

Form 603
Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme CONTINENTAL COAL LIMITED

ACN/ARSN 009 125 651

1. Details of substantial holder (1)

Name SOCIUS CG II. LTD.

ACN/ARSN (if applicable) N/A

The holder became a substantial holder on 30/06/11

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Ordinary shares	234,962,406	234,962,406	6.86%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
SOCIUS CG II. LTD.	Relevant interest under section 608(1)(a) of the Corporations Act.	234,962,406 fully paid ordinary shares

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
SOCIUS CG II. LTD.	SOCIUS CG II. LTD.	SOCIUS CG II. LTD.	234,962,406 fully paid ordinary shares

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-Cash	
SOCIUS CG II. LTD.	30/06/11	\$10,000,000	NIL	234,962,406 fully paid ordinary shares

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
SOCIUS CAPITAL GROUP, LLC	Holding company of SOCIUS CG II. LTD.

7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
SOCIUS CG II. LTD.	11150 Santa Monica Boulevard Suite 1500 Los Angeles CA 90025, USA

Signature

print name

Terren Prizer

capacity

Managing Director

sign here



date

01/ 07/ 2011

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown."
- (9) Details of the consideration must include any and all benefits, moneys and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

SUBSCRIPTION AGREEMENT

This Share Subscription Agreement ("Agreement") is effective as of 30 June 2011 ("Effective Date"), by and among Continental Coal Limited (ACN 009 125 651), an Australian limited liability public company ("Company"), and Socius CG II. Ltd., a Bermuda exempted company (including its designees, successors and assigns, "Investor").

RECITALS

The parties desire that, upon the terms and subject to the conditions contained herein, Investor shall subscribe for, and the Company shall issue to Investor, up to \$20,000,000.00 in aggregate of Ordinary Shares (together with Options) at a time and price as determined in accordance with this Agreement.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the promises, the mutual covenants and other provisions contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Company and Investor agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 Definitions.

In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings indicated in this Article 1:

"Act" means the *Corporations Act 2001* (Cth), as amended.

"Administration Agent" means Madison Williams and Company LLC.

"Affiliate" means with respect to any person (the "First Person"): (a) any other person who, directly or indirectly, Controls, is under common Control with, or is Controlled by, such First Person; (b) any other person who is a director, officer, employee, manager, direct or indirect member, shareholder or interest holder, partner, or trustee of the First Person or a person described in clause (a) of this definition, or any spouse of the First Person or of a person described in clause (a) of this definition; (c) any relative of the First Person or any other person described in clause (b) of this definition; or (d) any person of which the First Person and/or any one or more of the persons specified in any of clauses (a), (b) or (c) of this definition, individually or in the aggregate, beneficially own 10% or more of any class of voting securities.

"Agreement" means this Subscription Agreement including the Exhibits hereto.

"Appendix 3B" has the meaning given in the Listing Rules.

"ASIC" means the Australian Securities and Investments Commission.

"ASX" means ASX Limited and the market operated by it, the Australian Securities Exchange, as applicable.

"Cleansing Prospectus" means a prospectus lodged by the Company with ASIC pursuant to Section 708A(11) of the Act in a form, and containing all information, that is sufficient to permit subsequent re-sale at any time after issue of such prospectus (and without further disclosure by Investor), on ASX of the Shares to be issued under this Agreement.

"Cleansing Statement" means a written notice by the Company to ASX pursuant to Section 708A(5)(e) of the Act meeting the requirements of Section 708A(6) of the Act, in a form, and containing the information, that is sufficient to permit subsequent re-sales on ASX of the Shares to which it relates.

"Consolidation" means the 10-for-1 consolidation of the Company's share and option capital in accordance with section 254H of the Act as contemplated by resolution 3 in the Explanatory Statement to the notice of meeting for the Company's general meeting on 29 June 2011.

"Consolidation Date" means the date upon which trading in Ordinary Shares, post-Consolidation, on a deferred settlement basis starts.

"Control" (including the terms "controlling", "controlled by" or "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

"Effective Date" means the date of mutual execution of this Agreement, or such other date as the parties agree in writing.

"Explanatory Statement" has the meaning set out in Section 4.1(e).

"GST" means the goods and services tax levied under the GST Act.

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

"Initial Investment" means the subscription by the Investor for the Initial Investment Shares and the Re-Pricing Shares, if any, for A\$10,000,000 (ten million dollars) in accordance with this Agreement.

"Initial Investment Shares" means 234,962,406 Shares.

"Insolvency Event" means any of the following events in relation to a party: (a) an application is made to a court (other than a frivolous or vexatious application) for an order that it be wound up, except where the application is withdrawn, struck out or dismissed within seven Trading Days of it being made; (b) a liquidator or provisional liquidator is appointed; (c) an administrator or a controller is appointed to any of its assets; (d) it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors; (e) it proposes a reorganisation, moratorium, agreement of company arrangement or other administration involving one or more of its creditors, or its winding up or dissolution; (f) it is insolvent as disclosed in its accounts or otherwise states that it is insolvent or it is presumed to be insolvent under an applicable law; (g) it is taken to have failed to comply with a statutory demand as a result of section 459F(1) of the Act; (h) a writ of execution is levied against it or its property; or (i) anything occurs under a United States federal or state law or law of Bermuda which has a materially equivalent effect to any of the above paragraphs of this definition.

"Lien" means a lien, charge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Listing Rules" means the listing rules of ASX.

"Material Adverse Effect" means any of: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document; (ii) a material adverse effect on the results of operations, assets, business, prospects or financial condition of the Company and the Subsidiaries, taken as a whole; or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document.

"Material Agreement" includes any material loan agreement, equity investment agreement or securities instrument to which Company is a party or any agreement or instrument to which both Company and Investor or any Affiliate of Investor is a party.

"Option Exchange Notice" has the meaning given in sub-section 2.7(c)(iv).

"Option Exercise Notice" means a notice substantially in the form of Exhibit A in relation to 5 Year Options.

"Option Exercise Price" means the amount payable by Investor to Company upon settlement of a 5 Year Option which Investor has exercised and in relation to which Investor has not provided an Option Exchange Notice.

"Option Shares" means Ordinary Shares issuable upon exercise of Options.

“Ordinary Share” means an ordinary share in the capital of the Company (being a share in the Company's main class of shares as at the date of this agreement) ranking *pari passu* in all respects with other ordinary shares issued by the Company.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, government (or an agency or subdivision thereof) or other entity of any kind.

“Placement Fee” means a placement fee of 6% of the relevant Subscription Price payable to the Administration Agent, upon the Share Closing Date in respect of each of the Initial Investment and the Subsequent Investment under Section 2.4(d).

“Re-Pricing Mechanism” means the Share re-pricing mechanism agreed between the Investor and the Company which will take effect subject to the conditions, and on the terms, set out in Section 2.5.

“Re-Pricing Shares” means the further Shares, if any, (rounded down to the nearest whole Share) issuable to the Investor upon the Re-Pricing Mechanism taking effect under Section 2.5.

