out in Attachment 1 of this deed.
Allocation	the allocation of Detachable Warrants that an Initial Detachable Warrantholder will subscribe for pursuant to and in accordance with the Prospectus as specified opposite its name in the column headed "Allocation" in Part C of Schedule 1 (*Parties*).
Application Form	the application form for Detachable Warrants accompanying the Prospectus.
Beneficiary	each of the following: 1 each person who is a "Beneficiary" as that term is defined in the Note Deed; and 2 each Warrantholder.
Completion	the settlement of the issue of the Convertible Notes and the Amortising Notes under this deed and the Note Trust Deed, and the grant and issue of the Detachable Warrants pursuant to and in accordance with the Prospectus, the Detachable Warrant Deed and under this deed.
Completion Date	the date that is 4 Business Days after each Condition Precedent (other than the Conditions Precedent in paragraphs (c)(2) and (d) of Schedule 2 (*Conditions Precedent*) which must be satisfied or waived at least 1 Business Day before the Completion Date) has been satisfied or waived under clause 3.3 (*Waiver of Conditions Precedent*) or such other date as is agreed by the parties.
Conditions Precedent	each of the conditions precedent set out in Schedule 2 (*Conditions Precedent*).
Deed of Release	the deed of release dated on or about the date of this deed in relation to the Existing Convertible Notes.

Term	Meaning
Detachable Warrant Certificate	the meaning given to the expression "Certificate" in the Detachable Warrant Conditions.
Detachable Warrant Conditions	the meaning given to the term "Warrant Conditions" in the Detachable Warrant Deed.
Detachable Warrant Deed	the deed entitled "Detachable Warrant Deed Poll" dated on or about the date of this deed executed by the Company.
Detachable Warrant Register	the meaning given in the Detachable Warrant Conditions.
Detachable Warrantholder	the meaning given to the term "Warrantholder" in the Detachable Warrant Conditions.
Detachable Warrants	the meaning given in the Detachable Warrant Deed.
Discharge Amount	the meaning given in Clause 6.3 (*Currency Conversion for payment of Redemption Moneys*).
Existing Convertible Note Deed	the deed entitled "Convertible Note Subscription Deed" dated 25 March 2013 between, amongst others, the Company as issuer and the Note Trustee as note trustee.
Existing Convertible Notes	the "2014 12% Guilford Coal Convertible Notes" issued under the Existing Convertible Note Deed and the Existing Note Trust Deed.
Existing Note Trust Deed	the deed entitled "Note Trust Deed" dated 25 March 2013 between the Company as issuer and the Note Trustee as note trustee.
Fee Letter	any fee letter between the Company, OCP (Asia) Limited, the Note Trustee or any Agent in connection with the Transaction Documents.
Indemnified Party	the meaning given in clause 9.1 (*Indemnity by the Company*).
Indemnifying Person	the meaning given in clause 9.2 (*Claims and proceedings*).

Term	Meaning
Initial Noteholder	an Initial Amortising Noteholder or Initial Convertible Noteholder and "Initial Noteholders" means all of them.
Issue Date	the date on which Convertible Notes and the Amortising Notes are issued to the Initial Noteholders, pursuant to this deed and the Detachable Warrants are issued to the Initial Detachable Warrantholders pursuant to and in accordance with the Prospectus, the Detachable Warrant Deed and this deed (or in each case their respective Nominees) (as applicable).
Mongolian Project	the Company's subsidiaries' operations in Mongolia..
Nominee	a person nominated by an Initial Noteholder or Initial Detachable Warrantholder in a written notice given to the Company prior to executing this deed to hold the Notes and Detachable Warrants (as applicable) on its behalf.
Note Conditions	the Amortising Note Conditions or the Convertible Note Conditions (as applicable).
Note Party	1 Noteholder (including a Noteholder acquiring an interest in a Note by reason of transfer or another dealing with a Note); or 2 the Note Trustee.
Note Register	the Convertible Note Register or the Amortising Note Register (as applicable).
Note Trust	the trust established under clause 2 (*Declaration of trust*) of the Note Trust Deed.
Note Trust Deed	the note trust deed dated on or about the date of this deed entered or to be entered into between the Company and the Note Trustee in respect of the Convertible Notes and the Amortising Notes.
Principal Sum	the aggregate of the Subscription Portions for all of the Initial Convertible Noteholders (being in aggregate US$10,000,000) and Initial Amortising Noteholders (being in aggregate US$55,000,000), being US$65,000,000.

Term	Meaning
Prospectus	means the prospectus issued or to be issued by the Company, which includes or will include an offer to the Initial Detachable Warrantholders to be issued with Detachable Warrants as contemplated by the Detachable Warrant Deed and this deed.
Redemption Moneys	has the meaning given to that term in the Deed of Release and for the avoidance of doubt is an amount in A$.
Reorganisation	means, in relation to the Company: 1 any consolidation, subdivision, cancellation, return or reduction of capital; or 2 any other reorganisation affecting the Company's capital.
Secured Property	the property of the Security Providers subject to the Security.
Specified Office	in relation to the Company, the office specified in clause 12 (*Notices*) or such other office as may be notified to the Note Trustee.
Subscription Portion	in respect of a Noteholder and an issue of Notes, the amount to be subscribed by that Noteholder for those Notes on the relevant Issue Date and as specified opposite its name in the column headed "Amount of Subscription Portion" in Schedule 1 (*Parties*).
Transfer Form	a form of transfer in the form permitted under the Note Conditions or Detachable Warrant Conditions (as applicable).
Warrantholder	a holder of a Warrant.
Warrants	the Convertible Warrants and the Detachable Warrants and "**Warrant**" means any one of them.

1.2 Interpretation

The provisions set out in clause 1.2 (*Interpretation*), 1.3 (*Interpretation of inclusive expressions*) and 1.4 (*Business Day*) of the Note Trust Deed are incorporated into this deed as if set out in this deed in full.

1.3 Incorporated definitions

A word or phrase (other than one defined in clause 1.1 (*Definitions*)) defined in the Note Trust Deed (including by incorporation) has the same meaning when used in this deed unless a contrary intention is expressed.

