



CALTEX AUSTRALIA LIMITED
ACN 004 201 307

LEVEL 24, 2 MARKET STREET
SYDNEY NSW 2000 AUSTRALIA

31 July 2012

Company Announcements Office
Australian Securities Exchange

CALTEX AUSTRALIA LIMITED
NOTES ISSUE – APPENDIX 3B AND TRUST DEED

Caltex Australia Limited (Caltex) proposes to issue listed unsecured subordinated notes to raise \$300 million (with the ability to raise more or less), as announced to the market this morning.

An *Appendix 3B*, pursuant to ASX Listing Rule 3.10, and the executed Trust Deed are attached for immediate release to the market.



Peter Lim
Company Secretary

Contact number: (02) 9250 5562 / 0414 815 732

Attach.

Appendix 3B

New issue announcement, application for quotation of additional securities and agreement

Information or documents not available now must be given to ASX as soon as available. Information and documents given to ASX become ASX's property and may be made public.

Introduced 1/7/96. Origin: Appendix 5. Amended 1/7/98, 1/9/99, 1/7/2000, 30/9/2001, 11/3/2002, 1/1/2003, 24/10/2005.

Name of entity

Caltex Australia Limited (ACN 004 201 307) (Caltex)

ABN

40 004 201 307

We (the entity) give ASX the following information.

Part 1 - All issues

You must complete the relevant sections (attach sheets if there is not enough space).

- | | |
|--|---|
| 1 +Class of +securities issued or to be issued | Notes, which are unsecured and subordinated debt securities issued by Caltex. The notes are unsecured notes for the purposes of section 283BH of the <i>Corporations Act 2001</i> (Cth). |
| 2 Number of +securities issued or to be issued (if known) or maximum number which may be issued | Caltex has not specified the minimum number of the Notes that are to be issued. Caltex intends to raise \$300 million by issuing the Notes (with the ability to raise more or less). |
| 3 Principal terms of the +securities (eg, if options, exercise price and expiry date; if partly paid +securities, the amount outstanding and due dates for payment; if +convertible securities, the conversion price and dates for conversion) | The Terms of Issue of the Notes (Terms of Issue) are set out in full in Appendix A to the Prospectus lodged with ASIC on 31 July 2012 (the Prospectus) a copy of which was lodged with the ASX on the same day.

The Terms of Issue are also set out in Schedule 1 of the Trust Deed attached to this Appendix 3B |

+ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

<p>4 Do the +securities rank equally in all respects from the date of allotment with an existing +class of quoted +securities?</p> <p>If the additional securities do not rank equally, please state:</p> <ul style="list-style-type: none"> • the date from which they do • the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment • the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment 	<p>No. The Notes constitute a new class of securities issued by Caltex.</p> <p>The Notes confer no rights on a holder to:</p> <ul style="list-style-type: none"> • vote at any general meeting of Caltex securityholders; • subscribe or participate in any bonus issue of Caltex securities; or • otherwise participate in the profits or property of Caltex, except as set out in the Terms of Issue or the Trust Deed (attached). 				
<p>5 Issue price or consideration</p>	<p>\$100 per Note.</p>				
<p>6 Purpose of the issue (If issued as consideration for the acquisition of assets, clearly identify those assets)</p>	<p>The Offer of the Notes forms part of Caltex's ongoing capital management strategy, and the proceeds will be used for general corporate purposes including the repayment of existing indebtedness. The capital raised will provide Caltex with additional capital support as it executes its growth plans and implements its recently announced supply chain restructure, including the conversion of the Kurnell refinery to an import terminal.</p>				
<p>7 Dates of entering +securities into uncertificated holdings or despatch of certificates</p>	<p>The issue is scheduled for 5 September 2012</p>				
<p>8 Number and +class of all +securities quoted on ASX (including the securities in clause 2 if applicable)</p>	<table border="1"> <thead> <tr> <th data-bbox="686 1568 989 1612">Number</th> <th data-bbox="989 1568 1279 1612">+Class</th> </tr> </thead> <tbody> <tr> <td data-bbox="686 1612 989 1836">270,000,000</td> <td data-bbox="989 1612 1279 1836">Fully paid ordinary shares</td> </tr> </tbody> </table>	Number	+Class	270,000,000	Fully paid ordinary shares
Number	+Class				
270,000,000	Fully paid ordinary shares				

+ See chapter 19 for defined terms.

	Number	+Class
9	Number and +class of all +securities not quoted on ASX (including the securities in clause 2 if applicable)	3,050,134 Performance Rights
10	Dividend policy (in the case of a trust, distribution policy) on the increased capital (interests)	Not applicable to the Notes.

Part 2 - Bonus issue or pro rata issue

11	Is security holder approval required?	Not applicable to the Notes.
12	Is the issue renounceable or non-renounceable?	Not applicable to the Notes.
13	Ratio in which the +securities will be offered	Not applicable to the Notes.
14	+Class of +securities to which the offer relates	Not applicable to the Notes.
15	+Record date to determine entitlements	Not applicable to the Notes.
16	Will holdings on different registers (or subregisters) be aggregated for calculating entitlements?	Not applicable to the Notes.
17	Policy for deciding entitlements in relation to fractions	Not applicable to the Notes.
18	Names of countries in which the entity has +security holders who will not be sent new issue documents Note: Security holders must be told how their entitlements are to be dealt with. Cross reference: rule 7.7.	Not applicable to the Notes.
19	Closing date for receipt of acceptances or renunciations	Not applicable to the Notes.

+ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

20	Names of any underwriters	Not applicable to the Notes.
21	Amount of any underwriting fee or commission	Not applicable to the Notes.
22	Names of any brokers to the issue	Not applicable to the Notes.
23	Fee or commission payable to the broker to the issue	Not applicable to the Notes.
24	Amount of any handling fee payable to brokers who lodge acceptances or renunciations on behalf of +security holders	Not applicable to the Notes.
25	If the issue is contingent on +security holders' approval, the date of the meeting	Not applicable to the Notes.
26	Date entitlement and acceptance form and prospectus or Product Disclosure Statement will be sent to persons entitled	Not applicable to the Notes.
27	If the entity has issued options, and the terms entitle option holders to participate on exercise, the date on which notices will be sent to option holders	Not applicable to the Notes.
28	Date rights trading will begin (if applicable)	Not applicable to the Notes.
29	Date rights trading will end (if applicable)	Not applicable to the Notes.
30	How do +security holders sell their entitlements <i>in full</i> through a broker?	Not applicable to the Notes.
31	How do +security holders sell <i>part</i> of their entitlements through a broker and accept for the balance?	Not applicable to the Notes.

+ See chapter 19 for defined terms.

- 32 How do ⁺security holders dispose of their entitlements (except by sale through a broker)? Not applicable to the Notes.
- 33 ⁺Despatch date Not applicable to the Notes.

Part 3 - Quotation of securities

You need only complete this section if you are applying for quotation of securities

- 34 Type of securities
(tick one)
- (a) Securities described in Part 1
- (b) All other securities
Example: restricted securities at the end of the escrowed period, partly paid securities that become fully paid, employee incentive share securities when restriction ends, securities issued on expiry or conversion of convertible securities

Entities that have ticked box 34(a)

Additional securities forming a new class of securities

Tick to indicate you are providing the information or documents

- 35 If the ⁺securities are ⁺equity securities, the names of the 20 largest holders of the additional ⁺securities, and the number and percentage of additional ⁺securities held by those holders
- 36 If the ⁺securities are ⁺equity securities, a distribution schedule of the additional ⁺securities setting out the number of holders in the categories
1 - 1,000
1,001 - 5,000
5,001 - 10,000
10,001 - 100,000
100,001 and over
- 37 A copy of any trust deed for the additional ⁺securities

⁺ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

Entities that have ticked box 34(b)

38 Number of securities for which +quotation is sought

Not applicable to the Notes.

39 Class of +securities for which quotation is sought

Not applicable to the Notes.

40 Do the +securities rank equally in all respects from the date of allotment with an existing +class of quoted +securities?

If the additional securities do not rank equally, please state:

- the date from which they do
- the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment
- the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment

Not applicable to the Notes.

41 Reason for request for quotation now

Example: In the case of restricted securities, end of restriction period

(if issued upon conversion of another security, clearly identify that other security)

Not applicable to the Notes.

	Number	+Class
42 Number and +class of all +securities quoted on ASX (including the securities in clause 38)	Not applicable to the Notes.	Not applicable to the Notes.

+ See chapter 19 for defined terms.

Allens & Linklaters

Caltex Subordinated Notes Trust Deed

Caltex Australia Limited

Australian Executor Trustees Limited

Allens
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
Tel +61 2 9230 4000
Fax +61 2 9230 5333
www.allens.com.au

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Date	31 JULY 2012
Parties	
1.	Caltex Australia Limited (ACN 004 201 307) of Level 24, 2 Market Street, Sydney, New South Wales, 2000 (the <i>Issuer</i>); and
2.	Australian Executor Trustees Limited (ACN 007 869 794) of 207 Kent Street Sydney, New South Wales, 2000 (the <i>Trustee</i>).
Recitals	
A.	The Issuer wishes to issue Notes in accordance with the terms of this Deed.
B.	The Issuer appoints the Trustee and the Trustee accepts its appointment as trustee for the Holders on the terms contained in this Deed.
C.	The Issuer and the Trustee enter into this Deed to set out the rights and obligations of the Issuer, the Trustee and the Holders in respect of the Notes.

It is agreed as follows.

1. Definition and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise:

Additional Amount means an additional amount payable by the Issuer under clause 8.2 of the Terms.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or the securities market operated by it, as the context requires.

ASX Listing Rules means the listing rules of ASX.

ASX Settlement means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX Settlement Operating Rules means the settlement rules made by ASX Settlement.

Australian Tax Act means the *Income Tax Assessment Act 1936* (Cth) and, where applicable, the *Income Tax Assessment Act 1997* (Cth).

Authorisation means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, lodgement or registration; or

- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Business Day has the meaning given to that term in the ASX Listing Rules.

Caltex Group means, at any time, Caltex Australia Limited (ACN 004 201 307) and its Subsidiaries at that time.

Clearing System means the Clearing House Electronic Sub-register System operated by ASX Settlement or any other applicable securities trading and/or clearance system.

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

Costs includes costs, charges and expenses.

CS Facility has the meaning given to the term 'licensed CS facility' in section 761A of the Corporations Act.

CS Facility Operator has the meaning given to the term 'CS facility licensee' in section 761A of the Corporations Act.

Eligible Trustee means a body corporate eligible to act as a trustee for the purposes of section 283AA and under section 283AC of the Corporations Act.

Encumbrance means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person (including a "security interest" for the purposes of sections 12(1) and (2) of the *Personal Property Securities Act (2009)* (Cth)).

Event of Default means the happening of any event set out in clause 5.1 of the Terms.

Face Value means the nominal principal amount of each Note, being \$100.00.

Government Agency means any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange.

Guarantee means any guarantee, indemnity, letter of credit, legally binding letter of comfort, suretyship or other assurance against loss.

Holder means, in respect of a Note, the person whose name is entered on the Register as the holder of that Note.

Holder Resolution means:

- (a) a resolution passed at a meeting of Holders duly called and held under the Meeting Provisions:
- (i) by more than 50% of the persons voting on a show of hands (unless subparagraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of more than 50% of the votes cast; or
- (b) if the meeting is by postal ballot or written resolution, then by Holders representing (in aggregate) more than 50% of the Face Value of all of the outstanding Notes.

Indirect Tax means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

Insolvency Event occurs in relation to a body corporate if:

- (a) it is (or states that it is) insolvent (as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up (each as defined in the Corporations Act);
- (c) it enters into or makes any arrangements with its creditors as contemplated in Part 5.1 of the Corporations Act (other than for the purpose of a solvent reconstruction or amalgamation or compromise); or
- (d) it has had a controller (as defined in the Corporations Act) appointed to all or substantially all of its assets under an Encumbrance securing an amount of more than \$50,000,000 (or its equivalent in any other currency).

Instrument of Exemption means the terms on which ASIC:

- (a) exempts the Issuer from provisions of the Corporations Act; or
- (b) declares that provisions of the Corporations Act apply to the Issuer as if specified provisions were omitted, modified or varied as specified in the declaration.

Issue Date means, in respect of a Note, the date on which that Note is issued.

Material Adverse Effect means a material adverse effect on the ability of the Issuer to perform its payment obligations (present or future) under this Deed.

Maturity Date means 15 September 2037.

Meeting Provisions means the provisions for meetings of the Holders set out in schedule 2 to this Deed.

Modified Following Business Day Convention means that the date is postponed to the first following day that is a Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Business Day.

Note means a debt obligation issued, or to be issued, by the Issuer which is constituted by, and owing under, this Deed, the details of which are recorded in, and evidenced by entry in, the Register.

Prospectus means the prospectus for the offer of the Notes dated on or about the date of this Deed (and including any supplementary or replacement prospectus lodged with ASIC under section 719 of the Corporations Act).

Record Date means, in relation to any date on which the Issuer is obliged to make an interest payment to a Holder in relation to a Note, the close of business in the place where the Register is maintained on the eighth calendar day before the relevant interest payment date or, subject to compliance with the ASX Listing Rules, the close of business on such other date as the Issuer determines in its absolute discretion and notifies to Holders by a market release to ASX by the time required by the ASX Listing Rules (or if no such time is required by the ASX Listing Rules, at least six Business Days before the specified record date). If the Record Date is changed because of a requirement of ASX, the Issuer will give notice of the changed Record Date to all Holders by issuing a market release to ASX.

Redemption means the redemption of a Note in accordance with clause 3 of the Terms and the word **Redeemed** bears the corresponding meaning.

Redemption Amount has the meaning given to it in the Terms.

Register means the register of Holders (established and maintained under clause 16 of this Deed) and, where appropriate, the term Register includes:

- (a) a sub-register maintained by or for the Issuer under the Corporations Act, the ASX Listing Rules or ASX Settlement Operating Rules; and
- (b) any branch register.

Registry means Computershare Investor Services Pty Limited (ABN 48 078 279 277) or any other person appointed by the Issuer to maintain the Register and perform any payment and other duties in relation to the Notes.

Related Body Corporate has the meaning given in the Corporations Act.

Restriction Agreement has the meaning given to that term in the ASX Listing Rules.

Restricted Security has the meaning given to that term in the ASX Listing Rules.

S&P means Standard & Poor's (Australia) Pty Ltd (ABN 62 007 324 852) (or any of its Subsidiaries or any successor to its business from time to time).

Special Resolution means:

- (a) a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:
 - (i) by at least 75% of the persons voting on a show of hands (unless subparagraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- (b) a resolution passed by postal ballot or written resolution by Holders representing (in aggregate) at least 75% of the Face Value of all of the outstanding Notes.

Statement of Holding means a statement of holding (in the form determined by the Issuer and the Registry from time to time) which sets out details of the number of Notes inscribed in the Register in the Holder's name as at the date specified in the statement.

Subsidiary has the meaning given in the Corporations Act.

Tax means any tax, levy, impost, charge or duty (including stamp and transaction duties) imposed by any Government Agency and any related interest, penalty, fine or expense in connection with it, except if imposed on, or calculated having regard to, the net income of the Holder.

Terms means, in relation to a Note, the terms of issue of that Note as set out in schedule 1 to this Deed.

Transfer Form means a transfer form substantially in the form determined by the Issuer.

Trust means the trust constituted by this Deed.

Trust Fund means:

- (a) the right to enforce the Issuer's duty to repay the principal of the Notes in accordance with this Deed and the Notes;
- (b) the right to enforce the Issuer's obligation to pay all other amounts payable under this Deed or the Notes;
- (d) the right to enforce any other duty or obligation that the Issuer has:
 - (i) under the Terms;
 - (ii) under this Deed; or
 - (iii) under Chapter 2L of the Corporations Act;
- (e) the amount of \$10 referred to in clause 4.3; and
- (f) any other property held by the Trustee on the trust established under this Deed from time to time (including, without limitation, the benefit of any covenants, undertakings, representations, warranties, rights, powers, benefits or remedies in favour of the Trustee under this Deed).

Trustee means Australian Executor Trustees Limited (ACN 007 869 794) or any replacement Trustee appointed in accordance with this Deed.

Trustee Default means, in respect of the Trustee and the Trust, fraud, gross negligence, wilful default or wilful breach of trust, **provided that** no act or omission of the Trustee (including any related failure to comply with its obligations or breach of a representation or warranty under this Deed) will be considered a **Trustee Default** to the extent to which the act or omission was caused by any failure by the Issuer to comply with its obligations under this Deed.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, annexure, schedule is a reference to a clause of, or annexure or schedule to, this Deed unless specified otherwise.
- (f) A reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes.
- (g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

- (h) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (i) A reference to **conduct** includes an omission, statement or undertaking, whether or not in writing.
- (j) The meaning of terms is not limited by specific examples introduced by **including**, or **for example**, or similar expressions.
- (k) An Event of Default **subsists** until it has been remedied or waived in writing by the Trustee.
- (l) All references to time are to Sydney time.
- (m) Nothing in this Deed is to be interpreted against a party on the ground that the party put it forward.
- (n) A reference to \$ is a reference to the lawful currency of Australia.
- (o) A reference to this Deed shall include a reference to the Terms.

1.3 Document or agreement

A reference to:

- (a) an **agreement** includes an Encumbrance, Guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing; and
- (b) a **document** includes an agreement (as so defined) in writing or a certificate, notice, instrument or document.