“SEC” means the United States Securities and Exchange Commission.

“Securities” includes the Options, the Option Shares and Ordinary Shares issuable pursuant to this Agreement.

“Securities Act” means the U.S. Securities Act of 1933, as amended.

“Share Closing Date” means in relation to:

- (a) the Initial Investment, the Effective Date;
- (b) the issue of Re-Pricing Shares pursuant to the Re-Pricing Mechanism, the first Trading Day following the fifth Trading Day after the Consolidation Date;
- (c) the Subsequent Investment, the 45th day after the Effective Date;
- (d) the issue of Shares following exercise of an Option, the Trading Day after Investor gives an Option Exercise Notice to the Company;
- (e) the issue of Shares in connection with an Option Exchange Notice, the Trading Day after the parties agree the Surrender Value, or it is otherwise determined.

“Share Issue Price” means the price per Ordinary Share payable by the Investor pursuant to:

- (a) the Initial Investment being either: (i) 4.256c; or (ii) if the Re-Pricing Mechanism is triggered under Section 2.5, the closing bid price for the Shares on the fifth Trading Day following the Consolidation Date, plus a 12% premium;
 - (b) the Subsequent Investment being a 12% premium to the closing bid price for the Shares on the last Trading Day immediately preceding the 45th day after the Effective Date;
 - (c) the exercise of the Options being a 15% premium to either (i) the price payable under sub-section (a) above for those Options issued together with the Initial Investment; or (ii) the price payable under sub-section (b) above for those Options issued together with the Subsequent Investment,
- (as the case may be). The Company may not issue fractional Ordinary Shares.

“Shares” means fully paid ordinary shares in the capital of the Company and any replacement or substitute thereof, or any share capital into which such Shares shall have been changed or any share capital resulting from a reclassification of such Shares.

“Subscription Price” means, in relation to each Share Closing Date, the Share Issue Price multiplied by the number of Ordinary Shares to be issued to the Investor relating to that Share Closing Date.

“Subsequent Investment” means the further subscription for, and issue to the Investor of, Ordinary Shares in accordance Section 2.2(b).

“Subsequent Investment Conditions” means the conditions precedent to the Investor’s commitment to fund the Subsequent Investment set forth in Section 2.2(b)(i).

“Subsequent Investment Shares” means the number of Shares (rounded down to the nearest whole Share) to be issued to the Investor on the Share Closing Date calculated by dividing \$10,000,000 (ten million dollars) by the Share Issue Price.

“Subsidiary” has the meaning given in the Act.

“Termination” has the meaning set forth in Section 3.1.

“Trading Day” has the meaning given in the Listing Rules; provided that it shall not include any day on which the Shares are (a) scheduled to trade for less than 5 hours, or (b) suspended from trading.

“Transaction Documents” include this Agreement, the other agreements and documents referenced herein, and the Exhibits and Schedules hereto and thereto.

“Trigger Event” has the meaning given in Section 2.5(b).

“5 Year Option” or “Option” means an option issuable under this Agreement, having the terms set forth in Section 2.7.

1.2 Interpretation.

In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, section, paragraph or schedule is to a clause, section or paragraph of or schedule to this Agreement and a reference to this Agreement includes any schedule or annexure;
- (d) a reference to a document or instrument, includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, AUD, dollar or \$ is to Australian currency;
- (f) a reference to time is to New South Wales time;
- (g) a reference to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;

- (j) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (k) headings are for ease of reference only and do not affect interpretation.

ARTICLE 2

SUBSCRIPTION AND ISSUE

2.1 Agreement to Subscribe. Subject to the terms and conditions herein:

(a) Subject to the terms and conditions of this Agreement, Investor hereby irrevocably agrees to make the Initial Investment and the Subsequent Investment; and

(b) Subject to the terms and conditions of this Agreement, the Company agrees to issue the Shares pursuant to the Initial Investment (including any Re-Pricing Shares if the Re-Pricing Mechanism is triggered) and the Subsequent Investment (if applicable) and Options pursuant to this Agreement.

2.2 Commitment.

(a) Initial Investment.

As a condition precedent to the Investor's commitment to fund the Initial Investment (and in addition to the general conditions in Section 2.3 below), all of the following shall have been satisfied prior to the Share Closing Date: (A) the following documents shall have been delivered to Investor: (x) this Agreement, duly executed by the Company, (y) a certificate attaching copies and certifying as to the resolutions of the Company's board of directors authorising this Agreement and the Transaction Documents, and the transactions contemplated hereby and thereby, and (z) a copy of the press release announcing the transactions contemplated by this Agreement; and (B) the representations and warranties of the Company in this Agreement shall be true and correct in all material respects.

(b) Subsequent Investment.

(i) As a condition precedent to the Investor's commitment to fund the Subsequent Investment, each of the following shall have been satisfied ("Subsequent Investment Conditions") in addition to the general conditions in Section 2.3 below: (A) the representations and warranties of the Company in this Agreement in so far as they apply at the Share Closing Date shall at that date be true and correct in all material respects; (B) the Investor having funded the full amount of the Initial Investment pursuant to this Agreement; (C) the Company convening a general meeting by no later than 12 August 2011 at which the shareholders are asked to consider and, if thought fit, pass a resolution in accordance with ASX Listing Rule 7.1 approving the issue of the Subsequent Investment Shares and the Options to be issued contemporaneously with the Subsequent Investment Shares, and, if applicable any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares (on the terms set out in this agreement); and (D) the Company's shareholders having considered in general meeting and approved pursuant to ASX Listing Rule 7.1 the issuance of the Subsequent Investment Shares and related Options and any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares to the Investor (on the terms set out in this agreement).

(ii) The Company must execute all documents and do all things within its power as may be necessary or desirable to ensure that the Company's shareholders approve of the Subsequent Investment and issue of any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares (on the terms set out in this agreement), and in particular the Company must promptly convene a general meeting in accordance with the Act and its constitution, so that the general meeting is held by no later than 12 August 2011 to allow the Company's shareholders to consider and, if thought fit, approve of the resolution proposing the issue of the Subsequent Investment Shares and related Options and any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares, to the Investor.

(iii) The Company represents and warrants to the Investor that it has been advised by each of its directors that he will, and the Company must procure that its directors will: (A) recommend that the Subsequent Investment (on the terms set out in this agreement) and the issue of any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares are in the best interests of the Company; (B) recommend that the Company's shareholders vote in favour of and approve the resolutions proposing the Subsequent Investment (on the terms set out in this agreement) and the issue of any Residual Re-Pricing Shares together with accompanying Options to those Residual Re-Pricing Shares; and (C) not subsequently change, withdraw or modify the recommendations made in accordance with preceding sub-sections (A) and (B), or make any public statement or take any other action that contradicts those recommendations.