1.4 Capacity of Note Trustee

The Note Trustee enters into this deed as trustee of the Note Trust. Clause 5.8 (*Note Trustee's liability*) of the Note Trust Deed is incorporated in this deed as if set out in full.

2 Agreement to subscribe and issue

(a) On the Completion Date, each Initial Convertible Noteholder agrees to pay to the Company its Subscription Proportion of the Principal Sum in respect of the Convertible Notes and the Company agrees, at the same time, to issue Convertible Notes at the Face Value of US$10,000 per Convertible Note equivalent to the Subscription Portion of each Convertible Noteholder each on the terms and conditions of this deed, the Note Trust Deed and the Convertible Note Conditions.

(b) On the Completion Date, each Initial Amortising Noteholder agrees to pay to the Company its Subscription Proportion of the Principal Sum in respect of the Amortising Notes and the Company agrees, at the same time, to issue Amortising Notes at the Face Value of US$10,000 per Amortising Note equivalent to the Subscription Portion of each Amortising Noteholder each on the terms and conditions of this deed, the Note Trust Deed and the Amortising Note Conditions.

(c) On the Completion Date and in further consideration for the subscription for Notes and payment of the Principal Sum by the Noteholders under paragraphs (a) and (b) of this clause above, the Company agrees that, each Initial Detachable Warrantholder will apply under the Application Form for their Allocation of Detachable Warrants and the Company agrees, upon such subscription, to grant and issue to each Initial Detachable Warrantholder pursuant to the Prospectus and the Detachable Warrant Deed, their Allocation of Detachable Warrants, each on the terms and conditions of this deed, the Detachable Warrant Deed and the Detachable Warrant Conditions.

3 Conditions precedent

3.1 Conditions Precedent

The obligation of the Initial Noteholders to subscribe for and pay their respective Subscription Portions in relation to the Notes, is subject to and conditional upon the satisfaction or waiver of each of the Conditions Precedent in each case in form and substance satisfactory to the Note Trustee (acting on the instructions of the Initial Noteholders).

3.2 Obligation to inform

(a) Each party shall keep each other party informed of any circumstances which may result in any Condition Precedent not being satisfied.

(b) Promptly upon satisfaction or waiver of all of the Conditions Precedent (other than the Conditions Precedent in paragraphs (c)(2) and (d) of Schedule 2), the Note Trustee must send the Company a notice stating that all of those Conditions Precedent have been satisfied.

(c) Promptly upon satisfaction or waiver of all of the Conditions Precedent, the Note Trustee must send the Company a notice stating that all of the Conditions Precedent have been satisfied.

3.3 Waiver of Conditions Precedent

Each Condition Precedent is for the benefit only of the Noteholders and only the Note Trustee (acting on the instructions of all the Noteholders) may waive it.

3.4 Termination on sunset date

(a) If the Transaction Documents (other than those set out in paragraphs 8 to 10 of the definition thereof) are signed by 20 December 2013; but

(b) the Completion Date has not occurred on or before 30 January 2014,

then this deed will terminate immediately (other than clauses 1, 7, 9, 10, 11, 12, 13 and 14) and all provisions incidental thereto) without further action from either party.

3.5 Time and place for Completion

Completion must take place (unless the parties otherwise agree):

(a) on the Completion Date;

(b) at the office of the Company or at such other location the parties otherwise agree; and

(c) at the time (but during banking hours at that place) that the Company and the Note Trustee agree at least 2 Business Days' prior to Completion.

3.6 Initial Detachable Warrantholder actions prior to Completion

As soon as practicable prior to the scheduled Completion and subject to the satisfaction or waiver of the Conditions Precedent (other than the Conditions Precedent in paragraph (d) of Schedule 2 (*Conditions Precedent*), each Initial Detachable Warrantholder will provide the Company with a completed Application Form, applying for their Allocation of Detachable Warrants.

3.7 Completion steps

Completion shall take effect as follows:

(a) firstly, the payments set out in clause 3.8 (*Payments at Completion*) are made; and

(b) secondly, the actions set out in clause 3.9 (*Company actions at Completion*) and Clause 3.10 (*Documents to be delivered at Completion*) are completed.

Upon completion of all of the steps listed above they will be deemed to have occurred contemporaneously notwithstanding the actual order or time at which they were completed.

3.8 Payments at Completion

At Completion:

(a) the Company irrevocably directs each relevant Initial Noteholder to pay, or cause to be paid, its Subscription Portion of the Principal Sum in respect of each of the Convertible Notes and the Amortising Notes, as applicable, in US$ in Immediately Available Funds to the Note Trustee in accordance with Item 1 on the Agreed Funds Flow; and

(b) upon receipt of the Principal Sum in full, the Company and each Initial Noteholder irrevocably directs the Note Trustee to make each of the payments in accordance with Items 2 and 3 of the Agreed Funds Flow and in relation to the payments of the Redemption Moneys to each payee in accordance with and as set out in schedule 1 of the Deed of Release, and to make the currency conversion set out in Clause 6.3 (*Currency Conversion for payment of Redemption Moneys*).

3.9 Company actions at Completion

At Completion, in accordance with the Prospectus, this deed and the other Transaction Documents and subject to each Initial Noteholder complying with clause 2(a) and (b) (*Agreement to subscribe and issue*) (as applicable) and each Detachable Warrantholder complying with clause 2(c) (*Agreement to subscribe and issue*) and clause 3.8 (*Payments at Completion*) the Company must:

(a) In relation to the Notes:

(1) issue the Notes free and clear from any Encumbrance or other third party rights;

(2) register, or procure the registration of, in the applicable Note Register, each Initial Noteholder's Subscription Portion of the applicable Notes in the name of each relevant Initial Noteholder or if the Initial Noteholder has so directed, its Nominee; and

(3) lodge or procure the lodgement of the relevant Notes through Euroclear or Clearstream or such other Clearing System as agreed with the Company and request the transfer of the relevant Notes to the security record of the Noteholders or such other account as the Noteholders may nominate.