A reference to a specific agreement or document includes it as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by this Deed.

1.4 References to principal and interest

Unless the contrary intention appears:

- (a) any reference to **principal** is taken to include the Face Value, any additional amounts in respect of principal which may be payable under this Deed and any other amount in the nature of principal payable in respect of the Notes under the Terms; and
- (b) any reference to **interest** is taken to include any Additional Amounts and any other amount in the nature of interest payable in respect of the Notes under the Terms.

1.5 Clearing System acknowledgements

The parties acknowledge and agree, and each Holder is taken to have acknowledged and agreed, that Notes which are lodged or approved for entry on a Clearing System are subject to the rules and regulations of that Clearing System.

1.6 General compliance provision

- (a) A provision of this Deed which is inconsistent with a provision of the Corporations Act does not operate to the extent of the inconsistency.

- (b) Clause 1.6(a) is subject to any declaration made by or exemption granted by ASIC (including an Instrument of Exemption) which is applicable to this Deed.
- (c) This clause 1.6 prevails over all other provisions of this Deed including clause 1.7 and any provision that is expressed to prevail over this clause 1.6.

1.7 Inconsistency with the ASX Listing Rules

- (a) Despite anything to the contrary in this clause 1.7, this clause 1.7 has effect subject to clause 1.6.
- (b) This Deed is to be interpreted subject to the ASX Listing Rules and the ASX Settlement Operating Rules and accordingly, if any Notes are quoted on ASX, the following clauses apply:
 - (i) despite anything in this Deed, if the ASX Listing Rules or the ASX Settlement Operating Rules prohibit an act being done, the act must not be done;
 - (ii) nothing in this Deed prevents an act being done that the ASX Listing Rules or the ASX Settlement Operating Rules require to be done;
 - (iii) if the ASX Listing Rules or the ASX Settlement Operating Rules require an act to be done or not to be done, that act is permitted to be done or not to be done (as the case may be);
 - (iv) if the ASX Listing Rules or the ASX Settlement Operating Rules require this Deed to contain a provision and it does not contain such a provision, this Deed is taken to contain that provision;
 - (v) if the ASX Listing Rules or the ASX Settlement Operating Rules require this Deed not to contain a provision and it contains such a provision, this Deed is taken not to contain that provision; and
 - (vi) if any provision of this Deed is or becomes inconsistent with the ASX Listing Rules, this Deed is taken not to contain that provision to the extent of the inconsistency.

1.8 Inconsistency with Terms

A provision of any part of this Deed (other than the Terms) which is inconsistent with a provision of the Terms does not operate to the extent of the inconsistency.

2. Benefit and burden of this Deed

2.1 Holders bound

- (a) Each Holder (and any person claiming through or under a Holder) is bound by, and is taken to have notice of, this Deed.
- (b) It is a fundamental condition of receiving any of the rights or benefits under a Note that a Holder must perform all of the obligations and comply with all restrictions and limitations applicable to it under this Deed in respect of the Notes.

2.2 Limit on Holders' rights

All of the rights against the Issuer in connection with the Notes are held by the Trustee for the Holders. Accordingly, subject to clause 2.4:

- (a) no Holder is entitled to directly enforce any rights, powers or remedies in connection with the Notes under this Deed directly against the Issuer; and
- (b) the rights, powers and remedies of the Trustee under and in respect of this Deed are exercisable and enforceable by the Trustee only. No Holder may exercise any of them (whether in its own name or the Trustee's name).

2.3 Enforcement on direction

Subject to this Deed and without limiting the Trustee's discretion and powers under this Deed, the Trustee must take action to enforce this Deed in accordance with its terms where all the following conditions are met:

- (a) the Trustee is requested to take action:
 - (i) by Holders who hold in aggregate 25% or more of the Face Value of all Notes then outstanding; or
 - (ii) by a Special Resolution; and
- (b) the Trustee is indemnified to its reasonable satisfaction against:
 - (i) all actions, proceedings, claims and demands to which the Trustee may render itself liable by taking such action;
 - (ii) all Costs which the Trustee may incur in taking the action; and
 - (iii) all management time spent by employees or officers of the Trustee in relation to such action; and
- (c) the action is not prohibited under this Deed.

2.4 Holder's right to take action

No Holder is entitled to proceed directly against the Issuer to enforce any right or remedy under or in respect of any Note unless expressly permitted to do so under the Terms.

2.5 Untraceable Holders

Subject to applicable law and the applicable ASX Listing Rules, where the Issuer:

- (a) is required to pay any money to a Holder; and
- (b) has made reasonable efforts to locate a Holder but is unable to do so, then that money:
 - (i) in accordance with clause 19.5, is to be held by the Issuer for the Holder in a non-interest bearing deposit with a bank selected by the Issuer until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys; or

- (ii) in circumstances where the Trustee has actual possession and control of such money (for whatever reason), must be paid by the Trustee to the Issuer and the Issuer is to hold that money in accordance with paragraph (i) above.

The Trustee is not liable to any Holder for any money paid to the Issuer under this clause 2.5. The Issuer indemnifies the Trustee from any and all costs, losses, liabilities, expenses, demands or claims suffered or incurred by the Trustee in respect of any money paid to the Issuer under this clause 2.5.

3. Trust Deed, status and undertaking to pay

3.1 Trust Deed

This Deed:

- (a) is the trust deed for the Trust; and
- (b) is the trust deed in respect of the Notes required by sections 283AA and 283AB of the Corporations Act.

3.2 Consistency with section 283DB(1) of the Corporations Act

This Deed is to be interpreted so as not to give rise to the operation of section 283DB(1) of the Corporations Act.

3.3 Constitution and status

The Notes are debt obligations of the Issuer constituted by, and owing under, this Deed and issued on the Terms. The obligations of the Issuer in respect of each Note:

- (a) constitute separate and independent acknowledgments of the indebtedness of the Issuer;
- (b) are subject to the terms of this Deed;
- (c) are direct, unsecured and subordinated; and
- (d) rank equally and without any preference amongst themselves, but will be subordinated as described in the Terms.

3.4 Unsecured notes

The Notes are "unsecured notes" for the purposes of section 283BH of the Corporations Act.

3.5 Undertaking to pay

- (a) In respect of each Note, the Issuer undertakes to the Trustee (on behalf of each Holder), to pay the amounts due and payable in respect of that Note under and in accordance with this Deed.
- (b) Subject to clause 2.5, the Trustee directs the Issuer to pay such amounts under this Deed directly to the Holders, unless:

- (i) a Controller (as defined in the Corporations Act) has been appointed to the Issuer;
- (ii) the Issuer is directed by the Trustee to make the payments to the Trustee by the giving of notice to that effect not less than five Business Days before the scheduled date for the making of the payment; or
- (iii) the Issuer advises the Trustee that it is not likely to meet its obligations under this Deed,

in which event the payment must be made to the Trustee.

- (c) The payment of an amount due under a Note to either the Holder or the Trustee discharges the obligation of the Issuer to pay that amount under that Note to each of the Holder and the Trustee.

4. Declaration of trust

4.1 Trustee

The Trustee is appointed and agrees to act as the trustee of the Trust established under this Deed with effect from the date of this Deed.

4.2 Constitution of Trust

The Trust is constituted on the execution of this Deed by the Issuer and the Trustee.

4.3 Declaration of Trust

The Trustee declares that, on execution of this Deed, it holds the sum of \$10, and that it will hold the Trust Fund, on trust at any time for the benefit of itself and the persons who are Holders from time to time on the terms of this Deed.

4.4 Name of Trust

The trust established under this Deed will be known as the "Caltex Subordinated Notes Trust".

4.5 Commencement and termination of Trust

The Trust commences on the date of this Deed and unless determined earlier ends on the earlier of:

- (a) the day occurring immediately before the 80th anniversary of the date of this Deed; or
- (b) the day on which this Deed is terminated under clause 22.1.

4.6 Perpetuity period

The perpetuity period applicable to the Trust is the period of 80 years commencing on the day immediately before the date of this Deed.

4.7 Beneficiaries

Subject to the rights of the Trustee, the Holders are the persons beneficially entitled to the Trust Fund from time to time on the terms of this Deed. They hold that beneficial entitlement as equitable tenants in common, provided that joint holders of a Note shall, as between themselves and the Issuer, hold their beneficial entitlement in the Note as joint tenants.

4.8 Safe custody of this Deed

The Trustee will hold fully executed counterparts of this Deed in safe custody for itself and the Holders.

5. Trustee's powers and discretions

5.1 Extent of obligations

The Trustee has no obligations except those expressly set out in this Deed and those arising under Chapter 2L of the Corporations Act.

5.2 Excluded roles and duties

Its appointment as trustee does not mean that the Trustee:

- (a) is a trustee for the benefit of;
- (b) is a partner of; or
- (c) has a fiduciary duty to, or other fiduciary relationship with, any Holder, the Issuer or any other person, except as provided in this Deed.

5.3 Binding nature of relationship

Each Holder is bound by anything properly done or not done by the Trustee, whether or not on instructions, and whether or not the Holder gave an instruction or approved of the thing done or not done.

5.4 Powers of the Trustee

Subject to this Deed, the Trustee may exercise any of the following powers (in addition to those powers of trustees arising under any law or otherwise specified in this Deed):

- (a) **(delegate)** the power to delegate to any person the trusts, powers or discretions vested in the Trustee by this Deed on such terms and conditions as the Trustee, in the interests of Holders thinks fit, to a Related Body Corporate of the Trustee or, with the prior consent of the Issuer, to a person selected by the Trustee, but so that the Trustee is responsible for any acts or omissions of any person to whom the delegation is made unless the Issuer's consent to such delegation has been provided;
- (b) **(waive as instructed)** the power to waive on the instructions of the Holders:
 - (i) who hold in aggregate 25% or more of the Face Value of all Notes then outstanding; or

- (ii) by a Special Resolution,
any breach by the Issuer of any of the obligations binding on it under this Deed, on such terms as the Holders instruct;
- (c) **(waive without instruction)** the power to waive any breach by the Issuer of any of the obligations binding on it under this Deed, on such terms as the Trustee thinks fit;
- (d) **(seek advice)** the power to seek the advice of any barrister, solicitor or accountant or any other expert that the Trustee determines is necessary for the purposes of the discharge of the duties, trusts and powers vested in the Trustee under this Deed or imposed upon it by law; and
- (e) **(rely on advice)** the power to rely on the advice of any barrister, solicitor or accountant or any other expert, whether obtained by the Trustee or by the Issuer.

5.5 Trustee's capacity to transact

The Trustee, any Related Body Corporate of the Trustee or its directors or officers may:

- (a) be a Holder;
- (b) be a shareholder of the Issuer or any Related Body Corporate of the Issuer;
- (c) be a director or officer of the Issuer or a Related Body Corporate of the Issuer;
- (d) act in any representative capacity for a Holder; and
- (e) have an interest or enter into a contract or transaction with:
 - (i) the Issuer or any Related Body Corporate of the Issuer; or
 - (ii) the Trustee or any Related Body Corporate of the Trustee,

and may retain and is not required to account for any benefit derived by doing so, but the Trustee may not act in a manner which would preclude the Trustee from acting as trustee under Chapter 2L of the Corporations Act.

5.6 Trustee's reliance on information

The Trustee is:

- (a) entitled to accept a certificate signed by any two directors or a director and company secretary of the Issuer as to any factual matter as conclusive evidence of the matter, including any certification that any particular thing is not detrimental or prejudicial (whether materially so or not) to the interests of the Holders;
- (b) entitled to accept and act on any information, statement, certificate, report, balance sheet or account supplied by the Issuer or the auditor of the Issuer or any duly authorised officer of the Issuer;
- (c) entitled to rely on each copy of the Register provided to it under clause 16.10 as being complete, accurate and up-to-date and to rely and act on the information contained in it as conclusive evidence of ownership of Notes as provided in clause 16.4;

- (d) entitled to assume, without investigation, that any other deed or information provided to it is genuine and accurate if it believes in good faith that this is the case; and
- (e) entitled to accept and act upon the statements and opinions contained in any statement, certificate, report, balance sheet or account given pursuant to the provisions of this Deed as conclusive evidence of the contents of it.

The Trustee is not bound to call for further evidence other than such certificate, statement, report, balance sheet or accounts nor to enquire as to their accuracy and is not responsible for any costs, losses, liabilities, expenses, demands or claims that may be occasioned by it relying on them provided the Trustee has no knowledge that the relevant certificate, statement, report, balance sheet or accounts was not accurate or, as the case may be, the relevant document was not authentic.

5.7 Trustee not obliged to notify or investigate

Subject to section 283DA of the Corporations Act or as otherwise required by law, the Trustee need not:

- (a) notify any person of the execution of this Deed;
- (b) take any steps to ascertain whether there has occurred an Event of Default or an event which would, with the giving of notice or the lapse of time or the issue of a certificate, constitute an Event of Default;
- (c) enquire as to whether the provisions of this Deed have been complied with;
- (d) notify any Holder of any breach by the Issuer of any provision of this Deed;
- (e) request information or otherwise keep itself informed about the circumstances of the Issuer or consider or provide to any Holder any information with respect to the Issuer (whenever coming into its possession); or
- (f) investigate the adequacy, accuracy or completeness of any information provided to it by the Issuer.

This clause 5.7 in no way limits the Trustee's obligations under clause 7 or schedule 2 of this Deed.

5.8 Legal proceedings

The Trustee may:

- (a) apply to the court for directions in relation to any question arising either before or after the Holders' rights become enforceable;
- (b) assent to and approve of or oppose any application to the court made by or at the instance of any Holder or by the Issuer; and
- (c) at any time after the Holders' rights become enforceable, apply to the court for:
 - (i) an order that the Trust be carried into execution under the direction of the court; and

- (ii) for any other order or direction in relation to the administration of the Trust as the Trustee may deem expedient,

provided that (without prejudice to clause 5.2 of the Terms and clause 5.3(b) of the Terms) the Trustee must not institute any proceedings or take any steps to enforce any payment obligation of Caltex under or arising from the Trust Deed or the Notes (other than as permitted under clause 5.5 of the Terms), including, without limitation, payment of any principal or interest in respect of the Notes, any Redemption Amount, Interest Payment (as defined in the Terms) or Additional Amount, and including damages awarded for the breach of any obligation, and in no event shall the Issuer, by virtue of the institution of any such proceedings or steps, be obliged to pay any sum or sums in cash or otherwise, sooner than the same would otherwise have been payable by it under the Terms.

5.9 Discretion of Trustee absolute

The Trustee will, as regards all the powers, authorities and discretions vested in it by this Deed, have absolute and uncontrolled discretion as to the exercise of them in all respects.

5.10 Consents may be conditional

Any consent, authority, determination or waiver given by the Trustee for the purpose of this Deed may be given on such terms and be subject to such conditions (if any) as the Trustee thinks fit subject to the provisions of this Deed.

5.11 Determination of matters of doubt

The Trustee may as between itself and the Holders determine all questions and matters of doubt arising in relation to any of the covenants, provisions and obligations of this Deed and its construction, meaning, operation or effect and every such determination whether made upon a question actually raised or implied in the acts or proceedings of the Trustee is conclusive and binding on all Holders.

5.12 Conduct of business of the Issuer

- (a) The Trustee is not bound to interfere with the conduct of the business of any member of the Caltex Group.
- (b) Nothing in this clause implies that the Trustee has any right or power to so interfere otherwise than in accordance with any express provision of this Deed or any statutory obligation, power or authority.

6. Application and receipt of Money

6.1 Receipt of money

All money received by the Trustee in respect of amounts payable under this Deed must be held by the Trustee on trust to be applied in the following order:

- (a) first, in payment of all Costs incurred by or other amounts owing to, the Trustee under or in connection with this Deed (including all fees payable under clause 10.1

and any other remuneration payable to the Trustee and any amount payable under clause 8.2);

- (b) secondly, in or towards payment equally and rateably of all amounts of interest due but remaining unpaid in respect of the Notes;
- (c) thirdly, in or towards payment equally and rateably of all amounts of principal due but remaining unpaid in respect of the Notes; and
- (d) the balance (if any) to the Issuer.

6.2 Trustee's power to invest

All money received by the Trustee and not required to be immediately applied in accordance with this Deed may, until it is so required, be deposited with any bank or other deposit taking institution which has a short term credit rating of not less than "A-1" from S&P or its equivalent by a recognised rating agency. The Trustee may vary any such investment if the investment continues to comply with the short term credit rating requirements under this clause 6.2.

6.3 Amounts contingently due

- (a) If at the time of a distribution of any money under clause 6.1, any part of the amounts due but unpaid in respect of the Notes is contingently owing, the Trustee may retain an amount equal to the amount contingently owing or any part of it.
- (b) If the Trustee retains any amount under clause 6.3(a) it must place that amount on short-term interest bearing deposit until the amount contingently owing becomes actually due and payable or otherwise ceases to be contingently owing at which time the Trustee must:
 - (i) pay to the Trustee the amount which has become actually due to it; and
 - (ii) apply the balance of the amount retained, together with any interest on the amount contingently owing, in accordance with clause 6.1.

6.4 Trustee's receipts

- (a) The receipt of any officer of the Trustee for any money payable to or received by the Trustee under this Deed exonerates the payer from all liability to enquire whether any of the amounts payable by the payer have become payable.
- (b) Without limiting clause 3.5(c) or clause 18.4(c), every receipt of such an officer of the Trustee effectually discharges the payer from:
 - (i) any future liability to pay the amount specified in the receipt; and
 - (ii) being concerned to see to the application of, or being answerable or accountable for any loss or misapplication of, the amount specified in the receipt.