2.3 Conditions Precedent to the Initial Investment and the Subsequent Investment.

Investor's obligation to make the Initial Investment and the Subsequent Investment are subject to the satisfaction (or written waiver by Investor), before and as at the time of issue of the relevant Ordinary Shares, of each of the following conditions:

(a) Shares are quoted on ASX and have been so quoted at all times in the previous 3 months, are not suspended from trading on ASX and have not been suspended from trading on ASX for more than a total of 5 days during the previous 12 months, and to the Company's knowledge there is no notice of any removal from quotation or suspension with respect to the trading of Shares on ASX;

(b) the representations and warranties of the Company set forth in this Agreement are true and correct in all material respects as if made on such date, and no material default shall have occurred under this Agreement, or any other agreement with Investor, or with any Affiliate of Investor;

(c) the Company is not, and will not as a result of the contemplated issue of Ordinary Shares, be in default of any Material Agreement;

(d) there is not then in effect any law, rule or regulation prohibiting or restricting the transactions contemplated hereby, or requiring any consent or approval which shall not have been obtained, nor is there any pending or threatened proceeding or investigation which may have the effect of prohibiting or adversely affecting any of the transactions contemplated by this Agreement; no statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or adopted by any court or governmental authority of competent jurisdiction that prohibits the transactions contemplated by this Agreement, and no actions, suits or proceedings shall be in progress, pending or threatened by any person (other than Investor or any Affiliate of Investor), that seek to enjoin or prohibit the transactions contemplated by this Agreement. For the purposes of this paragraph (d), no proceeding shall be deemed pending or threatened unless one of the parties has received written notification thereof prior to the applicable Share Closing Date.

(e) Without limiting the terms of paragraph (d), no approval for the issue of the Ordinary Shares pursuant to either the Initial Investment (nor the related Options) is required under the Listing Rules (including, without limitation, Listing Rule 7.1) which has not been obtained;

(f) Company is in compliance with all reporting requirements in order to maintain its listing on ASX and the quotation of Shares on ASX, and is in compliance with section 674 of the Act and the provisions of Chapter 2M of the Act as they apply to the Company;

(g) the Shares already owned by Investor and its notified Affiliates and to be acquired pursuant to this Agreement on the relevant Share Closing Date, would not result in voting power or beneficial ownership by Investor and its notified Affiliates of more than 20% of the outstanding Shares of the Company (or such other percentage of the outstanding Shares of the Company as applies in a manner similar to Chapter 6 of the Act under any other applicable law to which the Company is subject), unless such condition is waived by Investor in writing;

(h) ASIC has not made a determination under section 708A(2) of the Act in relation to the Company that remains in force;

(i) no exemption under section 111AS or 111AT of the Act, and no order under section 340 or 341 of the Act, has covered the Company, or any person as a director or auditor of the Company, at any time during the previous 12 months;

(j) there is no excluded information (within the meaning of section 708A(7)) of the Act) in relation to the Company; and

(k) the Company has no reason to believe that it will not be able to: (a) give a Cleansing Statement; or (b) lodge a Cleansing Prospectus in respect of any Shares or Option Shares issued as a consequence of the Initial Investment, the Subsequent Investment or the Investor's delivery of an Option Exercise Notice or an Option Exchange Notice (as the case may be).

2.4 Mechanics of Share Closing Date.

(a) On or before the Share Closing Date, the Company shall, upon payment of the Subscription Price, issue and deliver to Investor each of the following: (x) the Initial Investment Shares, the Subsequent Investment Shares, the Re-Pricing Shares or Option Shares specified in the relevant Option Notice (as the case may be); (y) a "Use of Proceeds" certificate, signed by an officer of the Company, setting forth how the Subscription Price, if any, will be applied by the Company.

(b) Subject to the satisfaction of the conditions set forth in Section 2.3, the Company complying with all its obligations under this Section 2.4(b) (including delivery of the documents, instruments and other writings required by Section 2.4 (e)) on the Share Closing Date, Investor shall deliver to the Company the Subscription Price (less the Placement Fee on those Share Closing Dates relating to the Initial Investment and the Subsequent Investment), if applicable, on the Share Closing Date and give the Company written evidence from the Investor's financial institution that the Subscription Price (less the Placement Fee on those Share Closing Dates relating to the Initial Investment and the Subsequent Investment) has been transferred to the nominated account of the Company, if relevant.

(c) Any money paid to the Company in respect of the Subscription Price shall be held by the Company on trust until such time as the relevant Shares are issued to the Investor under Section 2.4(a). If, before the relevant Shares are issued under Section 2.4(a), this agreement is terminated in accordance with Section 3, then the Company shall immediately repay all Subscription Price monies held on trust for the Investor, in cleared funds and without set off or deduction.

(d) On each of the Share Closing Dates in respect of the Initial Investment and the Subsequent Investment, the Investor shall pay, at the Company's direction, the Placement Fee in cash into an account nominated in advance and in writing by the Administration Agent.

(e) All documents, instruments and other writings required to be delivered by the Company to Investor on or before the Share Closing Date pursuant to any provision of this Agreement in order to implement and effect the transactions contemplated herein must be so delivered by the Company to the Investor.

2.5 Re-Pricing Mechanism.

(a) Nature of the Re-Pricing Mechanism.

Subject to the requirement to obtain shareholder approval in relation to the issue of the Residual Re-Pricing Shares (if any), the Re-Pricing Mechanism shall take effect automatically if the Trigger Event has occurred and the Investor shall be deemed to have subscribed for (as part of the Initial Investment), and the Company shall issue and allot to the Investor, the Re-Pricing Shares. The parties acknowledge and agree that the consideration for any Re-Pricing Shares is included in the Subscription Price payable pursuant to the Initial Investment and that the Investor shall not be obliged to pay, and the Company shall not be entitled to receive, any further consideration for the Re-Pricing Shares.

(b) Trigger Event.

If:

- (i) the closing bid price of the Shares on any Trading Day between:
 - (I) the Effective Date and the Consolidation Date is less than 3.42c; or
 - (II) the Consolidation Date and the fifth Trading Day following the Consolidation Date is less than 34.2c; and
- (ii) the closing bid price of the Shares on the fifth Trading Day following the Consolidation Date is less than 34.2c,

then, subject to the requirement to obtain shareholder approval in relation to the issue of the Residual Re-Pricing Shares (if any), the Re-Pricing Mechanism will take effect and on the first Trading Day following the fifth Trading Day after the Consolidation Date the Company will issue the Investor with such number of Re-Pricing Shares as is determined in accordance with sub-section 2.5(c) below up to the maximum number of Re-Pricing Shares together with Options attaching to those Re-Pricing Shares which (when aggregated with the Initial Investment Shares and accompanying Options) does not breach Listing Rule 7.1. Any Re-Pricing Shares (and Options attaching to such Re-Pricing Shares) which the Company is not able to issue to the Investor under Listing Rule 7.1 without shareholder approval ("Residual Re-Pricing Shares") will instead be issued to the Investor at the Share Closing Date in relation to the Subsequent Investment (subject to obtaining shareholder approval). For the avoidance of doubt the Subsequent Investment will remain at \$10,000,000 and the Residual Re-Pricing Shares will be issued (together with accompanying Options) to the Investor for no additional consideration.

