

CONVERTIBLE NOTE TRUST DEED

BETWEEN

**CRATER GOLD MINING LIMITED
ACN 067 519 779
("Borrower")**

AND

**AUSTRALIAN EXECUTOR TRUSTEES LIMITED
ACN 007 869 794
("Trustee")**

TABLE OF CONTENTS

1.	DEFINED MEANINGS	1
2.	ISSUE	1
3.	NOTE PAYMENTS	2
4.	TRUSTEE	2
5.	DURATION	2
6.	CLEARED FUNDS	3
7.	PAYMENT OF COMMISSION	3
8.	BORROWER'S COVENANTS	3
9.	REPORTS	4
10.	TRUSTEE'S POWERS	4
11.	FEES AND EXPENSES	8
12.	TRUSTEE'S INDEMNITY	9
13.	TRUSTEE'S LIABILITY	10
14.	REPRESENTATIONS AND WARRANTIES	14
15.	RETIREMENT AND REMOVAL OF TRUSTEE	15
16.	REGISTERS	16
17.	JOINT NOTEHOLDERS	18
18.	DECEASED NOTEHOLDERS	18
19.	MEETING OF NOTEHOLDERS	18
20.	ALTERATION OF DOCUMENT	19
21.	VALIDITY	19
22.	DISCHARGE AND RELEASE	20
23.	NO RECOURSE AGAINST OTHERS	20
24.	UNTRACEABLE NOTEHOLDERS	20
25.	NOTICES	21
26.	EVENTS OF DEFAULT	22
27.	RIGHTS UPON DEFAULT	23
28.	GENERAL PROVISIONS	23
29.	DEFINITIONS AND INTERPRETATION	25
	SCHEDULE 1	29
	Conditions of issue of convertible Notes	29
	SCHEDULE 2	46
	Provisions for meetings of Noteholders	46
	ATTACHMENT A	54

THIS DEED is made on the 18th day of July 2014

BETWEEN

CRATER GOLD MINING LIMITED ACN 067 519 779 of Level 4, 15-17 Young Street, Sydney NSW 2000 (“**Borrower**”)

AND

AUSTRALIAN EXECUTOR TRUSTEES LIMITED ACN 007 869 794 of Level 22, 207 Kent Street, Sydney NSW 2000 (“**Trustee**”)

RECITALS

- A. The Borrower wishes to issue Notes subject to, and under terms of, this Note Deed.
- B. The Trustee has agreed, on the terms and conditions contained in this Note Deed, to act as trustee for the benefit of the Noteholders from time to time.

THIS DEED WITNESSES:

1. DEFINED MEANINGS

Words used in this Note Deed and the rules of interpretation that apply are set out and explained in Clause 29. Some terms are also defined in Condition 21 of the Conditions of Issue.

2. ISSUE

2.1 Application for Notes

A person may apply for Notes by filling out an application in the form prescribed in attachment A or such other form prescribed by the Borrower from time to time, such form to include an agreement from the applicant to be bound by the terms of this Note Deed.

2.2 Issue of Notes

The Borrower may issue Notes to any person on the terms of this Note Deed by registering the subscriber as the Noteholder of the Notes.

2.3 Entitlements to Notes

Entitlement to a Note is determined by the record provided by the Note Register and on recording a Note in the Register, a Note will be deemed to be issued.

2.4 Noteholder acknowledgment

- (a) Each Noteholder has, in its application for Notes, agreed to be bound by the terms of this Note Deed. On signing an application for Notes and paying the subscription amount for the issue of a Note (which subscription amount each Noteholder acknowledges is consideration for the issue to it of Notes and confirmation of its agreement to be bound by this Note Deed) or on registration of a transfer of a Note, the relevant Noteholder is bound by this Note Deed on and from the date the Noteholder becomes a holder of Notes.
- (b) Each Noteholder is taken to have irrevocably authorised the Note Trustee:
 - (i) to execute and deliver this Note Deed as trustee for the Noteholders, which execution and delivery is ratified and confirmed by the Noteholders; and

- (ii) in its capacity as trustee of the Noteholders to exercise the Powers expressly vested in it under this Note Deed or conferred on trustees under any Law and to carry out its obligations expressly set out in this Note Deed.

2.5 Note Certificate

The Borrower may issue, to any person who is issued a Note or to whom a Note is transferred, a Note Certificate¹. The Conditions of Issue are deemed to be included or endorsed on the Note Certificate without the need for any specific mention or words of incorporation.

3. NOTE PAYMENTS

The Borrower must, unless directed by the Trustee to do otherwise, pay directly to the Noteholders the Outstanding Money from time to time as and when due, in accordance with the Conditions of Issue. If the Borrower is directed by the Trustee to pay the money otherwise than directly to the Noteholders, the Borrower must pay such amounts in the manner so directed by the Trustee.

4. TRUSTEE

4.1 Appointment of Trustee

The Trustee is appointed as the trustee for the Noteholders. The Trustee agrees to hold in trust for the benefit of Noteholders:

- (a) the right to enforce the Borrower's duty to pay the Outstanding Money on the Notes on the due date for payment and to repay the Redemption Amount on each Note in accordance with the Conditions of Issue²; and
- (b) the right to enforce any other duties that the Borrower has under this Note Deed and Chapter 2L of the Corporations Act³,

and to act on behalf of Noteholders on the terms contained in this Note Deed.

4.2 Duties

Despite any other provision of this Note Deed, but subject to Chapter 2L of the Corporations Act and to the maximum extent permitted by Law, the only duties and obligations that the Trustee has to the Noteholders and the Borrower are those expressly set out in this Note Deed.

5. DURATION

5.1 Term of Trust

The Trust commences on the date of this Note Deed and ends on the day which is the 80th anniversary of the date of this Note Deed or 6 months after the payment in full of the Outstanding Money, whichever is the earlier.

5.2 Name of Trust

The Trust will be known as the 'Crater Gold Mining Note Trust'.

¹ Corporations Act, s1071H(1), a borrower must within 2 months give the person to whom it has issued a debenture an appropriate document or certificate, unless that is not required by the ASX Settlement Operating Rules or relief is granted by the Australian Securities and Investments Commission in accordance with *Regulatory Guide 30: Paperless issues and transfers under a global debenture*, dated June 2009.

² Corporations Act, s283AB(1)(a)

³ Corporations Act, s283AB(1)(c)

6. CLEARED FUNDS

No actual or proposed Noteholder or any other person has any right, title or interest in, under or to any Note until the Borrower has received cleared funds in payment in full of the money paid for a Note. This clause prevails over any other provision of this Note Deed.

7. PAYMENT OF COMMISSION

The Borrower may pay a commission, underwriting fee, brokerage or any other analogous fees to any person for subscribing or underwriting the subscription of or obtaining subscription for the Notes.

8. BORROWER'S COVENANTS

The Borrower covenants with the Trustee that it will:

- (a) carry on and conduct the Borrower's business in a proper and efficient manner⁴;
- (b) provide a copy of the Note Deed to:
 - (i) a Noteholder; or
 - (ii) the Trustee,
 if they request a copy⁵;
- (c) make all of its financial and other records available for inspection by:
 - (i) the Trustee, its attorneys, agents and authorised delegates;
 - (ii) an officer or employee of the Trustee authorised by the Trustee to carry out the inspection; or
 - (iii) a registered company auditor appointed by the Trustee to carry out the inspection,
 and promptly give them any information, explanations or other assistance that they require about matters relating to those records⁶;
- (d) so long as any of the Notes remain outstanding, promptly notify the Trustee after it becomes aware that any material condition or other provision of this Note Deed cannot be fulfilled, such notice to be given not later than 10 Business Days of the Borrower becoming so aware;
- (e) if the Borrower creates a charge:
 - (i) provide the Trustee with written details of the charge within 21 days after it is created; and
 - (ii) if the total amount to be advanced on the security of the charge is indeterminate and the advances are not merged in the current account with bankers, trade creditors or anyone else, give the Trustee written details of the amount of each

⁴ Corporations Act, s283BB(a)

⁵ Corporations Act, s283BB(b)

⁶ Corporations Act, s283BB(c)

advance secured by the charge within 7 days after it is made⁷;

- (f) comply with this Note Deed;
- (g) contemporaneously provide to the Trustee a copy of any notice or other correspondence sent to Noteholders generally; and
- (h) provide the Trustee (at the Borrower's cost) with a valuation of its assets and business conduct on a "going concern" basis, as and when reasonably required by the Trustee for the purpose of ensuring that the Trustee can comply with Chapter 2L of the Corporations Act.

9. REPORTS

The Borrower must comply with its reporting obligations to the Trustee, to the Noteholders and to ASIC under the Corporations Act⁸.

10. TRUSTEE'S POWERS

10.1 Power

The Trustee:

- (a) (**general Powers**) (subject to any express provision to the contrary in this Note Deed) has all the Powers in relation to the trusts constituted by this Note Deed that it is legally possible for a natural person or corporation to have,

and, without limiting clause 10.1(a):

- (b) (**applicable Law**) has the Powers, and is entitled to the indemnities and protections, conferred on trustees by applicable Law;
- (c) (**use agents**) may exercise its Powers and perform its duties either personally or through agents or contractors selected by it with reasonable care, and is not liable for any act or omission of any such agent including any default, misconduct, fraud or negligence;
- (d) (**advisers**) may engage such legal, accounting and other advisers as it considers necessary or desirable and may rely in good faith on advice which it receives from any legal, accounting or other adviser whether obtained by the Borrower, the Trustee or some other person and whether or not addressed to the Trustee or expressed to be for the benefit of the Trustee;
- (e) (**certificates and information**) accept as conclusive evidence and act upon, without further investigation:
 - (i) a certificate which purports to be signed by any two of the directors of the Borrower as to any fact, matter or thing; and
 - (ii) any document, information, report, accounts, balance sheet, certificate or statement supplied by the Borrower or an employee, officer, auditor, solicitor or adviser of the Borrower, including any statements or opinions in them;
- (f) (**reliance**) rely and act upon (without enquiry) any communication, information or document that it believes to be genuine and correct and to have been signed or sent by the appropriate person or persons, unless it has received actual notice that the

⁷ Corporations Act, s283BE

⁸ Corporations Act, s283BF

communication, information or document is not genuine;

- (g) **(information and statements)** accept as conclusive evidence and act upon, all information, statements and opinions contained in any document, statement, certificate, report, balance sheet or account given under the provisions of, or in any way in relation to, this Note Deed;
- (h) **(other dealings)** may enter, despite its appointment as trustee of the Trust, into other transactions with the Borrower or any related body corporate of the Borrower as if it were not the trustee of the Trust, including holding Notes or other Marketable Securities in the Borrower, acting for or contracting with individual Noteholders, and need not account to any person for any profits which it may derive from any such transaction, including the Borrower or any Noteholder;
- (i) **(delegation)** may delegate any right, Power or remedy conferred on it under this Note Deed or by Law, either wholly or partially or subject to any limitations or restrictions to any person as it thinks fit, proper or appropriate in its absolute discretion and may from time to time revoke such delegation and may for that purpose execute such powers of attorney or other instruments as it thinks proper, and any person dealing with the Trustee or any delegate is entitled to assume without further enquiry that such delegate has been duly appointed and such appointment remains in full force and effect;
- (j) **(exercise of Powers)** has absolute discretion as to the exercise of its Powers and performance of its duties (including the exercise of any Powers where it reasonably believes that it is necessary to do so to protect the interests of the Noteholders), and, as to the conduct of any action, proceeding or claim and, provided it has acted with reasonable care and diligence, it will not be responsible for any loss, damages or expenses that may result from the exercise or non-exercise of its Powers or performance of its duties;
- (k) **(representation)** may at any time represent the Noteholders generally in:
 - (i) any investigation, negotiation, action, transaction or proceeding relating to or affecting the interests of the Noteholders; or
 - (ii) the enforcement of the rights or Powers of the Noteholders or the Trustee;
- (l) **(discretion in representing Noteholders)** in representing the Noteholder and subject to any provision in this Note Deed, has an absolute discretion to act or to refrain from acting and to commence, prosecute, vary or discontinue, abandon, waive or compromise any action, proceeding or claim against the Borrower on any terms or conditions as it thinks fit; and
- (m) **(determine questions)** except as expressly otherwise provided in this Note Deed, has full Power as between itself and the Noteholders to determine all questions and matters of fact or doubt arising in relation to any of the provisions of this Note Deed and every such determination will be conclusive and binding on the Noteholders except in the case of manifest error,

provided that, unless otherwise specified in this Note Deed, the Trustee has no liability, or obligation, to exercise such Powers.