7. Trustee's undertakings

The Trustee must:

- (a) comply with its duties under the Corporations Act (including Chapter 2L of the Corporations Act);
- (b) act honestly and in good faith and comply with all applicable laws in performing its duties and in the exercise of its discretions under this Deed;
- (c) exercise such diligence and prudence as a person carrying on the business of a professional trustee would exercise in performing its duties and in the exercise of its discretions under this Deed;
- (d) keep accounting records which correctly record and explain all amounts paid and received by the Trustee in its capacity as trustee under this Deed;
- (e) keep the assets of the Trust separate from all other assets of the Trustee which are held in a capacity other than as trustee under this Deed; and
- (f) subject to the provisions of this Deed and the Trustee's general duties as trustee at law or in equity, not interfere with the conduct of the ordinary business of the Issuer.

8. Trustee indemnity

8.1 Corporations Act

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

8.2 Indemnity

The Trustee, its officers, directors, employees and attorneys (together included in the defined term *Trustee* for the purposes of this clause 8.2) are entitled to be indemnified by the Issuer and, without limitation, out of the property of the Trust Fund in respect of all costs, losses, liabilities, expenses, demands or claims suffered or properly incurred by the Trustee in the execution of the Trust or any of the powers, authorities or discretions vested in the Trustee under this Deed, but this indemnity does not extend to:

- (a) any such costs, losses, liabilities, expenses, demands or claims to the extent arising out of a Trustee Default; or
- (b) any Taxes (excluding any Indirect Tax) imposed on the Trustee's remuneration for its services as Trustee.

The Trustee may retain and pay out of any money in its hands in priority to any claim by a Holder, all sums necessary to effect and satisfy an amount due and payable to the Trustee under this clause 8.

8.3 Indemnity additional

Any indemnity to which the Trustee is entitled under this Deed is in addition to, and without prejudice to, any indemnity allowed by law or equity to the Trustee.

8.4 No obligation to act

The Trustee is not obliged to carry out any act or refrain from doing any act (including incurring any liability or taking any action under clause 2.3) under this Deed until such time as it is placed in funds or is otherwise indemnified to its reasonable satisfaction against any expense or liability which it may incur as a result of doing so.

8.5 Survival

The provisions of this clause 8 shall survive the termination of this Deed and where the Trustee ceases for any reason to be trustee of the Trust.

9. Trustee's liability

9.1 Limitation of liability

- (a) Subject to paragraph (e), the Trustee is not liable to the Issuer, the Holders or any other person in any capacity other than as trustee of the Trust.
- (b) Subject to paragraph (e), a liability to the Issuer, or any Holder arising under or in connection with this Deed is limited to and can be enforced by the Issuer or a Holder 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 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 Deed.
- (c) Subject to paragraph (e), neither the Issuer nor any Holder 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 (except in relation to the property of the Trust).
- (d) Subject to paragraph (e), the Issuer and each Holder 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 Deed, which cannot be paid or satisfied out of any property held by the Trustee.
- (e) The provisions of this clause will not apply to any obligation or liability of the Trustee:
 - (i) to the extent arising as a result of the Trustee's fraud, gross negligence or wilful default or wilful breach of trust; or
 - (ii) relating to its appointment or agreement to act as trustee under this Deed.
- (f) No attorney, agent or delegate appointed in accordance with this 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, gross negligence or wilful default of the Trustee for the purpose of paragraph (e).

9.2 Evidence of claims

The Trustee will be entitled and is authorised by the Issuer to call for (and will be entitled to accept as conclusive evidence thereof) a certificate from any receiver, administrator or liquidator of the Issuer 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 other assets of the Issuer; and
- (b) the persons entitled to those assets and their respective entitlements.

9.3 Certificate

Save in the case of manifest or proven error, any certificate given by any receiver, administrator or liquidator of the Issuer will be conclusive and binding on the Trustee and all Holders.

9.4 Not bound to give notice

The Trustee is not bound to give notice to any person of the execution of this Deed and the Trustee is not bound to take any steps to ascertain whether any event has happened upon the happening of which Notes become immediately payable.

9.5 No monitoring obligation

Notwithstanding any other provisions of this Deed, but subject to the Trustee's obligations under the Corporations Act, the Issuer acknowledges that the Trustee has no obligation to monitor compliance by the Issuer with their respective covenants and obligations under this Deed or any other activities or status of the Issuer whatsoever.

9.6 Holder capacity

The Trustee's duties and obligations to Holders are owed to Holders only in their capacity as Holders.

9.7 Knowledge of the Trustee

The Trustee will only be considered to have knowledge or awareness of a thing, or grounds or reason to believe anything, by virtue of the officers of the Trustee having the day to day responsibility for the administration of the Trust, having actual knowledge, actual notice or actual awareness of that thing, or actual grounds or reason to believe that thing (and similar references will be interpreted in this way). In addition:

- (a) notice, knowledge or awareness of a default or breach of this Deed means actual knowledge, notice or awareness of the events or circumstances constituting the default or breach; and
- (b) the Trustee will be taken not to have knowledge of the occurrence of an Event of Default unless it has received written notice from a Holder or the Issuer stating that an Event of Default has occurred and describing it.

10. Fees and expenses

10.1 Fees

The Issuer agrees to pay fees to the Trustee on terms agreed between the Issuer and the Trustee from time to time. The payment of such fees must be made by the Issuer by transfer to such account nominated from time to time by the Trustee to the Issuer or by such other means notified by the Trustee to the Issuer from time to time.

10.2 Costs and expenses

The Issuer must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this Deed and must pay the Trustee on demand for:

- (a) all reasonable expenses (including reasonable legal fees, costs, disbursements and stamping or other duty) reasonably and properly incurred in connection with negotiating, preparing, executing and stamping this Deed, and any subsequent consent, agreement, approval, waiver or amendment requested by the Issuer relating to this Deed;
- (b) all losses and expenses (including reasonable legal fees, costs and disbursements) suffered or incurred in connection with exercising, enforcing or preserving rights under this Deed (including, without limitation, any losses or expenses suffered or incurred in exercising, enforcing or preserving rights in connection with any breach by the Issuer of any of its obligations under this Deed or in relation to complying with any notice, request or requirement of any Government Agency or any investigation by a Government Agency into the affairs of the Issuer);
- (c) all losses and expenses (including reasonable legal fees, costs and disbursements) suffered or incurred by the Trustee which arise out of, or in the course of, the Trustee acting as the trustee of the Trust, except where such expenses are incurred by the Trustee as a direct result of a Trustee Default; and
- (d) all expenses (including reasonable legal fees, costs and disbursements) properly incurred by the Trustee which arise out of, or in the course of the preparations for the convening and holding of any meeting of Holders and the carrying out of any directions or resolutions of Holders.

For the avoidance of doubt, unless otherwise agreed with the Issuer, any costs, losses or expenses (including reasonable legal fees, costs and disbursements) incurred where the Trustee has delegated any obligations under this Deed in accordance with clause 5.4 will not be for the account of the Issuer.

10.3 Time in attendance

If the Trustee is required at any time to undertake duties which:

- (a) are agreed by the Issuer to be:
 - (i) of an exceptional nature; or
 - (ii) otherwise outside the scope of the normal duties of the Trustee; or

- (b) relate to the enforcement of the terms of this Deed by the Trustee while an Event of Default is subsisting,

the Trustee is entitled to such additional remuneration as may be agreed between it and the Issuer or, failing agreement, the Trustee shall be entitled to charge the Issuer reasonable hourly rates for time spent by the Trustee's officers and employees in relation to such enforcement action. Such hourly rates shall:

- (a) reflect the level of expertise required to perform the work; and
(b) be commensurate with and referable to the hourly rates charged at the relevant time by members of the Insolvency Practitioners Association of Australia for work of the kind being performed by the Trustee's officers and employees.

11. Retirement and removal of Trustee

11.1 Right of Trustee to retire

Subject to any statutory provisions for the time being relating to the retirement of trustees, the Trustee may retire at any time (with or without giving any reason for its retirement) after the expiration of not less than two months' (or such shorter period that the Issuer may require) notice in writing to the Issuer of its intention to retire.

11.2 Power of the Issuer to appoint a new trustee

Subject to the other provisions of this Deed, the power under this Deed of appointing a new trustee of the Trust is vested in the Issuer and the Issuer may remove the Trustee and appoint a new trustee of the Trust (which may be a Related Body Corporate of the Trustee) immediately if:

- (a) the Trustee ceases to be a person who can be appointed a trustee under section 283AC(1) of the Corporations Act;
- (b) the Trustee cannot continue to act as Trustee because of the operation of section 283AC(2) of the Corporations Act;
- (c) a Trustee Default or breach of trust has occurred and is continuing and:
- (i) the Trustee Default or breach of trust is not capable of remedy; or
- (ii) if the Trustee Default or breach of trust is capable of remedy and has not been remedied within seven Business Days after receiving written notice of the default from the Issuer requiring that the default be remedied;
- (d) any Authorisation the Trustee is required to hold to carry out its obligations and duties under or in respect of this Deed is revoked or not renewed;
- (e) the Issuer is requested to do so by a Special Resolution;
- (f) an Insolvency Event occurs in relation to the Trustee;
- (g) the issuer becomes aware that any of the circumstances specified in section 283BD of the Corporations Act has occurred with respect to the Trustee; or
- (h) otherwise required to do so by law.

11.3 Power of existing Trustee to appoint a new trustee

If:

- (a) when the period of notice referred to in clause 11.1 expires, a new trustee of the Trust has not been appointed; or
- (b) the Issuer removes the Trustee under clause 11.2 but does not appoint a new trustee of the Trust within 14 days of the removal becoming effective,

the Trustee may at any time thereafter and so long as an appointment has not been made by the Issuer, appoint in writing another person to act as the new trustee of the Trust and any such appointment will be effective without the further approval of the Issuer or of the Holders.

11.4 Retirement or removal of Trustee

On the retirement or removal of the Trustee, the retiring or departing Trustee will at the cost of the Issuer do all such things and execute all such deeds, instruments or other documents as are necessary for the purpose of vesting in the new trustee or new trustees all money, property, rights, powers, authorities and discretions vested in the Trustee under this Deed.

11.5 Release of Trustee

- (a) The retirement or removal of the Trustee under this clause 11 will not take effect unless and until a new Trustee has been appointed and has taken office as trustee of the Trust.
- (b) Upon the appointment of the new trustee, the retiring or departing Trustee will be released from all further obligations and liabilities in respect of the Trust arising after the date it retires or is removed.

11.6 Trustee must be a Eligible Trustee

Notwithstanding any other provision of this Deed, no person may be appointed as the Trustee under this Deed unless that person is an Eligible Trustee.

11.7 ASIC

The Issuer must advise ASIC of the name of the Trustee within 14 days after the Trustee or a new Trustee is appointed.

12. Substitution of Issuer

12.1 Trustee may agree to substitution of Issuer

The Trustee may, without the approval of the Holders, agree with the Issuer to the substitution in place of the Issuer of any of its Subsidiaries (the *Substituted Obligor*) in place of the Issuer (or of any previous substitute under this clause 12) as the issuer of Notes and principal debtor under the Terms and this Deed provided that:

- (a) the Issuer is satisfied that the interests of the Holders will not be materially prejudiced by the substitution;
- (b) a deed is executed or an undertaking given by the Substituted Obligor to the Trustee (on behalf of the Holders), in form and manner satisfactory to the Trustee, agreeing to be bound by this Deed and the Terms (with consequential amendments as the Trustee may deem appropriate) as if the Substituted Obligor had been named in this Deed and the Terms as the original issuer of Notes and principal debtor in place of the Issuer;
- (c) if the Substituted Obligor is subject generally to the taxing jurisdiction of a territory or any authority of or in that territory with power to tax (the **Substituted Territory**) other than the territory of the taxing jurisdiction to which (or to any such authority of or in which) the Issuer is subject generally (the **Issuer's Territory**), the Substituted Obligor will (unless the Trustee otherwise agrees) give to the Trustee an undertaking satisfactory to the Trustee in terms corresponding to the Terms with the substitution for the references in the Terms to the Issuer's Territory of references to the Substituted Territory whereupon this Deed and the Terms will be read accordingly;
- (d) if any two directors (or equivalent officers) of the Substituted Obligor certify to the Trustee that it will be solvent immediately after such substitution, the Trustee need not have regard to the Substituted Obligor's financial condition, profits or prospects or compare them with those of the Issuer;
- (e) the Issuer and the Substituted Obligor comply with such other requirements as the Trustee may direct in the interests of the Holders; and
- (f) the obligations of the Substituted Obligor under this Deed and the Terms are irrevocably and unconditionally guaranteed by the Issuer to the Trustee's satisfaction.

12.2 Release of substituted Issuer

An agreement by the Trustee pursuant to this clause 12 will, if so expressed, release the Issuer (or a previous substitute) from any or all of the obligations it has incurred in its capacity as Issuer under this Deed and the Terms. Notice of the substitution will be given to the Holders within 14 days of the execution of such documents and compliance with such requirements.

12.3 Completion of substitution

On completion of the formalities set out in this clause 12, the Substituted Obligor will be deemed to be named in this Deed and the Terms as the issuer of Notes and principal debtor in place of the Issuer (or of any previous substitute) and this Deed and the Terms will be deemed to be amended as necessary to give effect to the substitution.

13. Covenants

13.1 The Issuer's general duties

The Issuer must, for so long as any of the Notes remain outstanding:

- (a) comply with its obligations under section 283BB of the Corporations Act;
- (b) notify the Trustee promptly and in any event not later than 10 Business Days after it becomes aware of an Event of Default which is subsisting or a breach by the Issuer of Chapter 2L of the Corporations Act or the Terms;
- (c) comply with the Terms;
- (d) provide to the Trustee:
 - (i) within 120 days after the close of each financial year, a copy of the audited consolidated financial statements of the Caltex Group lodged with ASIC in respect of that financial year;
 - (ii) within 90 days after the close of each financial half year, a copy of the unaudited consolidated financial statements of the Caltex Group lodged with ASIC in respect of that half year;
 - (iii) to the extent not already provided under this clause 13.1(d), within 7 days of issue, copies of all reports and releases made by the Issuer to ASX;
 - (iv) promptly, copies of all documents and notices received by it from any Holder or which it gives to Holders; and
 - (v) all other information or reports required to be provided to the Trustee under the Corporations Act or requested by the Trustee which is reasonably required for the purposes of the discharge of the duties, trusts and powers vested in the Trustee under this Deed or imposed upon it by law,and, if requested by a Holder, provide copies of any of the above to such Holder;
- (e) comply with all statutory and regulatory requirements applicable to it (including under Chapter 2L and section 318 of the Corporations Act) to the extent they relate to its obligations under this Deed, where a failure to do so would have or would be likely to have a Material Adverse Effect; and
- (f) If the Issuer is placed in liquidation, in provisional liquidation or under administration, then the Issuer must or, if any receiver, receiver and trustee, official trustee, liquidator, administrator or similar official is appointed to the Issuer or its assets (as applicable) (an **Appointee**), the Issuer must procure that the Appointee must:
 - (i) notify the Holders of each relevant Event of Default and of the Appointee's appointment; and
 - (ii) provide to Holders a copy of each notice or communication given to the Trustee under this Deed after the date of such event or appointment.

13.2 First quarterly report

For the purpose of section 283BF(2) of the Corporations Act, the Issuer gives notice to the Trustee that it fixes 31 December 2012 as the last day of the relevant first quarter.

13.3 Compliance with Authorisations

The Issuer undertakes to obtain and (if required) renew on time and comply with, the terms of each Authorisation necessary for it to enter into this Deed, comply with its obligations and exercise its rights under it and make it admissible in evidence in its jurisdiction of incorporation, where failure to do so would have or would be likely to have a Material Adverse Effect.

13.4 Benefit

The Trustee declares and acknowledges that the benefit of the undertakings and covenants of the Issuer in this Deed is held on trust by the Trustee for the benefit of the Holders.

14. Representations and warranties

14.1 Representations and warranties by the Trustee

The Trustee makes the following representations and warranties to the Issuer on the date of this Deed and on each date on which Notes are issued (with reference to the facts and circumstances existing on that date) as follows.

- (a) **(Status)** The Trustee is a company duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) **(Power, authority and due authorisation)** The Trustee:
 - (i) has the power and authority to own its assets and to carry on its business as, and in such place or places as, it is now being conducted;
 - (ii) has the power to enter into, and exercise its rights and perform and comply with its obligations (if any) under this Deed;
 - (iii) has taken or will take all necessary action to authorise the entry into this Deed and the performance of all its obligations under it; and
 - (iv) meets the requirements of a trustee as provided in sections 283AC(1) and 283AC(2) of the Corporations Act.
- (c) **(Binding obligations)** The obligations assumed by it in this Deed are legal, valid, binding and enforceable under their terms, subject to any necessary stamping and registration and subject to principles of equity and laws affecting creditors rights generally and legal reservations in any legal opinions delivered in connection with the issue of the Notes.
- (d) **(Transactions permitted)** The entry into and performance by it of any obligations under this Deed, the exercise by it of any right or the performance or observance of

any obligation under any of those documents, and the transactions contemplated by them does not (and will not) breach or conflict with:

- (i) any laws and regulations applicable to it or any directive of any Government Agency;
- (ii) any agreement or instrument (including any Encumbrance) binding on it; or
- (iii) its constitutional documents.