(b) In relation to the Detachable Warrants:

(1) grant and issue the Detachable Warrants free and clear from any Encumbrance or other third party rights; and

(2) register, or procure the registration of, in the Detachable Warrant Register, each Initial Detachable Warrantholder's Allocation of Detachable Warrants in the name of each relevant Initial Detachable Warrantholder.

3.10 Documents to be delivered at Completion

(a) At Completion, the Company must:

(1) (**Note Certificate**) cause the Global Certificates in respect of each class of Notes to be delivered to the Common Depository;

(2) (**Register of Noteholders**) give, or procure the Registrar to give, to each Noteholder (or its Nominee) a certified copy of the relevant Register showing the Noteholder (or its Nominee or relevant Clearing System) as a registered holder of its Notes;

(3) (**Detachable Warrant Certificate**) issue Detachable Warrant Certificates in the name of each Initial Detachable Warrantholder in respect of their respective Allocation of Detachable Warrants;

(4) (**Register of Warrantholders**) give, or procure the Detachable Warrant Registrar to give, to each Initial Detachable Warrantholder (or its Nominee) a certified copy of the Detachable Warrant Register showing the Initial Detachable Warrantholder (or its Nominee) as the registered holder of their respective Allocation of Detachable Warrants.

3.11 Post Completion actions

The Company must comply with all applicable law, and the relevant provisions of the Corporations Act, the ASX Listing Rules and the Transaction Documents in respect of the grant, issue, conversion and exercise of the Notes and the Warrants.

3.12 Nominee

If a Noteholder or a Warrantholder elects to have its Notes or Warrants, as applicable, held by its Nominee on its behalf, the Noteholder or Warrantholder, as applicable, must procure that the Nominee acts in accordance with this deed and the other Transaction Documents at all times.

3.13 Clearing System rules apply

Transactions between the Company and the Note Parties relating to Notes held in a Clearing System are subject to the rules and regulations of that Clearing System.

4 Use of Proceeds

4.1 Use of Proceeds

(a) The proceeds of the Principal Sum shall be applied by the Company to the following purposes in the following order:

(1) to repay and redeem the Existing Convertible Notes in full in accordance with this deed, the Deed of Release and the Existing Note Trust Deed; and

(2) to deposit the balance in the Secured Account denominated in US$.

(b) The Principal Sum standing to the credit of the Secured Accounts may only be used by the Company for the following purposes:

(1) the payment of agreed costs, fees and expenses associated with the issue of the Notes and the Warrants;

(2) the payment of amounts under the Transaction Documents as and when they fall due;

(3) working capital purposes arising in the course of business in relation to the Mongolian Project and for the avoidance of doubt not for any acquisitions in any jurisdiction; and

(4) any other purpose agreed between the Company and the Note Trustee.

(c) For the avoidance of doubt, any other money standing to the credit of a Secured Account may be used by the Company for any purpose in accordance with the Transaction Documents.

5 Representations and warranties

5.1 Warranties

(a) The Company represents and warrants to each Note Party and each Warrantholder as to each of the matters specified in Part 1 of Schedule 3 (*Warranties*) of the Note Trust Deed as at the date of this deed and the Completion Date.

(b) Each Initial Noteholder and each Initial Detachable Warrantholder represents and warrants to the Company as to each of the matters specified in Part 2 of Schedule 3 (*Warranties*) as at the Completion Date.

5.2 Reliance

(a) The Company acknowledges that it has not entered into this deed or the Security in reliance on any representation, warranty, promise or statement made by a Note Party or an Initial Detachable Warrantholder or any person on behalf of a Note Party or an Initial Detachable Warrantholder.

(b) The Company acknowledges that each Note Party and each Initial Detachable Warrantholder has entered into the Transaction Documents in reliance on the representations and warranties given by the Company under this deed.

6 Payments

6.1 Principal

Payment of principal and other amounts in respect of the Notes will be made to the Noteholders, in accordance with the payment provisions of the Transaction Documents, and subject to the surrender of the Notes at the Specified Office of the Company.

6.2 Other amounts

Payments of all amounts other than as provided in clause 6.1 (*Principal*) will be made as provided in this deed, the Note Trust Deed and each other Transaction Document.

6.3 Currency Conversion for payment of Redemption Moneys

The parties agree that in order for the Note Trustee to pay the Redemption Moneys in accordance with Item 2 on the Agreed Funds Flow in A$ at Completion, the Note Trustee may convert or translate such amounts of the Principal Sum that it has received in US$ pursuant to Item 1 of the Agreed Funds Flow into an amount of A$ equal to each of the payments of the Redemption Moneys using such currency exchange rates as are available to it or its bankers (whether or not through an intermediate currency and whether spot or forward) in the manner, amounts and at the times the Note Trustee or it bankers think fit acting in good faith. The aggregate of such US$ amount, together with the US$ equivalent of all fees, costs or expenses incurred in this currency conversion, the "**Discharge Amount**".

7 Taxation

7.1 GST

(a) Terms defined in the GST Act have the same meaning in this clause 7.1 unless provided otherwise.

(b) Notwithstanding any other provision of a Transaction Document, in the event that a Note Party or a Warrantholder must pay any GST on any supply made by it to the Company under or in connection with a Transaction Document, the Note Party or the Warrantholder, as applicable, may, in addition to any amount or consideration payable under that Transaction Document, recover from the Company an additional amount on account of that GST, such amount to be calculated by multiplying the relevant amount or consideration payable by the recipient for the relevant supply by the prevailing GST rate.

(c) Notwithstanding any other provisions of the Transaction Documents, in the event that a Note Party or Warrantholder must pay any GST in relation to a taxable supply that is made to it under or in connection a Transaction Document, the relevant Note Party or Warrantholder, as the case may be, may in addition to any other amounts, recover from the Company that GST less the amount of any input tax credit to which the indemnitee is entitled in respect of that payment.

(d) The relevant Note Party or Warrantholder, as applicable, must issue a tax invoice to the recipient of a supply referred to in clause 7.1(b) no later than 10 Business Days after payment by the recipient of the GST inclusive consideration for that supply.

