

NOTICE OF ANNUAL GENERAL MEETING

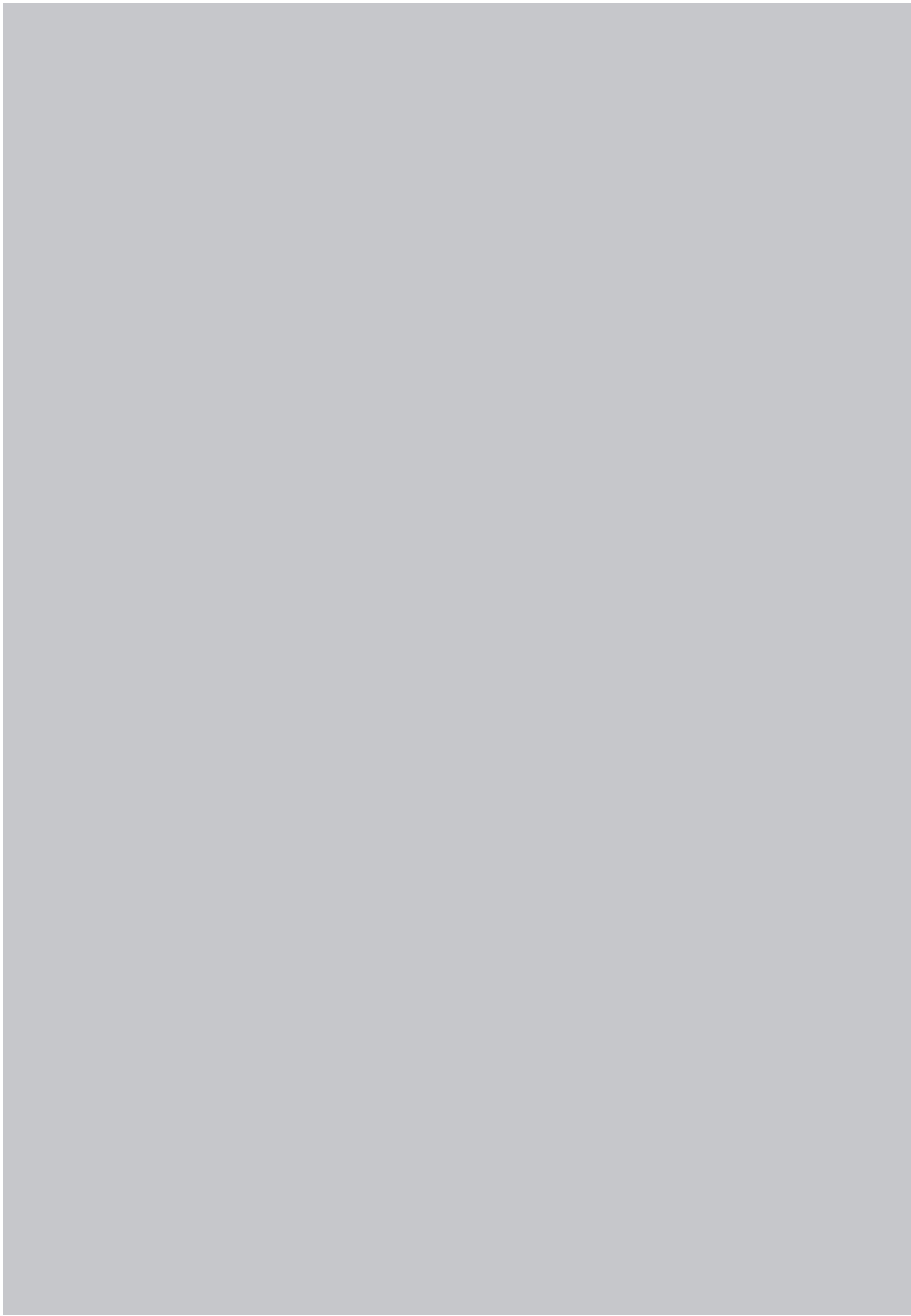
Friday 14 December 2012
at 10.00am

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Avexa Limited ABN 53 108 150 750



NOTICE OF ANNUAL GENERAL MEETING

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Notice is given that the Annual General Meeting (AGM) of Avexa Limited (**Avexa** or **Company**) will be held at the offices of KPMG, 147 Collins Street, Melbourne, Victoria on Friday, 14 December 2012 at 10.00am.