(c) Calculation of the number of Re-Pricing Shares. The number of Re-Pricing Shares to be issued to the Investor under the Re-Pricing Mechanism shall be calculated by reference to the following formula:

$$X = (A / B) - C$$

Where:

X is the number of Re-Pricing Shares;

A is \$10,000,000;

B is the closing bid price for the Shares on the fifth Trading Day following the Consolidation Date plus a 12% premium; and

C is the number of Initial Investment Shares, divided by 10.

(d) Investor's undertaking.

During the period between the Effective Date and the fifth Trading Date following the Consolidation Date ("Undertaking Period"), the Investor undertakes to limit its trading in Shares to no more than 15% of the total volume of Shares traded on the ASX on any Trading Day during the Undertaking Period.

(e) Company's undertaking.

During the period between the Effective Date and the Share Closing Date in relation to the Subsequent Investment, the Company undertakes not to issue any Securities other than:

- (i) to the Investor pursuant to the terms of this agreement; or
- (ii) to any Person upon the conversion of any convertible security (as defined in the ASX Listing Rules) which was in issue prior to the Effective Date.

2.6 Options. On each Share Closing Date, the Company shall grant Investor 5 Year Options, each exercisable over a Share, for every two Shares (including, for the avoidance of doubt, any Re-Pricing Shares) subscribed for by Investor (i.e. so that Investor is issued with one Option for every two Shares it subscribes for) pursuant to both the Initial Investment and the Subsequent Investment. The Option Exercise Price in respect of each 5 Year Option is

equal to the Share Issue Price in relation to the Initial Investment or the Subsequent Investment (as the case may be), plus a 15% premium. For the avoidance of doubt the Option Exercise Price in respect of each 5 Year Option issued to the Investor together with any Re-Pricing Shares (including any Residual Re-Pricing Shares), will be the closing bid price of the Shares on the fifth Trading Day following the Consolidation Date plus a 15% premium. The number of Options granted to Investor will be rounded down to the nearest whole Option (if relevant).

2.7 Terms of the 5 Year Options.

(a) Nature of 5 Year Options.

- (i) Each 5 Year Option shall grant the holder of that 5 Year Option the right but not the obligation to be issued by the Company a Share
- (ii) Each 5 Year Option shall be exercisable by the holder complying with its obligations under this Section 2.7, at any time after the time of its grant and prior to the date 5 Years after the date of its grant (the "5 Year Option Expiration Date"), after which time it will lapse.

(b) Exercise of Options. Without limiting the generality of, and subject to, the other provisions of the Agreement, the holder of a 5 Year Option may exercise a 5 Year Option at any time prior to its expiration, by (a) delivery (whether by facsimile or otherwise) of a duly executed Option Exercise Notice in relation to the 5 Year Option (the "5 Year Exercise Form") to the Company during normal business hours on any Trading Day at the Company's principal executive offices (or such other office or agency of the Company as it may designate by notice to the 5 Year Option holder), and (b) payment of the Option Exercise Price by wire transfer to the account specified by the Company from time to time or by bank draft delivered to the Company during normal business hours on any Trading Day at the Company's principal executive offices (or such other office or agency of the Company as it may designate by notice to the 5 Year Option holder). As soon as reasonably practicable, but in any event no later than one Business Day after receipt of a duly completed 5 Year Exercise Form and the payment referred to in the foregoing sentence, the Company shall comply with its obligations under Section 2.4 in relation to the number of Option Shares to which Investor is entitled following exercise of the Option.

(c) Option Exchange Notice.

- (i) This sub-section 2.7(c) shall not apply if ASX notifies the Company that it objects to the terms of Options set out in this sub-section 2.7(c).
- (ii) Investor shall also have the right (but not the obligation), exercisable in relation to an Option on or after the date of issue but before the expiration of such Option, to surrender the Option for cancellation by the Company for an amount of cash determined in accordance with this Section 2.7(c) (or, at the Company's sole election, a number of fully paid Shares determined in accordance with this Section 2.7(c)) without paying any additional consideration. The parties acknowledge and agree that the consideration for such right comprises Investor's surrender of the relevant Option for cancellation and is otherwise included in the Aggregate Share Price payable pursuant to the Initial Investment and the Subsequent Investment (as the case may be);
- (iii) If the Investor wishes to exercise its right to surrender an Option(s), then the Investor must value the Option(s) issued on the relevant Share Closing Date in accordance with the Black-Scholes model as set out in sub-section (v) below. Once the value of the Options has been determined ("Surrender Value") the Investor may elect to surrender its Options for cash equal to the Surrender Value or, at the Company's election in accordance with this Section 2.7(c), in exchange for such number of Shares (rounded to the nearest whole Share) calculated by dividing the Surrender Value by the closing bid price of the Company's Ordinary Shares on the last Trading Day immediately prior to the date on which the Investor delivers an Option Exchange Notice under sub-section (iv) below ("Notification Date").

- (iv) Investor shall exercise the right referred to in sub-section (ii) above by delivering written notice to the Company, setting out the Surrender Value of the Options which it wishes to surrender for cancellation, whether by facsimile or otherwise, during normal business hours on any Trading Day at the Company's principal executive offices (or such other office or agency of the Company as it may designate by notice to the 5 Year Option holder) ("Option Exchange Notice");
- (v) For the purposes of determining the Surrender Value of a particular Option which the Investor is entitled to surrender, pursuant to sub-section (ii) the parties shall use the Black-Scholes model as developed in 1973 by Fisher Black, Robert Merton and Myron Scholes. To calculate the value of Options under Black-Scholes, the parties shall use the Economic Research Institute's Black-Scholes calculator, where the Volatility shall be 125%, and the 'Stock and Option Price' shall be the Share Issue Price for an Option granted in connection with the Initial Investment or the Subsequent Investment (as the case may be).
- (vi) Rather than paying the Surrender Value in cash, the Company may elect (in its sole and absolute discretion) to discharge its obligation to pay the Surrender Value by issuing a number of Shares determined in accordance with sub-section (iii) above. If the Company elects to discharge its obligation to pay the Surrender Value in this way, then it must notify the Investor of its intention to do so within 2 Business Days of receipt of the Option Exchange Notice.
- (vii) If the Company does not dispute the Option Exchange Notice within 1 Business Day of receipt of same, then the contents therein (including the calculation of the Option Shares) will be taken to be conclusive, final and binding on the parties. If the Company does dispute the Investor's calculation of Option Shares as set out in the Option Exchange Notice then it must notify the Investor, in writing ("Dispute Notice"), within 1 Business Day of receipt of the Option Exchange Notice setting out in its Dispute Notice the basis on which it disputes the Option Exchange Notice ("Disputed Matters").
- (viii) If the Company and the Investor can not resolve the Disputed Matters within 2 Business Days of receipt by the Investor of the Dispute Notice, then the parties must refer the matter to the President for the time being of the Institute of Chartered Accountants in Australia to appoint an independent person with the necessary actuarial expertise ("Expert") to determine the Disputed Matters.
- (ix) The Company and Investor must provide all information and assistance the Expert reasonably requests for the purpose of determining the Disputed Matters in a written report ("Expert's Report").
- (x) The Expert must issue the Expert's Report determining the Disputed Matters as soon as possible. The Expert will act as an expert, not an arbitrator, in determining the Disputed Matters and his decision as set out in the Expert's Report is final, conclusive and binding on the parties (except in the case of manifest error).
- (xi) The cost of the Expert must be paid by the party against whom the determination of the Expert is made and the parties must instruct the Expert to make a decision on this matter. If the Expert is, for any reason whatsoever, unable to make a decision on the matter, then his costs must be borne equally between the Company and the Investor.
- (xii) Subject to section 2.7(c)(xiii) the Company must pay an amount equal to the Surrender Value into the Investor's nominated account or issue Option Shares to the Investor or its nominee in accordance with this section 2.7(c) instead of paying cash equal to the Surrender Value, within 1 Business Day of the Surrender Value being agreed or determined in accordance with this section.
- (xiii) In the event the Company elects to discharge its obligation to pay the Surrender Value by issuing Shares, it may notify the Investor that it proposes to seek shareholder approval for the issue of the Shares, in which case:

- (a) it shall issue Shares to Investor, upon shareholder approval, at the lower of (i) the closing bid price on the Notification Date; and (ii) the closing bid price on the date of shareholder approval;
- (b) the time for performance of such payment obligation will be by 5pm on the sooner of: (i) the 45th day after the date on which the Option Exchange Notice is given; and (ii) the day on which such shareholders meeting takes place.

In the event that that Company has not obtained shareholder approval by the 45th day after the date on which the Option Exchange Notice is given, then it shall pay the Surrender Value to the Investor in cash.

- (d) **Bonus Issues.** If, prior to an exercise of a 5 Year Option, the Company makes a bonus issue of Shares (other than pursuant to a dividend reinvestment plan), pursuant to an offer of such Shares to at least all the holders of Shares resident in Australia, then on exercise of the 5 Year Option, the number of Shares over which a 5 Year Option is exercisable shall be increased by the number of Shares which the holder of the 5 Year Options would have received if the 5 Year Option had been exercised before the date on which entitlements to the issue were calculated.
- (e) **Rights Issues.** If, prior to an exercise of a 5 Year Option, any offer or invitation is made by the Company to at least all the holders of Shares resident in Australia for the subscription for cash with respect to Shares, options or other securities of the Company on a pro rata basis relative to those holders' Share holding at the time of the offer, the Option Exercise Price shall be reduced as specified in the Listing Rules applying to options in relation to pro-rata issues (except bonus issues).
- (f) **Reconstruction of Capital.** In the event of a consolidation, subdivision or similar reconstruction or reorganization of the issued capital of the Company, then the rights of the 5 Year Option holder in respect of a 5 Year Option will be changed to the extent necessary to comply with the Listing Rules applying to a reorganization of capital at the time of the reorganization.
- (g) **Cumulative Adjustments.** Full effect shall be given to the provisions of Sections 2.7(d) to (f), as and when occasions of their application arise and in such manner that the effects of the successive applications of them are cumulative, the intention being that the adjustments they progressively effect will be such as to reflect, in relation to the Shares issuable on exercise of the 5 Year Options outstanding, the adjustments which on the occasions in question are progressively effected in relation to Shares already on issue.
- (h) **Notice of Adjustments.** Whenever the number of Shares over which a 5 Year Option is exercisable, or the 5 Year Option Exercise Price is adjusted pursuant to this Agreement, the Company shall give notice of the adjustment to all the 5 Year Option holders, within one Trading Day thereof.
- (i) **Rights prior to Exercise.** Prior to its exercise, a 5 Year Option does not confer a right on the 5 Year Option holder to participate in a new issue of securities by the Company.
- (j) **Redemption.** The 5 Year Options shall not be redeemable by the Company.

2.8 Future Cleansing Statements or Cleansing Prospectuses. For as long as Shares are quoted on ASX no later than on the second Trading Day immediately after the date of issuance of any Shares under this Agreement, and in any event no later than immediately after the lodgement of the Appendix 3B in respect of those Shares, the Company shall (a) issue a Cleansing Statement or if it is not able to issue a Cleansing Statement then a Cleansing Prospectus and (b) notify the Investor that it has issued such Cleansing Statement or Cleansing Prospectus (as the case may be). The Company shall use its best efforts to ensure that it is able to issue Cleansing Statements or Cleansing Prospectuses at all times while it remains liable under this Agreement to issue any Shares.

2.9 Application for quotation.

On each occasion on which the Company issues any Shares, the Company will (a) immediately apply (in accordance with the Listing Rules) to ASX for unconditional quotation and admission to trading of all of the Shares

issued and will forward to ASX all information and documents as may be required by ASX to enable those Shares to be quoted, and (b) use its best endeavours to ensure that any conditions of the approval for official quotation granted by ASX are satisfied, and that those Shares are quoted unconditionally by ASX and the Investor is able to offer the Shares for re-sale to third parties, as soon as possible following their issue.

ARTICLE 3 **TERMINATION**

3.1 Termination. The Investor may elect to terminate this Agreement ("Termination") by providing written notice to the Company upon the occurrence of any of the following:

(a) if either the Company or any director or executive officer of the Company has engaged in a transaction or conduct related to the Company that has resulted in (i) ASIC enforcement action, or (ii) a civil judgment or criminal conviction for fraud or misrepresentation, or for any other offense that, if prosecuted criminally, would constitute a criminal offence under applicable law;

(b) the Company ceases to be listed on ASX or another recognized stock exchange, the Shares cease to be quoted securities (as defined in the Act), or the Shares are suspended from trading on ASX or another recognized stock exchange for more than a total of 5 days during any 12 month period;

(c) an Insolvency Event occurs in relation to the Company;

(d) the Company substantially alters its capital structure (other than in accordance with the Consolidation) in a manner that materially adversely affects the rights of the Investor as the holder of Ordinary Shares or Options;

(e) the Company has breached any material covenant in this Agreement and failed to cure that breach within 30 days of receiving a written notice from the Investor requiring the breach to be remedied (or within one Trading Day where the breach involves a failure to issue and deliver Shares or Options when required to do so);

(f) ASX makes any official statement to any person, or indicates in writing to the Company or to the Investor, that ASX will not grant official quotation of Shares or any of them;

(g) the Company fails to comply with the provisions of Chapter 2M of the Act as they apply to the Company, section 674 of the Act or the Company's continuous disclosure obligations under the Listing Rules;

(h) ASIC (i) makes a determination under section 708A(2) of the Act in relation to the Company, or (ii) grants an exemption under section 111AS or 111AT of the Act, or issues an order under section 340 or 341 of the Act, that covers the Company, or any person as a director or auditor of the Company; or

(i) any of the representations or warranties given by the Company in Section 4.1 are not, or cease to be, true and correct in any material respect.