(e) Any additional amount on account of GST recoverable from the Company pursuant to clause 7.1(b) or clause 7.1(c) shall be calculated without any deduction or set off of any other amount and is payable by the Company upon demand by the Note Party or the Warrantholder, as applicable, whether such demand is by means of an invoice or otherwise.

8 Undertakings

The Company gives each undertaking and covenant (however described) set out in the Note Trust Deed (including the Note Conditions) and the Detachable Warrant Deed (including the Warrant Conditions).

9 General indemnity

9.1 Indemnity by the Company

For the purposes of this clause 9, 'Indemnified Party' means each Beneficiary, any director, officer, authorized representative, employee, agent, delegate, attorney or Related Body Corporate of a Beneficiary or any receiver or receiver and manager appointed under the Security.

(a) The Company shall indemnify the Indemnified Parties against any claim, action, damage, loss, liability, cost charge expense or payment which that Indemnified Party pays, suffers, incurs or is liable for in respect of any of the following:

(1) any Event of Default or breach of a Transaction Document;

(2) any exercise or attempted exercise of any right, power or remedy under any Transaction Document or any failure to exercise any right, power or remedy;

(3) the Secured Property or the existence of any interest in or control, right, power or remedy with respect to the Secured Property;

(4) a Note or Warrant requested to be issued not being issued for any reason (including failure to fulfil a condition precedent but excluding default by the relevant Noteholder or Warrantholder);

(5) the relevant Noteholder receiving payments of principal in respect of any Note other than on an Interest Payment Date relating to the relevant Note for any reason, including prepayment in accordance with this deed;

(6) an Indemnified Party acting in connection with a Transaction Document in good faith on facsimile instructions purporting to originate from the offices of the Company or to be given by an Officer of the Company; or

(7) any Loss which an Indemnified Party suffers or incurs in any applicable jurisdiction in connection with the Notes, Warrants and other Transaction Documents except to the extent that such Loss is attributable to the fraud, wilful misconduct or gross negligence of an Indemnified Party.

(b) Failure by an Indemnified Party to act, or action by it, due to lack of instructions, or to the terms of instructions, from the Noteholders or the Warrantholders, as applicable, is not, nor will ever be, fraud, wilful misconduct or gross negligence of that Indemnified Party for the purposes of clause 9.1.

(c) The Company's liability under clause 9.1 will cease immediately :

(1) to each Noteholder, upon each Note having been repaid and redeemed by the Company in accordance with the relevant Note Conditions;

(2) to each Warrantholder, upon each Warrant having been converted into Ordinary Shares by the Company in accordance with the Transaction Documents; or

(3) upon the Conversion Rights in respect of each Note having been exercised and the issue and allotment of the Conversion Property and Additional Conversion Property and/or payment of the Cash Settlement Amount,

whichever is the latest date.

9.2 Claims and proceedings

(a) An Indemnified Party must promptly notify the other party (**Indemnifying Person**) in writing. The Indemnified Party must consult in good faith with the Indemnifying Person as to the identity of the lawyers to be appointed to represent the Indemnified Party and must keep the Indemnifying Party regularly informed in connection with the action. The Indemnified Party must not effect a settlement or compromise without the written consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed. If the Indemnifying Person does not respond to a request for approval or consent within such reasonable period as specified by the Indemnified Party (being not less than 5 Business Days unless a shorter period is required by the circumstances), the Indemnified Party will be free to act and such action will be at the cost of the Indemnifying Person.

(b) Any claim made by the Indemnified Party under an indemnity must be accompanied by a statement giving reasonable details of the calculation of the amount in respect of which such indemnity is claimed.

9.3 Currency indemnity

If, at any time:

(a) a Note Party or a Warrantholder receives or recovers any amount payable by the Company for any reason including, but not limited to:

(1) any judgment or order by any Government Agency;

(2) any breach of this deed;

(3) the liquidation or bankruptcy of the Company or any proof or claim in that liquidation or bankruptcy; or

(4) any other thing into which the obligations of the Company may have become merged; and

(b) the currency in which the payment is made is not US$,

the Company indemnifies each Note Party and each Warrantholder against any shortfall between the amount payable in Australian Dollars and the amount actually or notionally received or recovered by each Noteholder or each Warrantholder, as applicable, after the payment is converted or translated into US$, by the Noteholder or the Warrantholder, as applicable, or through its bankers by purchasing one currency with another whether or not through an intermediate currency, whether spot or forward, in the manner and amounts and at the time it thinks fit acting in good faith.

10 Information

10.1 Confidentiality

Each party (**recipient**) must keep secret and confidential, and must not divulge or disclose any information relating to another party or its business (which is disclosed to the recipient by the other party, its representatives or advisers), the Transaction Documents, the terms of the Notes or the terms of the Warrants other than to the extent that:

(a) the information is in the public domain as at the date of this deed (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the recipient);

(b) the recipient is required to disclose the information by applicable law, order of court of competent jurisdiction, order of Government Agency having the power to do so or the rules of any recognised stock exchange on which its shares or the shares of any of its related bodies corporate are listed, provided that the recipient has to the extent possible having regard to the required timing of the disclosure consulted with the provider of the information as to the form and content of the disclosure;

(c) the disclosure is made by the recipient to its financiers or lawyers, accountants, investment bankers, consultants, investors, potential investors, or other professional advisers to the extent necessary to enable the recipient to properly perform its obligations under this deed or to conduct their business generally, in which case the recipient must ensure that such persons keep the information secret and confidential and do not divulge or disclose the information to any other person;

(d) the disclosure is made by the recipient to potential transferees of the Notes or the Warrants, or their financiers in connection with the proposed transfer of the Notes or the Warrants, in which case the recipient must use reasonable endeavours to ensure that such persons keep the information secret and confidential and do not divulge or disclose the information to any other person;

(e) the disclosure is required for use in legal proceedings regarding this deed, the Notes or the Warrants; or

(f) the party to whom the information relates has consented in writing before the disclosure.