10.2 Trustee protection

Without limiting any other provision of this Note Deed and in addition to any protection or Powers under any applicable Law, the Trustee may exercise or refrain from exercising its Powers as it sees fit in its absolute discretion:

- (a) and despite any actual or constructive notice which the Trustee has of any fact, matter or

thing, including the occurrence of an Event of Default; and

- (b) in any event, need not act or omit from acting unless:
 - (i) its liability is limited in a manner consistent with clauses 12.2 and 13.1; and
 - (ii) in relation to an Event of Default, it is directed as to the manner in which it should exercise that Power pursuant to a Resolution of Noteholders; and
 - (iii) it is indemnified and/or placed in funds to its satisfaction against all actions, liabilities, obligations, proceedings, claims and demands and all costs, charges, damages and expenses which the Trustee may incur, sustain, suffer or become liable for in accordance with clause 12.2 and clause 13.1.

Any right of indemnity of the Trustee under or in connection with this Note Deed survives termination of this Note Deed or the Trust.

10.3 Duties

The Trustee must comply with its duties under the Corporations Act⁹. The Trustee has no duties or obligations except those expressly set out in this Note Deed and those arising under Chapter 2L of the Corporations Act. All other duties or obligations are expressly excluded to the extent permitted by Law.

10.4 Breaches and default

Without limiting any other provision of this Note Deed but subject to the Corporations Act, the Trustee may in its absolute discretion, in relation to any breach (whether anticipatory or actual) or default of the Borrower or its employees, officers, advisers or delegates under this Note Deed:

- (a) waive or excuse the breach or default (except the non-payment of the Redemption Amount of any Note) on any terms or conditions;
- (b) decide not to inform the Noteholders of the breach or default; and
- (c) despite the knowledge of the Trustee of the breach or default, decide not to take any action or proceeding against the Borrower to enforce the observance or performance of the obligation or rectification of the breach or default by the Borrower (including enforcement of the payment of the Notes and recovery of any other Outstanding Money).

10.5 Trustee not to interfere

Subject to this Note Deed and its duties as trustee under any Law (to the extent not excluded by this Note Deed), the Trustee must not interfere with the conduct of the ordinary business of the Borrower unless and until the Outstanding Money has become immediately due and payable as a result of a breach or default under this Note Deed or has been duly directed by Noteholders, pursuant to the terms of this Note Deed to enforce as a result of the breach or default. For the avoidance of doubt, nothing in this clause affects, restricts or precludes the Trustee's rights to remuneration in clause 11 or the Trustee's right of indemnity in clause 13.

10.6 Directions, Powers and protections

The Trustee:

- (a) **(apply to court)** may apply to a court for directions in relation to any question relating to any of its Powers, remedies and obligations under this Note Deed or any applicable Law,

⁹ Corporations Act, s283DA

and may comply with any such direction;

- (b) **(no deemed notice of default)** is not deemed to be aware of the occurrence of any default (including any Event of Default) unless it has been advised of it by written notice, stating the nature of the default and describing it, from the Borrower or a Noteholder; and
- (c) **(actual knowledge)** will only be considered to have knowledge or awareness of, or notice of, any thing, or grounds to believe any thing, by virtue of the officers of the Trustee having day to day responsibility for the administration of the Trust having actual knowledge, actual awareness or actual notice of that thing or grounds or reason to believe that thing (and similar references to the knowledge or awareness of the Trustee are to be interpreted in this way). In addition, the Trustee will only be taken to have notice, knowledge or awareness of a default if it has been given actual notice or has actual knowledge or awareness of the occurrence of the events or circumstances constituting the default.

10.7 Trustee's discretion

Except where otherwise expressly provided in this Note Deed, the Trustee may determine:

- (a) whether to exercise and the manner, mode and time of exercise of its Powers in its absolute discretion; and
- (b) as between itself and the Noteholders all questions and matters of fact or doubt arising in relation to this Note Deed and every such determination made in good faith whether upon a question actually raised or implied in the acts or proceedings of the Trustee will be conclusive and will bind all Noteholders, unless a court of competent jurisdiction otherwise orders.

10.8 Trustee not responsible for monitoring

The Trustee is not required to:

- (a) request information or otherwise keep itself informed about the circumstances of, or consider or provide to any person any information concerning the business, financial condition, status or affairs of the Borrower;
- (b) investigate the adequacy, accuracy or completeness of any information provided by the Borrower;
- (c) assess, investigate or keep under review the business, financial condition, status or affairs of the Borrower; or
- (d) monitor compliance by the Borrower of its obligations under this Note Deed or take any steps to ascertain whether an Event of Default has occurred.

10.9 Trustee not obliged to inform

Except where expressly provided in this Note Deed or by Law (including the Corporations Act), the Trustee has no obligation to inform the Noteholders of the occurrence of an Event of Default.

10.10 Exclusion

All duties, liabilities and responsibilities which may from time to time have otherwise been imposed on the Trustee under any Law are to the extent permitted by Law and except to the extent expressly provided for in clause 12.3, expressly excluded, waived and negated by the Noteholders and the Borrower.

11. FEES AND EXPENSES

11.1 Remuneration and expenses

The Borrower must pay to the Trustee:

- (a) the fees agreed between the Trustee and the Borrower on or before the date of this Note Deed. The payment of such fees must be made by the Borrower by transfer to such account nominated from time to time by the Trustee to the Borrower in writing or by such other means notified by the Trustee to the Borrower from time to time; and
- (b) if the Trustee takes any enforcement action in relation to this Note Deed or action which is exceptional in nature or outside the normal duties and responsibilities of the Trustee, on demand from the Trustee, such additional remuneration as will be commensurate with any additional duties and responsibilities performed or undertaken by the Trustee in consequence of taking such enforcement action, as are from time to time agreed between the Borrower and the Trustee.

In the absence of agreement in relation to the additional remuneration referred to in clause 11.1(b), the Trustee will be entitled to charge the Borrower the highest of its published, standard or usual hourly rates for time spent by the Trustee's officers and employees in relation to such enforcement action.

11.2 Expenses

- (a) In addition to clause 11.1 the Trustee may incur costs and expenses in carrying out its duties as trustee and as a separate and independent obligation the Borrower must indemnify, and keep indemnified, the Trustee against, all reasonable costs and expenses in carrying out its duties or exercising its Powers as Trustee or as otherwise suffered, sustained or incurred or become liable for in the proper performance of its duties or exercise of its Powers.
- (b) The Borrower must pay the Trustee on demand for all losses, damages, liabilities, costs and expenses (including legal fees costs and disbursements on a full indemnity basis) suffered, sustained or incurred by the Trustee or for which it has become liable in carrying out its duties or exercising its Powers as Trustee including in connection:
 - (i) with exercising, enforcing or preserving rights under this Note Deed; or
 - (ii) the preparation for, convening and holding of any meeting of Noteholders and the carrying out of any directions or Resolution of the Noteholders.

11.3 Remuneration when the Borrower is in liquidation

If the Borrower or any of its assets are placed under liquidation, the Trustee is entitled to claim and receive from any receiver, receiver and trustee, official trustee, liquidator, administrator or similar official amounts by way of reimbursement of all reasonable costs, charges, fees and expenses incurred by the Trustee (including on its own account) in connection with any enforcement or other action taken by it as Trustee of the Trust.

11.4 Priority of amounts payable to the Trustee

All amounts payable to the Trustee under this clause 11 will be paid in priority to any claim by any Noteholder and will continue to be payable until the later of it being paid or the Trust is finally wound up and whether or not the Trust is in the course of administration by or under the order of any court. The Trustee may retain and pay to itself in priority to any claim by any Noteholder all such amounts out of any money for the time being in its hands and subject to the Trust.

11.5 Purpose and priority of remuneration received by the Trustee

All amounts received by the Trustee in respect of all amounts payable under this Note Deed will be applied for the following purposes and in the following order of priority:

- (a) first – in payment of all costs, charges, fees, expenses, damages and liabilities incurred, suffered or sustained by or for the Trustee and payments made by or for the Trustee under or in connection with this Note Deed (including in connection with any right of indemnity and all remuneration payable to the Trustee or its officers, directors, employees, attorneys or affiliates);
- (b) second – in payment of all costs, charges, fees, expenses and liabilities incurred by or other amounts owing to a receiver under or in connection with this Note Deed (including all remuneration payable to that receiver);
- (c) third – in payment of any amounts due and payable on each Note by the Borrower under this Note Deed *pari passu* and without preference or priority amongst the Noteholders, subject to any necessary rounding; and
- (d) fourth – in the payment of the balance (if any) to the Borrower without prejudice to the provisions of this clause 11.

11.6 No set off or reduction

To the maximum extent permitted by the Law, the Borrower shall pay all fees or other amounts payable to the Trustee under this clause 11 without any set off or counterclaim and free and clear of and without deduction or withholding for or on the accounts of any taxes duties or other imposts.

12. TRUSTEE'S INDEMNITY**12.1 Corporations Act**

The Trustee's right of indemnity and any limitation on the Trustee's liability under this Note Deed is subject to the Corporations Act.¹⁰

12.2 Indemnity

Subject to clause 12.3 without limiting any other indemnity in, or right of the Trustee under, this Note Deed and without prejudice to any other right of indemnity given by Law to trustees, the Trustee, its officers, directors, employees, agents, attorneys and affiliates (together included in the defined term 'Trustee' for the purposes of this clause 12.2) are each entitled to be, and are to be kept, indemnified by the Borrower in respect of all:

- (a) costs, charges, losses, damages, liabilities or expenses including all taxes and any fines or penalties in respect thereof including legal fees (charged at the usual commercial rates charged by the provider of the legal services), incurred by it in the execution or purported execution of the trusts or Powers constituted or conferred by this Note Deed;
- (b) any breach or default in the observance or performance of the Borrower of any of the covenants, undertakings, obligations, conditions and provisions of this Note Deed; and
- (c) all actions taken under this Note Deed in relation to complying with any notice, request or requirement of any Government Agency and any investigation by any Government Agency into the affairs of the Borrower.

12.3 Limitation of Trustee's indemnity

¹⁰ Corporations Act, s283DB, 283DC.

The indemnities contained in clause 12.2 do not extend to:

- (a) a breach of this Note Deed by the Trustee (unless and to the extent that such a breach was caused, or contributed to, by an Event of Default, any failure of the Borrower to comply with an undertaking covenant, obligation or provision contained in this Note Deed or by any other act or omission of the Borrower); or
- (b) the fraud, negligence or wilful default of the Trustee; or
- (c) any Taxes (excluding any GST) imposed on the Trustee's remuneration for its services as trustee.

12.4 Retention of money

The Trustee may, in addition to its other rights, retain and pay out any money it holds arising from this Note Deed all sums necessary to give effect to the Trustee's rights of indemnity under this Note Deed.

12.5 Continuing indemnity

The indemnities contained in this Note Deed are continuing additional, separate and independent obligation of the Borrower and survive the winding up or termination of the Trust and the retirement or removal of the Trustee as trustee.

13. TRUSTEE'S LIABILITY

13.1 Exclusions of Trustee's liability

Except to the extent to which the Trustee has acted, negligently, fraudulently or with wilful default and subject to the Corporations Act¹¹, the Trustee will not be liable to the Borrower or any Noteholder or any future Trustee or any other person:

- (a) For any expenses, liabilities, losses, damages or costs caused by:
 - (i) the Trustee's acts or omissions in accordance with the terms of this Note Deed in reliance on:
 - (A) the Note Register;
 - (B) information or documents supplied by the Borrower or any agent of the Borrower;
 - (C) the authenticity of any document (including an Authorised Officer's Certificate or any Note Certificate);
 - (D) the opinion, advice or information of any delegate of the Trustee appointed under clause 10.1, or any barrister, solicitor, accountant, valuer, surveyor, broker, auctioneer or other expert whether or not instructed by the Trustee or the Borrower; or
 - (E) acting on any instruction or direction properly given to it by the Noteholders under this Note Deed;
 - (ii) any act, omission, neglect or default of the Borrower or any other person under or in connection with this Note Deed or a Note;

¹¹ Corporations Act, s283DB, 283DC.

- (iii) any act or omission required by Law or by any court of competent jurisdiction;
- (iv) any act or omission in accordance with any resolution of Noteholders properly passed at any duly called meeting;
- (v) any act or omission of an operator of any securities title, transfer or holding system;
- (vi) the Trustee validly exercising any Power under or in accordance with the terms of this Note Deed;
- (vii) any payment having been made to any fiscal authority;
- (viii) or relating to, the authorisation, legality, validity, enforceability, effectiveness, genuineness, admissibility in evidence or sufficiency of this Note Deed;
- (ix) or relating to, the accuracy or completeness of any document or information supplied by any person (other than the Trustee), whether or not that information is circulated by the Trustee;
- (x) any absence of, or defect in, the title to any asset of the Borrower;
- (xi) any act or omission where the Trustee is acting in any capacity other than as Trustee of the Trust; or
- (xii) the Trustee waiving or excusing, subject to any conditions the Trustee may think fit, any breach by the Borrower of the Borrower's obligations under this Note Deed.