14.2 Representations and warranties by the Issuer

The Issuer represents and warrants to the Trustee on the date of this Deed and on each date on which Notes are issued (with reference to the facts and circumstances existing on that date) as follows.

- (a) **(Status)** It is a company duly incorporated with limited liability and validly existing under the laws of its jurisdiction of incorporation.
- (b) **(Power)** It has the power to enter into, exercise its rights and perform and comply with its obligations under this Deed.
- (c) **(Non-violation of laws, etc)** Its entry into, exercise of rights and/or performance of or compliance with its obligations under this Deed do not and will not violate in any material respect:
 - (i) any law to which it is now subject or any legally binding order of any governmental, judicial or public body or authority applicable to it; or
 - (ii) any of the documents constituting it.
- (d) **(Authorisations and Consents)** All actions, conditions and things required by applicable laws to be taken, fulfilled and done (including the obtaining of any necessary consents) by it in order:
 - (i) to enable it lawfully to enter into, exercise its rights and perform and comply with its obligations under this Deed; and
 - (ii) to ensure that those obligations are legally binding,
have been taken, fulfilled and done and are in full force and effect.
- (e) **(Validity of obligations)** Its obligations under this Deed are valid and binding and are enforceable against it in accordance with their terms, subject to any necessary stamping and to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered to the Trustee.
- (f) **(Accounts)** The accounts of the Caltex Group most recently lodged with ASIC give a true and fair view of the Issuer's and its Subsidiaries state of affairs as at the date to which they are prepared and disclose or reflect all material actual or contingent liabilities to the extent required by the Corporations Act.
- (g) **(Litigation)** No litigation, arbitration or administrative proceeding is current or, so far as it is aware, pending or threatened:
 - (i) to restrain the entry into, exercise of its rights under, or performance or enforcement of or compliance with its obligations under this Deed; or

- (ii) save as previously disclosed in writing to the Trustee, which has or could reasonably be expected to have a Material Adverse Effect.
- (h) **(No default)** No Event of Default has occurred and is subsisting or will occur from the issue of the Notes.

15. Issue of Notes

15.1 Issue

Subject to the terms of this Deed and any applicable law, the Issuer may issue Notes to any person it thinks fit under and in accordance with this Deed.

15.2 Entry in Register

- (a) The Issuer may create and issue Notes by registering, or causing the registration of, the relevant applicants (or their nominees) in the Register as the holders of the relevant number of Notes on the Issue Date.
- (b) A Note is issued when the relevant Holder is entered in the Register as the holder of the Note.
- (c) All Notes in respect of which an entry is made in the Register are (subject to rectification for fraud or error) taken to have been validly issued under this Deed, regardless of any non-compliance by the Issuer with the provisions of this Deed.

15.3 Subscription monies in cleared funds

No actual or proposed Holder or any other person has any right, title or interest in, under or to any Note until the Issuer has received cleared funds in full for the money subscribed for the Note.

15.4 No certificates

Except to the extent required by law or otherwise determined by the Issuer, the Notes will be registered debt securities and no certificates (as distinct from Statements of Holding) in respect of the Notes will be issued by the Issuer or the Trustee.

15.5 Statement of Holding

- (a) The Issuer or the Registry (as applicable) must issue to each Holder a Statement of Holding as soon as reasonably practicable after the Issue Date for the Notes and in any event within the time prescribed by the ASX or the ASX Listing Rules.
- (b) A Statement of Holding is no assurance or guarantee that any amounts will be paid to the Holder

15.6 The Issuer dealing with Notes

The Issuer and any of its Related Bodies Corporate may purchase and deal with Notes in accordance with clause 3.6 of the Terms.

16. Register

16.1 Register

The Issuer must establish and maintain, or procure the establishment and maintenance of, a register of the Holders of Notes. The Issuer must enter into the relevant Register in respect of a Note and each Holder:

- (a) their name or, in the case of joint Holders, the names of the joint Holders on the application form or Transfer Form for such Note;
- (b) the address of the Holder or, in the case of joint Holders, the address of the Holder whose name first appears on the application form or Transfer Form for such Note;
- (c) if provided, the e-mail address and fax number of the Holder or, in the case of joint Holders, the email address and fax number of the Holder whose name first appears on the application form or Transfer Form for such Note;
- (d) the number and amount of Notes held by such Holder;
- (e) if provided, their Australian tax file number or evidence of any exemption from the need to provide an Australian tax file number;
- (f) if provided, their Australian Company Number, Australian Business Number or other Australian identifying registration number;
- (g) the account to which payments in respect of the Note are to be paid or the address to which payments are to be posted;
- (h) the Issue Date and the Maturity Date; and
- (i) any other particulars the Issuer considers necessary or desirable or are required under this Deed or by law.

16.2 Location of Register

The Register will be kept at:

- (a) the Registry's principal place of business in New South Wales;
 - (b) such other place in Australia approved by the Issuer and the Registry and notified by the Issuer to the Trustee, where the work involved in maintaining the Register is done; or
 - (c) such other place in Australia notified by the Issuer to the Trustee,
- provided that the Register must not be located in South Australia.

16.3 The Issuer not liable for mistakes

The Issuer is not liable for any mistake in a Register, or in any purported copy of a Register, except to the extent that the mistake is attributable to the Issuer's own fraud, negligence or wilful default.

16.4 Conclusiveness

- (a) In the absence of manifest or proven error and subject to clause 15.3, an entry in the Register in respect of a Note is conclusive evidence of the ownership of the relevant Note.
- (b) The Register is the only conclusive evidence of title to the Notes.
- (c) The Trustee is entitled to accept the correctness of all information contained in a Register without investigation and is not liable to any person for any error in it.

16.5 Inspection

- (a) The Register will be available for inspection by the Trustee and persons authorised by the Trustee to inspect the Register during normal business hours and at any other times approved by the Trustee and the Registry.
- (b) Subject to any Instrument of Exemption, each Register will be available for inspection by the Trustee and the Holders during normal business hours and by any other persons authorised in writing by the Trustee or relevant Holders, provided that any inspection by a Holder shall be limited to that part of the Register which contains particulars of that Holder's holdings.

16.6 Change in information

- (a) A Holder must advise the Issuer of any change to the information noted in the Register in respect of that Holder together with, in the case of a change of name, any evidence required by the Issuer. On receipt of such advice, the Issuer must promptly update (or request that Registry to update) the information contained in the Register.
- (b) The Issuer is not, however, obliged to change the information contained in a Register while it is closed.

16.7 Rectification of Register

If:

- (a) an entry is omitted from the Register;
- (b) an entry is made in the Register otherwise than in accordance with this Deed;
- (c) an entry wrongly exists in the Register;
- (d) there is an error or defect in any entry in the Register; or
- (e) a default is made or an unnecessary delay takes place in entering into the Register that any person has ceased to be the holder of a Note or any other information,

the Issuer may rectify the same. Neither the Issuer nor the Trustee is liable for any loss, Costs or liability incurred as a result of any of the above occurring.

16.8 Closure of Register

On giving a notice by advertisement or otherwise as may be required by law, or the requirements of an ASX Listing Rule, the Issuer may from time to time close any Register

for any period or periods not exceeding in any one year the maximum period permitted by law or those requirements in aggregate in any calendar year.

16.9 Appointment of Registry

- (a) The Issuer may cause the Register to be maintained by a third party on its behalf and require that person to:
- (i) discharge the Issuer's obligations under this Deed in connection with the Register and transfers of Notes; and
 - (ii) assist it in the supply and delivery of the information, records and reports required by law.
- (b) None of the Issuer or the Trustee is liable for any act or omission of any person appointed by the Issuer under this clause 16.9, provided that the Issuer will be liable unless it has appointed Computershare Investor Services Pty Limited (ABN 48 078 279 277) or otherwise taken reasonable steps to select a person competent to perform the intended functions. If the Issuer is not establishing or maintaining the Register, the Issuer must immediately notify the Trustee of the person who is establishing and maintaining the Register. As at the date of this Deed, the Issuer has appointed the Registry to establish and maintain the Register.

16.10 Copy to the Trustee

The Issuer will give, or cause to be given, to the Trustee, a complete copy (which may be in electronic or written form as the Issuer so determines) of the Register within 2 Business Days after the Trustee so requests.

16.11 Property in Notes situated where Register is

The property in the Notes will for all purposes be regarded as situated at the place where the Register is for the time being situated and not elsewhere.

16.12 Clearing System sub-register

If the Notes are lodged or approved for entry on a Clearing System which involves the maintenance of a sub-register, then the rules and regulations of that Clearing System with respect to that sub-register prevail to the extent of any inconsistency with this clause 16 in connection with the Notes.

17. Meetings of Holders

17.1 Meeting provisions

The Trustee and the Issuer may call and hold meetings of Holders in a manner provided for in the Meeting Provisions, the Corporations Act and any applicable ASX Listing Rule.

17.2 Holder Resolution

- (a) Subject to clause 17.3 and paragraph 10 of the Meeting Provisions, Holders may by a Holder Resolution:

- (i) approve the alteration of this Deed under clause 20.2(a)(ii); and
 - (ii) give directions to the Trustee as to, or authorise, ratify or confirm anything done or not done by the Trustee in respect of the performance or exercise of any of the duties, rights, powers and remedies of the Trustee under or relating to this Deed or the Notes, or any other instrument to which the Trustee is or becomes a party in the capacity of trustee under this Deed.
- (b) To the extent permitted by law, the Trustee is not liable to a Holder, the Issuer or any other person for acting on directions given by the Holders under this Deed, or under any authorisation, resolution or confirmation made or given by the Holders to the Trustee.

17.3 Special Resolution

Notwithstanding any other term of this Deed, Holders may by a Special Resolution:

- (a) 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) authorise any person to do all such acts and things as may be necessary to carry out and give effect to a Special Resolution;
- (c) give any direction to the Trustee under clause 2.3 or 5.4(b) or under any provision of the Terms which refers to the provision of a direction to the Trustee by Special Resolution;
- (d) require the resignation or removal of the Trustee in accordance with clause 11.2 of the Deed;
- (e) approve the alteration of this Deed under clauses 20.2(a)(iii) or 20.2(a)(iv); or
- (f) do any other matter or thing specified in paragraph 10 of the Meeting Provisions.

18. Title and Transfer of the Notes

18.1 Title

Title to a Note passes when details of the transfer of the Note are entered in the Register.

18.2 Effect of entry in Register

Each entry in the Register in respect of a Note constitutes:

- (a) an unconditional and irrevocable undertaking by the Issuer to the Holder to pay principal, interest and any other amount in accordance with the Terms; and
- (b) an entitlement to the other benefits given to Holders under the Terms and this Deed.

18.3 Non-recognition of interests

Except as required by law, the Issuer, the Trustee and the Registry:

- (a) must treat the person whose name is entered in the Register as the Holder of a Note as the absolute owner of that Note; and

- (b) are not required to recognise:
 - (i) a person as holding a Note on trust (whether express, implied or constructive or other interest), and no notice of any such trust may be entered in the Register in respect of a Note; or
 - (ii) any other interest (beneficial or otherwise) in any Note or any other right in respect of a Note except an absolute right of ownership in the registered holder of a Note, whether or not it has notice of the interest or right.

18.4 Joint holders

- (a) Where two or more persons are entered in the Register as the holders of a Note (each, a **Joint Holder**) then they are taken to hold the Note as joint tenants with rights of survivorship, but the Issuer is not bound:
 - (i) subject to the ASX Settlement Operating Rules, to register more than three persons as joint Holders of any Note; or
 - (ii) to issue more than one certificate (if applicable) or Statement of Holding in respect of a Note jointly held, and only the joint Holder in respect of a Note whose name first appears on the register is entitled to be issued a certificate (if applicable) or Statement of Holding in respect of a Note jointly held.
- (b) If a Holder who owns a Note jointly dies, the Issuer will recognise only the survivor or survivors as being entitled to the Holder's interest in the Note.
- (c) Interest or other money payable in respect of a Note that is held jointly may be paid to the Holder whose name appears first on the Register, and the payment to any one joint Holder of a Note of any amount from time to time payable or repayable in respect of the Note discharges the obligation of the Issuer to pay that amount under the Note to each joint Holder of the Note and the Trustee.
- (d) The delivery to a joint Holder of a Note whose name first appears in the Register in respect of that Note of a notice or other communication will discharge the obligation of the Issuer or the Trustee to deliver that notice or communication to each of the joint Holders of that Note, and in that case the notice or communication will be deemed to be given to all joint Holders of that Note.
- (e) If a Note is held jointly, and more than one Holder votes in respect of that Note, only the vote of the Holder whose name appears first on the Register counts.
- (f) The joint Holders of a Note are counted as a single holder for the purposes of calculating the number of Holders or persons who have requisitioned a meeting of Holders.
- (g) If a Note is held jointly, each of the joint Holders is jointly and severally liable for all payments including payment of any Tax, which is to be made in respect of the Note.

18.5 Transfers in whole

A Note may be transferred in whole but not in part.

18.6 Transfer

A Holder may, subject to this clause 18.6, transfer any Note:

- (a) by a proper ASX Settlement transfer according to the ASX Settlement Operating Rules;
- (b) by a proper transfer under any other computerised or electronic system recognised by the Corporations Act;
- (c) under any other method of transfer which operates in relation to the trading of securities on any securities exchange outside Australia on which Notes are quoted; or
- (d) by any proper or sufficient instrument of transfer of marketable securities under applicable law.

The Issuer must not charge any fee on the transfer of a Note.

18.7 Market obligations

The Issuer must comply with all applicable laws and regulations in relation to the transfer of a Note.

18.8 The Issuer may request holding lock or refuse to register transfer

If Notes are quoted on ASX, and if permitted to do so by the ASX Listing Rules and the Corporations Act, the Issuer may:

- (a) request the CS Facility Operator or the Registry, as the case may be, to apply a holding lock to prevent a transfer of Notes approved by and registered on the CS Facility's electronic sub-register or Notes registered on an issuer-sponsored sub-register, as the case may be; or
- (b) refuse to register a transfer of Notes.

18.9 The Issuer must request holding lock or refuse to register transfer

- (a) The Issuer must request the CS Facility Operator or the Registry, as the case may be, to apply a holding lock to prevent a transfer of Notes approved by and registered on the CS Facility's electronic sub-register or Notes registered on an issuer-sponsored sub-register, as the case may be, if the Corporations Act, the ASX Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.
- (b) The Issuer must refuse to register any transfer of Notes if the Corporations Act, the ASX Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.
- (c) During a breach of the ASX Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the Holder of the Restricted Securities is not entitled to any interest (or other distribution on), or voting rights in respect of, the Restricted Securities.

18.10 Notice of holding locks and refusal to register transfer

If, in the exercise of its rights under clauses 18.8 and 18.9, the Issuer requests the application of a holding lock to prevent a transfer of Notes or refuses to register a transfer of Notes it must, within 5 Business Days after the date the holding lock is requested or the refusal to register a transfer, give written notice of the request or refusal to the Holder, to the transferee and the broker lodging the transfer (if any). Failure to give such notice does not, however, invalidate the decision of the Issuer.

18.11 Delivery of instrument

If an instrument is used to transfer Notes according to clause 18.6, it must be delivered to the Registry, together with such evidence (if any) as the Registry reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Notes.

18.12 Refusal to register

- (a) The Issuer may refuse to register a transfer of a Note if:
- (i) registration of the transfer would contravene or is forbidden by any applicable law or regulation or this Deed; or
 - (ii) permitted to do so under this Deed or by any applicable law or regulation (including the Corporations Act, the ASX Listing Rules or the ASX Settlement Operating Rules).
- (b) If the Issuer refuses to register a transfer, the Issuer must give the lodging party notice of the refusal and the reasons for such refusal within five Business Days after the date on which the transfer was delivered to the Registry. The failure by the Issuer to give such a notice will not invalidate the refusal to transfer in any way.

18.13 Transferor to remain Holder until registration

A transferor of a Note remains the Holder in respect of that Note until the transfer is registered and the name of the transferee is entered in the Register.

18.14 Effect of transfer

Upon registration and entry of the transferee in the Register the transferor ceases to be entitled to future benefits under this Deed in respect of the transferred Notes and the transferee becomes so entitled in accordance with clause 18.2.

18.15 Estates

A person, or persons jointly, becoming entitled to a Note as a consequence of the death or bankruptcy of a Holder or of a vesting order or a person administering the estate of a Holder may, upon producing such evidence as to that entitlement or status as the Registry considers sufficient, transfer the Note or, if so entitled, become registered as the holder of the Note.

18.16 Transfer of unidentified Notes

Where the transferor executes a transfer of less than all Notes registered in its name, and the specific Notes to be transferred are not identified, the Registry may (subject to the limit

on minimum holdings) register the transfer in respect of such of the Notes registered in the name of the transferor as the Registry thinks fit, provided the aggregate of the Face Value of the Notes registered as having been transferred equals the aggregate of the Face Value of the Notes expressed to be transferred in the transfer.

19. Payment of Notes

19.1 Payments

Subject to clause 19.2, all payments in respect of a Note will be made to the person registered at 10.00 am on the payment date as the Holder of a Note.

19.2 Payment of interest

Payments of interest in respect of a Note will be made to the person registered on the Record Date as the Holder of that Note.

19.3 Payments to accounts

Money payable by the Issuer to a Holder in respect of a Note may be paid in any manner the Issuer decides, including by any method of direct credit determined by the Issuer to the Holder or Holders shown on the Register or to such person or place directed by them.