10.2 Extent of obligation

(a) Each recipient must use reasonable endeavours to ensure that its directors, officers, employees, agents, investors, potential investors, representatives, financiers, advisers and related bodies corporate comply in all respects with the recipient's obligations under clause 10.1 (*Confidentiality*).

(b) This clause 10 survives the termination of this deed.

11 Amendments

11.1 Amendment with consent

This deed may only be amended or varied with the consent of all parties to it.

11.2 Notice of amendments

The Company must promptly give to each other party a copy of any variation to this deed as soon as reasonably practicable after that variation is made.

12 Notices

(a) Any notice or other communication including, any request, demand, consent or approval, to the Company under a Transaction Document must be in legible writing and in English and be given to its Specified Office as set out below or as subsequently notified to the Note Trustee and each Initial Detachable Warrantholder:

Address: *Guildford Coal Limited*
Level 7, 490 Upper Edward Street
Spring Hill QLD 2300
Australia
Fax: *+61 7 3834 3385*
Email: *MarkR@guildfordcoal.com.au*

Such notice or communication will be regarded as given:

(1) when actually received at the relevant Specified Office, unless actually received after the close of business in the place of the Specified Office or on a day that is not a Business Day, in which case it will be regarded as given on the next Business Day; or

(2) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice or communication, unless the time recorded is not on a Business Day or is after 5.00pm (recipient's time) on a Business Day, in which case it will be regarded as given on the next Business Day; or

(3) if sent by email, when the sender receives an automated message confirming delivery or 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that their email has not been delivered, whichever happens first.

(b) Any notice or other communication including, any request, demand, consent or approval, to a Noteholder, a Warrantholder or the Note Trustee under a Transaction Document must be in legible writing and in English and be given to its specified address and otherwise as set out in the column headed 'Notice Details' in Parts A, B, C and D of Schedule 1 (*Parties*) respectively or as subsequently notified by the relevant Note Party or Warrantholder to the Company.

(c) Such notice or communication will be regarded as given:

(1) when actually received at the relevant specified office, unless actually received after the close of business in the place of the specified office or on a day that is not a Business Day, in which case it will be regarded as given on the next Business Day;

(2) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice or communication, unless the time recorded is not on a Business Day or

is after 5.00pm (recipient's time) on a Business Day, in which case it will be regarded as given on the next Business Day; and

(3) if sent by email, when the sender receives an automated message confirming delivery or 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that their email has not been delivered, whichever happens first.

13 Governing law and jurisdiction

(a) The Notes, the Warrants and this deed are governed by the laws of New South Wales.

(b) The Company irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

(c) The Company irrevocably waives any objection to the venue of any legal process in or of the courts of New South Wales on the basis that the process has been brought in an inconvenient forum.

14 General matters

14.1 Costs

(a) The Company must bear all reasonable and pre-agreed costs incurred in the course of the preparation, negotiation, arrangement and execution of the Transaction Documents (including, without limitation, legal fees, trustee and agent fees, due diligence, Taxes (including penalties or fines) or registration of Security and out of pocket expenses).

(b) The Company shall indemnify the Indemnified Parties (as defined in clause 9.1 (*Indemnity by the Company*) against any liability resulting from delay or omission to pay Taxes except to the extent the liability results from failure by the Indemnified Party to pay any Tax after having been put in funds (with all necessary documents) to do so, at least two Business Days before the due date for payment, by the Company.

14.2 Waiver

No party to a Transaction Document may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 14.2 are set out below.

Term	**Meaning**
conduct	includes delay in the exercise of a right.

Term	Meaning
right	any right arising under or in connection with this deed and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

14.3 Invalidity and enforceability

(a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.

(b) Clause 14.3(a) does not apply where enforcement of the provision of this deed in accordance with clause 14.3(a) would materially affect the nature or effect of the parties' obligations under this deed.

14.4 Severance

If any provision of a Transaction Document is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this deed.

14.5 Further action to be taken at each party's own expense

Subject to clause 14.1 (*Costs*), each party must, at its own expense, do all things and execute all documents necessary to give full effect to this deed and the transactions contemplated by it.

14.6 Cumulative rights

The rights, powers, authorities, discretions and remedies which arise out of or under a Transaction Document are cumulative and do not exclude any other rights, powers, authorities, discretions and remedies of a party (including those which arise as a result of a breach of this deed or of any other obligation).

14.7 Assignment

(a) Each Noteholder and each Warrantholder may assign its rights under any Transaction Document without the consent of the Company.

(b) The Company must not assign any of its rights under any Transaction Document without the prior written consent of the Note Trustee.

14.8 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

Schedule 1

Parties

Part A: Initial Convertible Noteholders

Initial Convertible Noteholder	ACN/Company Number	Registered Office	Notice Details	Amount of Subscription Portion
OL Master Limited	-	Codan Trust Company (Cayman) Ltd, Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman, KY1-1111, Cayman Islands	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$5,000,000
Makira SP6 Limited	1774770	Commerce House, Wickhams Cay 1, PO Box 3140, Road Town, Tortola, British Virgin Islands, VG1110	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$5,000,000
Total				US$10,000,000

Part B: Initial Amortising Noteholders

Initial Amortising Noteholder	ACN/Company Number	Registered Office	Notice Details	Amount of Subscription Portion
OL Master Limited	-	Codan Trust Company (Cayman) Ltd, Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman, KY1-1111, Cayman Islands	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$25,000,000
Orchard Makira Master Limited	1427453	Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$1,000,000
Makira SP6 Limited	1774770	Commerce House, Wickhams Cay 1, PO Box 3140, Road Town, Tortola, British Virgin Islands, VG1110	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$25,000,000
Makira SP7 Limited	1794717	Commerce House, Wickhams Cay 1, PO Box 3140, Road Town, Tortola, British Virgin Islands, VG1110	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	US$4,000,000
Total				US$55,000,000