13.2 Limitation of Trustee's liability

- (a) Subject to clause 13.1 and this clause 13.2, the maximum aggregate liability of the Trustee under or in connection with this Note Deed is limited to the amount equal to that payable by the Borrower to the Trustee in accordance with clause 11.1.
- (b) The Trustee is not liable to the Borrower, the Noteholders or any other person in any capacity other than as trustee of the Trust.
- (c) A liability to the Borrower or a Noteholder arising under or in connection with this Note Deed is limited to and can be enforced against the Trustee only to the extent to which it can be satisfied out of any property held by the Trustee out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this Note Deed and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Note Deed.
- (d) Neither the Borrower nor any Noteholder may sue the Trustee in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any other similar person to the Trustee or prove in any liquidation of or affecting the Trustee (exception in relation to the property of the Trust).
- (e) The Borrower and the Noteholders waive their rights and release the Trustee from any personal liability in respect of any loss or damage which any of them may suffer as a consequence of a failure of the Trustee to perform its obligations under this Note Deed, which cannot be paid or satisfied out of any property held by the Trustee under this Note Deed.

- (f) The provisions of this clause 13.2 will not apply to any obligation or liability of the Trustee to the extent arising as a result of the Trustee's fraud, negligence or wilful default.
- (g) The Borrower acknowledges that it is responsible under this Note Deed for performing a variety of obligations. No act or omission of the Trustee (including any related failure to satisfy its obligations or breach of representation or warranty under this Note Deed) will be considered fraud, negligence or wilful default of the Trustee for the purposes of this Note Deed to the extent to which the act or omission was caused or contributed to by any failure of the Borrower or any other person to fulfil its obligations relating to the Trust or by any other act or omission of the Borrower or any other person.
- (h) No attorney, agent or delegate appointed in accordance with this Note Deed has authority to act on behalf of the Trustee in any way which exposes the Trustee to any personal liability and no act or omission of any such person will be considered fraud, negligence or wilful default of the Trustee for the purpose of this clause 13.2.

13.3 Certificate by Borrower

The Trustee:

- (a) is entitled to accept and rely upon an Authorised Officer's Certificate as to any fact, matter or thing as conclusive evidence of it including confirmation that any particular dealing or transaction or step or thing is in the opinion of the person so certifying commercially desirable and not detrimental to the interests of the Noteholders as conclusive evidence that it is so;
- (b) is entitled to accept, rely upon and act upon any document, information, statement, certificate, report, balance sheet or account supplied by the Borrower or any duly Authorised Officer of the Borrower;
- (c) is entitled to accept, rely upon and act upon the statements and opinions contained in any document, information, statement, certificate, report, balance sheet or account given pursuant to the provisions of this Note Deed as conclusive evidence of the contents of it; and
- (d) is not bound to call for further evidence other than such document, information, certificate, statement, report, balance sheet or account nor to enquire as to the accuracy of such document, information, certificate, statement, report, balance sheet or account and is not responsible for any loss or damage that may be occasioned by its reliance.

13.4 Approval and Deemed Provision

- (a) Notwithstanding any other term of this Note Deed, Noteholders may, by an Ordinary Resolution, approve the release of the Trustee from liability for something done or omitted to be done by the Trustee or any other person before the release is given.
- (b) Clause 13.4(a) shall be read into and includes any term or provision:
 - (i) of this Note Deed; or
 - (ii) of any contract with Noteholders,

which, in accordance with clause 283DB of the Corporations Act, would be void but for that term or provision being included in it.

13.5 Evidence of claims

The Trustee will be entitled and is authorised by the Borrower to call for (and will be entitled to accept as conclusive evidence) a certificate from any receiver, trustee, liquidator, administrator or similar officer of the Borrower as to:

- (a) the amounts of the claims of the creditors which have been admitted in any liquidation, dissolution or other winding up and which will not have been satisfied in full out of the resources of the Borrower; and
- (b) the persons entitled to the claims and their respective entitlements.

Any such certificate given by any such receiver, trustee or liquidator of the Borrower will be conclusive and binding on the Trustee and all Noteholders.

13.6 Not bound to give notice

The Trustee is not bound to give notice to any person of the execution of this Note Deed and the Trustee is not bound to take any steps to ascertain whether any event has happened (including any Event of Default).

13.7 No monitoring obligation

Despite any other provision of this Note Deed, the Trustee has no obligation to monitor compliance by the Borrower of its covenants and obligations under this Note Deed or any other activities or status of the Borrower.

13.8 Trustee capacity

- (a) The Trustee has entered into this Note Deed and has undertaken or will undertake all covenants, terms and conditions on its part to be observed and performed under this Note Deed in its capacity as trustee of the Trust only. Any liability or right of indemnity in respect of any matter, thing, act or omission arising from this Note Deed actual, contingent or of some other kind (in this clause called **Liability**) on the part of the Trustee:

- (i) is not personal;
- (ii) is at all times limited to the Trust fund in respect of which the Liability arose; and
- (iii) does not extend beyond money received by the Trustee for or on behalf of the Noteholders subject always to such payments, deductions or withholdings by the Trustee as authorised by the documents,

except to the extent that such Liability arises from the Trustee's fraud, negligence, or wilful default.

- (b) In addition, to the extent permitted by Law, the Trustee will not be liable to any Noteholder or to any party to this Note Deed or otherwise be responsible for:
 - (i) any loss or damage occurring as a result of it exercising, failing to exercise or purporting to exercise any Power under this Note Deed;
 - (ii) the default of any agent of the Trustee, whether or not the employment or appointment of the agent was necessary or expedient;
 - (iii) any mistake or omission made by the Trustee;
 - (iv) any other matter or thing done in relation to this Note Deed or any document

contemplated in this Note Deed (including but not limited to any formula contained in Schedule 1 to this Note Deed);

- (v) any action or omission of the Trustee in accordance with or consistent with the instructions or directions of the Noteholders;
- (vi) acting on any resolution purporting to have been passed at the meeting of Noteholders at which minutes were made and signed even though it may subsequently be found that there was some defect in the constitution of the meeting or the passing of the resolution or for any other reason the resolution was not binding on any of those Noteholders whom its purports to bind or the Trustee; or
- (vii) money subscribed by any Noteholders or be bound or concerned to see the due application of any money subscribed by any Noteholder;

unless the Trustee is guilty of fraud, negligence, or wilful default.

14. REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties

The Borrower makes the following representations and warranties in favour of the Trustee and each Noteholder:

- (a) it is a corporation validly existing under the Laws of the Commonwealth of Australia;
- (b) it has the Power to enter into and perform its obligations under this Note Deed to which it is expressed to be a party, to carry out the transactions contemplated by those documents and to carry on its business as now conducted or contemplated;
- (c) it has taken all necessary corporate action to authorise the entry into and performance of this Note Deed to which it is expressed to be a party, and to carry out the transactions contemplated by those documents;
- (d) each element of this Note Deed is a valid and binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration;
- (e) the execution and performance by it of this Note Deed to which it is expressed to be a party and each transaction contemplated under it do not and will not violate in any respect a provisions of:
 - (i) a Law or treaty or a judgment, ruling, order or degree of a Governmental Agency binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document or agreement which is binding on it or its assets;
- (f) the information contained in the Prospectus is true and complete in all material respects and is not misleading or deceptive, or likely to mislead or deceive, in any material respect; and
- (g) no act, matter or thing has occurred since the date of the Prospectus that renders such information misleading or deceptive or likely to mislead or deceive in any material respect;
- (h) no ad valorem stamp, transaction, registration or similar taxes are payable in connection

with the execution, delivery, performance or enforcement of this Note Deed or the transactions contemplated by it;

- (i) it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment before judgment, attachment in aid of execution, execution or otherwise);
- (j) no Event of Default is subsisting; and
- (k) there are no reasonable grounds to suspect that the Borrower is insolvent or unable to pay its debts as and when they become due and payable.

14.2 Reliance

The Borrower acknowledges that the Trustee has entered into this Note Deed (and the transactions in connection with it) and the Noteholders subscribed for Notes in reliance on the representations and warranties in this clause 14.

15. RETIREMENT AND REMOVAL OF TRUSTEE

15.1 Voluntary retirement

Subject to any statutory requirements, the Trustee may retire at any time upon giving not less than 45 days notice (or such other period as the Trustee and the Borrower may agree) in writing to the Borrower.

15.2 Borrower's right to appoint New Trustee

Subject to clause 15.3, the power to appoint a new Trustee (which new Trustee must be a Trustee Company) is vested in the Borrower.

15.3 Borrower's obligations to appoint New Trustee

Subject to the Corporations Act, if the Trustee retires or is removed as Trustee and a new Trustee is not appointed within 60 days after notice of retirement or removal is given, (or 45 days, in the case of a voluntary retirement under clause 15.1), the Borrower must appoint a Trustee Company (or apply to the court for the appointment of a Trustee Company) as the new Trustee and the appointment will be effective without the approval of the Noteholders being required.

15.4 Retirement effective upon new appointment

The retirement of the Trustee pursuant to this clause will not take effect unless and until a new Trustee (being a Trustee Company) has been appointed, and the Trustee declares that this covenant is intended for the benefit of the Noteholders.¹²

15.5 Borrower's right to remove Trustee

If:

- (a) the Trustee defaults in:
 - (i) the payment of any money required to be paid by the Trustee; or
 - (ii) the observance or performance of any of its obligations under this Note Deed (and, if that default is capable of rectification, it is not rectified within 10 Business Days of its occurrence);

¹² Corporations Act, s283AD.

- (b) an Insolvency Event occurs in relation to the Trustee; or
- (c) a Special Resolution is passed that the Trustee be removed from office,

the Borrower may (or in the case of clause 15.5(c), must), subject to the provisions of this clause 15, by at least 15 Business Days' written notice to the Trustee remove the Trustee from office.

15.6 Borrower's obligation to appoint new Trustee upon default

The Borrower must take all reasonable steps to replace the Trustee under s283AE of the Corporations Act as soon as practicable after the Borrower becomes aware that the Trustee:

- (a) has ceased to exist;
- (b) has not been validly appointed;
- (c) cannot be a Trustee Company; or
- (d) has failed or refused to act as trustee.¹³

15.7 Discharge of Trustee's obligation

Upon retirement or removal, the Trustee is discharged and released from its obligations, covenants and liabilities under this Note Deed arising after the date of retirement or removal. This does not affect any of the Trustee's rights accrued before such retirement or removal. The Borrower must then, if required by the Trustee, execute a confirmation of release in favour of the Trustee in a form and substance reasonably acceptable to the Trustee.

15.8 Obligation to advise ASIC of new Trustee

The Borrower must advise ASIC of the name of the replacement Trustee within 14 days after the replacement Trustee is appointed.¹⁴

15.9 Costs of retirement or removal

If the Trustee retires or is removed, everything it is required to do under this clause 15 is at the Borrower's expense.

16. REGISTERS

16.1 Note Register

On issue of the Notes, the Borrower will establish and maintain, or cause to be established and maintained, in New South Wales a Note Register.¹⁵ The Borrower may delegate to its attorney or agents such Powers in relation to any Note Register as it may properly so delegate.

16.2 Registered owners

The persons whose names are recorded in the Note Register as the registered owners of the Notes from time to time will be treated by the Borrower and the Trustee as the absolute owners of such Notes for all purposes.

16.3 No Notice of any trust

¹³ Corporations Act, s283BD.

¹⁴ Corporations Act, s283BC.

¹⁵ Corporations Act, s168(1)(c), 172(1).

Except as provided by statute or as required by an order of a court of competent jurisdiction, no notice of any trust (whether express, implied or constructive or other interest) may be entered in the Note Register in respect of a Note and neither the Borrower nor the Trustee is obliged to recognise any trust.

16.4 Register conclusive

In the absence of manifest error, each recording in the Note Register¹⁶ in respect of a Note constitutes:

- (a) sufficient and conclusive evidence to all persons and for all purposes that the person whose name is so recorded, is the registered owner of the Note; and
- (b) an unconditional and irrevocable undertaking and promise by the Borrower to the person whose name is so recorded that, for value received, the Borrower will make all payments of Outstanding Money in respect of the Note in accordance with this Note Deed.

16.5 Particulars

In the Note Register there will be entered the names, addresses and email addresses of the Noteholders, the amount of the Notes held by each Noteholder and such other particulars as the Borrower thinks fit and are required by the Corporations Act.¹⁷

16.6 Inspection

The Note Register will be open at all reasonable times during business hours for the inspection by the Trustee and the Noteholders, and of any persons authorised in writing by the Trustee or the Noteholders.¹⁸

16.7 Closure of Note Register

Subject to the Listing Rules, the Borrower may from time to time close any relevant Note Register for any period or periods not exceeding in total in any one year the maximum period for the time being permitted by Law or 30 days, whichever is the lesser period.

16.8 Change of details

Any change of the name, address or email address of a Noteholder must be notified immediately by the Noteholder in writing to the Borrower accompanied in the case of a change of name, by any evidence the Borrower requires and the Note Register will be altered accordingly.