19.4 Payments by cheque

The Issuer may decide that payments in respect of a Note will be made by cheque sent on the payment date, at the risk of the registered Holder, to the Holder (or to the first named joint holder of the Note) at its address appearing in the Register on the payment date (or, in the case of a payment of interest in respect of a Note, on the Record Date). Cheques sent to the nominated address of a Holder will be taken to have been received by the Holder on the payment date and, no further amount will be payable by the Issuer in respect of the Notes as a result of the Holder not receiving payment on the due date.

19.5 Unsuccessful attempts to pay

Subject to applicable law, where the Issuer:

- (a) decides that an amount is to be paid to a Holder by a method of direct credit and the Holder has not given a direction as to where amounts are to be paid by that method;
- (b) attempts to pay an amount to a Holder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful; or
- (c) has made reasonable efforts to locate a Holder but is unable to do so,

in each case the amount is to be held by the Issuer for the Holder in a non-interest bearing deposit with a bank selected by the Issuer until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed money.

19.6 Payments subject to law

All payments are subject to applicable law, but without prejudice to the provisions of clause 8 of the Terms.

19.7 Payments on Business Days

If a payment:

- (a) is due on a Note on a day which is not a Business Day then the due date for payment will be adjusted in accordance with the Modified Following Business Day Convention; or
- (b) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the first following day on which banks are open for general banking business in that place,

and in either case, the Holder is not entitled to any additional payment in respect of that delay.

19.8 Amounts payable on demand

If an amount payable by the Issuer under this Deed is not expressed to be payable on a specified date, that amount is payable by the Issuer within 3 Business Days of demand by the Trustee.

20. Alteration

20.1 Alteration of the Terms

- (a) At any time and from time to time, the Issuer may, without the consent of the Holders or the Trustee, amend the Terms in accordance with clause 12.2 of the Terms by way of a supplemental deed poll.
- (b) If the Issuer proposes to amend the Terms in accordance with clause 12.2 of the Terms, the Issuer must deliver to the Trustee, for the Trustee's information purposes only, a copy of the proposed amendment no later than 2 Business Days before the amendment is to take effect.
- (c) At any time and from time to time, the Issuer and the Trustee may, by a supplemental deed, amend the Terms in accordance with clause 12.3 of the Terms.
- (d) Any amendment of the Terms in accordance with this clause 20.1 and the Terms will be binding on all Holders.

20.2 Alteration of this Deed other than the Terms

- (a) At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer and the Trustee may, by a supplemental deed, alter this Deed (other than the Terms):
 - (i) if the Issuer and the Trustee are each of the opinion such alteration is:

- (A) of a formal or technical or minor nature;
 - (B) made to cure any ambiguity or correct any manifest error;
 - (C) necessary or expedient for the purpose of enabling the Notes to be:
 - (1) listed for quotation, or to retain quotation, on any stock exchange; or
 - (2) offered for subscription or for sale under the laws for the time being in force in any place,and that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole; or
 - (D) necessary to comply with:
 - (1) the provisions of any statute or the requirements of any statutory authority;
 - (2) the ASX Listing Rules or the listing or quotation requirements of any securities exchange on which the Issuer may propose to seek a listing or quotation of the Notes,and that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole;
- (ii) except as otherwise provided in paragraphs (iii) and (iv) below, if such alteration is authorised by a Holder Resolution;
 - (iii) in the case of an alteration to this clause 20 or any clause of this Deed (other than the Terms) providing for Holders to give a direction to the Trustee by a Special Resolution, if a Special Resolution is passed in favour of such alteration; or
 - (iv) in the case of an alteration to the Meeting Provisions and to which paragraph 20.2(i) of this clause does not apply, if a Special Resolution is passed in favour of such alteration.

20.3 Interpretation

In this clause 20, **alter** includes modify, cancel, amend, waive or add to, and **alteration** has a corresponding meaning.

21. Confidentiality

21.1 Financial Information

The Trustee has no duty or obligation to provide any Holder with any financial information relating to the Issuer.

21.2 Meaning

To the extent permitted by law, nothing under this Deed requires the Issuer to provide or disclose any information or other material that is not in the public domain.

22. Discharge and release

22.1 Discharge and release

By force of this clause 22, the Issuer will immediately be discharged and released from its liabilities, obligations and covenants under this Deed when:

- (a) the Redemption Amount for each Note has been paid in full;
- (b) the Issuer provides a certificate from a director or officer of the Issuer to the Trustee stating that the Redemption Amount has been paid in full or the Notes have otherwise been Redeemed or satisfied; and
- (c) all fees, costs, charges and expenses reasonably incurred by the Trustee and all other amounts which are payable or reimbursable by the Issuer have been paid.

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

22.2 Distribution

If this Deed is terminated under clause 22.1, the Trustee will distribute the balance of the capital and income (if any) of the Trust (including cash) at the direction of the Issuer.

23. Notices

23.1 Notices – Trustee or the Issuer

All notices and other communications by the Trustee to the Issuer, or by the Issuer or a Holder to the Trustee, under or in connection with this Deed must be in writing and may be sent by fax, email or prepaid post (airmail if appropriate) to, or left at, the address below:

- (a) **The Issuer**
Caltex Australia Limited
Level 24
2 Market Street

Sydney NSW 2000
Fax: +61 2 9250 5377

Email: ctreasury@caltex.com.au

Attention: The Treasurer

(b) **Trustee**

Australian Executor Trustees Limited
207 Kent Street
Sydney NSW 2000
Fax: +61 2 9028 5942
Email: corptrustnotes@aetlimited.com.au
Attention: Corporate Trust

23.2 Notices - Holders

All notices and other communications by the Issuer or the Trustee to a Holder, or by a Holder to the Issuer, under or in connection with this Deed must be given in accordance with clause 11 of the Terms.

23.3 When effective

Notices and other communications take effect from the time they are taken to be received unless a later time is specified in them.

23.4 Deemed receipt

Subject to clause 23.5, notices and other communications given under clause 23.1 will be conclusively taken to be received by the intended recipient:

- (a) If delivered personally or left at the intended recipient's address, when delivered;
- (b) If sent by post, three days after it is mailed in a prepaid envelope to the intended recipient's address;
- (c) If sent by fax or other electronic transmission (including e-mail), at the time shown in the transmission report of the sending machine which indicates that the fax or other electronic transmission was sent in its entirety to the fax number or other transmission address of the intended recipient without error; and
- (d) If published in a newspaper, on the first date that publication has been made in all the required newspapers or on the fourth Business Day after delivery to a Clearing System.

23.5 Deemed receipt - general

Despite clause 23.4, if notices or other communications are received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day.

23.6 Copies of notices

If this Deed requires a notice or other communication to be copied to another person, a failure to so deliver the copy will not invalidate the notice or other communication.

23.7 Notices of Meeting

The provisions of this clause 23 are to be read subject to the notice requirements set out in the Meeting Provisions.

23.8 Faxes and emails

Any notice given by the Trustee to the Issuer by fax must also be sent by email.

24. GST

All payments to be made by the Issuer under or in connection with this Deed have been calculated without regard to Indirect Tax.

- (a) If all or part of any such payment is the consideration for a taxable supply for the purposes of Indirect Tax then, when the Issuer makes the payment:
 - (i) it must pay to the Trustee an additional amount equal to that payment (or part) multiplied by the appropriate rate of Indirect Tax (currently 10%); and
 - (ii) the Trustee will promptly provide to the Issuer a tax invoice complying with the relevant law relating to that Indirect Tax.
- (b) Where under this Deed, the Issuer is required to reimburse or indemnify for an amount, the Issuer will pay the relevant amount (including any sum in respect of Indirect Tax) less any Indirect Tax input tax credit the payee determines that it is entitled to claim in respect of that amount. The Trustee must promptly notify the Issuer if it is entitled to any input tax credit for that Indirect Tax.

25. General

25.1 Payments of commission, brokerage etc

The Issuer or another member of the Caltex Group may pay a commission, procuration fee, brokerage or any other fees to any person for subscribing or underwriting the subscription of or subscription for the Notes.

25.2 No waiver

Except as provided in this Deed, no failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

25.3 Severability of provisions

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction is, as to that jurisdiction, ineffective to the extent of that prohibition or unenforceability. This does not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

25.4 Counterparts

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

25.5 No further issue of Notes

The Issuer undertakes to the Trustee that it will not issue Notes under this Deed other than those Notes contemplated by the Prospectus.

25.6 Governing law, jurisdiction and service of process

This Deed is governed by the laws of New South Wales. Each person taking the benefit of or bound by this Deed submits and accepts, for itself and in respect of its assets, to the non-exclusive jurisdiction of courts exercising jurisdiction there and waives any right it has to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.

Schedule 1

Terms of the Notes

1. Form of Notes

1.1 Constitution under Trust Deed

Notes are unsecured and subordinated debt obligations of Caltex constituted by, and owing under, the Trust Deed. Notes are unsecured notes for the purposes of section 283BH of the Corporations Act.

1.2 Form

Notes are issued in registered form by entry in the Register.

1.3 Face Value

Notes are issued fully paid with a Face Value of \$100.00.

1.4 Issue

Caltex may issue Notes at any time to any person at an issue price of \$100.00 for each Note. The issue price must be paid in full on application.

1.5 Currency

Notes are denominated in Australian dollars.

1.6 Clearing System

The rights of a person holding an interest in the Notes are subject to the rules and regulations of the Clearing System.

1.7 No certificates

No certificates will be issued to Holders unless Caltex determines that certificates should be available or are required by any applicable law.

1.8 ASX quotation

Caltex must use all reasonable endeavours and furnish any documents, information and undertakings as may be reasonably necessary in order to ensure that the Notes are, and until Redeemed remain, quoted on ASX.

1.9 No other rights

Notes confer no rights on a Holder:

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

2. Interest

2.1 Interest

- (a) Each Note bears interest on its Face Value from (and including) the Issue Date to (but excluding) the Maturity Date or any Redemption Date at the Interest Rate.
- (b) Subject to these Terms, interest in respect of a Note accrues daily and is payable in arrears on each Interest Payment Date to the person registered on the Record Date in respect of that Interest Payment Date as the Holder of the Note.

2.2 Interest Rate

- (a) The Interest Rate payable in respect of a Note must be determined by Caltex in accordance with these Terms.
- (b) The Interest Rate applicable to a Note for each Interest Period (expressed as a percentage per annum) is calculated according to the following formula:

$$\text{Interest Rate} = \text{Bank Bill Rate} + \text{Margin}$$

where:

Bank Bill Rate (expressed as a percentage per annum) means, for the relevant Interest Period, the average mid rate for Bills having a tenor of 3 months as displayed at approximately 10:10 am on the "BBSW" page of the Reuters Monitor System (or any page that replaces that page) on the first Business Day of the Interest Period. However, if the average mid rate is not displayed by 10:30 am on that day, or if it is displayed but Caltex determines that there is an obvious error in that rate, **Bank Bill Rate** means the rate determined by Caltex in good faith at approximately 10:30 am on that day having regard, to the extent possible, to the rates otherwise bid and offered for bank accepted Bills of that tenor at or around that time (including any displayed on the "BBSY" or "BBSW" page of the Reuters Monitor System (or any page that replaces that page)).

Margin (expressed as a percentage per annum) means in respect of the Interest Period:

- (i) for each Interest Period commencing on a date before the First Call Date, the Initial Margin; and
- (ii) for each Interest Period commencing on or after the First Call Date, the Step-up Margin.

2.3 Calculation of Interest Rate and interest payable

- (a) Caltex must, as soon as practicable after determining the Interest Rate in relation to each Interest Period, calculate the amount of interest payable for the Interest Period in respect of the Face Value of each Note, and must promptly notify the Trustee and ASX of such determination. The notice must also specify that payment of interest is subject to the deferral condition in clause 2.6 of these Terms. Caltex may amend its determination of the amount of interest payable for an

Interest Period in respect of the Face Value of each Note to give effect to the calculation in clause 2.3(b) without prior notice to the Holders, the Trustee or ASX, but must notify the Trustee and ASX after doing so.

- (b) The amount of interest payable on each Note for an Interest Period is calculated according to the following formula:

$$\text{Interest payable} = \frac{\text{Interest Rate} \times \$100 \times N}{365}$$

where:

N means, in respect of:

- (i) the first Interest Payment Date in respect of a Note, the number of days from, and including, the Issue Date to, but excluding, the first Interest Payment Date; and
 - (ii) each subsequent Interest Payment Date, the number of days from, and including, the preceding Interest Payment Date to, but excluding, that Interest Payment Date or, in the case of the last Interest Period, the Maturity Date or Redemption Date.
- (c) The Interest Rate determined by Caltex must be expressed as a percentage rate per annum.

2.4 Determination final

The determination by Caltex of all amounts, rates and dates required to be determined by it under these Terms is, in the absence of wilful default or manifest error, final and binding on Caltex, the Trustee, the Registry and each Holder.

2.5 Calculations

For the purposes of any calculations required under these Terms:

- (a) all percentages resulting from the calculation must be rounded, if necessary, to the nearest ten-thousandth of a percentage point (with 0.00005% being rounded up to 0.0001%);
- (b) all figures must be rounded to four decimal places (with 0.00005 being rounded up to 0.0001); and
- (c) all amounts that are due and payable must be rounded to the nearest one cent (with 0.5 of a cent being rounded up to one cent).

2.6 Deferral of Interest Payments

- (a) Caltex may determine in its sole discretion not to pay all or part of the Interest Payment payable on an Interest Payment Date. If Caltex so determines, the Interest Payment (or part thereof) will not be due and payable and will not be paid until the Payment Reference Date, and any Interest Payment (or part thereof) not paid on an Interest Payment Date will constitute a **Deferred Interest Payment**.
- (b) Interest will accrue on a daily basis on each Deferred Interest Payment:

- (i) at the same Interest Rate as applies to the Notes from time to time in accordance with clause 2.3 of these Terms; and
- (ii) from (and including) the date on which (but for such deferral) the Deferred Interest Payment would otherwise have been due to (but excluding) the date the Deferred Interest Payment is paid,

and such additional interest will be added to the Deferred Interest Payment (and thereafter accumulate additional interest accordingly) on each Interest Payment Date. Each Deferred Interest Payment and additional interest thereon will be payable in accordance with clause 2.8 of these Terms.

- (c) Caltex will notify the Holders and the Trustee of any resolution not to pay all or part of the Interest Payment falling due on an Interest Payment Date not less than 16 Business Days prior to the relevant Interest Payment Date. Deferral of Interest Payments pursuant to this clause will not constitute an Event of Default or a default of Caltex or a breach of its obligations under these Terms or the Trust Deed or for any other purpose.

2.7 Dividend and capital restrictions

If:

- (a) some or all of an Interest Payment is deferred under clause 2.6 of these Terms; and
- (b) the Interest Payment has not been paid in full within 20 Business Days after the relevant Interest Payment Date on which it would otherwise have been due,

Caltex will not (other than in respect of employee incentive plans):

- (c) declare or pay any dividend, interest or distribution, on any Equal Ranking Obligations, Junior Ranking Obligations or any Shares (other than a payment made pro rata on Notes and Equal Ranking Obligations in relation to that payment); or
- (d) redeem, reduce, cancel, purchase or buy-back any of its Equal Ranking Obligations, Junior Ranking Obligations or any Shares (other than a redemption, reduction, cancellation, purchase or buy-back of the Notes and Equal Ranking Obligations on a pro rata basis),

until the date on which all Deferred Interest Payments have been paid in full, unless Holders by Special Resolution have approved such action.

2.8 Payment of Deferred Interest Payments

- (a) Subject to paragraph (b), Caltex may elect at its discretion to pay any Deferred Interest Payment at any time.
- (b) A Deferred Interest Payment will become due and payable, and Caltex must pay that Deferred Interest Payment, on the Payment Reference Date, by giving at least six and no more than 15 Business Days' prior notice to the Holders and the Trustee.

3. Redemption and purchase

3.1 Redemption on Maturity Date

Each Note must be Redeemed by Caltex on the Maturity Date at its Redemption Amount unless:

- (a) the Note has been previously Redeemed; or
- (b) the Note has been purchased by or on behalf of Caltex and cancelled.

3.2 Early redemption at the option of Caltex

Caltex may redeem all the Notes on the First Call Date or on any Interest Payment Date after that date at their Redemption Amount, by giving at least 30 but no more than 60 calendar days' irrevocable notice of redemption to the Holders and the Trustee.

3.3 Early redemption by Caltex due to the occurrence of certain events

- (a) If a Change of Control Event, a Tax Event, a Capital Event or a Clean-up Event occurs, Caltex may redeem all the Notes before the Maturity Date at their Redemption Amount.
- (b) Caltex may only redeem the Notes under paragraph (a) if Caltex has given at least 10 Business Days' (and no more than 45 Business Days') notice of redemption to the Holders and the Trustee. The notice must set out reasonable details of the relevant event and the proposed Redemption Date.
- (c) If the Notes are to be redeemed under paragraph (a) because of a Tax Event:
 - (i) before Caltex gives the notice of redemption under sub-paragraph (b), Caltex must have obtained and delivered to the Trustee an opinion of an independent legal or tax adviser of recognised standing that the event or circumstance set out in paragraph (a)(i) or (a)(ii) of the definition of **Tax Event** in clause 13.3 of these Terms has occurred or is more likely than not to have occurred; and
 - (ii) the notice of redemption may not be given earlier than:
 - (A) 90 calendar days before the earliest day on which payment of interest on a Note is (or would more likely than not be) not allowed as a deduction as set out in paragraph (a)(i) of the definition of **Tax Event** in clause 13.3 of these Terms; or
 - (B) 45 calendar days before the earliest day on which Caltex would for the first time be (or would more likely than not be) obliged to pay an Additional Amount as set out in paragraph (a)(ii) of the definition of **Tax Event** in clause 13.3 of these Terms.