Part C: Initial Detachable Warrantholders

Initial Detachable Warrantholder	ACN/Company Number	Registered Office	Notice Details	Allocation
OL Master Limited		Codan Trust Company (Cayman) Ltd, Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman, KY1-1111, Cayman Islands	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	4,625,000
Orchard Makira Master Limited	1427453	Craigmuir Chambers, PO Box 71, Road Town, Tortola, British Virgin Islands	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	185,000
Makira SP6 Limited	1774770	Commerce House, Wickhams Cay 1, PO Box 3140, Road Town, Tortola, British Virgin Islands, VG1110	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	4,625,000
Makira SP7 Limited	1794717	Commerce House, Wickhams Cay 1, PO Box 3140, Road Town, Tortola, British Virgin Islands, VG1110	Attention of: Ben Harris/Dan Simmons/Nick Cusack Address: c/o OCP Asia (Hong Kong) Limited 34/F Gloucester Tower, The Landmark, 15 Queens Road Central, Hong Kong Email: ben.harris@ocpasia.com dan.simmons@ocpasia.com nick.cusack@ocpasia.com Fax: +852 2236 0600	740,000
Total				10,175,000

Part D: Note Trustee

Madison Pacific Trust Limited

Attention of: Jonathan Hatch

Address: 1708, 17th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong]

Email: Trustee@madisonpac.com; jhatch@madisonpac.com

ACN/Company Number: PPSR 5365843

Phone Number: +852 2599 9588

Fax Number: +852 2599 9501

Schedule 2

Conditions Precedent

(a) **(execution)**: Each Transaction Document and the Deed of Release has been duly executed by all parties to it.

(b) **(due authorisations)**: Evidence of the due authorisation, power and capacity of each Security Provider to enter into and perform its obligations under the Transaction Documents, including the ability to issue the Notes and the Warrants and the Ordinary Shares upon conversion of the Notes and the Warrants.

(c) **(Prospectus)**:

(1) Confirmation from the Company that the Prospectus has been prepared in accordance with the requirements of the Corporations Act and satisfies the requirements of Category 3 (Options, convertible securities or products etc) of ASIC Class Order 04/671 so as to enable any Ordinary Shares issued on the exercise of any Detachable Warrants to be free from any on-sale restrictions; and

(2) evidence that the Prospectus has been lodged with ASIC and ASX in the agreed form.

(d) **(notice)** In respect of the Convertible Notes issued under this Deed and any Ordinary Shares to be issued as a result of conversion of any Convertible Notes, evidence that the Company has lodged with ASX a notice in compliance with Section 708A(12D) (as amended by ASIC Class Order 10/322) in the agreed form.

(e) **(opinion)** Receipt by each Initial Noteholder and each Initial Detachable Warrantholder of a copy of the legal opinion, which is addressed to the Note Parties and, in respect of the Detachable Warrant Deed Poll, the Detachable Warrantholders, from the Company's legal advisor in Australia

(f) **(shareholder approval)**: for the purposes of ASX Listing Rule 7.1 and any and all other relevant purposes, approval by the Company's shareholders having been duly granted for the issue of the Notes and the Warrants and the issue of any Ordinary Shares resulting from conversion and/or exercise of any Notes or Warrants.

(g) **(filing)**: Evidence that the Security has been or will be registered in all relevant jurisdictions free from all prior Encumbrances and third party rights other than Permitted Encumbrances.

(h) **(stamping)**: All documents, information and statutory declarations (including a multi-jurisdictional mortgage statement, if relevant) detailing the Secured Property required to determine what (if any) stamp duty is payable in all relevant jurisdictions in respect of the Transaction Documents.

(i) **(delivery of title documents)**: Delivery of all instruments and documents of title in respect of the Secured Property (including original share certificates and executed blank transfer forms in respect of Marketable Securities) not provided for in the Deed of Release.

(j) **(authority)**: Confirmation from the Company that any Authorisation required in relation to the issue of the Notes and the Warrants has been obtained.

(k) **(KYC)**: Confirmation from each Agent that the Company has satisfied all "know your client" and other relevant procedures required by each Agent.

(l) **(no default)**: No Event of Default or Potential Event of Default subsists or will result from the subscription for Notes or Warrants.

(m) **(representations)**: The representations and warranties in the Transaction Documents are true as though they had been made at the Completion Date in respect of the facts and circumstances then subsisting.

(n) **(no material adverse change)**: Confirmation from the Company that as at the Issue Date there has been no material adverse change to the business, assets or financial condition of the Company since the date of this deed.

Schedule 3

Warranties

Part 1 – Company Warranties

1 Authority

1.1 Authorisation

(a) Each member of the Group has taken all necessary action to authorise the execution, performance and adoption of the Transaction Documents to which it is a party, to authorise its compliance with its obligations and exercise its rights under the Transaction Documents to which it is a party and to allow them to be enforced.

(b) The obligations of each member of the Group under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms subject to any stamping and registration requirements, applicable equitable principles and laws generally affecting creditors' rights.

1.2 Power and title

(a) Each member of the Group has the power to enter into and perform its obligations under the Transaction Documents, to carry out the transactions contemplated by those documents, to own its assets and to carry on its business as now conducted or contemplated.

(b) Each member of the Group has good title to and is the sole legal and beneficial owner of the property the subject of the Security and none of its assets is subject to an Encumbrance that is not a Permitted Encumbrance.

1.3 No legal impediment

Each of the execution, performance, compliance with obligations, exercise of rights under and adoption of the Transaction Documents to which it is a party (and each transaction contemplated by those documents) by each member of the Group:

(a) does not and will not conflict with its constitution or other constituent documents (if any);

(b) does not and will not constitute a breach of any law or obligation by which it is bound or to which any of its assets is subject or cause a limitation on its powers or the powers of its directors to be exceeded;

(c) does not and will not violate in any respect any document or agreement which is binding on it or its assets; and

except as provided by the Transaction Documents, did not and will not:

(d) create or impose an Encumbrance on any of its assets; or

(e) allow a person to accelerate or cancel an obligation with respect to Financial Indebtedness, or constitute an event of default, cancellation event, prepayment event or similar event (whatever called) under an agreement relating to Financial Indebtedness, whether immediately or after notice or lapse of time or both.