3.2 Termination by Company. The Company may elect to terminate this Agreement by providing written notice to the Investor upon the occurrence of any of the following:

(a) an Insolvency Event occurs in relation to the Investor;

(b) the Investor has breached any material covenant in this Agreement and failed to cure that breach within 30 days of receiving a written notice from the Company requiring the breach to be remedied (or within one Trading Day where the breach involves the failure of the Investor to comply with its obligations to deliver the Aggregate Share Price under this Agreement).

3.3 Automatic Termination. This Agreement shall terminate automatically on the second anniversary of the Effective Date.

3.4 Effect of Termination. The termination of this Agreement will have no effect on any Shares or Options previously issued or delivered, or on any rights of any holder thereof (including, but not limited to, the right to receive 5 Year Options) or in respect of any Share Notice delivered prior to such termination.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Company. The Company shall immediately notify the Investor upon becoming aware of any breach of any representation or warranty given by the Company under this Agreement. The Company hereby makes the representations and warranties and covenants set forth below to Investor on and as of the Effective Date and on and as of each Share Closing Date and each date of issue of Shares (in each case, except where qualified by an express reference herein as to the representation or the warranty being given on and as of a particular date or dates, only on and as of that date or dates):

(a) **Subsidiaries.** The Company owns, directly or indirectly, the issued shares of each Subsidiary free and clear of any Liens, all the issued shares of each Subsidiary have been duly and validly issued, and are fully paid and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, then references in the Transaction Documents to the Subsidiaries will be disregarded.

(b) **Organization and Qualification.** Each of the Company and the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (as applicable), with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation or default of any of the provisions of its respective constitution, certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, and no proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) **Authorization; Enforcement.** The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by each of the Transaction Documents and otherwise to carry out its obligations hereunder or thereunder. The execution and delivery of each of the Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby or thereby have been duly authorized by all necessary action on the part of the Company and no further consent or action is required by the Company except to the extent shareholder approval is required for the purpose of approving the issue of the Securities under the Listing Rules or the Act. Each of the Transaction Documents has been (or upon delivery will be) duly executed by the Company and, when delivered in accordance with the terms hereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms. Neither the Company nor any Subsidiary is in violation of any of the provisions of its respective constitution, certificate or articles of incorporation, by-laws or other organizational or charter documents except where such violation could not, individually or in the aggregate, constitute a Material Adverse Effect.

(d) **No Conflicts.** The execution, delivery and performance of the Transaction Documents by the Company, the issuance of the Securities and the consummation by the Company of the other transactions contemplated thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate of incorporation, constitution or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or result in the creation of, any Lien upon any of the properties or assets of the Company or any Subsidiary, or (iii) conflict with or result in a violation or contravention of any law (including, without limitation, the Act), rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject, or by which any property or asset of the Company or a Subsidiary is bound or affected, or (iv) conflict with or violate the terms of any agreement by which the Company or any Subsidiary is bound or to which any property or asset of the Company or any Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) **Capitalization.** The explanatory statement attached to the notice of general meeting dated 29 May 2011 in respect of the Company's annual general meeting on 29 June 2011 (the "Explanatory Statement") accurately describes the number and type of securities on issue by the Company as at the Effective Date. No Person has any

right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as described in the Explanatory Statement, there are no outstanding options, warrants, script rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exchangeable for, or giving any Person any right to subscribe for or acquire, any Shares, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional Shares or securities convertible into or exercisable for Shares. The issuance of the Securities will not obligate the Company to issue Shares or other securities to any Person (other than Investor) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange, or reset price under such securities.

(f) Financial Statements. The Company has filed all reports required to be filed by it under the Act and the Listing Rules for the two years preceding the Effective Date (or such shorter period as the Company was required by law to file such material) (the foregoing materials, including the exhibits thereto, being collectively referred to herein as the “Financial Reports”) on a timely basis or has received a valid extension of such time of filing and has filed any such Financial Reports prior to the expiration of any such extension. As of their respective dates, the Financial Reports complied in all material respects with the requirements of the Act and the Listing Rules and none of the Financial Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(g) Material Changes. Since the date of the latest audited financial statements included within the Financial Reports, there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect.

(h) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an “Action”), which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities, or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor to the knowledge of the Company any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under any commonwealth, federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by ASIC involving the Company or any current or former director or officer of the Company.

(i) Compliance. Neither the Company nor any Subsidiary (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan credit agreement or other debt funding arrangement (whether or not such default or violation has been waived), (ii) is in violation of any order of any court, arbitrator or governmental body, or (iii) is or has been in violation of any statute, rule or regulation of any governmental authority, including without limitation all foreign, commonwealth, federal, state and local laws applicable to its business except in each case as could not have a Material Adverse Effect.

(j) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate commonwealth, federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the Financial Reports, except where the failure to possess such permits could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect (“Material Permits”), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(k) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them that is material to the business of the Company and the Subsidiaries and good and marketable title in all personal property owned by them that is material to the business of the Company and the

Subsidiaries, in each case free and clear of all Liens, except for Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and Liens for the payment of federal, state or other taxes, the payment of which is neither delinquent nor subject to penalties.

(l) Patents and Trademarks. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, copyrights, licenses and other similar rights that are necessary or material for use in connection with their respective businesses as described in the Financial Reports and which the failure to so have could have a Material Adverse Effect (collectively, the “Intellectual Property Rights”). Neither the Company nor any Subsidiary has received a written notice that the Intellectual Property Rights used by the Company or any Subsidiary violates or infringes upon the rights of any Person. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights of the Company.

(m) Certain Fees. Except for payment of the Placement Fee, no brokerage or finder’s fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by this Agreement. Except for the payment of the Placement Fee Investor shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons, as a result of agreements made by the Company or its officers or directors, for fees of a type contemplated in this Section 4.1(m) that may be due in connection with the transactions contemplated by this Agreement.

(n) Tax Status. The Company and each of its Subsidiaries has made or filed all commonwealth, federal, state and foreign income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject (unless and only to the extent that the Company and each of its Subsidiaries has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes) and has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and has set aside on its books provisions reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim. The Company has not executed a waiver with respect to the statute of limitations relating to the assessment or collection of any foreign, commonwealth, federal, state or local tax. None of the Company’s tax returns is presently being audited by any taxing authority.

(o) Issuance of the Securities. Ordinary Shares and Options, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid, free and clear of all Liens and fully transferable (including, in the case of the Option Shares, by way of sale on ASX without any need for disclosure to investors under Part 6D.2 of the Act).

(p) No ASIC Determination. ASIC has not made a determination under section 708A(2) of the Act in relation to the Company that remains in force.

(q) Quotation and Trading. Shares have been quoted securities (as defined in the Corporations Act) at all times in the previous 3 months and trading in Shares on the financial market operated by ASX has not been suspended for more than a total of 5 trading days in the previous 12 months.

(r) No ASIC Exemption. No exemption under section 111AS or 111AT of the Act, and no order under section 340 or 341 of the Act, has covered the Company, or any person as a director or auditor of the Company, at any time during the previous 12 months.