3.4 Early redemption by Holders following a Change of Control Event

- (a) If a Change of Control Event has occurred and remains current, Caltex will no later than 60 calendar days after the Change of Control Event arising notify the Holders and the Trustee accordingly (a **Change of Control Notice**). The Change of Control

Notice will contain a statement confirming whether or not Caltex intends to exercise its right to redeem all Notes and, if Caltex does not intend to exercise its right to redeem all Notes, of the Holder's entitlement to exercise their rights under clause 3.4(b) of these Terms. The Change of Control Notice will also specify, if relevant:

- (i) the material facts comprising the Change of Control Event (including the date on which the Change of Control Event occurred);
 - (ii) the Put Date; and
 - (iii) that a Put Notice, once validly given, is irrevocable.
- (b) If the Change of Control Notice specifies that Caltex does not intend to exercise its right to redeem all Notes, or Caltex does not give a Change of Control Notice as required by clause 3.4(a) of these Terms, a Holder may require Caltex to redeem or, at Caltex's option, purchase (or procure the purchase of), all Notes held by the Holder on the Put Date at their aggregate Redemption Amount, by giving at least 30 but no more than 60 calendar days' notice prior to the Put Date (a **Put Notice**).
- (c) The Put Notice must include:
- (i) the name and address of the Holder; and
 - (ii) confirmation that the Holder authorises the production of the Put Notice in any applicable administrative proceedings.
- (d) If, after a Holder exercises its rights under clause 3.4(b) of these Terms, Caltex chooses to exercise its right to redeem Notes pursuant to clause 3.2 or clause 3.3 of these Terms, all Notes will be redeemed in accordance with clause 3.2 or clause 3.3 of these Terms (as applicable) and not in accordance with clause 3.4(b) of these Terms. In such circumstances, all Put Notices will be disregarded.

3.5 Effect of notice of redemption

Any notice of redemption given under this clause 3 is irrevocable.

3.6 Purchase and cancellation

- (a) Caltex and any of its Related Bodies Corporate may at any time on or after the First Call Date purchase Notes in the open market or otherwise (including by tender offer) and at any price.
- (b) Notes purchased under this clause 3.6 may be held, resold or cancelled at the discretion of the purchaser (or, if the Notes are to be cancelled, Caltex), subject to compliance with any applicable law or requirement of ASX (or any securities exchange or other relevant authority on which the Notes are quoted).
- (c) All Notes which are purchased by or on behalf of Caltex and which Caltex elects to cancel, and all Notes which are redeemed, will promptly be cancelled and accordingly may not be held, reissued or resold.

3.7 Interest on unpaid Redemption Amount

When any Note becomes due for redemption and the Redemption Amount is not paid on the Redemption Date or the Maturity Date, then from the Redemption Date or Maturity

Date (as applicable) until the actual payment of the Redemption Amount, interest on the Redemption Amount will accrue on a daily basis at the Interest Rate determined from time to time in accordance with clause 2.2 of these Terms and such interest will be payable when the relevant Note is finally redeemed.

4. Ranking and subordination

4.1 Ranking

The Notes are direct, unsecured and subordinated debt obligations of Caltex and rank equally without preference or priority among themselves. The ranking of Notes is not affected by the date of registration of any Holder in the Register. The rights and claims of the Holders are subordinated as described in clause 4.2 of these Terms.

4.2 Subordination

The Holder Claims, including any claim in respect of Deferred Interest Payments, will, in an Event of Insolvency of Caltex, rank in such Event of Insolvency:

- (a) junior to the rights and claims of the holders of all Senior Obligations;
- (b) equally with each other and with the rights and claims of the holders of any Equal Ranking Obligations; and
- (c) senior to the rights and claims of holders of any Junior Ranking Obligations and any Shares,

and for the purposes of giving effect to this ranking, in any Event of Insolvency of Caltex the Holder Claims:

- (d) are subordinated and postponed and subject in right of payment to payment in full of the rights and claims of the holders of Senior Obligations; and
- (e) may only be proved as a debt which is subject to prior payment in full of the rights and claims of the holders of Senior Obligations.

4.3 Holder acknowledgments

Each Holder acknowledges and agrees that:

- (a) this clause 4 is a debt subordination for the purposes of section 563C of the Corporations Act;
- (b) the claims of holders of Senior Obligations to which it is subordinated include the entitlement of each holder of Senior Obligations to interest under section 563B of the Corporations Act and it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act;
- (c) the debt subordination effected by this clause 4 is not affected by any act or omission of Caltex or any holder of a Senior Obligation which might otherwise affect it at law or in equity;

- (d) to the maximum extent permitted by applicable law, it may not exercise or claim (nor will the Trustee exercise or claim on its behalf) any right of set off or counterclaim in respect of any amount owed by it to Caltex against any amount owed to it by Caltex in respect of Notes and it shall waive and be deemed to have waived such rights of set off or counterclaim; and
- (e) it may not exercise any voting rights as a creditor in any administration which follows an Event of Insolvency until after all holders of Senior Obligations have been paid in full or otherwise in a manner inconsistent with the subordination contemplated in this clause 4.

5. Events of Default

5.1 Events of Default

Each of the following is an Event of Default:

- (a) Caltex does not pay any Redemption Amount, Interest Payment or Deferred Interest Payment which is due and payable in respect of the Notes in full within 30 calendar days after it has become due and payable; or
- (b) an order is made (other than an order successfully appealed or permanently stayed within 60 calendar days) by a State or Federal Court in the Commonwealth of Australia or a resolution is passed by the shareholders of Caltex for the winding up of Caltex (other than for the purpose of a Solvent Reorganisation of Caltex),

except that each of the following do not constitute an Event of Default:

- (c) the non-payment by Caltex of any amount due and payable in respect of any Notes:
 - (i) in order to comply with any fiscal or other law or regulation or with the order of any court of competent jurisdiction, in each case applicable to such payment; or
 - (ii) in cases of doubt as to the validity or applicability of any such law, regulation or order, in accordance with advice given by an independent law firm acceptable to the Trustee as to such validity or applicability; and
- (d) for the avoidance of doubt, the deferral of any Interest Payment under clause 2.6 of these Terms.

5.2 Consequences of an Event of Default

If an Event of Default occurs and while it is subsisting, the Trustee may, and must if so directed by a Special Resolution of the Holders or so requested in writing by the Holders of at least 25% of the total Face Value of Notes then outstanding:

- (a) give notice to Caltex that the Redemption Amount applicable to each Note is due and payable (and that amount will immediately become due and payable when the notice is served or on such later date specified in the notice); and

- (b) subject to clause 4 of these Terms, institute proceedings for the winding up of Caltex or prove in the winding up of Caltex or claim in the liquidation of Caltex, for the amount payable under these Terms.

5.3 Enforcement by the Trustee

- (a) The Trustee may at any time, at its discretion and without further notice, institute such proceedings against Caltex as it may think fit to enforce any term or condition binding on Caltex under the Trust Deed or these Terms, except that (without prejudice to clause 5.2 of these Terms) the Trustee must not institute any proceedings or take any steps to enforce any payment obligation of Caltex under or arising from the Trust Deed or the Notes (other than as permitted under clause 5.5 of these Terms), including, without limitation, payment of any principal or interest in respect of the Notes, any Redemption Amount, Interest Payment or Additional Amount, and including damages awarded for the breach of any obligation, and in no event shall Caltex, by virtue of the institution of any such proceedings or steps, be obliged to pay any sum or sums in cash or otherwise, sooner than the same would otherwise have been payable by it under these Terms.

- (b) Notwithstanding paragraph (a), if:

- (i) an Event of Default described in paragraph (a) of clause 5.1 of these Terms has occurred and is subsisting; and
- (ii) the Trustee has instituted and completed proceedings for the winding up of Caltex in accordance with clause 5.2 of these Terms, and in those proceedings a court of competent jurisdiction has declined to wind up Caltex because Caltex is at that time solvent,

the Trustee may, and must if so directed by a Special Resolution of the Holders or so requested in writing by the Holders of at least 25% of the total Face Value of Notes then outstanding, institute any proceeding or take any step to enforce Caltex's obligation to pay any amounts which are then due any payable by it in respect of the Notes.

5.4 Trustee not bound to enforce

The Trustee shall not in any event be bound to take any action referred to in clause 5.2 of these Terms unless:

- (a) it shall have been so requested by, in aggregate, Holders holding between them at least 25% of the total Face Value of the Notes then outstanding or it shall have been so directed by a Special Resolution of the Holders; and
- (b) it shall have been indemnified as contemplated by clause 2.3 of the Trust Deed.

5.5 No other remedies against Caltex

Except as permitted by this clause 5, no remedy against Caltex shall be available to the Trustee or the Holders in respect of any breach by Caltex of any of its obligations under the

Trust Deed or these Terms, other than payment of the costs, charges, liabilities, expenses or remuneration of the Trustee.

5.6 Holders' right to enforce

No Holder shall be entitled to proceed directly against Caltex to enforce any right or remedy under or in respect of any Note unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure is continuing, in which case any such Holder may itself institute proceedings against Caltex for the relevant remedy to the same extent (but not further or otherwise) that the Trustee would have been entitled to do so.

6. Title and transfer of Notes

The provisions relating to title and transfer of the Notes are set out in clause 18 of the Trust Deed.

7. Payments

The provisions relating to payment in connection with the Notes are set out in clause 19 of the Trust Deed.

8. Taxation

8.1 No deductions

All payments in respect of the Notes must be made in full without any withholding or deduction in respect of Taxes, unless prohibited by law.

8.2 Withholding tax gross-up

Subject to clause 8.3 of these Terms, if a law requires Caltex to withhold or deduct an amount in respect of Taxes from a payment in respect of the Notes such that the Holder would not receive on the due date the full amount provided for under the Notes, then:

- (a) Caltex is authorised to deduct the amount for the Taxes (and any further withholding or deduction applicable to any further payment due under paragraph (b) below); and
- (b) if the amount deducted or withheld is in respect of Taxes imposed by a Relevant Tax Jurisdiction, Caltex agrees to pay such additional amount (the **Additional Amount**) as may be necessary in order that the net amount received by the Holder after the withholding or deduction (and any further withholding or deduction applicable to such Additional Amount) will equal the respective amount which would otherwise have been receivable in respect of the Notes in the absence of the withholding or deduction.

8.3 Exceptions to gross-up

No Additional Amounts are payable under clause 8.2(b) of these Terms in respect of any Note:

- (a) to, or to a third party on behalf of, a Holder who is liable to such Taxes in respect of such Note by reason of the person having some connection with a Relevant Tax Jurisdiction other than the mere holding of such Note;
- (b) to, or to a third party on behalf of, a Holder who could lawfully avoid (but has not so avoided) the deduction or withholding by complying, or procuring that third party complies, with any statutory requirements or by making, or procuring that third party makes, a declaration of non-residence or similar case for exemption to any tax authority;
- (c) to, or to a third party on behalf of, a Holder who is an Offshore Associate and not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act;
- (d) to, or to a third party on behalf of, an Australian resident Holder or a non-resident Holder carrying on business in Australia at or through a permanent establishment of the non-resident in Australia, if the Holder or that third party has not supplied an appropriate tax file number, an Australian business number or other exemption details;
- (e) to, or to a third party on behalf of, a Holder on account of amounts which the Australian Commissioner of Taxation requires Caltex to withhold under section 255 of the *Income Tax Assessment Act 1936* (Cth) or section 260-5 of Schedule 1 of the *Taxation Administration Act 1953* (Cth); or
- (f) if the Taxes have been imposed or levied as a result of the Holder being party to or participating in a scheme to avoid such Taxes, being a scheme which Caltex was neither a party to nor participated in.

9. Further issues

Subject to applicable law, there are no restrictions under these Terms or the Trust Deed on Caltex incurring any debt obligations, whether subordinated or not or ranking in priority ahead of, equal with or behind Notes (including any Notes that rank equally with Notes and are consolidated and form a single series with Notes) or upon such terms as to ranking, dividends or interest, conversion, redemption and otherwise as Caltex may determine at the time of issue.

10. Issuer substitution

The Trustee may, without the consent or approval of the Holders, agree with Caltex to the substitution in place of Caltex of any of its Subsidiaries (or of any previous substitute under this clause) as the issuer of the Notes and the principal debtor under these Terms and the Trust Deed, subject to:

- (a) Caltex being satisfied that the interests of the Holders will not be materially prejudiced by the substitution; and
- (b) compliance with the conditions set out in clause 12 of the Trust Deed.

11. Notices

11.1 Notices to Holders

- (a) Without limiting anything else in these Terms, a notice or communication may be given by Caltex or the Trustee to any Holder (or, in the case of joint Holders, to the Holder whose name appears first in the Register) in writing:
 - (i) to the Holder personally;
 - (ii) to the Holder by leaving it at the Holder's address as shown in the Register;
 - (iii) by sending it by prepaid post (by airmail, if posted to a place outside Australia) to the Holder's address as shown in the Register;
 - (iv) by sending it by email to the Holder's e-mail address shown in the Register;
 - (v) by sending it by fax to the Holder's fax number shown in the Register;
 - (vi) by Caltex posting, at the request of the Trustee, the notice on the Trustee's internet website or by the Trustee posting such notice on its internet website;
 - (vii) by publishing it in the Australian Financial Review, The Australian or any other newspaper of national circulation in Australia; or
 - (viii) by any other means that Caltex and the Trustee agree in writing and notify to the Holder.
- (b) If a notice or communication to a Holder is signed, the signature may be original or printed.
- (c) If a notice or communication is given by Caltex to Holders generally, a copy of that notice must also be given to ASX.

11.2 Notices to Caltex or the Trustee

A notice or communication given by a Holder to Caltex or the Trustee must:

- (a) be in writing;
- (b) be left at, or sent by prepaid post (airmail if appropriate) to the address below or last notified by Caltex or the Trustee (as applicable), or sent by fax or e-mail to the fax number or e-mail address below or last notified by Caltex or the Trustee (as applicable):

Caltex

Level 24, 2 Market Street

Sydney NSW 2000

Facsimile number: +61 2 9250 5377

E-mail address: ctreasury@caltex.com.au

Attention: The Treasurer

Trustee

Australian Executor Trustees Limited

207 Kent Street

Sydney NSW 2000

Facsimile number: +61 2 9028 5942

E-mail address: corptrustnotes@aetlimited.com.au

Attention: Corporate Trustee

- (c) if it is a notice or communication to Caltex and it is sent by fax, must also be sent by e-mail to the e-mail address above or last notified by Caltex.

11.3 When notices are considered to be received

- (a) Any notice or communication is taken to be given:
- (i) if delivered personally or left at the intended recipient's address, when delivered;
 - (ii) if sent by post, three days after it is mailed in a prepaid envelope to the intended recipient's address; and
 - (iii) if sent by facsimile or other electronic transmission (including e-mail), at the time shown in the transmission report of the sending machine which indicates that the fax or other electronic transmission was sent in its entirety to the fax number or other transmission address of the intended recipient without error; and
 - (iv) if published in a newspaper, on the first date that publication has been made in all the required newspapers or on the fourth Business Day after delivery to a Clearing System.
- (b) Despite paragraph (a), if notices or other communications are received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day.

11.4 Notice to transferor and transferee

Every person who, by operation of law, transfer or other means, becomes entitled to be registered as the holder of any Notes is bound by every notice which, prior to the person's name and address being entered in the Register, was properly given to the person from whom the person derived title to those Notes.

11.5 Service on deceased Holders

A notice or communication served in accordance with this clause 11 is (despite the fact that the Holder is dead and whether or not the sender has notice of the Holder's death) considered to have been properly served in respect of any Notes, whether held solely or jointly with other persons by the Holder, until some other person is registered in the Holder's place as the Holder or joint Holder. The service is sufficient service of the notice or document on the Holder's personal representative and any person jointly interested with the Holder in Notes.

11.6 Copy of notices to Trustee

Whenever Caltex issues any notice or communication under these Terms to Holders, Caltex must at the same time provide to the Trustee a copy of the notice or communication.

12. General provisions and governing law

12.1 Time limit for claims

A claim against Caltex for a payment under a Note is void unless made within ten years after the date on which payment first became due.

12.2 Amendments without consent

At any time, but subject to compliance with the Trust Deed, the Corporations Act and all other applicable laws, Caltex may without the consent of the Holders or (if the amendment would not alter the rights and obligations of the Trustee other than in respect of the claims of the Holders in respect of Notes) the Trustee, amend these Terms if Caltex is of the opinion that such amendment is:

- (a) of a formal or technical or minor nature;
- (b) made to cure any ambiguity or correct any manifest error;
- (c) necessary or expedient for the purpose of enabling the Notes to be:
 - (i) listed for quotation, or to retain quotation, on any stock exchange; or
 - (ii) offered for subscription or for sale under the laws for the time being in force in any place,and not materially prejudicial to the interests of Holders as a whole;
- (d) necessary to comply with:
 - (i) the provisions of any statute or the requirements of any statutory authority; or
 - (ii) the ASX Listing Rules or the listing or quotation requirements of any stock exchange on which Caltex may propose to seek a listing or quotation of the Notes,and not materially prejudicial to the interests of Holders as a whole; or

- (e) not, and is not likely to become, taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment, materially prejudicial to the interest of Holders as a whole,

provided that:

- (f) Notes following such amendment will have a level of equity credit ascribed to them by the Rating Agency which is equal to or higher than that which was ascribed to Notes immediately prior to such amendment; and
- (g) such amendment would not give rise to a Tax Event.