16.9 Situs

The property in the Notes will for all purposes be regarded as situated at the place where the Note Register or branch register on which such Notes are for the time being entered is situated and not elsewhere.

16.10 Copy to the Trustee

The Borrower will give, or cause to be given to the Trustee a complete copy of the Note Register within 2 Business Days after the Trustee so requests.

16.11 Manifest error

¹⁶ Corporations Act, s176.

¹⁷ Corporations Act, s171.

¹⁸ Corporations Act, s173.

The making of, or giving effect to, a manifest error in a recording in the Note Register will not avoid the constitution, issue or transfer of a Note. The Borrower must correct or cause to be corrected any manifest error of which it becomes aware.

16.12 No certificate

No evidence or other evidence of title will be issued by or on behalf of the Borrower to evidence title to a Note unless the Borrower determines that certificates should be made available or that it is required to do so pursuant to any applicable Law.

17. JOINT NOTEHOLDERS

17.1 One address

Subject to clause 17.3, if more than 1 person is the holder of a Note, the address of only 1 of them will be entered on the Note Register. If more than 1 address is notified to the Borrower, the address recorded in the Note Register will be the address of the Noteholder whose name first appears in the Note Register.

17.2 Discharge on payment to one person

If several persons are entered in the Note Register as joint Noteholders in respect of a Note the receipt by any 1 of such persons for the payment or satisfaction of any principal or interest from time to time payable or repayable to the joint Noteholders will be as effective a discharge to the Borrower as if the person accepting the payment were a sole Noteholder in respect of that Note.

17.3 Obligation to register multiple holders

The Borrower will not be bound to register more than 3 persons as the joint holders of any Notes.

17.4 Joint tenancy

A Note registered in the name of more than 1 person is held by those persons as joint tenants.

17.5 Obligation to join in transfer

All of the joint Noteholders in respect of any Note must join in any transfer of the relevant Note.

18. DECEASED NOTEHOLDERS

18.1 Status of personal representative

The legal personal representatives of a deceased Noteholder (not being a joint Noteholder) will be the only persons recognised by the Borrower as having any title to that Noteholder's Notes. Any person becoming entitled to Notes in consequence of the death or liquidation of any Noteholder may, on producing such evidence of that person's title as the Borrower requires be registered as the holder of the Notes or may transfer those Notes. The Borrower may retain the principal and interest and any other money payable in respect of any Notes which any person under this clause is entitled to or to transfer until that person is registered or has transferred the Notes. Nothing in this clause will prejudice the rights of any person to vote in respect of that Note at any meeting or on a poll.

18.2 Survivors

In the case of the death of any 1 of joint Noteholders, the survivors will be the only persons recognised by the Borrower as having any title to or interest in the Notes registered in their names jointly.

19. MEETING OF NOTEHOLDERS

19.1 Trustee and Borrower's right to call a meeting

The Trustee or the Borrower may call a meeting of Noteholders in the manner as provided in the Meeting Provisions and the meetings will be conducted in accordance with the Meeting Provisions.

19.2 Noteholders' rights

By a Resolution of the Noteholders, Noteholders may:

- (a) give direction to the Trustee as to; or
- (b) authorise, ratify or confirm anything done or not done by the Trustee in respect of,

the performance or exercise of any of the duties, Powers and remedies of the Trustee under or relating to any aspect of this Note Deed or the Notes, or any other instrument to which the Trustee is or becomes a party in the capacity of Trustee under this Note Deed.

20. ALTERATION OF DOCUMENT**20.1 Right to alter document**

The Borrower and the Trustee may jointly modify, alter, cancel, amend or add to all or any of this Note Deed, in writing (**Amendment**) and if:

- (a) the Borrower and the Trustee are each of the opinion that the Amendment is:
 - (i) of a formal or technical nature;
 - (ii) made to cure any ambiguity or correct any manifest error;
 - (iii) expedient for the purpose of enabling the Notes to be listed for quotation or to retain listing on any stock exchange or to be offered for, or subscription for, sale under the Laws for the time being in force in any place and is otherwise not considered by the Trustee to be materially prejudicial to the interests of Noteholders as a whole;
 - (iv) necessary to comply with the provisions of any statute or the requirements of any statutory authority; or
 - (v) to evidence the succession of another person to the Borrower and the assumption by any such successor of the covenants and obligations of the Borrower in this Note Deed; or
- (b) the Amendment is authorised by a Special Resolution of the Noteholders passed at a meeting (including a meeting held by way of postal ballot) of Noteholders held pursuant to the Meeting Provisions.

21. VALIDITY**21.1 Validity of Notes issued**

Despite any breach of or non-compliance by the Borrower, with any of the provisions of this Note Deed, all Notes issued under this Note Deed will as between:

- (a) that Noteholder and the Borrower;
- (b) that Noteholder and the Trustee;
- (c) that Noteholder and any receiver, trustee, liquidator, administrator appointed by the

Trustee or similar officer of the Borrower; and

- (d) that Noteholder and all other Noteholders,

be deemed to have been validly issued under this Note Deed.

22. DISCHARGE AND RELEASE

- (a) The Borrower will immediately be discharged and released from its liabilities, obligations and covenants under this Note Deed on the date which is 6 months after all of the following having occurred:
- (i) the principal of the Notes and interest on the Notes being paid in full or the Notes being otherwise redeemed or the Borrower's obligations in respect of them being satisfied (as to which the Trustee may accept as conclusive an Authorised Officer's Certificate);
 - (ii) the Borrower furnishing to the Trustee a statement in writing that it does not intend to, and will not, create any Notes in the future; and
 - (iii) payment of all fees, costs, charges and expenses properly incurred by the Trustee.

However, this discharge does not prejudice any right or obligation accrued by the Borrower prior to the date of the discharge.

- (b) The Trustee and the Borrower must then, if required by the Trustee execute a confirmation of their mutual release in respect of any future obligations (but without prejudice to any rights arising from prior breaches) and terminate the Trust and the Trust will terminate on such a release being given.
- (c) On the Trust being terminated, the Trustee is entitled to be indemnified by the Borrower in respect of all fees, costs, losses, fines, penalties, liabilities and expenses reasonably and properly incurred by it in respect of an event which occurred before the date of termination (other than such cost, loss, liability or expense to the extent that it arises out of the Trustee's negligence, fraud or wilful default).

23. NO RECOURSE AGAINST OTHERS

- (a) Subject to any recourse under the Corporations Act, no recourse will be had for:
- (i) the payment of the principal of or interest on;
 - (ii) for any claim based on; or
 - (iii) otherwise in respect of any of the Notes, and no recourse will be had under or upon any obligation, covenant or agreement of the Borrower in this Note Deed or in any of the Notes, or because of the creation of any indebtedness represented, against any shareholder, partner, officer, director, employee or controlling person of the Borrower.
- (b) Each holder of Notes by accepting a Note waives and releases all such liability, and such waiver and release is part of the consideration for the issuance of the Notes.

24. UNTRACEABLE NOTEHOLDERS

Subject to applicable Law and the Listing Rules, where the Borrower has made reasonable efforts to locate a Noteholder but is unable to do so, and money payable to the Noteholder has not been

claimed by the Noteholder or any legal personal representative of the Noteholder for a period of 12 months after first becoming payable, that money will be paid by the Trustee to the Borrower, if the Trustee has actual possession and control of such money, and will become the property of the Borrower. The Trustee is not liable to any Noteholder for any money paid to the Borrower in accordance with this clause.

25. NOTICES

25.1 Service of notices

- (a) A notice may be given by the Borrower or the Trustee to any Noteholder, or in the case of joint Noteholders to the Noteholder whose name appears first in the Note Register:
- (i) personally;
 - (ii) by leaving it at the Noteholder's address noted in the Note Register or by sending it by prepaid post (airmail if posted to a place outside Australia) addressed to the Noteholder's address noted in the Note Register;
 - (iii) by facsimile transmission to the facsimile number nominated by the Noteholder;
 - (iv) by publishing such notice in a national newspaper;
 - (v) by the Borrower posting, at the request of the Trustee, the notice on the Borrower's internet website;
 - (vi) by the Trustee posting such notice on its own internet website; or
 - (vii) by other electronic means, including by email, determined by the Borrower or the Trustee.

If the notice is signed, the signature may be original or printed.

- (b) A notice given by the Borrower, the Trustee or a Noteholder to the Borrower or the Trustee, and must:
- (i) be in writing and signed by a person duly authorised by the sender; and
 - (ii) be left at, or sent by prepaid post (airmail if posted from a place outside Australia) to the address below or the address last notified by the Borrower or Trustee, or sent by a facsimile transmission to the fax number below or the fax number last notified by the Borrower or Trustee:

Borrower
 Crater Gold Mining Limited
 Level 4, 15-17 Young Street
 Sydney NSW 2000
 Attention: Company Secretary
 Fax No: (02) 9252 2335

The Trustee
 Australian Executor Trustees Limited
 Level 22, 207 Kent St
 Sydney NSW 2000
 Attention: Corporate Trust
 Fax No: (02) 9028 5942
 E-mail: corptrustnotes@aetlimited.com.au

25.2 When notice considered to be received

Any notice is taken to be received:

- (a) if served personally or left at the intended recipient's address, when delivered;
- (b) if sent by prepaid post, on the second Business Day (or, if posted to or from a place outside Australia, the seventh day) after the date of posting;
- (c) if sent by facsimile or other electronic transmission, on production of a report by the machine or other system by which the transmission is sent indicating that the transmission has been made in its entirety to the correct fax number or other transmission address and without error;
- (d) if published in a national newspaper, on the date of such publication; and
- (e) if published on a website, on the day following the date on which such notice is posted by the Trustee or the Borrower (as applicable) on the website,

but if the result is that a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent or is later than 5.00pm (local time) it will be taken to have been duly given or made at the commencement of business on the next Business Day in that place.

26. EVENTS OF DEFAULT

26.1 Events of Default

If any one or more of the following occur, subject to clause 26.2 an Event of Default will have occurred. The Borrower must inform the Trustee as soon as reasonably possible but not later than 5 Business Days in writing upon the happening of any of the following:

- (a) there is default in the performance of any term, agreement or condition contained in or implied by this Note Deed;
- (b) any indebtedness or obligations of the Borrower to any Noteholder is not paid or satisfied when due;
- (c) a receiver, receiver and manager, administrator, liquidator, provisional liquidator, trustee, inspector, official manager or similar person is appointed to the Borrower's undertaking or any part of its undertaking;
- (d) the Borrower without the Trustee's prior written consent ceases to carry on its business;
- (e) an application for winding up or similar process of the Borrower is presented and not withdrawn or dismissed within 14 days or an order is made or any effective resolution is passed for the winding up of the Borrower;
- (f) proceedings are initiated with a view to obtaining an order for the winding up or similar process of the Borrower or any member either calls any meeting for the purpose of considering or passing any resolution for the winding up or similar process of the Borrower and is not withdrawn or dismissed within 14 days;
- (g) any action is initiated by ASIC with a view to striking the name of the Borrower off any register of companies;
- (h) the listing of the Notes on ASX is suspended or revoked and such suspension or revocation remains in force for a period greater than 14 days;
- (i) any distress or execution is levied or enforced against any of the assets or property of the Borrower;

- (j) the Borrower breaches any undertaking at any time given to the Trustee or any condition imposed by the Trustee in agreeing to any matter or thing so far as the breach materially affects the Borrower's ability to repay any Outstanding Money; or
- (k) the Borrower is unable to pay its debts as they fall due or it is unable to certify that it is able to pay its debts as they fall due, it commences negotiations with any 1 or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or enters or proposes to enter into any arrangement or composition with its creditors.

26.2 Grace Period

Despite the provisions of clause 26.1 to the contrary, in relation to a breach of clauses 26.1(a), (g), (i) and (j), the Borrower will not have committed an Event of Default until the Borrower has failed to remedy the breach within 10 Business Days of the occurrence of the breach (**Grace Period**). For the avoidance of doubt, the Borrower must notify the Trustee as soon as reasonably possible but not later than 5 Business Days of the occurrence of the event or breach to which the Grace Period applies.

26.3 Notification obligations when the Borrower is in liquidation

Without limiting anything in clause 26.1, if the Borrower or any of its assets are placed into liquidation, then the receiver, receiver and trustee, official trustee, liquidator, administrator or similar official appointed to the Borrower or its assets (as applicable) (**Appointee**) must:

- (a) if the Trustee has not already done so, notify the Noteholders of each relevant Event of Default and of the Appointee's appointment; and
- (b) provide regular updates to the Trustee and the Noteholders as to the status of the liquidation and any other material developments affecting the Borrower or its assets.

27. RIGHTS UPON DEFAULT

27.1 Rights upon default

Subject to this Note Deed (including clause 10.2), after an Event of Default (and for so long as it is continuing) the Trustee may and must, if directed to do so by a Special Resolution of Noteholders given in accordance with the Meeting Provisions, by notice to the Borrower:

- (a) declare the Notes immediately redeemable;
- (b) demand and require immediate payment of the Outstanding Money and recover the same from the Borrower; and
- (c) exercise any Powers conferred by Law or under this Note Deed.