1.4 Consents

(a) All Authorisations required before each member of the Group may enter into the Transaction Documents to which it is a party or which are necessary in connection with the performance by the Company of its obligations under the Transaction Documents to which it is a party and its business as now conducted have been obtained or effected and are in full force and effect.

(b) All filings and registrations which are required to be effected, and all amounts which are required to be paid, to ensure that the Transaction Documents to which each member of the Group is a party are legal, valid, binding and admissible in evidence and have the priority that they contemplate have been effected by it and paid or will be effected and paid within the time prescribed by law.

1.5 No breach of laws

(a) Each member of the Group has not committed any breach of, or otherwise failed to comply with the provisions of, any law of any State or Territory of Australia the consequences of which breach would be reasonably likely to affect its ability to comply with its obligations under the Transaction Documents to which it is a party.

(b) Without limiting paragraph 1.6(a) above, the Company has complied in all respects, including in relation to continuous disclosure obligations, with the requirements of the Corporations Act, the ASX Listing Rules and the rules of each other Relevant Stock Exchange and the Company is not withholding any information from public disclosure in reliance on ASX Listing Rule 3.1A that has not been disclosed in writing to the Initial Noteholders prior to the date of this Note Deed.

1.6 No default

(a) No event has occurred which constitutes an Event of Default or Potential Event of Default.

(b) Neither the Company nor any of its Subsidiaries has committed any breach of, or otherwise failed to comply with the provisions of any arrangement, contract, agreement, undertaking or document (including an Authorisation) to which it is a party or by which it is bound the consequences of which default would be reasonably likely to affect the Company's ability to comply with its obligations under the Transaction Documents to which it is a party. Nothing has occurred which constitutes an event of default, cancellation event, prepayment event or similar event (whatever called) under those documents or agreements, whether immediately or after notice or lapse of time or both.

1.7 General

(a) No litigation, arbitration, Tax claim, mediation, conciliation, criminal or administrative proceedings against the Company or a Subsidiary, or any director or Officer of the Company or any Subsidiary, are current, pending or (to the knowledge of any of its officers after due inquiry) threatened that involve a potential liability in excess of A$500,000 (excluding workers' compensation claims) or which, if adversely determined would be likely to have a Material Adverse Effect.

(b) No representation, warranty or other information provided by the Company contains any untrue statement of material fact or omits to state a material fact necessary to ensure that the representation, warranty or information is not misleading.

(c) The Company controls and no other person has the capacity to control each Subsidiary (for this purpose, "control" shall have the meaning given in the Corporations Act).

(d) All information provided by the Company in connection with the Transaction Documents is true and accurate in all material respects at the date of this deed or, if later, when provided. Neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by the Transaction Documents, was or is misleading in any material respect, by omission or otherwise.

(e) All financial projections provided by the Company have been prepared by appropriately qualified persons in good faith and on the basis of the most recently available historical information and on the basis of reasonable assumptions.

(f) The Company has disclosed all material information and documents relating to it, its assets, each Transaction Document and the transactions contemplated by each of them, which are material to an Initial Noteholder, the Note Trustee or an Initial Detachable Warrantholder's decision to enter into the Transaction Documents.

(g) All copies of documents given by or on behalf of the Company to a Note Party or an Initial Detachable Warrantholder are true and complete copies. Those documents are in full force and effect.

(h) The Company is not under investigation by any agency into all or part of its affairs in circumstances material to its business or financial condition.

(i) Any person specified as an Officer of the Company is authorised to sign any requests and other notices on its behalf and do all other things contemplated by the Transaction Documents.

(j) The Company benefits by entering into and performing its obligations under each Transaction Document.

(k) Each member of the Group entering into a Transaction Document has no immunity from the jurisdiction of a court, or from legal process, in any State of, or the Commonwealth of, Australia.

(l) The Company's obligations under the Transaction Documents rank or will rank at least equally with all of its unsecured and unsubordinated indebtedness (other than liabilities mandatorily preferred by law).

(m) Except as disclosed to and approved in writing by the Note Parties and the Initial Detachable Warrantholders, all Marketable Securities which are Secured Property are fully paid and there is no agreement, arrangement or understanding under which further Marketable Securities with rights of conversion to shares in the Company may be issued to any person.

(n) It has complied with all laws in relation to Tax in all jurisdictions in which it is subject to Taxes and has paid all Taxes due and payable by it except those for which it has set aside sufficient reserves and which are being contested in good faith (except where failure to pay may have a Material Adverse Effect).

(o) All insurances required under the Transaction Documents are in effect and current and meet the requirements of the Transaction Documents. It has not made any material misrepresentation or omission to its insurers and is not aware of any reason why any of the insurance policies may be terminated or why any insurers may refuse to pay a claim when made.

(p) It holds each Authorisation required for the carrying on by it and its Subsidiaries of their respective businesses as conducted or contemplated at the date of this deed. Each of them is in full force and effect.

2 Solvency

(a) Each member of the Group is solvent and will not become insolvent by entering into and performing its obligations under the Transaction Documents to which it is a party.

(b) No Controller is currently appointed in relation to the Company's property or part thereof.

3 Corporate

(a) Each member of the Group is duly incorporated or formed and validly existing under the laws of the place of the place of its incorporation or formation and is validly existing under those laws;

(b) Each member of the Group is capable of suing and being sued;

(c) Except as disclosed to and agreed by the Note Parties, each member of the Group has not entered into any Transaction Document and does not hold any property:

(1) as a trustee of any trust;

(2) as a partner of a partnership;

(3) as a responsible entity of any registered scheme;

(4) as an agent of an undisclosed principal; or

(5) in any other capacity for the benefit of any person.

(d) **ASIC determination**

ASIC has not in the 12 months prior to the Completion Date made a determination under section 708A (2) of the Corporations Act in respect of the Shares; and

(e) **Prospectus**

the Prospectus complies with all requirements of the Corporations Act.