12.3 Amendments with consent

At any time, but subject to compliance with the Corporations Act and all other applicable laws, Caltex may with the approval of the Trustee amend these Terms:

- (a) except as otherwise provided in paragraphs (b) or (c) below, if such alteration is authorised by a Holder Resolution;
- (b) in the case of an alteration to this clause 12.3 or any clause of the Trust Deed providing for Holders to give a direction to the Trustee by a Special Resolution, if a Special Resolution is passed in favour of such alteration; and
- (c) otherwise in accordance with the Trust Deed.

12.4 Amendments binding

Any amendment to these Terms in accordance with this clause 12 is binding on all Holders.

12.5 No consent of holders of Senior Obligations

Nothing in these Terms requires the consent of the holder of any Senior Obligation or Equal Ranking Obligation to the amendment of any Terms made in accordance with this clause 12.

12.6 Non-resident Holders

- (a) Where Notes are held by, or on behalf of, a person resident outside the Commonwealth of Australia, then, despite anything else to the contrary contained in or implied by these Terms or the Trust Deed, it is a condition precedent to any right of the Holder to receive payment of any monies in respect 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 Holder and satisfied.
- (b) For the purposes of clause 12.6, 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 government agency.

12.7 Governing law

The Notes are governed by the law in force in New South Wales, Australia.

12.8 Jurisdiction

Caltex, the Trustee and the Holders irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them. Caltex, the Trustee and each Holder waives any right it has to object to an action being brought in those courts, to claim that such action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

13. Definitions and interpretation

13.1 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, annexure or schedule is a reference to a clause of, or annexure or schedule to, these Terms.
- (f) A reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes.
- (g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) A reference to **writing** includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (i) A reference to **conduct** includes an omission, statement or undertaking, whether or not in writing.
- (j) The meaning of terms is not limited by specific examples introduced by **including**, or **for example**, or similar expressions.
- (k) An Event of Default **subsists** until it has been remedied or waived in writing by the Trustee.
- (l) All references to time are to Sydney time.
- (m) Nothing in these Terms is to be interpreted against a party on the ground that the party put it forward.
- (n) A reference to **Australian dollars, dollar, \$ or cent** is a reference to the lawful currency of Australia. If a payment is required to be made under these Terms,

unless the contrary intention is expressed, the payment will be made in Australian dollars.

- (o) Any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally.
- (p) If an event under these Terms must occur on a stipulated day which is not a Business Day, then the event will be done on the next Business Day.
- (q) A reference to **equity credit** includes any similar nomenclature that is being used by the Rating Agency at the relevant time.
- (r) A reference to **amend** includes modify, cancel, alter, waive or add to and **amendment** has the corresponding meaning.

13.2 Document or agreement

A reference to:

- (a) an **agreement** includes an Encumbrance, Guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing; and
- (b) a **document** includes an agreement (as so defined) in writing or a certificate, notice, instrument or document.

A reference to a specific agreement or document includes it as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by these Terms.

13.3 Definitions

The following definitions apply unless the context requires otherwise.

Additional Amount means an additional amount payable by Caltex under clause 8.2 of these Terms.

ASX means ASX Limited (ABN 98 008 624 691) or the securities market operated by it, as the context requires.

ASX Listing Rules means the listing rules of ASX.

ASX Settlement means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX Settlement Operating Rules means the settlement rules made by ASX Settlement.

Australian Tax Act means the *Income Tax Assessment Act 1936* (Cth) and, where applicable, the *Income Tax Assessment Act 1997* (Cth).

Bill has the meaning it has in the *Bills of Exchange Act 1909* (Cth) and a reference to the acceptance of a Bill is to be interpreted in accordance with that Act.

Bookbuild means the process conducted by, or on behalf of, Caltex prior to the opening of the offer for the Notes whereby certain institutional investors and brokers who wish to obtain a firm allocation of the Notes (whether for themselves or their clients) lodge bids for the Notes.

Business Day has the meaning given to that term in the ASX Listing Rules.

Caltex means Caltex Australia Limited (ABN 40 004 201 307) or any Subsidiaries of Caltex which is substituted for Caltex Australia Limited (or any previous substitute) under clause 10 of these Terms.

Caltex Group means Caltex and its Subsidiaries at any time.

Capital Event means Caltex has been notified by the Rating Agency, or has become aware following a publication by the Rating Agency, of a change in its assessment criteria such that the Notes will no longer be eligible for the same or higher category of equity credit as was initially attributed to the Notes by the Rating Agency at the time of issue of the Notes.

Change of Control Event means a person and its associates (other than Chevron Corporation and any of its associates) have a relevant interest (other than a relevant interest pursuant to a conditional arrangement or agreement or understanding) in more than 50% of the voting shares of Caltex having had a relevant interest in less than 50% of the voting shares of Caltex. **Relevant interest, voting shares** and **associate** have the same meaning as in chapter 6 of the Corporations Act. However, a Change of Control Event will not have occurred if the event which would otherwise constitute a Change of Control Event occurs as part of a Solvent Reorganisation of Caltex.

Change of Control Notice means a notice by Caltex to the Holders and the Trustee if a Change of Control Event has occurred and remains current, in accordance with clause 3.4 of these Terms.

Clean-up Event means Caltex or any of its Related Bodies Corporate has, individually or in aggregate, purchased (and cancelled) or Redeemed Notes equal to or in excess of 80% of the aggregate Face Value of Notes issued on the Issue Date.

Clearing System means the Clearing House Electronic Sub-register System operated by ASX Settlement or any other applicable securities trading and/or clearance system.

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

Deferred Interest Payment has the meaning given in clause 2.6(a) of these Terms and will, where relevant, include any amount of additional interest accumulated in accordance with clause 2.6(b) of these Terms.

Encumbrance means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person.

Equal Ranking Obligations means any subordinated debt obligation of Caltex (other than Notes) which ranks or is expressed to rank equally with Caltex's obligations under the Notes.

Event of Default means the happening of any event set out in clause 5.1 of these Terms.

Event of Insolvency means a winding up, liquidation, provisional liquidation or the appointment of an administrator, a liquidator, provisional liquidator or other similar officer in respect of Caltex or any corporate action is taken by Caltex to appoint such a person.

Face Value means the nominal principal amount of each Note, being \$100.00.

First Call Date means 15 September 2017.

Government Agency means any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange.

Guarantee means any guarantee, indemnity, letter of credit, legally binding letter of comfort, suretyship or other assurance against loss.

Holder means, in respect of a Note, the person whose name is entered on the Register as the holder of that Note.

Holder Claims means the rights and claims of the Trustee (in respect of Notes) and of the Holders in respect of Notes.

Holder Resolution means:

- (a) a resolution passed at a meeting of Holders duly called and held under the Meeting Provisions:
 - (i) by more than 50% of the persons voting on a show of hands (unless subparagraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of more than 50% of the votes cast; or
- (b) if the meeting is by postal ballot or written resolution, then by Holders representing (in aggregate) more than 50% of the Face Value of all of the outstanding Notes.

Initial Margin means the margin expressed as a percentage per annum determined by, or on behalf of, Caltex on the basis of the bids made under the Bookbuild.

Interest Payment means the interest payable on a Note on the Interest Payment Date, as calculated in accordance with clause 2.3 of these Terms.

Interest Payment Date means, in respect of a Note, 15 December 2012 and each subsequent 15 March, 15 June, 15 September and 15 December in each year to, and including, the Maturity Date or any Redemption Date adjusted, if necessary, in accordance with the Modified Following Business Day Convention.

Interest Period means each period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next Interest Payment Date. However:

- (a) the first Interest Period commences on (and includes) the Issue Date; and
- (b) the final Interest Period ends on (but excludes) the Maturity Date or the Redemption Date.

Interest Rate means, for a Note, the interest rate (expressed as a percentage per annum) payable in respect of that Note calculated or determined in accordance with clause 2.2 of these Terms.

Issue Date means, in respect of a Note, the date on which that Note is issued.

Junior Ranking Obligations means any:

- (a) equity; or
- (b) subordinated debt obligation which has a level of equity credit assigned to it by a rating agency,

of Caltex (other than Notes) which ranks junior to Caltex's obligations under the Notes.

Maturity Date means 15 September 2037.

Meeting Provisions means the provisions for meetings of the Holders set out in schedule 2 of the Trust Deed.

Modified Following Business Day Convention means that the date is postponed to the first following day that is a Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Business Day.

Note means a debt obligation issued, or to be issued, by Caltex which is constituted by, and owing under, the Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register.

Offshore Associate means an associate (as defined in section 128F of the Australian Tax Act) of Caltex that is either:

- (a) a non-resident of Australia which does not acquire the Notes in carrying on a business at or through a permanent establishment in Australia; or
- (b) a resident of Australia that acquires the Notes in carrying on a business at or through a permanent establishment outside Australia.

Payment Reference Date means the date which is the earliest of:

- (a) the date on which any dividend, distribution or interest is paid on, or any redemption, purchase or buy-back is made of, or any capital return is made in relation to, any Equal Ranking Obligations, Junior Ranking Obligations or Shares (other than payments made pro rata on Notes and Equal Ranking Obligations in relation to that payment or in respect of employee incentive plans, or as otherwise approved by Holders by way of a Special Resolution);
- (b) the date which is the fifth anniversary of the Interest Payment Date on which any of the then outstanding Deferred Interest Payments was initially deferred;
- (c) the Maturity Date;
- (d) the date on which all Notes are otherwise Redeemed; and
- (e) the date on which the Trustee serves a notice of Event of Default which results from an order being made for the winding up of Caltex as described in clause 5.1(b) of these Terms.

Put Date means the Business Day which is, or immediately follows, 120 calendar days after the occurrence of the Change of Control Event.

Put Notice means a notice given by a Holder to Caltex requiring Caltex to Redeem or, at Caltex's option, purchase (or procure the purchase of), Notes held by the Holder on the Put Date at their Redemption Amount, in accordance with clause 3.4 of these Terms.

Rating Agency means Standard & Poor's (Australia) Pty Ltd (ABN 62 007 324 852) (or any of its Subsidiaries or any successor to its business from time to time).

Record Date means, in relation to any date on which Caltex is obliged to make an interest payment to a Holder in relation to a Note, the close of business in the place where the

Register is maintained on the eighth calendar day before the relevant interest payment date or, subject to compliance with the ASX Listing Rules, the close of business on such other date as Caltex determines in its absolute discretion and notifies to Holders by a market release to ASX by the time required by the ASX Listing Rules (or if no such time is required by the ASX Listing Rules, at least six Business Days before the specified record date). If the Record Date is changed because of a requirement of ASX, Caltex will give notice of the changed Record Date to all Holders by issuing a market release to ASX.

Redemption means the redemption of a Note in accordance with clause 3 of these Terms and the words **Redeem**, **Redeemable** and **Redeemed** bear their corresponding meanings.

Redemption Amount in respect of a Note means the sum of:

- (a) 100% of the Face Value;
- (b) all Deferred Interest Payments in respect of that Note that remain unpaid at the Redemption Date or Maturity Date; and
- (c) any accrued but unpaid interest for the Interest Period in which the Redemption Date or Maturity Date falls determined in accordance with clause 2.3 of these Terms calculated up to (but excluding) the Redemption Date or the Maturity Date as if that date were an Interest Payment Date,

except, in the case of a Redemption before the First Call Date for a Capital Event notified to Holders and the Trustee under clause 3.3 of these Terms, paragraph (a) of this definition will be 101% of the Face Value.

Redemption Date means, in respect of a Note, the date, other than the Maturity Date, on which the Note is Redeemed in whole.

Register means the register of Holders (established and maintained under clause 16 of the Trust Deed) and, where appropriate, the term **Register** includes:

- (a) a sub-register maintained by or for Caltex under the Corporations Act, the ASX Listing Rules or ASX Settlement Operating Rules; and
- (b) any branch register.

Registry means Computershare Investor Services Pty Limited (ABN 48 078 279 277) or any other person appointed by Caltex to maintain the Register and perform any payment and other duties in relation to the Notes.

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Tax Jurisdiction means:

- (a) the Commonwealth of Australia or any State or Territory of Australia; or
- (b) in the event of any substitution or corporate action resulting in Caltex being incorporated in any other jurisdiction, that other jurisdiction or any political subdivision or any authority of that jurisdiction having power to tax.

Senior Obligations means all obligations of Caltex (including any subordinated debt obligation ranking senior to the Notes) except for Notes, the Equal Ranking Obligations and the Junior Ranking Obligations.

Share means an ordinary share or preference share in the capital of Caltex.

Solvent Reorganisation means, with respect to Caltex, solvent winding up, deregistration, dissolution, scheme of arrangement or other reorganisation of Caltex solely for the purposes of a consolidation, amalgamation, merger or reconstruction, the terms of which:

- (a) have been approved by the holders of the ordinary shares of Caltex or by a court of competent jurisdiction under which the continuing or resulting corporation effectively assumes the obligations of Caltex under these Terms and the Trust Deed; and
- (b) do not have a material adverse effect on the ability of Caltex (or the corporation which has assumed the obligations of Caltex under these Terms and the Trust Deed) to perform its payment obligations under these Terms.

Special Resolution means:

- (a) a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:
 - (i) by at least 75% of the persons voting on a show of hands (unless subparagraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- (b) a resolution passed by postal ballot or written resolution by Holders representing (in aggregate) at least 75% of the Face Value of all of the outstanding Notes.

Step-up Margin means the margin which is the Initial Margin plus 0.25% per annum.

Subsidiary has the meaning given in the Corporations Act, but as if **body corporate** includes any entity. It also includes an entity whose profit or loss is required by current accounting practice to be included in the consolidated annual profit and loss statements of that entity or would be required if that entity were a corporation.

Tax means any tax, levy, impost, charge or duty (including stamp and transaction duties) imposed by any Government Agency and any related interest, penalty, fine or expense in connection with it, except if imposed on, or calculated having regard to, the net income of the Holder.

Tax Event means:

- (a) as a result of any change in, or amendment to, applicable laws, or any change in their application or official or judicial interpretation, which change becomes effective after the Issue Date:
 - (i) payment of interest on a Note is not or will not be allowed as a deduction for the purposes of Caltex's income tax in the Relevant Tax Jurisdiction; or
 - (ii) Caltex has or will become required to pay, in respect of an amount (the **Relevant Amount**), an Additional Amount that is at least 30% (or other percentage which is the corporate tax rate then prevailing in the Relevant Tax Jurisdiction) of the Relevant Amount; and

- (b) the non-deductibility of interest on the Notes referred to in sub-paragraph (a)(i) or the payment of the Additional Amount referred to in sub-paragraph (a)(ii) cannot be avoided by Caltex taking reasonable measures available to it.

Terms means, in relation to a Note, the terms of issue of that Note as set out in schedule 1 of the Trust Deed.

Trust Deed means the trust deed dated on or about 30 July 2012 between Caltex and the Trustee, as amended from time to time.

Trustee means Australian Executor Trustees Limited (ABN 83 007 869 794) or any replacement Trustee appointed in accordance with the Trust Deed.

Schedule 2

Provisions for Meetings of Holders

1. Definitions

- (a) The following words have these meanings in this schedule unless the contrary intention appears.

meeting is deemed to include:

- (i) if there is only one Holder, the attendance of that person or its proxy (as defined in paragraph 4(a)) on the day and at the place and time specified in accordance with this schedule;
- (ii) the presence of persons physically, by conference telephone call or by video conference; and
- (iii) (other than in paragraphs 2, 3, 6(b) and 6(d)) any adjourned meeting.

Relevant Date means the date stated in the copies of a resolution to be made in writing sent for that purpose to Holders, which must be no later than the date on which such resolution is first notified to Holders in the manner provided in the Terms.

- (b) A reference to a paragraph is a reference to a paragraph in this schedule.
- (c) The time and date for determining the identity of a Holder who may be counted for the purposes of determining a quorum or attend, speak and vote at a meeting (including any adjourned meeting) or sign a resolution made in writing is at the close of business in the place where the Register is kept 7 days prior to the date of the meeting or, for a resolution made in writing, the Relevant Date.
- (d) References to persons representing a proportion of Notes are to Holders or their proxies holding or representing in aggregate at least that proportion Face Value of the relevant Notes for the time being outstanding.
- (e) In determining whether the provisions relating to quorum, meeting and voting procedures are complied with, any Notes held in the name of the Issuer or any of its Subsidiaries shall be disregarded.

2. Convening

2.1 Ability to call meetings

Each of the Issuer and the Trustee may, at any time, call a meeting of Holders.

2.2 The Issuer's duty to call meetings

- (a) The Issuer must call (or must procure the Registry on its behalf to call) a meeting of Holders if:

- (i) Holders who together hold at least 10% of the Face Value of the Notes outstanding request the Issuer to do so;
 - (ii) the direction is given to the Issuer in writing at its registered office; and
 - (iii) the purpose of the meeting is to give the Trustee directions in relation to the exercise of any of its powers.
- (b) The Issuer must also (or must procure the Registry on its behalf to) call a meeting of Holders if it is otherwise required to do so by law (including under Part 2L.5 of the Corporations Act).