(s) Listing Rule and Act Compliance. Without limiting the generality of Section 4.1(i), it has complied with: (a) all applicable continuous disclosure requirements under the Act and the Listing Rules; (b) and all material obligations under the Act (including but not limited to the provisions of Chapter 2M) and the Listing Rules (including but not limited to Listing Rule 7.1).

(t) Indirect issue. The Company is not issuing (and will not issue) Shares under this Agreement to the Investor for the purpose of the Investor selling or transferring those Shares (or any part of them) or granting, issuing or transferring interests in or options over those Shares (or any part of them) to any other third party within a 12 month period.

4.2 Representations and Warranties of Investor. The Investor shall immediately notify the Company upon becoming aware of any breach of any representation or warranty given by it under this Agreement. The Investor hereby represents and warrants to the Company, on and as of the Effective Date and as of each Share Closing Date (in each case, except where qualified by an express reference herein as to the representation or the warranty being given on and as of a particular date or dates, only on and as of that date or dates), that the following are true:

(a) Organization; Authority. Investor is an entity validly existing and in good standing under the laws of the jurisdiction of its organization with full right, company power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations thereunder. The execution, delivery and performance by Investor of the transactions contemplated by this Agreement have been duly authorized by all necessary company or similar action on the part of Investor. Each Transaction Document to which it is a party has been (or will be) duly executed by Investor, and when delivered by Investor in accordance with the terms hereof, will constitute the valid and legally binding obligation of Investor, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law. The principal executive office of Investor is the address provided for notices pursuant to this Agreement.

(b) Subscription Entirely for Own Account. The Securities will be acquired for the Investor's own account, not as nominee or agent, and not with a view to the resale or distribution of any part thereof in violation of the Securities Act of 1933, and the Investor has no present intention of selling, granting any participation in, or otherwise distributing the same, in violation of the Securities Act; provided that nothing contained herein shall be deemed to restrict the Investor's right at any time to sell or otherwise dispose of all or any Securities in compliance with applicable Australian and United States federal and state securities laws. Nothing contained herein shall be deemed a representation or warranty by the Investor to hold any Securities for any period of time, except as required by law.

(c) Investor Status. At the time the Investor was offered the Securities, it was, as of the date hereof, it is, and on the Share Closing Date, it will be, an "accredited investor" as defined in Rule 501(a) under the Securities Act, and is not an entity formed for the sole purpose of acquiring the Securities. The Investor is not required to be registered as a broker-dealer under Section 15 of the Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(d) Experience of the Investor. The Investor, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Investor has had access to such information as it deemed necessary in order to conduct any due diligence it has determined it wants to do in connection with the purchase and sale of the Securities and its decision to participate in such purchase and sale.

(e) Short Sales and Confidentiality. Other than consummating the transactions contemplated hereunder, the Investor has not directly or indirectly, nor has any Person acting on behalf of or pursuant to any understanding with the Investor, executed any purchases or sales, including short sales, of the Securities during the period commencing as of the time that the Investor first learned of the specific purchase and sale transaction being effected pursuant to this Agreement and ending immediately prior to the execution and delivery hereof. Other than to other Persons party to this Agreement and to its counsel, the Investor has maintained the confidentiality of all disclosures made to it in connection with the transaction expressly contemplated by this Agreement (including the existence and terms of this transaction).

(f) No Government Review. The Investor understands that no U.S federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities to be purchased hereunder.

(g) Litigation. As of the Effective Date, there are no material pending actions, suits or proceedings against or affecting the Investor or any of its properties; and to the Investor's knowledge, no such actions, suits or proceedings are threatened or contemplated. As of the Effective Date, neither the Investor, nor any director or officer thereof, is or has been the subject of any action, suit, proceeding, or investigation involving a claim of violation of or liability under securities laws or a claim of breach of fiduciary duty; and to the knowledge of the Investor, there has not been, and there is no, pending or contemplated investigation by SEC involving the Investor or its Affiliates or any current or former director or officer of the Investor.

(h) Tax Returns. Without limiting anything else in this Agreement, the Investor has filed, or caused to be filed, all tax returns, business activity statements and other tax filings which were required to be filed by the Effective Date under applicable tax law, and has paid all taxes that became due and payable by it on or before the Effective Date when those taxes became due and payable.

(i) Solvency. The Investor is able, and is not aware of anything which would render the Investor unable, to pay all its debts and obligations under this Agreement as and when they become due and payable, and no Insolvency Event has occurred in relation to the Investor. No judicial order has been made or obtained against the Investor which is unpaid or unsatisfied. No attachment is in the process of being levied or enforced against any asset of the Investor. No administrator, liquidator, provisional liquidator, controller or receiver of, or in connection with, the Investor has been appointed, and the Investor is not aware of such appointment pending, threatened, or being likely. No person has entered into, proposed, sanctioned, approved, or commenced, legal action relating to any scheme of arrangement, liquidation or compromise, or composition of the liabilities or arrangement of the affairs of the Investor, or between any of the foregoing and any of its limited partners and/or creditors.

(j) Self-Reliance. The Investor has been represented and advised by advisors of its own choice, including financial advisors, tax advisors and legal counsel, who have assisted the Investor in understanding and evaluating the risks and merits associated with the transactions contemplated by this Agreement. The Investor further represents to the Company that its decision to enter into this Agreement has been based solely on its independent evaluation of the Company, its assets and its representatives.

(k) Default. The Investor is not in material default under a document or agreement (including a Governmental authorisation) binding on it or its assets which relates to financial indebtedness or is otherwise material.

(l) No Other Representations. The Company acknowledges and agrees that Investor does not make or has not made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in this Section 4.2.

ARTICLE 5

OTHER AGREEMENTS OF THE PARTIES

5.1 Securities Laws Disclosure; Publicity. The Company shall, by 9:00 a.m. on the Trading Day following the Effective Date, issue a press release in a form reasonably acceptable to Investor, disclosing the material terms of the transactions contemplated hereby. The Company and Investor shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor Investor shall issue any such press release or otherwise make any such public statement without the prior consent of the Company, with respect to any such press release of Investor, or without the prior consent of Investor, with respect to any such press release of the Company, which consent shall not unreasonably be withheld, except if such disclosure is required by law or the ASX Listing Rules, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of Investor, or include the name of Investor in any filing with ASX or any regulatory agency, without the prior written consent of Investor, except to the extent such disclosure is required by law or the Listing

Rules, in which case the Company shall provide Investor with prior notice of such disclosure permitted under this sentence of this Section 5.1.

5.2 Required Approval. No transactions contemplated under this Agreement or the Transaction Documents shall be consummated for an amount that would require approval by ASX or any Company shareholders under any approval provisions, rules or regulations of ASX applicable to the Company, unless and until such approval is obtained. Company shall use best efforts to obtain any required approval as soon as possible.