Part 2 – Initial Noteholder and Initial Detachable Warrantholder Warranties

1 Authority

1.1 Authorisation

Each Initial Noteholder and each Initial Detachable Warrantholder has taken all necessary action to authorise the execution, performance and adoption of this deed.

1.2 Power

Each Initial Noteholder and each Initial Detachable Warrantholder has the power to enter into and perform its obligations under this deed.

1.3 No legal impediment

Each of the execution, performance and adoption of this deed by an Initial Noteholder or an Initial Detachable Warrantholder:

(a) complies with the constitution or other constituent documents (if any) of that Initial Noteholder or Initial Detachable Warrantholder, as the case may be, and any trust of which it is a trustee; and

(b) does not constitute a breach of any law by that Initial Noteholder or Initial Detachable Warrantholder, as the case may be, or result in a default under any agreement or instrument to which that Initial Noteholder or Initial Detachable Warrantholder is bound.

2 Solvency

Each Initial Noteholder and each Initial Detachable Warrantholder is solvent and will not become insolvent by entering into and performing its obligations under the Transaction Documents to which it is a party.

HERBERT
SMITH
FREEHILLS

Signing page

Executed as a deed

Initial Convertible Noteholders

Signed sealed and delivered by
OL Master Limited
by

sign here ▸	Company Secretary/Director	Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of OL Master Limited
print name	BEN HARRIS	
sign here ▸	Director	
print name		

Signed sealed and delivered by
Makira SP6 Limited
by

sign here ▸	Company Secretary/Director	Director of OCP Asia (Hong Kong) Limited, sub adviser of OCP Asia Limited, investment manager of Makira SP6 Limited
print name	BEN HARRIS	
sign here ▸	Director	
print name		

HERBERT SMITH FREEHILLS

Initial Amortising Noteholders

Signed sealed and delivered by
OL Master Limited
by

sign here ► [signature]
Company Secretary/Director

print name BEN HARRIS

sign here ►
Director

print name

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of OL Master Limited

Signed sealed and delivered by
Orchard Makira Master Limited
by

sign here ► [signature]
Company Secretary/Director

print name BEN HARRIS

sign here ►
Director

print name

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of Orchard Makira Master Limited

Signed sealed and delivered by
Makira SP6 Limited
by

sign here ► [signature]
Company Secretary/Director

print name BEN HARRIS

sign here ►
Director

print name

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of Makira SP6 Limited

Signed sealed and delivered by
Makira SP7 Limited
by

sign here ►
Company Secretary/Director

print name BEN HARRIS

sign here ►
Director

print name

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of Makira SP7 Limited

Initial Detachable Warrantholders

Signed sealed and delivered by
OL Master Limited
by

sign here ►
Company Secretary/Director

print name BEN HARRIS

sign here ►
Director

print name

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of OL Master Limited

Signed sealed and delivered by
Orchard Makira Master Limited
by

sign here ► ______________________
Company/Secretary/Director

print name BEN HARRIS

sign here ► ______________________
Director

print name ______________________

Director of OCP Asia (Hong Kong) Limited, sub-adviser of OCP Asia Limited, investment manager of Orchard Makira Master Limited

Signed sealed and delivered by
Makira SP6 Limited
by

sign here ► ______________________
Company/Secretary/Director

print name BEN HARRIS

sign here ► ______________________
Director

print name ______________________

Director of OCP Asia (Hong Kong) Limited, sub-adviser of ~~Makira SP~~ OCP Asia Limited, investment manager of Makira SP6 Limited

Signed sealed and delivered by
Makira SP7 Limited
by

sign here ► ______________________
Company Secretary/Director

print name BEN HARRIS

sign here ► ______________________
Director

print name ______________________

Director of OCP Asia (Hong Kong) Limited, sub-adviser of ~~Makira SP7 Limited~~ OCP Asia Limited, investment manager of Makira SP7 Limited

Company

Signed sealed and delivered by
Guildford Coal Limited
by

sign here ► ______________________
Company Secretary/~~Director~~

print name KON TSIAKIS

sign here ► ______________________
~~Director~~

print name Alan Griffiths

Note Trustee

Signed sealed and delivered by
Madison Pacific Trust Limited
by

sign here ► ______________________
Company Secretary/Director

print name ______________________

sign here ► ______________________
Director

print name ______________________

Company

Signed sealed and delivered by
Guildford Coal Limited
by

sign here ► ______________________
Company Secretary/Director

print name ______________________

sign here ► ______________________
Director

print name ______________________

Note Trustee

Signed sealed and delivered by
Madison Pacific Trust Limited
by

sign here ► [signature]
~~Company Secretary~~/Director

print name JONATHAN LEE HATCH

sign here ► [signature]
Director

print name G. JACQUELINE FANGONIL WALSH

HERBERT SMITH FREEHILLS

Attachment 1

Agreed Funds Flow

Item number and order of payments	Amount and currency	Payor	Payee	Account details
1	Subscription Portion (US$)	Each Initial Noteholder	Note Trustee	Madison Pacific Trust Limited USD Correspondent Bank detail: **Pay to:** Standard Chartered Bank New York **Swift:** SCBLUS33XXX **Address:** One Madison Avenue, New York, New York 10010-3603, USA. **ABA No.:** 026002561 **In favour of:** Standard Chartered Bank (Hong Kong) Limited **Swift:** SCBLHKHHXXX **A/C No.:** 3582-088658-001 **Chip UID No.:** 078600 **For further credit to:** Madison Pacific Trust Limited – Client Account **USD Current Account No.:** 447-0-787353-6
2	Redemption Moneys (A$)	Note Trustee	As set out in Schedule 1 of the Deed of Release	As set out in Schedule 1 of the Deed of Release
3	The Principal Sum less the Discharge Amount (US$)	Note Trustee	Company	**Account Name:** Guildford Coal Ltd **Currency:** USD **Account number:** 10160315 **Bank:** Macquarie Bank **Swift:** **Beneficiary Bank Name:** Macquarie Bank Limited **Swift:** MACQAU2S **Street address:** 1 Shelley Street **City:** SYDNEY **State:** NSW **Country:** Australia **Postcode:** 2000