28. GENERAL PROVISIONS

28.1 Costs

The Borrower must pay its own costs and those of the Trustee in relation to:

- (a) the negotiation, preparation, execution, performance, amendment or registration of this Note Deed, or any consent given or made under this Note Deed; and
- (b) the performance of any action by that party in compliance with any liability arising, under this Note Deed, or any agreement or document executed or effected under this Note Deed.

28.2 GST

If any payment made by one party to any other party under or relating to this Note Deed constitutes consideration for a taxable supply for the purposes of GST or any similar tax, the amount to be paid for the supply will be increased so that the net amount retained by the supplier after payment of that GST is the same as if the supplier was not liable to pay GST in respect of that supply. This provision is subject to any other agreement regarding the payment of GST on specific supplies, and includes payments for supplies relating to the breach or termination of, and indemnities arising from, this Note Deed.

28.3 Governing Law and jurisdiction

- (a) This Note Deed is governed by and construed under the Laws in the State of New South Wales.
- (b) Any legal action in relation to this Note Deed against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.
- (c) Each party by execution of this Note Deed irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

28.4 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this Note Deed, whether before or after performance of this Note Deed.

28.5 Noteholders to provide certain information

If requested by Borrower, the Noteholder agrees, and it is a condition of the issue of the Notes, to provide certain information reasonably required by it or the Trustee in order to comply with any applicable Law, including the United States *Foreign Account Tax Compliance Act* (FACTA).

28.6 Continuing performance

- (a) The provisions of this Note Deed do not merge with any action performed or document executed by any party for the purposes of performance of this Note Deed.
- (b) Any representation in this Note Deed survives the execution of any document for the purposes of, and continues after, performance of this Note Deed.
- (c) Any indemnity agreed by the Borrower under this Note Deed:
 - (i) constitutes a liability of that party separate and independent from any other liability of that party under this Note Deed or any other agreement; and
 - (ii) survives and continues after performance of this Note Deed.

28.7 Waivers

Any failure by any party to exercise any right under this Note Deed does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

28.8 Remedies

The rights of a party under this Note Deed are cumulative and not exclusive of any rights provided by Law.

28.9 Severability

Any provision of this Note Deed which is invalid in any jurisdiction is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining provisions of this Note Deed or the validity of that provision in any other jurisdiction.

28.10 Counterparts

This Note Deed may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same document.

29. DEFINITIONS AND INTERPRETATION

29.1 Definitions

In this Note Deed unless the context otherwise requires:

words defined in the Conditions of Issue have the same meaning in this Note Deed;

ASIC means the Australian Securities & Investments Commission;

ASX means ASX Limited;

Authorised Officers Certificate means a certificate signed by a director of the Borrower;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales;

Conditions of Issue means the conditions set out in schedule 1;

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

Event of Default has the meaning in clause 26;

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act (1999)* (Cth) (**GST Act**) or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act;

Insolvency Event means:

- (a) a receiver, manager, receiver and manager, trustee, administrator, Controller (as defined in s9 of the Corporations Act) or similar officer is appointed in respect of a person or any asset of a person (and does not retire, or is not removed, within 3 Business Days of such appointment provided that if any such person retires or removes and is immediately replaced with another person referred to in this paragraph (a) such removal or resignation will be disregarded for the purposes of this paragraph (a));
- (b) a liquidator or provisional liquidator is appointed in respect of a corporation;
- (c) any application (not being an application withdrawn, stayed or dismissed within 10 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
 - (i) appointing a person referred to in paragraphs (a) or (b);
 - (ii) winding up a corporation; or
 - (iii) proposing or implementing a scheme of arrangement;
- (d) a moratorium of any debts of a person, or an official assignment, or a composition, or an arrangement (formal or informal) with a person's creditors, or any similar proceeding or

arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee, is ordered, declared, or agreed to, or is applied for and the application is not withdrawn, stayed or dismissed within 10 Business Days;

- (e) a person becomes, or admits in writing that it is, or is declared to be, insolvent or unable to pay its debts as and when they fall due; or
- (f) anything analogous to any of the above events occurs;

Law includes any law or regulation, including any statute (including any regulation, instrument, declaration or authorisation under it), the common law, restitution and principles of equity;

Listing Rules mean the listing rules of ASX;

Marketable Securities has the same meaning as the expression 'marketable securities' in s 9 of the Corporations Act;

Meeting Provisions mean the provisions for the Noteholder meetings contained in schedule 2;

Note or Convertible Note means an unsecured redeemable note convertible into fully paid Ordinary Shares, having an issue price of \$25.00 and issued in accordance with the provisions of this Note Deed;

Note Certificate in relation to Notes means a document in a form approved by the Borrower specifying the person or persons to whom the Notes are allotted and is merely a record of allotment and is not evidence of title or ownership of the Notes;

Note Deed means this deed, the schedules attached to this deed including the Conditions of Issue, and any document or documents supplemental to this deed, each as amended from time to time;

Ordinary Resolution means a Resolution of Noteholders passed at a meeting duly called and held (or by postal ballot) in accordance with the provisions contained in schedule 2 and will either be:

- (a) carried by a majority consisting of greater than 50% of the persons voting at the meeting on a show of hands; or
- (b) if a poll is duly demanded then passed by a majority consisting of the holders of Notes representing greater than 50% of the aggregate Outstanding Money of the Notes held by the holders of Notes who are present at the meeting in person, by attorney, by proxy or by representatives;

Outstanding Money means the Redemption Amount, interest and all other money payable in respect of the Notes from time to time under this Note Deed and the Conditions of Issue;

Power means any right, power, authority, discretion, remedy or privilege (whether express or implied);

Redemption Amount in relation to a Note means the issue price of the Note;

Resolution of the Noteholders means an Ordinary Resolution or Special Resolution passed by Noteholders as the case requires;

Special Resolution means a Resolution of Noteholders passed at a meeting duly called and held (or by postal ballot) in accordance with the provisions contained in schedule 2 voting having been conducted on a poll and with 75% of the votes cast on the resolution being in favour of it.

Trust means the Crater Gold Mining Note Trust established under this Note Deed;

Trustee means Australian Executor Trustees Limited or any successor in its capacity as trustee for the Noteholders pursuant to this Note Deed; and

Trustee Company means a person qualified to be a trustee of the Trust in accordance with s283AC of the Corporations Act.

29.2 Interpretation

In this Note Deed unless the context otherwise requires:

- (a) clause and subclause headings and footnotes are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by Law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this Note Deed includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time or any document replacing it;
- (h) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (i) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (j) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (k) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (l) reference to an item is a reference to an item in the schedule to this Note Deed;
- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this Note Deed;
- (n) reference to a provision described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this Note Deed means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (o) when a thing is required to be done or money required to be paid under this Note Deed on a day which is not a Business Day, the thing must be done and the money paid on the next succeeding Business Day, subject to paragraph 2 of Appendix 6A of the Listing Rules; and
- (p) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

29.3 Headings and footnotes

Headings and footnotes are for reference only and do not form part of this Note Deed.

29.4 Inconsistency with Listing Rules

This Note Deed is to be interpreted subject to the Listing Rules and the ASX Settlement Operating Rules and accordingly if the Borrower is admitted to the official list of ASX, the following clauses apply:

- (a) despite anything contained in this Note Deed, if the Listing Rules prohibit an act being done, the act will not be done;
- (b) nothing contained in this Note Deed prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Note Deed to contain a provision and it does not contain such a provision, this Note Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Note Deed not to contain a provision and it contains such a provision, this Note Deed is deemed not to contain that provision; and
- (f) if any provision of this Note Deed is or becomes inconsistent with the Listing Rules, this Note Deed is deemed not to contain that provision to the extent of the inconsistency.

The obligations imposed by this clause are additional to those imposed by any other clause of this Note Deed.

SCHEDULE 1

Conditions of issue of convertible Notes

1. Defined meanings

Words used in this Schedule 1 and the rules of interpretation that apply are set out and explained in Condition 20.

2. Issue of Notes and interest

2.1 Issue of Notes

- (a) The Borrower may issue Notes with an Issue Price of \$25.00 each.
- (b) The Notes must each be paid for in full on application.

2.2 Interest

- (a) The Borrower must pay interest to the Noteholder in Australian dollars on each Note at the Interest Rate.
- (b) Interest will accrue daily on the basis of a 365 day year from the Issue Date until the Note is redeemed or converted (as the case may be) in accordance with these Conditions and will be due and payable in arrears on each Interest Payment Date.
- (c) Despite anything else in these Conditions, the first interest payment will be due on 31 December 2014 in respect of the period from the Issue Date until 31 December 2014. After that date interest will be computed from the day after each Interest Payment Date until the next succeeding Interest Payment Date (inclusive), with the last interest payment being made on the Maturity Date, Early Redemption Date or the Conversion Date, whichever is applicable.
- (d) If the Borrower fails to make an interest payment when due and payable the unpaid interest will:
 - (i) remain owing and not form part of the principal owing to the Noteholder; and
 - (ii) bear interest at the same rate as interest is payable on the Redemption Amount calculated daily and payable on each Interest Payment Date.
- (e) The record date to identify the Noteholder entitled to receive an interest payment will be 7 calendar days before the Interest Payment Date unless the Listing Rules require otherwise.

3. Redemption

3.1 Redemption on Maturity Date

If the Notes are not otherwise redeemed or converted in accordance with these Conditions, the Notes must be redeemed by the Borrower on the Maturity Date by payment in Australian dollars to the Noteholder of the Redemption Amount on that date.

3.2 Early Redemption

The Borrower may, on giving 10 days' written notice to Noteholders, redeem all Notes on issue upon paying to Noteholders the Redemption Amount, a 25% premium on the Redemption Amount, and any unpaid accrued interest.

4. Conversion

4.1 Quarterly Conversion Right

- (a) Subject to these Conditions, a Noteholder has the right to convert all or some of its Notes in multiples of 20 Notes into the number of Ordinary Shares calculated in accordance with the following formula:

$$\text{Number of Notes subject to Conversion Notice} \times \text{Conversion Ratio} = \text{Number of Ordinary Shares}$$

by delivering a Conversion Notice to the Note Registry during the 10 Business Days immediately preceding the Election Date.

- (b) Subject to these Conditions, in the event that a Noteholder exercises their Quarterly Conversion Right, the conversion of the Notes to Ordinary Shares will occur on the Quarterly Conversion Date, in accordance with Condition 4.6.
- (c) If a Noteholder exercises its Quarterly Conversion Right, the Borrower will pay the Noteholder on the relevant Quarterly Conversion Date any interest that is accrued and unpaid up to the Quarterly Conversion Date (on such Notes in respect of which the Noteholder is exercising such Quarterly Conversion Rights) except where the Noteholder is already entitled to an interest payment on such Notes by virtue of a record date in respect of an Interest Payment Date on which the Quarterly Conversion Date falls.

4.2 Conversion at maturity

- (a) Subject to these Conditions, a Noteholder has the right to convert all or some of their Notes into the number of Ordinary Shares calculated in accordance with the following formula:

$$\text{Number of Notes subject to Conversion Notice} \times \text{Conversion Ratio} = \text{Number of Ordinary Shares}$$

by delivering a Conversion Notice to the Note Registry during the 15 Business Days immediately preceding the Maturity Election Date.

- (b) In the event that a Noteholder exercises their right pursuant to Condition 4.2(a):
- (i) the conversion of the Notes to Ordinary Shares will occur on the Maturity Date in accordance with Condition 4.4; and
- (ii) the Borrower will also pay the Noteholder on the Maturity Date any interest that is accrued but unpaid on such Notes up to the Maturity Date.

4.3 Conversion on Takeover Event

- (a) Upon a Takeover Event occurring a Noteholder may elect to convert all of its Notes into the number of Ordinary Shares calculated in accordance with the following formula:

$$\text{Number of Notes} \quad \times \quad \text{Conversion Ratio} \quad = \quad \text{Number of Ordinary Shares}$$

if a Takeover Notice is issued by the Borrower.

- (b) If a Noteholder's Notes are converted pursuant to Condition 4.3(a):
 - (i) the conversion of the Notes to Ordinary Shares will occur on the Takeover Conversion Date in accordance with Condition 4.6; and
 - (ii) the Borrower will also pay the Noteholder on the Takeover Conversion Date any interest that is accrued and unpaid on such Notes up to the Takeover Conversion Date.

4.4 Conversion Notices

- (a) The Borrower will, upon request by a Noteholder to the Note Registry, procure that the Noteholder is sent a pro forma Conversion Notice.
- (b) A Conversion Notice cannot be withdrawn without the consent in writing of the Borrower.
- (c) Not less than 25 Business Days before the Maturity Date, the Borrower must send to Noteholders a notice notifying them of this date, and its implications, and of the Maturity Election Date together with a pro forma Conversion Notice.