The Explanatory Memorandum which accompanies, and forms part of, this Notice of Meeting more fully describes the matters to be considered at the Annual General Meeting.

Ordinary Business

1. Financial Statements and Reports

To receive and consider the Financial Report, the Directors' Report and the Auditor's Report of Avexa for the financial year ended 30 June 2012.

2. Adoption of Remuneration Report

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

That the Remuneration Report forming part of the Directors' Report for the financial year ended 30 June 2012 be adopted.

Note: The vote on this resolution is advisory only and does not bind the Company or its Directors. The Directors will consider the outcome of the vote and comments made by Shareholders on the Remuneration Report at the meeting when reviewing Avexa's remuneration policies.

Voting Exclusion

The Company will not accept any votes cast on the resolution at Item 2 by or on behalf of a person who is disclosed in the Remuneration Report as one of the key management personnel of the Company (including the Directors), or a closely related party of that person (as these persons are not entitled to vote on the resolution in their own capacity) unless the vote is cast:

- (a) as a proxy for a person who is entitled to vote, in accordance with a direction on the accompanying proxy form; or
- (b) by the Chairman of the Meeting as a proxy for a person entitled to vote in accordance with an express authority to vote undirected proxies as the Chairman sees fit.

3. Re-election of Director (Mr Bruce Hewett)

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

That Mr Bruce Hewett, a Director retiring in accordance with rule 8.2 of the Company's constitution, be re-elected as a Non-Executive Director of the Company.

4. Election of Director (Dr Duncan Worthington)

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

That Dr Duncan Worthington be elected as a Non-Executive Director of the Company.

Note: The Board does not support the election of Dr Duncan Worthington.

Special Business

5. Investment in Alabama Coal Project

To consider and, if thought fit, to pass the following resolution as an **ordinary resolution**:

That, for the purposes of Listing Rule 11.1.2 and for all other purposes, approval is given for the Company to acquire a 25.5 per cent interest in the Alabama Coal Project as detailed in the Explanatory Memorandum accompanying this Notice of Meeting.

Short Explanation: The Listing Rules require the Company to seek Shareholder approval where it proposes to enter into a significant transaction affecting the nature or scale of its current activities. Please refer to the Explanatory Memorandum for details.

Voting Exclusion

The Company will disregard any votes cast on this resolution by any person who might obtain a benefit (except a benefit solely in the capacity of a security holder) if the resolution is passed, and any Associate of those persons.

By order of the Board



Lee Mitchell
Company Secretary

Dated 12 November 2012

NOTES REGARDING PROXIES AND VOTING

Voting Entitlement

The Board has determined, in accordance with regulation 7.11.37 of the Corporations Regulations, that for the purpose of voting at the AGM, the Shares held by each Shareholder will be as they appear on the Company's share register at **7.00pm (Sydney time) on Wednesday, 12 December 2012**. This means that if you are not the registered holder of a share at that time you will not be entitled to vote in respect of that share.

Voting by Proxy

IMPORTANT: The Chairman intends to vote all available undirected proxies in favour of each item of business other than the resolution at Item 4. The Chairman intends to vote all available undirected proxies against the resolution at Item 4.

Each Shareholder who is entitled to attend and vote at the AGM is entitled to appoint a proxy to attend and vote on behalf of that Shareholder. The proxy may be an individual or a body corporate. A proxy need not be a Shareholder.

A Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes that each proxy is appointed to exercise. If a Shareholder appoints two proxies and the appointment does not specify the proportion, or number, of the Shareholder's votes each proxy may exercise, each proxy may exercise half the votes (disregarding fractions). If a Shareholder appoints two proxies, neither proxy may vote on a show of hands.

A proxy appointment form is enclosed with this Notice of AGM. For the appointment of a proxy to be valid, the proxy form and the power of attorney or other authority (if any) under which it is signed must be received either at Avexa's registered office or at the Company's share registry, Computershare Investor Services Pty Limited, **no later than 24 hours prior to the AGM:**

By facsimile: 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia)

By mail: Computershare Investor Services Pty Ltd, GPO Box 242, Melbourne Victoria 3001

By delivery: Computershare Investor Services Pty Ltd, 452 Johnston Street, Abbotsford Victoria 3067

Your proxy appointment form is enclosed.