5.3 GST. Without limiting anything else in this Agreement, if GST is or becomes payable (whether by the Investor or by the Company pursuant to Division 84 of the GST Act) in respect of any supply made by the Investor under, in accordance with, or pursuant to an enforcement of, this Agreement whether or not that supply is made to or for the benefit of the Company ("GST Liability"), the Company shall be responsible for discharging the GST Liability and otherwise hold the investor harmless by either:

(a) paying the Investor an additional amount equal to the GST payable on the supply (to the extent that the GST Liability is imposed on the Investor); or

(b) paying directly to the Commissioner of Taxation pursuant to Division 84 of the GST Act that amount as required by law.

5.4 Undertaking to pay in relation to Options. Separately from the terms of the Options, if at any time after the Effective Date there is a legal or regulatory impediment to the Company complying with its obligations under Section 2.7(c) (including its ability to pay the Surrender Value of any Option) upon receipt of an Exchange Notice, then:

(a) the Company must pay the Investor an amount equal to the Surrender Value (calculated as at the date legal or regulatory impediment comes into existence or is notified to the Company ("Impediment Date"), mutatis mutandis in accordance with Section 2.7(c)), for all, and not some only, of the Investor's outstanding Options.

(b) the Company shall cancel all of the Investor's outstanding Options for nil consideration immediately upon the Company discharging its payment obligation under sub-section (a) above. The Company must pay the amount so payable at the time and in the manner that it would have had to pay the Surrender Value had there been no legal or regulatory impediment to the Company's obligations under Section 2.7(c) and on the basis and assumption that the Investor had given an Option Exchange Notice on the Impediment Date.

(c) If a legal or regulatory impediment in the above terms comes into existence or is notified to the Company before the date on which the Re-Pricing Shares and/or the Subsequent Investment Shares are issued, then the Options issuable at the same time as the Re-Pricing Shares and/or Subsequent Investment Shares will be immediately cancelled for nil consideration and sub-sections (a) and (b) above will apply mutatis mutandis (as at the dates of such cancellations).

ARTICLE 6

MISCELLANEOUS

6.1 Fees and Expenses. Prior to the Effective Date and within five Trading Days of each Share Closing Date referable to a Subsequent Investment, the Company shall pay Investor an amount notified by Investor representing legal fees and costs reasonably incurred in the preparation, negotiation, execution and delivery of this Agreement and in assisting Investor with its response to any Share Notice served by the Company. Except as may be otherwise set forth in this Agreement (including the previous sentences of this Section 6.1), each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement.

6.2 Notices. Unless a different time of day or method of delivery is set forth in the Transaction Documents, any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing (including by facsimile or email) and shall be deemed given and effective on the earliest of (a) the date after the day of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified

on the signature page prior to 5:00 p.m. on a Trading Day and an electronic confirmation of delivery is received by the sender, (b) two Trading Days after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section 6.2 on a day that is not a Trading Day or later than 5:00 p.m. on any Trading Day, or (c) upon actual receipt by the party to whom such notice is required or permitted to be given. The addresses for such notices and communications are those set forth on the signature pages hereof, or such other address as may be designated in writing hereafter, in the same manner, by such Person.

6.3 Amendments; Waivers. No provision of this Agreement may be waived or amended except in a written instrument signed, in the case of an amendment, by the Company and Investor or, in the case of a waiver, by the party against whom enforcement of any such waiver is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right.

6.4 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

6.5 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Investor, which consent will not be unreasonably withheld or delayed. Investor may assign any or all of its rights under this Agreement to (a) any Affiliate, and (b) any Person to whom Investor assigns or transfers any Securities, provided such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions hereof that apply to the "Investor".

6.6 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in this Agreement.

6.7 Governing Law; Dispute Resolution. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the laws of the State of New South Wales, Australia without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, employees or agents) may be commenced in the state and federal courts sitting in the State of New South Wales, Australia. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the State of New South Wales, Australia, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents). Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If either party shall commence an action or proceeding to enforce any provisions of the Transaction Documents, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

6.8 Survival. The representations and warranties contained herein shall survive each Share Closing Date and the delivery, exercise and/or conversion of the Securities, as applicable.

6.9 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or in a PDF file by e-mail transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf

such signature is executed) with the same force and effect as if such facsimile signature page were an original thereof.

6.10 Severability. If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

6.11 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefore, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity, if requested. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Securities.

6.12 Payment Set Aside. To the extent that the Company makes a payment or payments to Investor pursuant to any Transaction Document or Investor enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.13 Time of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance.

6.16 Entire Agreement. This Agreement, together with the exhibits and schedules thereto, contains the entire understanding of the parties, and supersedes all prior and contemporaneous agreements, term sheets, communications, discussions and understandings, oral or written, which the parties acknowledge have been merged into such documents, exhibits and schedules. Neither party has relied upon any agreement, promise or representation not expressly set forth in this Agreement and each party agrees that it may only rely on the agreements, promises and representations set forth therein.

EXECUTED AS AN AGREEMENT

IN WITNESS WHEREOF, the Investor has caused this Agreement to be duly executed by its authorized signatory as of the date first indicated above.



Socius CG II. Ltd.

By: /s/ Terren Peizer

Terren Peizer, Managing Director

Executed by **CONTINENTAL COAL
LIMITED** in accordance with its constituent
documents and with the approval of its
directors



Signature of director

JASON BREWER

Name of director (print)

←



Signature of director/company secretary
(Please delete as applicable)

PETER LANOAN

Name of director/company secretary (print)

←

Continental Coal Limited
Ordinary Share Subscription

Addresses for Notice

To Company:

Continental Coal Limited
Level 3, 1 Havelock Street
West Perth, WA 6005
Australia
Attention: Jason Brewer
Fax No.: +61 (0) 8 9324 2400

To Investor:

Socius CG II. Ltd.
11150 Santa Monica Boulevard Suite 1500 Los Angeles,
CA 90025
Attention: Company Secretary
Fax No.: +1 310-444-5300
4394

Continental Coal Limited
Ordinary Share Subscription Agreement

EXHIBIT A

5 Year OPTION EXERCISE FORM

Continental Coal Limited
Level 3, 1 Havelock Street
West Perth, WA 6005
Australia
Attention: Jason Brewer
Fax No.: +61 (0) 8 9324 2400

Re: 5 Year Option

Ladies & Gentlemen:

Socius CG II. Ltd. hereby notifies you that it exercises [*] of the 5 Year Options granted to it under the Ordinary Share Subscription Agreement (“Agreement”) between Continental Coal Limited, an Australian limited liability public company (“Company”), and Socius CG II. Ltd. (“Investor”).

Capitalised words otherwise not defined in this notice, have the meaning given to those words in the Agreement.

Please arrange all necessary documents required in order to effectively issue and allot [*] Option Shares to Investor, such documents to be executed by Company and to be in proper form and sufficient to enable Investor to become registered as the legal and beneficial owner of the Option Shares.

IN WITNESS WHEREOF, Investor has executed and delivered this notice as of the date first written above.

Socius CG II. Ltd.

By: _____

Name: _____

Title: _____