4.5 Method of Conversion

- (a) On receipt of a Conversion Notice from a Noteholder or issue of a Takeover Notice:
 - (i) the Borrower will redeem each of the Notes which are being converted in accordance with the Conversion Ratio on the Conversion Date; and
 - (ii) the holder of the Notes which are being converted irrevocably and unconditionally directs the Borrower to apply the whole of the Redemption Amount to subscribe for the number of Ordinary Shares to which the Noteholder is entitled (as adjusted in accordance with these Conditions).
- (b) Where the total number of Ordinary Shares to be issued to a holder on conversion includes a fraction, that fraction will be disregarded.
- (c) The Borrower will within 3 Business Days following the Conversion Date issue Ordinary Shares in respect of converted Notes, except in the event of a Takeover Event, in which event Ordinary Shares in respect of converted Notes will be issued on the next Business Day following the Conversion Date. Any such issue will have effect and be deemed to have been made on the Conversion Date.
- (d) The issue of Ordinary Shares as a result of the conversion of Notes will be treated for all purposes as full repayment of the Redemption Amount payable with respect to such Notes and the obligations of the Borrower in relation to the Redemption Amount will cease after the Conversion, except in respect of any obligation or liability which has arisen on or before the Conversion Date.

5. Takeover Event

5.1 Company to issue a notice on Takeover Event

If a Takeover Event occurs the Borrower may issue a Takeover Notice to Noteholders within 5 Business Days after the occurrence of the Takeover Event.

5.2 Meaning of Takeover Event

A Takeover Event occurs if, at any time on or before the Maturity Date, an off-market bid, a market bid, scheme of arrangement, or offer or invitation is made to all holders of Ordinary Shares to purchase or otherwise acquire Ordinary Shares from them within a specified period and the bid, scheme or offer becomes unconditional; and:

- (a) the offeror has at least 50% of the voting power (as defined by the Corporations Act) in the Borrower; or
- (b) the Directors issue a statement recommending that the bid, scheme or offer (as the case may be) be accepted or approved by holders of Ordinary Shares whether or not in the absence of a more favourable bid, scheme or offer (as the case may be).

6. Rights Issues, Bonus Issues and capital reconstructions

6.1 Rights Issues and Bonus Issues

- (a) Subject to paragraph (b), if the Borrower makes a Bonus Issue or Rights Issue, the Conversion Ratio will be adjusted immediately in accordance with the following formula:

$$CN = CN_0 \times P \times \left[\left[\frac{(RD + RN)}{(RD \times P) + (RN \times A)} \right] \right]$$

where:

- CN means the Conversion Ratio applying immediately after the application of this formula;
 - CN₀ means the Conversion Ratio applying immediately before the application of this formula;
 - P means the VWAP calculated in respect of the period from (and including) the first Business Day after the announcement of the Bonus Issue or Rights Issue to ASX to (and including) the last Business Day of trading *cum* Bonus Issue or Rights Issue;
 - A means, in the case of a Rights Issue, the subscription price per new Ordinary Share and, in the case of a Bonus Issue, 0;
 - RN means the number of Ordinary Shares issued pursuant to the Bonus Issue or Rights Issue; and
 - RD means the number of Ordinary Shares on issue immediately before the allotment of new Ordinary Shares pursuant to the Bonus Issue or Rights Issue.
- (b) Paragraph (a) does not apply to Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan or

a dividend reinvestment plan.

6.2 Capital reconstructions

If, while any Note remains capable of being converted, the Ordinary Shares are reconstructed, consolidated or divided (other than by way of a Bonus Issue) into a greater or lesser number of Securities, then the Notes must, in accordance with the Listing Rules, be reconstructed, consolidated or divided on the same basis so that neither the Noteholders nor the holders of Ordinary Shares will receive a benefit that the other does not receive.

6.3 Listing Rules not to be contravened

Despite any provision of Conditions 6 to 9:

- (a) no adjustment under those conditions may contravene any Listing Rule; and
- (b) if an adjustment under those conditions would contravene paragraph (a), the Notes are to be adjusted in accordance with the relevant adjustment required or permitted under the Listing Rules (and, if more than one, that one chosen by the Borrower).

7. Spin-offs

Noteholders will be entitled to participate (without first having to convert Notes to Ordinary Shares) in any Spin-off on the following terms:

- (a) if the Spin-off is conducted by way of a priority offer to holders of Ordinary Shares, Noteholders will be entitled to participate in the priority offer on the same terms as if the Noteholders had converted their Notes to Ordinary Shares immediately before the date of entitlement to the Spin-off (without having to convert their Notes) so that Noteholders are treated in the same manner as the holders of Ordinary Shares;
- (b) if the Spin-off is conducted by way of a new issue of Securities in the Borrower to holders of Ordinary Shares, Noteholders will be entitled to participate on the same terms as if the Noteholders had converted their Notes to Ordinary Shares immediately before the date of entitlement to the Spin-off (without having to convert their Notes) so that Noteholders are treated in the same manner as the holders of Ordinary Shares; and
- (c) if the Spin-off is conducted in any other way, including an *in specie* distribution of existing Securities to holders of Ordinary Shares, the value transferred to each Ordinary Share pursuant to the Spin-off will be deemed to be a return of capital, and the Conversion Ratio will be adjusted in accordance with Condition 8.

8. Return of capital or Excess Distribution

8.1 Adjustment to Conversion Ratio

If the Borrower makes a return of capital or there is an Excess Distribution to holders of Ordinary Shares the Conversion Ratio will be adjusted in accordance with the following formula:

$$CN = CN_0 \times \frac{P}{(P - C)}$$

where:

CN: means the Conversion Ratio applying immediately after the application of this

formula;

CN_0 : means the Conversion Ratio applying immediately before the application of this formula;

P: means the VWAP during the period from the first Business Day after the announcement of the return of capital to ASX up to and including the last Business Day of trading *cum* the return of capital or Excess Distribution; and

C: means with respect to a return of capital, the amount of the cash and/or the value (as reasonably determined by the Directors) of any other property distributed to holders of Ordinary Shares per Ordinary Share (or such lesser amount such that the difference between P and C is greater than 0), and with respect to an Excess Distribution, the amount of such Excess Distribution.

8.2 Meaning of Excess Distribution

For the purposes of Condition 8.1, Excess Distribution means the amount by which the sum of all dividends per Ordinary Share (including, if the dividend is franked, the amount that would be included in the assessable income of a recipient of the dividend or distribution who is a natural person under the Tax Act) paid by the Borrower in respect of a financial year exceeds 125% of the sum of all dividends per Ordinary Share (including, if the dividend is franked, the amount that would be included in the assessable income of a recipient of the dividend or distribution who is a natural person for the purposes of the Tax Act) paid by the Borrower in respect of the previous financial year.

9. Adjustments for off market buy-backs

9.1 Adjustment to Conversion Ratio

Subject to Condition 9.2, if the Borrower undertakes an off market buy-back of any of its Ordinary Shares, the Conversion Ratio will be adjusted immediately in accordance with the following formula:

$$CN = CN_0 \times P \times \left[\left[\frac{(BD - BN)}{(BD \times P) - (BN \times A)} \right] \right]$$

where:

CN: means the Conversion Ratio applying immediately after the application of this formula;

CN_0 : means the Conversion Ratio applying immediately before the application of this formula;

P: means the VWAP during the 20 Business Days before the announcement of the buy-back;

A: means the buy-back price per Ordinary Shares;

BN: means the number of Ordinary Shares bought back; and

BD: means the number of Ordinary Shares on issue immediately before the buy-back.

9.2 Restriction on Conversion Ratio adjustment

The Conversion Ratio will not be adjusted in accordance with Condition 9.1 if P exceeds A.

10. VWAP

10.1 Meaning of VWAP

VWAP is the arithmetic average of the daily volume weighted average sale price of the Borrower's Ordinary Shares sold on ASX during the relevant period but does not include:

- (a) special crossings;
- (b) crossings before the commencement of normal trading;
- (c) crossings during the after hours adjust phase; or
- (d) the exercise of options over Ordinary Shares,

as described in the ASX Market Rules.

10.2 Suspension of Shares

If Ordinary Shares are suspended by ASX at any time when VWAP is being calculated, the relevant period for calculation of VWAP will be the 10 consecutive Business Days up to but not including the first day of suspension.

10.3 Meaning when dividends declared during the relevant period

For the purposes of calculating VWAP, if, on some or all of the Business Days in the relevant period, Ordinary Shares have been quoted on ASX as *cum* dividend or *cum* any other distribution or entitlement, then the VWAP on the Business Days on which those shares have been quoted *cum* dividend or *cum* entitlement will be reduced by an amount equal to:

- (a) (in the case of a dividend or other distribution), the amount of that dividend or distribution including, if the dividend is franked the amount that would be included in the assessable income of a recipient of the dividend or distribution who is a natural person under the Tax Act;
- (b) (in the case of an entitlement which is traded on ASX on any of those Business Days), the volume weighted average price of all such entitlements sold on ASX during the relevant period on the Business Days on which those entitlements were traded; or
- (c) (in the case of an entitlement not traded on ASX during the relevant period), the value of the entitlement as reasonably determined by the Directors.

11. General

11.1 Payments

Any amount which is payable to Noteholders in respect of the Notes in accordance with these Conditions will, unless the Borrower and the Noteholder otherwise agree, be paid by direct credit to a nominated account at an Australian financial institution or by Australian dollar cheque drawn in favour of such Noteholder and sent by pre-paid post to the address of

the Noteholder in the Note Register.

11.2 Quotation

Application will be made for the Notes to be quoted on the official list of ASX within 7 days of the date of the Prospectus.

11.3 Ranking of Ordinary Shares

Each Ordinary Share issued on conversion of a Note will, as from the Conversion Date of that Note, rank equally in all respects with the then issued Ordinary Shares, except that they will not be entitled to any dividend that has been declared or determined but not paid as at the Conversion Date.

11.4 Security

The Notes are unsecured obligations of the Borrower and will rank equally with all other unsecured creditors of the Borrower, excluding unsecured creditors preferred by Law. The Notes will rank equally amongst themselves and in priority to Ordinary Shares on a winding up of the Borrower and interest on the Notes will be paid in priority to dividends on Ordinary Shares.

11.5 Voting

Noteholders may attend general meetings of the Borrower but the Notes do not carry a right to vote at a general meeting of the Borrower, unless provided for by the Listing Rules or the Corporations Act.

11.6 Reporting requirements

- (a) The Borrower will observe the reporting requirements set out in this schedule, which include requirements to furnish reports on the financial performance of the Borrower.
- (b) The Borrower will send to each Noteholder a copy of all reports, notices and announcements sent to holders of Ordinary Shares at the time they are sent to those holders of ordinary shares.

11.7 Notes redeemed

All Notes redeemed by the Borrower in accordance with these Conditions will be cancelled once redeemed and may not be reissued.

11.8 Payments made free and clear

Payments in respect of the Notes are subject in all cases to applicable provisions of fiscal and other Laws. All payments under the Notes must be made free and clear or and without deduction for, or by reference to, any present or future Taxes of any Governmental Agency of any jurisdiction unless required by Law.

11.9 No gross-up

If any withholding or deduction as described in Condition 11.8 is required by any Law, the Borrower will account to the relevant Governmental Agency for the amount required to be withheld or deducted and the Borrower will not be obliged to pay any additional amounts to Noteholders in respect of such withholding or deduction.

12. Holding statements and certificates

12.1 Uncertificated Holdings and holding statements

The Directors will not issue Note Certificates, unless required to do so under the Corporations Act, the Listing Rules or the ASX Settlement Operating Rules. Where Note Certificates are not issued a Noteholder will be entitled to receive such statements of the holdings of Notes of the Noteholder as the Borrower is required to give pursuant to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules.

12.2 Cancellation of Note Certificates

The ranking of the Notes will in no way be affected by the cancellation of any Note Certificate on which they were originally included or of any subsequent Note Certificate on which they were included.

13. Transfer of Notes

13.1 Forms of transfer

A Noteholder may transfer any Notes the Noteholder holds by:

- (a) a Proper ASTC Transfer or any other method of transferring or dealing in Notes introduced by the ASX or operated in accordance with the ASX Settlement Operating Rules or Listing Rules and, in any such case, recognised under the Corporations Act; or
- (b) a written instrument of transfer in any usual form or in any other form approved by either the Directors or the ASX and that is otherwise permitted by Law.

13.2 Registration of transfer

A transferor of Notes remains the owner of the Notes transferred until the transfer is registered and the name of the transferee entered in the Note Register in respect of the Notes, and the transferee of Notes on being entered on the Note Register will have all the rights and obligations which the transferor had and all the rights and obligations of a Noteholder under these Conditions.