2.3 Trustee's duty to call meeting

Notwithstanding any other provision of this Deed, the Trustee may call a meeting of Holders if permitted to do so under the Corporations Act (including under Part 2L.5 of the Corporations Act).

2.4 Meeting in more than one place

A meeting of Holders may, if the Trustee so determines, be held at two or more meeting venues linked together by audio-visual communication equipment which, by itself or in conjunction with other arrangements:

- (a) gives the Holders in the separate venues a reasonable opportunity to participate in the proceedings;
- (b) enables the chairman to be aware of proceedings in each such venue; and
- (c) enables the Holders in each such venue to vote on a show of hands and on a poll.

A Holder at one of the separate meeting venues is taken to be present at the meeting of the Holders and is entitled to exercise all rights which a Holder has under the this deed and this schedule in relation to a meeting of Holders. Where a meeting of Holders is held at two or more meeting venues pursuant to this clause that meeting will be regarded as having been held at the venue determined by the chairman of the meeting.

3. Notice

3.1 Method of calling a meeting

The Issuer or the Trustee may call a meeting of Holders by notice given:

- (a) to the other in accordance with this Deed at least 21 days before the date of the meeting exclusive of the day on which the notice is served or deemed to be served and of the day on which it is given; and
- (b) to each Holder at least 21 days before the date of the meeting exclusive of the day on which the notice is served or deemed to be served and of the day on which it is given,

in each case in accordance with clause 23 of this Deed or clause 11 of the Terms (as appropriate), provided that notwithstanding clause 23 of this Deed:

- (c) if the notice is posted to a Holder, the Holder is taken to have received it 3 days after it is posted; or
- (d) if the notice is sent by fax or other electronic transmission (including e-mail) the Holder is taken to have received it on the Business Day after it is sent (and it is agreed that it shall be taken to have been sent at the time shown in the transmission report of the sending machine which indicates that the fax or other electronic transmission was sent in its entirety to the fax number or other transmission address of the intended recipient without error).

3.2 Notice contents

A notice under clause 3.1 of this schedule must:

- (a) state the date, commencement time and place of the meeting;
- (b) describe the general nature of the business to be considered (but, save for a Special Resolution, it is not necessary to specify in the notice the precise terms of the resolutions to be proposed); and
- (c) provide that Holders may attend personally or through a proxy appointed and notified to the Trustee in accordance with clause 4 of this schedule.

3.3 Notice to the Issuer's auditor

If the Issuer is required to call a meeting in accordance with clause 2.2 of this schedule then it must also give prior notice of the meeting to the Issuer's auditor.

3.4 Corporations Act

The Issuer must comply with the requirements of the Corporations Act when calling meetings.

3.5 Failure to notify Holder need not invalidate a meeting

Any:

- (a) accidental omission to give notice to, or the non-receipt of notice by, any person other than the Issuer or the Trustee; or
- (b) any change in the identity of the Holders from that recorded on the Note Register on the Business Day before the notice of meeting is given,

will not invalidate a meeting nor any resolution passed at that meeting.

3.6 Consequences of failure to notify the Issuer or the Trustee

An omission to give notice to, or the non-receipt of notice by, the Trustee or the Issuer under clause 3.1(a) of this schedule, within the period specified in that clause, invalidates a meeting unless:

- (a) the Trustee or the Issuer (as the case may be) has refused to accept delivery of that notice; or
- (b) the Trustee or the Issuer (as the case may be), by notice to the other, has waived its right to compliance with clause 3.1(a).

4. Proxies

- (a) A Holder may by a notice in writing in the form for the time being available from the specified officer of the Registry (*form of proxy*) signed by:
- (i) if the Holder is not a corporation, the Holder; or
 - (ii) if the Holder is a corporation, executed in accordance with section 127(1) or (2) of the Corporations Act or signed on its behalf by its duly appointed attorney or a person authorised under section 250D of the Corporations Act to act as the corporation's representative at the meeting,
- appoint any person (a *proxy*) to attend and act (including to speak and vote) on that Holder's behalf in connection with any meeting or proposed meeting of the Holders.
- (b) A form of proxy must be lodged as detailed in the notice calling the meeting and in the absence of such detail, must be lodged with the Trustee or (with the approval of the Trustee) the Issuer at the place or places identified in the notice convening the meeting at least 48 hours before the meeting, adjourned meeting or taking of a poll at which it is to be relied upon (or such shorter time as agreed between the Issuer and the Trustee at their discretion).
- (c) Action taken at a meeting, adjourned meeting or on the taking of a poll by a proxy appointed in accordance with this clause 4 is valid despite:
- (i) any death, unsoundness of mind or dissolution of the Holder;
 - (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 Issuer or the Trustee has received notice of this at its registered office before the meeting or adjourned meeting commences.
- (d) A proxy has the right to demand or join in demanding a poll and (except and to the extent to which the proxy is specially directed to vote for or against any proposal) has power generally to act at a meeting for the Holder concerned.
- (e) Unless the form of proxy specifies an earlier expiry time, a forms of proxy will be valid for so long as the relevant Notes are duly registered in the name of the appointor but not otherwise. Despite any other provision of this schedule and during the validity of a form of proxy, the proxy is, for all purposes in connection with any meeting of Holders, deemed to be the Holder of the Notes to which that form of proxy relates.
- (f) An objection may only be raised to the entitlement of a person to attend or vote at a meeting of Holders at the meeting in question (or adjournment of it). Any such objection is to be considered by the chairperson of the meeting whose decision will be final and conclusive. The chairperson may consult with any representative of the Issuer and the Trustee present at the meeting.
- (g) A person appointed as proxy in any form of proxy:

- (i) need not be a Holder; and
- (ii) may be the Trustee or any officer of the Trustee; and
- (iii) may be an officer, employee, representative of, or otherwise connected with, the Issuer.

5. Chairman

- (a) Subject to paragraph (b) below, a person (who may, but need not, be a Holder) nominated in writing by the Issuer must take the chair at every such meeting but if no such nomination is made or if at any meeting the person nominated is not present within 15 minutes after the time appointed for the holding of such meeting or is unable or unwilling to chair the meeting the person or persons present in person holding Notes or being proxies must choose one of their number to be chairman. The chairman of an adjourned meeting need not be the same person as was the chairman of the meeting from which the adjournment took place.
- (b) In the event of a meeting called by the Trustee in connection with the occurrence of an Event of Default which is subsisting, a person (who may, but need not, be a Holder) nominated in writing by the Trustee must take the chair at every such meeting (including subsequent meetings relating to the same Event of Default which is subsisting) but if no such nomination is made or if at any meeting the person nominated is not present within 15 minutes after the time appointed for the holding of such meeting or is unable or unwilling to chair the meeting the person or persons present in person holding Notes or being proxies must choose one of their number to be chairman. The chairman of an adjourned meeting need not be the same person as was the chairman of the meeting from which the adjournment took place.

6. Quorum and Adjournment

- (a) At any such meeting any one or more persons present in person holding Notes or being proxies may form a quorum if they represent at least 10% of the aggregate Face Value of all Notes then outstanding when the meeting proceeds to business.
- (b) No business (other than the choosing of a chairman) may be transacted at any meeting unless the requisite quorum is present at the commencement of business.
- (c) If within 15 minutes from the time appointed for any such meeting a quorum is not present the meeting will, if convened on the requisition of Holders, be dissolved. In any other case it will stand adjourned for such period, not being less than 14 days nor more than 42 days and to such time and place, as the chairman appoints.
- (d) The chairman may with the consent of (and must if directed by) any meeting adjourn the meeting from time to time and from place to place but no business may be transacted at any adjourned meeting except business which might validly have been transacted at the meeting from which the adjournment took place.

- (e) If within 15 minutes from the time appointed for any adjourned meeting a quorum is not present for the transaction of any particular business then, subject and without prejudice to the transaction of the business (if any) for which a quorum is present, the chairman may dissolve such meeting.
- (f) Unless otherwise agreed in writing by each Holder, at least 10 days' notice (exclusive of the day on which the notice is given and of the day on which the adjourned meeting is to be held) of any meeting adjourned because of lack of a quorum must be given in the same manner as the notice of the original meeting and such notice must state the quorum required at such adjourned meeting. Otherwise, it is not necessary to give any further information.

7. Right to Attend and Speak

The Issuer, the Registry, the Trustee and the Holders (including through their representatives and proxies) and their respective financial and legal advisers are entitled to attend and speak at any meeting of Holders. Otherwise, no person may, except for the chairman, attend or speak at any meeting of Holders or join with others in requesting the convening of such a meeting.

8. Voting

- (a) Every question submitted to a meeting will be decided in the first instance by a show of hands and in the case of equality of votes the chairman has, both on a show of hands and on a poll, a casting vote in addition to the vote or votes (if any) to which the chairman may be entitled as a Holder or as a proxy.
- (b) At any meeting, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman or the Issuer or by one or more persons holding one or more of the Notes or being proxies and holding or representing in the aggregate not less than 5% of the Face Value of all outstanding Notes, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- (c) If at any meeting a poll is so demanded, it must be taken in such manner and (subject to sub-paragraph (d) below) either at once or after such an adjournment as the chairman directs. The result of such poll is deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- (d) Any poll demanded at any meeting on the election of a chairman or on any question of adjournment must be taken at the meeting without adjournment.

- (e) Each form of proxy, together with proof satisfactory to the Issuer of its due execution, must be deposited at the office in Australia of the Registry (or such other place nominated by the Issuer and approved by the Trustee) specified in the form of proxy (or such other place as the Registry shall approve) not less than 24 hours (or such lesser period as the Registry shall approve) before the time appointed for holding the meeting or adjourned meeting at which the proxy named in the form of proxy proposes to vote, failing which the form of proxy may not be treated as valid unless the chairman of the meeting decides otherwise before the meeting or adjourned meeting proceeds to business. A certified copy of each form of proxy and satisfactory proof of due execution must, if required by the Issuer, be produced by the proxy at the meeting or adjourned meeting but the Issuer is not obliged to investigate or be concerned with the validity of, or the authority of the proxy named in, any form of proxy.
- (f) Any vote given in accordance with the terms of a form of proxy will be valid despite the previous revocation or amendment of the form of proxy or any instructions or authority of the Holder under which it was executed, unless notice in writing of such revocation or amendment has been received from the Holder who has executed such form of proxy at the specified office of the Registry not less than 24 hours before the commencement of the meeting or adjourned meeting at which the form of proxy is used.
- (g) A Holder or, in the case of a Note registered as being held jointly, the person whose name first appears on the Register as one of the holders of the Note, is entitled to vote in respect of the Note either in person or by proxy or by representative.
- (h) Subject to paragraph 7 and sub-paragraphs (a) and (g) above, at any meeting:
 - (i) on a show of hands every person who is present and holds a Note or is a proxy has one vote; and
 - (ii) on a poll every person who is present and holds a Note or is a proxy has one vote in respect of each Note which that person holds or in respect of which that person is a proxy.
- (i) Without affecting the obligations of the proxies named in any form of proxy, any person entitled to more than one vote need not use all votes or cast all the votes to which that person is entitled in the same way.

9. Passing resolutions in writing

- (a) A resolution is passed:
 - (i) if it is a Holder Resolution, where within one month from the Relevant Date, Holders representing more than 50% of the aggregate Face Value of all relevant Notes as at the Relevant Date have signed the resolution; or
 - (ii) if it is a Special Resolution, where within one month from the Relevant Date stated in the copies of the resolution sent for that purpose to Holders

representing at least 75% of the aggregate Face Value of all relevant Notes as at the Relevant Date have signed the resolution,

and any such resolution is deemed to have been passed on the date on which the last Holder whose signature on the resolution caused it to be so passed signed it (as evidenced on its face).

- (b) The accidental omission to give a copy of the resolution to, or the non-receipt of such a copy by, any Holder does not invalidate a resolution in writing made pursuant to sub-paragraph (a).
- (c) A resolution in writing signed by Holders may be contained in one document or in several documents in like form each signed by one or more Holders.

10. Special Resolutions

The Holders have, in respect of the Notes and subject to the provisions contained in the Terms, in addition to the powers set out above, but without affecting any powers conferred on other persons, the following powers exercisable only by Special Resolution subject to the provisions relating to quorum in paragraph 6 of this schedule:

- (a) to 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) to authorise any person to do all such acts and things as may be necessary to carry out and give effect to a Special Resolution;
- (c) to require the resignation or removal of the Trustee in accordance with clause 11.2 of the Deed;
- (d) to give any direction to the Trustee under clause 2.3 or 5.4(b) of the Deed or under any provision of the Terms which refers to the provision of a direction by Special Resolution;
- (e) to approve the alteration of the Deed under clauses 20.2(a)(iii) or 20.2(a)(iv) of the Deed or approve any alteration of the Terms in accordance with clause 12.3(b) or (c) of the Terms;
- (f) without limiting the right of the Issuer under clause 12 of the Terms, to sanction the substitution of any Subsidiary of the Issuer in place of the Issuer (or any previous substitute effected in accordance with this Deed);
- (g) to modify or waive this paragraph 10, or any provision requiring any approval to be given by Special Resolution or the definitions of Holder Resolution or Special Resolution;
- (h) to appoint any persons (whether Holders or not) as a committee or committees to represent the interests of the Holders and to confer upon such committee or committees any powers or discretions which the Holders could themselves exercise by Special Resolution;
- (i) to approve any amendment to the definition of Maturity Date or any date of redemption of the Notes or any date on which a payment of principal or interest is

due on the Notes or to approve any moratorium, suspension or scheme of arrangement with respect to payments under the Notes;

- (j) to approve any reduction or cancellation of an amount payable or, where applicable, modification of the method of calculating the amount payable or modification of date of payment in respect of the Notes (other than where such reduction, cancellation or modification is provided for in the Terms or where such modification is bound to result in an increase in the amount payable);
- (k) to approve the alteration of the currency in which payments in respect of the Notes are made;
- (l) to modify the provisions contained in paragraph 6 of this schedule concerning the quorum required at any meeting of Holders in respect of Notes or any adjournment thereof or to approve the alteration of the majority required to pass a Special Resolution; and
- (m) to discharge or exonerate the Registry from any liability in respect of any act or omissions for which the Registry may have become responsible under these presents or under the Notes.

11. Holder Resolutions

The Holders have the power exercisable by Holder Resolution to do anything for which a Special Resolution is not required.

12. Effect and notice of resolutions

- (a) A resolution passed at a meeting of Holders duly convened and held (or passed by those Holders in writing) in accordance with this schedule is binding on all such Holders, whether present or not present at the meeting (or signing or not signing the written resolution), and each such Holder is bound to give effect to it accordingly. The passing of any such resolution is conclusive evidence that the circumstances of such resolution justify its passing.
- (b) The Issuer must give notice to the Holders of the result of the voting on a resolution within 10 Business Days of such result being known but failure to do so will not invalidate the resolution. Such notice to Holders must be given in the manner provided in the Terms.

13. Minutes to be Kept

Minutes of all resolutions and proceedings at every meeting (or resolutions otherwise passed in accordance with this schedule) must be made and duly entered in books to be, from time to time, provided for that purpose by the Issuer and any such minutes, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings transacted or by the chairman of the next succeeding meeting of Holders (or, where the resolution is passed otherwise than at a meeting, if purporting to be

signed by a director or secretary of the Issuer), are conclusive evidence of the matters contained in them. And until the contrary is proved, every such minute in respect of the proceedings of which minutes have been made and signed in that manner is deemed to have been duly convened and held, and all resolutions passed or proceedings transacted at that meeting are deemed to have been duly passed and transacted (or, where the resolution is passed otherwise than at a meeting, such resolution is deemed to have been duly passed).

14. Further procedures

- (a) Subject to compliance with law, the Issuer may prescribe such further regulations for the holding of, attendance and voting at meetings as are necessary or desirable, provided any such regulations:
 - (i) are not inconsistent with any of the provisions in these Meeting Provisions;
and
 - (ii) do not (in the opinion of the Issuer (acting reasonably)) adversely affect the interest of the Holders.
- (b) Following an Event of Default which is subsisting the Trustee may prescribe such further regulations for the holding of, attendance and voting at meetings as are necessary or desirable and do not adversely affect the interest of the Holders or the Issuer.

Caltex Subordinated Notes
Trust Deed

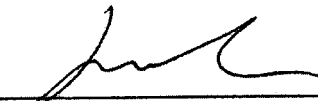
Allens & Linklaters

Executed and delivered as a Deed in Sydney.

CALTEX AUSTRALIA LIMITED

The common seal of **Caltex Australia Limited** was affixed in accordance with its Constitution:






Director Signature

Julian Secor

Print Name



Director/Secretary Signature

PETER LIM

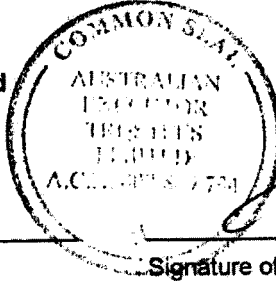
Print Name


Caltex Subordinated Notes
Trust Deed

Allens < Linklaters

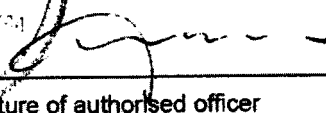
THE TRUSTEE

Signed, sealed and delivered by
Australian Executor Trustees Limited
(ACN 007 869 794):





Signature of authorised officer
John Walter Joseph




Signature of authorised officer
Glenn White

Print Name

Authorized officer
Title

Print Name

Authorized officer
Title



Signature of witness

Print Name