13.3 Transfers which are not Proper ASTC Transfers

The following provisions apply to instruments of transfer referred to in Condition 13.1(b):

- (a) unless the instrument of transfer is otherwise a sufficient transfer under the Corporations Act, the instrument will be signed by, or executed by or on behalf of:
 - (i) the transferor; and
 - (ii) if required by the Borrower, the transferee;
- (b) the instrument of transfer duly stamped will be left at the place where the Note Register is kept, accompanied by the Note Certificate (if any) in respect of the Notes to be transferred and such other evidence as the Directors require to prove the transferor's title to, or right to transfer, the Notes;
- (c) the instrument of transfer must be endorsed or accompanied by an instrument executed by the transferee to the effect that the transferee agrees to accept the

Notes subject to the terms and conditions on which the transferor held them, to become a Noteholder and to be bound by the Note Deed and these Conditions; and

- (d) on registration of a transfer of Notes, the Borrower will cancel the old Note Certificate (if any).

13.4 Directors to register transfers

Subject to Conditions 13.3 and 13.5, the Directors will not refuse to register or fail to register or give effect to a transfer of Notes.

13.5 Refusal to register transfers other than Proper ASTC Transfer

- (a) The Directors may refuse to register any transfer of Notes (other than a Proper ASTC Transfer) where the Listing Rules permit the Borrower to do so.
- (b) The Directors will refuse to register any transfer of Notes (other than a Proper ASTC Transfer) where the Corporations Act or the Listing Rules require the Borrower to do so, or the transfer is in breach of the Listing Rules.

13.6 Notice of refusal to register

- (a) Where the Directors refuse to register a transfer of Notes under Condition 13.5, the Borrower will give written notice of the refusal and the reasons for the refusal to the transferee and the person who lodged the transfer, if not the transferee, within 5 Business Days after the date on which the transfer was lodged with the Borrower.
- (b) Failure by the Borrower to give notice under Condition 13.6(a) will not invalidate the refusal to register the transfer in any way.

13.7 No fee

No fee or other charge is payable in respect of the transfer or registration of any Note except as permitted in accordance with the Listing Rules.

14. Joint Noteholders

14.1 Note Certificates

- (a) Joint Noteholders will be entitled to 1 Note Certificate only in respect of Notes held by them jointly and the Note Certificate will be delivered to the first joint holder named on the register.
- (b) Delivery of a Note Certificate for any Note to the first joint holder named in the Register in relation to that Note is deemed to be delivery to all the joint holders.

14.2 Payment to one Noteholder effective discharge

If several persons are entered in the Note Register as joint Noteholders in respect of a Note, the payment to any 1 of such persons of any money from time to time payable to the joint Noteholders will be an effective discharge to the Borrower for the money so paid.

14.3 More than 3 joint Noteholders

Subject to the ASX Settlement Operating Rules, the Borrower will not be bound to register more than 3 persons as the joint holders of any Notes.

14.4 Actions of joint Noteholders

All of the joint Noteholders in respect of any Note must join in any:

- (a) transfer of the relevant Note;
- (b) application for the replacement of a Note Certificate which has been lost or destroyed; or
- (c) delivery of a Conversion Notice.

15. Non-resident Noteholders

15.1 Obligations on Noteholder to obtain all authorisations

Where Notes are held by, or on behalf of, a person resident outside the Commonwealth of Australia, then, despite anything to the contrary contained in or implied by these Conditions, it is a condition precedent to any right of the Noteholder:

- (a) to receive payment of any money in respect of those Notes; or
- (b) to obtain Ordinary Shares on conversion of any of those Notes,

that all necessary Authorisations (if any) and any other statutory requirements which may then be in existence are obtained at the cost of the Noteholder and satisfied.

15.2 Meaning of Authorisation

For the purposes of Condition 15.1, Authorisation includes any consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with any government or any Governmental Agency.

16. Indemnity to the Borrower

16.1 Noteholder indemnifies the Borrower

Whenever in consequence of:

- (a) the death of a Noteholder;
- (b) the non-payment of any income Tax or other Tax payable by a Noteholder;
- (c) the non-payment of any stamp or other duty by the legal personal representatives of a Noteholder or his estate; or
- (d) any other act or thing in relation to a Note or a Noteholder,

any Law for the time being of any country or place, in respect of a Note, imposes or purports to impose any liability of any nature on the Borrower to make any payments to any Governmental Agency, the Borrower will in respect of that liability be indemnified by that Noteholder and his legal personal representatives and any money paid by the Borrower in respect of that liability may be recovered from that Noteholder or the Noteholder's legal personal representative as a debt due to the Borrower and the Borrower will have a lien in respect of that money upon the Notes held by that Noteholder or his legal personal representatives and upon any money payable in respect of the Notes.

16.2 Indemnity does not limit other rights

Nothing in Condition 16.1 will prejudice or affect any right or remedy which any Law may confer or purport to confer on the Borrower.

17. Death, legal disability**17.1 Death, legal disability**

If a Noteholder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated, the survivor (in the case of joint Noteholders), the legal personal representative or the person entitled to Notes as a result of bankruptcy or liquidation will be recognised as having an enforceable claim to Notes registered in the Noteholder's name.

17.2 Transfer, transmission under Condition 17.1

Subject to the Listing Rules, the Borrower need not register any transfer or transmission under Condition 17.1 unless the transferee provides an indemnity in favour of the Borrower in a form determined by or satisfactory to the Borrower in respect of any consequence arising from the transfer or transmission.

17.3 Two or more persons jointly entitled

Where 2 or more persons are jointly entitled to any Note in consequence of the death of the registered holder of that Note, for the purpose of these Conditions they will be deemed to be joint holders of that Note.

17.4 Moneys payable in respect of Notes

The Directors will be at liberty to retain any money payable in respect of any Notes which any person under Condition 17 is entitled to transfer until such person is registered or has duly transferred the Notes in accordance with these Conditions.

18. Events of Default**18.1 Events of Default**

If any one or more of the following occur, subject to Condition 18.2 an Event of Default will have occurred. The Borrower must inform the Trustee not later than 5 Business Days in writing upon the happening of any of the following:

- (a) there is default in the performance of any term, agreement, representation, warranty or condition contained in or implied by this Note Deed (other than a payment default referred to in paragraph (b));
- (b) any indebtedness or obligations of the Borrower to any Noteholder is not paid or satisfied when due;
- (c) a receiver, receiver and manager, administrator, liquidator, provisional liquidator, trustee, inspector, official manager or similar person is appointed to the Borrower's undertaking or any part of its undertaking;
- (d) the Borrower without the Trustee's prior written consent ceases to carry on its business;
- (e) an application for winding up or similar process of the Borrower is presented and

not withdrawn or dismissed within 14 days or an order is made or any effective resolution is passed for the winding up of the Borrower;

- (f) proceedings are initiated with a view to obtaining an order for the winding up or similar process of the Borrower or any member either calls any meeting for the purpose of considering or passing any resolution for the winding up or similar process of the Borrower and is not withdrawn or dismissed within 14 days;
- (g) any action is initiated by ASIC with a view to striking the name of the Borrower off any register of companies;
- (h) the quotation of the Notes on ASX is suspended or revoked and such suspension or revocation remains in force for a period greater than 14 days;
- (i) any distress or execution is levied or enforced against any of the assets or property of the Borrower;
- (j) the Borrower breaches any undertaking at any time given to the Trustee or any condition imposed by the Trustee in agreeing to any matter or thing; or
- (k) the Borrower is unable to pay its debts as they fall due or it is unable to certify that it is able to pay its debts as they fall due, it commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or enters or proposes to enter into any arrangement or composition with its creditors.

18.2 Grace period

Despite the provisions of Condition 18.1, in relation to a breach of Condition 18.1(a), (g), (i), or (j), the Borrower will not have committed an Event of Default until the Borrower has failed to remedy the breach within 10 Business Days of the occurrence of the breach (**Grace Period**). For the avoidance of doubt, the Borrower must still notify the Trustee not later than 2 Business Days of the occurrence of the event or breach to which a Grace Period applies.

18.3 Notification obligations when issuer in liquidation

Without limiting anything in Condition 18.1, if the Borrower or any of its assets are placed into liquidation, then the receiver, receiver and trustee, official trustee, liquidator, administrator or similar official appointed to the Borrower or its assets (as applicable) (**Appointee**) must:

- (g) if the Trustee has not already done so, notify the Noteholders of each relevant Event of Default and of the Appointee's appointment; and
- (h) provide regular updates to the Trustee and the Noteholders as to the status of the liquidation and any other material developments affecting the Borrower or its assets.

19 Representations and warranties

19.1 Representations and warranties repeated

The representations and warranties made in clause 14 of the Note Deed are deemed to be repeated by the Borrower on each Interest Payment Date and each Conversion Date by

reference to the facts and circumstances existing on that date.

19.2 Reliance

The Borrower acknowledges that the Trustee and the Noteholders have entered into the Note Deed and Conditions (and the transactions in connection with them) to which they are a party in reliance on the representations and warranties in this Condition 19.

20 Amendments to documents

20.1 Right to amend the documents

The Borrower and the Trustee may jointly modify, alter, cancel, amend or add to all or any part of the Note Deed (**Amendment**) if:

- (a) the Borrower and the Trustee are each of the opinion that the Amendment is:
 - (i) of a formal or technical nature;
 - (ii) made to cure any ambiguity or correct any manifest error;
 - (iii) expedient for the purpose of enabling the Notes to be listed for quotation or to retain listing on any stock exchange or to be offered for, or subscription for, sale under the Laws for the time being in force in any place and is otherwise not considered by the Trustee to be materially prejudicial to the interests of Noteholders as a whole;
 - (iv) necessary to comply with the provisions of any statute or the requirements of any statutory authority; or
 - (v) to evidence the succession of another person to the Borrower and the assumption by any such successor of the covenants and obligations of the Borrower in this schedule; or
- (b) the Amendment is authorised by a Special Resolution of the Noteholders passed at a meeting (including a meeting held by way of postal ballot) of Noteholders held pursuant to the Meeting Provisions.

21 Definitions and interpretation

21.1 Definitions

In these Conditions:

ASX Market Rules means the business rules of ASX as amended or replaced from time to time;

ASX Settlement means ASX Settlement Pty Ltd and, where the case requires, includes an agent appointed by ASX;

ASX Settlement Operating Rules means the operating rules of ASX Settlement, currently known as the ASX Settlement Operating Rules, as amended or replaced from time to time;

Authorised Officer means, in relation to any party the officers of that party who are authorised by that party to act of its behalf in any matter related to these Conditions, without withdrawal or cancellation of that notification as at that time;

Authorised Officer's Certificate means a certificate signed by a director of the Borrower;

Bonus Issue means a pro rata issue made to holders of Ordinary Shares of any Securities credited as fully paid by way of capitalisation of profits, reserves or otherwise, but excluding any issue of Securities made either in lieu of a cash payment as a dividend under the constitution of the Borrower or pursuant to a Spin-off;

Conditions means these Conditions of Issue;

Conversion Date means a Takeover Conversion Date, a Quarterly Conversion Date, or the Maturity Date, as the case may be;

Conversion Notice means a notice from a Noteholder that it requires the Borrower to convert the number of Notes specified in the notice into Ordinary Shares in such a form as the Directors may from time to time approve, given in accordance with this schedule;

Conversion Ratio means 100, subject to adjustment pursuant to these Conditions;

Directors means the directors of the Borrower;

Dollar or \$ means the lawful currency of the Commonwealth of Australia at any time;

Election Date means the day 20 Business Days before a Quarterly Conversion Date;

Event of Default has the meaning in Condition 18;

Excess Distribution has the meaning in Condition 8.2;

Governmental Agency means a government or a governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

Group Company means the Borrower or a Subsidiary of the Borrower;

Income Tax means any tax which is assessed, levied, imposed or collected on income or capital gains by or on behalf of any Governmental Agency and includes any interest, fine, penalty, charge, fee or other amount imposed in respect of the above;

Interest Payment Date means initially 31 December 2014 and thereafter 30 June and 31 December of each calendar year until and including the Maturity Date for any Notes that have not been previously converted or redeemed.

Interest Period means in respect of the first Interest Period, the period commencing on the Issue Date and ending on the first Interest Payment Date thereafter, and in respect of all subsequent Interest Periods, means the period commencing on the day after the Interest Payment Date and ending on the next Interest Payment Date. The last Interest Period will, in respect of a Note, end on the date of its redemption or conversion;

Interest Rate means 10% pa;

Issue Date means the date on which the Borrower issues the Notes;

Listing Rules means the official listing rules of the ASX and any other rules of the ASX which are applicable while any Notes are admitted to the official list of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX;

Maturity Date means 3 years after Issue Date for those Notes which have not been converted or redeemed before that date;

Maturity Election Date means the day 5 Business Days before the Maturity Date;

Note or **Convertible Note** means an unsecured redeemable note convertible into fully paid Ordinary Shares, having an issue price of \$25.00 and issued in accordance with the provisions of the Note Deed;

Note Register means the register of Noteholders and, where appropriate, includes:

- (a) a sub-register conducted by or for the Borrower pursuant to the Corporations Act, Listing Rules or ASX Settlement Operating Rules; and
- (b) any branch register;

Note Registry means the place where the Note Register is kept, which at the date of the Note Deed, is care of Link Market Services Limited, Level 15, 324 Queen Street, Brisbane QLD 4000 or otherwise determined by the Borrower by notice in writing to the Trustee;

Noteholder means the holder of a Note as recorded in the Note Register;

Ordinary Share means a fully paid ordinary share in the capital of the Borrower;

Proper ASTC Transfer has the meaning given in *Corporations Regulations 2001* Regulation 1.0.02;

Prospectus means the prospectus of the Notes to be lodged with the Australian Securities and Investments Commission on or about 21 July 2014 by the Borrower;

Quarterly Conversion Date means the last day of each calendar quarter between the Issue Date and the Maturity Date;

Quarterly Conversion Right means a Noteholder's right to convert their Notes into Ordinary Shares in accordance with Condition 4.1(a);

Related Body Corporate of a body corporate means another body corporate which is related to the first within the meaning of s50 of the Corporations Act;

Rights Issue means any pro rata offer or invitation of Securities (not being an offer of Securities which are issued in lieu of distributions or by way of a dividend reinvestment or under a scheme for the benefit of employees of the Borrower or its Related Bodies Corporate or under a share purchase plan or by way of a Spin-off or under a Bonus Issue) to the holders of Ordinary Shares;

Securities includes shares, debentures, debenture stock, notes and any option or right to subscribe for the same;

Spin-off means the sale or divestment of any business of a Group Company where that process includes either a priority entitlement to, in specie distribution of, transfer of, or any other distribution or sale or subscription of Securities, in the entity conducting the business that is being sold or divested, to holders of Ordinary Shares;

Subsidiary has the meaning given in s9 of the Corporations Act;

Takeover Conversion Date means the day 20 Business Days after the date a Takeover

Notice is issued by the Borrower upon the occurrence of a Takeover Event;

Takeover Event has the meaning given in Condition 5.2;

Takeover Notice means a notice in such form as the Directors approve issued by the Borrower to a Noteholder that a Takeover Event has occurred;

Tax means:

- (a) a tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding;
- (b) income, stamp or transaction duty, tax or charge; or
- (c) GST,

which is assessed, levied, imposed or collected by, or payable to, a Governmental Agency (excluding Income Tax other than interest withholding tax) and includes interest, fines, penalties, charges, fees or other amounts imposed on or in respect of any of the above;

Tax Act means:

- (a) the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* as the case may be as amended;
- (b) any other act setting the rate of income tax payable; and
- (c) any regulation promulgated under an Act noted in paragraph (a) or (b);

VWAP has the meaning given in Condition 10.

21.2 Interpretation

- (a) Unless the context otherwise requires, these Conditions will be interpreted in accordance with clause 29 of the Note Deed, and any terms defined in the Note Deed will have the same meanings when used in these Conditions.
- (b) If an Interest Payment Date, Conversion Date, or Maturity Date falls on a day which is not a Business Day, the time for performing any acts to be done on that day will be extended to the next succeeding Business Day subject to paragraph 2 of Appendix 6A of the Listing Rules.

SCHEDULE 2

Provisions for meetings of Noteholders

1. Definitions

1.1 Definitions

In this schedule, unless the context requires these provisions will be interpreted in accordance with clause 29 of the Note Deed and any terms defined in the Note Deed will have the same meaning when used in this schedule.

1.2 Noteholders

For the purposes of these provisions the term Noteholder means the person or persons named as Noteholder in the Note Register 1 Business Day before the date of the meeting.

2. Convening meetings

2.1 Who may convene a meeting

- (a) The Borrower or the Trustee may convene a meeting of Noteholders in accordance with clause 2.2 of this schedule.
- (b) The Borrower, if required to do so in writing by the Noteholders holding in aggregate at least 10% of the Outstanding Money, must convene a meeting of Noteholders in accordance with clause 2.2 of this schedule.
- (c) The Borrower must convene a meeting of Noteholders whenever required to do so by Law.

2.2 Method of convening a meeting

- (a) The Borrower or the Trustee may convene a meeting of Noteholders by notice given:
 - (i) to the other of them in accordance with the Note Deed; and
 - (ii) (subject to clause 2.4 of this schedule) to each Noteholder at its address as recorded on the Note Register on the Business Day before the notice is given,

at least 21 Business Days before the date for the meeting.
- (b) A notice under paragraph (a) must:
 - (i) state the date, start time and location of the meeting;
 - (ii) describe the nature of the business to be considered; and
 - (iii) provide that Noteholders may attend personally or through a representative or proxy appointed.

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 Borrower; 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 of notice**

The Noteholders may unanimously waive the requirement that they be given notice 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 Borrower or the Trustee**

An omission to give notice to, or the non-receipt of notice by, the Trustee or the Borrower under clause 2.2(a)(i) of this schedule, within the period specified in that clause, invalidates a meeting unless:

- (a) the Trustee or the Borrower (as the case may be) refuses to accept delivery of that notice; or
- (b) the Trustee or the Borrower (as the case may be), by notice given in accordance with the Note Deed to the others of them, waives its right to receive that notice.

2.6 **Remedy Default**

A meeting called otherwise than in accordance with clause 2.2 will be deemed to be duly convened if it is so agreed by Noteholders representing a quorum.

3. **Attendance at meetings**

3.1 **Borrower and Trustee**

The Borrower and the 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 Trustee or to the Borrower.
- (b) A Noteholder that is a body corporate, may authorise a person 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 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:

- (i) lodged with the Trustee or the Borrower at least 48 hours before the meeting, adjourned meeting or taking of a poll at which it is to be relied on; and
 - (ii) in the case of an instrument appointing a proxy which is under the hand of an attorney, accompanied by proof acceptable to the Trustee or the Borrower of the attorney's authority.
- (e) The Trustee 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 despite 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 is valid despite:
- (i) any death, unsoundness of mind or dissolution of the Noteholder;
 - (ii) any revocation of the instrument of appointment (or of the authority under which it was executed); or
 - (iii) any transfer of the Note in respect of which the appointment was made,
- unless the Borrower or the Trustee is made actually aware of this before the meeting or adjourned meeting starts.
- (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 (k), only the person registered in the Note 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 registered in the names of more than 1 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.

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:
 - (i) are present in person or by representative or proxy (even if by the same representative or proxy); and
 - (ii) are entitled to vote at that meeting,
 is 10% by number of the Noteholders who are entitled to vote.
- (c) If a quorum is not present within 15 minutes of the announced start time for a meeting, the meeting:
 - (i) if convened pursuant to clause 2.1(b) of this schedule, is dissolved; or
 - (ii) in any other case, stands adjourned to such day, and to such time and place, as the Trustee determines and notifies in accordance with clause 2.2(a) of this schedule to the persons entitled to attend.

4.2 **Chairman**

- (a) The Trustee may appoint a person to be chairman at a meeting of Noteholders, which for the avoidance of doubt, may be an officer of the Trustee.
- (b) If the Trustee does not appoint a person to be chairman of a meeting, or the person is not present within 15 minutes of the announced start 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 procedure**

- (a) Every question submitted to a meeting must be decided in the first instance by a show of hands of Noteholders or their representatives or proxies. Unless a poll is demanded in accordance with this clause 4.3, a declaration by the chairman that a resolution has been carried, carried by a particular majority, 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.
- (b) Each of:
 - (i) the chairman;
 - (ii) the Borrower or the Trustee;
 - (iii) any 5 or more Noteholders (or their representatives or proxies); or
 - (iv) a Noteholder or Noteholders holding in aggregate at least 10% of the Outstanding Money (or its or their representatives or proxies),

may call for a poll on a resolution before or on the declaration of the result of the show of hands. A demand for a poll may be withdrawn.

- (c) A poll on the election of a chairman or a question of adjournment must be taken immediately. A poll on other matters must be taken in the manner, at the time and in the place determined by the chairman. The result of a poll is to be taken to be the resolution of the meeting at which the poll was demanded, passed on the day the poll is taken.
- (d) The demand for a poll may not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) In the case of a vote:
 - (i) on a show of hands, each person present and entitled to vote has one vote; and
 - (ii) on a poll, each person who is present and entitled to vote has 1 vote in respect of each \$0.38 (but not part of) of Outstanding Money in respect of which that person is the Noteholder or in respect of which that person is otherwise entitled to vote.

Without prejudice to the obligations (if any) imposed by a Noteholder on its representative or proxy, any person entitled to more than 1 vote need not exercise all those votes 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:
 - (i) release any party from any liability to the Noteholders;
 - (ii) without limiting paragraph (i), adversely affect the rights of any Noteholder;
 - (iii) require the resignation or removal of the Trustee;
 - (iv) authorise the Trustee's to exercise rights under clause 27 of the Note Deed,
 requires a Special Resolution.
- (c) 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.
- (d) 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.
- (e) Despite anything to the contrary in the Note Deed (including this schedule), the Noteholders do not have the Power (whether by Special Resolution or otherwise):
 - (i) to change any formula for the calculation of any Outstanding Money or the rate at which interest accrues on any Note;

- (ii) to bring forward the date on which any amount of interest or principal is payable on any Note or a conversion or redemption of Notes can, or will, occur;
 - (iii) to amend the Note Deed in a manner which would permit them to do so; or
 - (iv) to alter the Trustee's obligations, Powers or protections, right to fees or indemnities without the consent of the Trustee.
- (f) The Borrower:
- (i) must give effect to any resolution passed at a meeting of Noteholders convened and held in accordance with this schedule; and
 - (ii) 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:
- (i) to do so would be unlawful;
 - (ii) the resolution contravenes paragraph (e); or
 - (iii) the resolution would require the Borrower or the Trustee to breach a provision of this schedule.
- (g) At a meeting of Noteholders, a declaration by the chairman that a resolution has been carried or lost by a particular majority is conclusive evidence of that fact.

4.5 **Adjournment**

- (a) Each of:
- (i) the chairman;
 - (ii) the Trustee; and
 - (iii) the Noteholders (or their representatives or proxies) by resolution,
- may adjourn a meeting (including an adjourned meeting) to such time and place as the 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 clause 4.1(c)(ii) 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.

5. **Minutes of meetings**

5.1 **Trustee to keep minutes**

The Trustee or the Borrower must keep or cause to be kept accurate minutes of all meetings of Noteholders.

5.2 **Minutes conclusive**

The minutes of a meeting of Noteholders, if signed by the chairman of that meeting, 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.

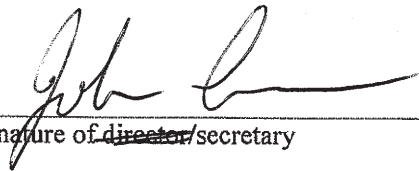
EXECUTED as a deed.

EXECUTED by)
CRATER GOLD MINING LIMITED)
ACN 067 519 779)
in accordance with section 127 of the)
Corporations Act 2001 (Cth):)

Signature of director



Signature of ~~director~~ secretary





Greg Starr
Name of director

John Lemon
Name of ~~director~~ secretary

The Common Seal of AUSTRALIAN
EXECUTOR TRUSTEES LIMITED
ACN 007 869 794 is affixed with the
authority of:




Signature Authorised Officer


Signature of Authorised Officer

MARJORIE HORTINELA
Name Authorised Officer

Glenn White
Name of Authorised Officer

ATTACHMENT A

Application Form for Notes

CODE: []

Application for Notes

The Directors

Crater Gold Mining Limited (**Company**)

The Applicant whose details are set out below applies for [] Notes (**Notes**) in the Borrower at an issue price of \$25.00 per Note. The terms of the Notes are described in the Note Deed. The Applicant tenders the sum of \$[] in payment for the Notes and agrees to be bound by the terms of the Note Deed and the Conditions of Issue.

Please register the Notes under the following name and address.

SBN/IPN _____

HIN _____

TETR _____

Signing/Lodgement instructions

If this subscription is signed by an attorney, the attorney states that he/she has no notice of revocation of the power of attorney under the authority of which this Application for Notes is signed. In the case of joint holdings, each holder must sign. Where the holder is an incorporated body, its attestation clause is to be affixed and the attestation clause signed by its authorised signatories. If signed by an attorney and the relative power of attorney has not already been previously, a power of attorney must be forwarded with this form for noting and return.

Application will be made for the official quotation of the Notes on the ASX. The Applicant should note that Participating Organisations of ASX cannot deal in the Notes as either principal or agent until official quotation of the Notes is granted by ASX.

USUAL SIGNATURE(S)

(or attestation clause

and authorised signatures

if an incorporated body)

Please return this form and your cheque or other order for payment made payable to 'Crater Gold Mining Limited' by **no later than** [] to:

[]