Undirected Proxies

If you appoint the Chairman of the meeting as your proxy and do not direct the Chairman of the meeting how to vote on Item 2 (Adoption of Remuneration Report) (which you may do by marking any one of 'For', 'Against' or 'Abstain' on the proxy form for those items of business), you will be expressly authorising the Chairman of the meeting to exercise your proxy even if those Items are directly or indirectly connected with the remuneration of a member of the KMP for Avexa.

Bodies Corporate

A Shareholder which is a body corporate and entitled to attend and vote at the AGM, or a proxy which is a body corporate and is appointed by a Shareholder entitled to attend and vote at the AGM, may appoint an individual to act as its representative at the AGM.

If a representative of a corporate Shareholder or a corporate proxy is to attend the AGM, a certificate of appointment of the representative must be produced prior to admission to the AGM. A form of certificate of appointment can be obtained from the Company's share registry, Computershare Investor Services Pty Limited.

Purpose of Information

The purpose of this Explanatory Memorandum (which accompanies, and forms part of, the Notice of AGM), is to provide Shareholders with an explanation of the business of the AGM and of the resolutions to be proposed and considered at the AGM at 10.00am on Friday, 14 December 2012 and to assist Shareholders in deciding how they may wish to vote on the resolutions.

Summary of Business of the AGM

To receive and consider the Financial Statements and Reports for the financial year ended 30 June 2012.

To consider and vote on the following resolutions:

- Item 2: To adopt the Remuneration Report for the financial year ended 30 June 2012.
- Item 3: To re-elect Mr Bruce Hewett as a Non-Executive Director of the Company.
- Item 4: To elect Dr Duncan Worthington as a Non-Executive Director of the Company.
- Item 5: To approve the investment in the Alabama Coal Project.

Ordinary Business

Agenda Item 1: Financial Statements and Reports

Pursuant to the Corporations Act, the directors of a listed company that is required to hold an Annual General Meeting must table the financial statements and reports of the Company (including the Directors' Report, Remuneration Report and Auditor's Report) for the previous financial year before the members at that Annual General Meeting.

Shareholders have been provided with all relevant information concerning the Company's financial statements, the Directors' Report, Remuneration Report and Auditor's Report in the Annual Financial Report of the Company for the year ended 30 June 2012. The Company will not provide a hard copy of the Annual Report unless specifically requested to do so. The Annual Report can also be viewed, printed and downloaded from the Company's website www.avexa.com.au. A copy of the financial statements, the Directors' Report, the Remuneration Report and the Auditor's Report will also be tabled at the meeting.

Shareholders should note that the sole purpose of tabling the financial statements and the relevant reports of the Company at the AGM is to provide Shareholders with the opportunity to be able to ask questions or discuss matters arising from the financial statements and/or reports at the meeting. It is not the purpose of the meeting that the financial statements or the reports be accepted, rejected or modified in any way. Further, as it is not required by the Corporations Act, no resolution to adopt, receive or consider the Company's financial statements or the reports will be put to the Shareholders at the meeting.

Shareholders will be given a reasonable opportunity at the meeting to ask questions and make comments on the financial statements and the reports. The Company's auditor will also be available to receive questions and comments from Shareholders about the preparation and content of the financial statements and the Auditor's Report and the conduct of the audit generally.

Shareholders may submit written questions to the Company's Auditor in advance of the meeting. Any such questions must be submitted to the Company by no later than 5.00pm on 7 December 2012, addressed to the Company Secretary, Avexa Limited, 576 Swan Street, Richmond Victoria 3121.

A reasonable opportunity will be allowed at the meeting for a representative of the Company's Auditor to answer any written questions submitted in accordance with the above procedure.

Agenda Item 2: Adoption of Remuneration Report

2.1 General

The Corporations Act requires that at a listed company's Annual General Meeting, a resolution that the Remuneration Report be adopted must be put to the Shareholders. However, such a resolution is advisory only and does not bind the Directors or the Company. Under the Corporations Act, if at least 25 per cent of the votes cast on the resolution are voted against adoption of the Remuneration Report at the AGM, and then again at the Company's 2013 AGM, the Company will be required to put to Shareholders a resolution proposing the calling of an extraordinary general meeting to consider the appointment of Directors of the Company (**Spill Resolution**).

If more than 50 per cent of Shareholders vote in favour of the Spill Resolution, the Company must convene the extraordinary general meeting (**Spill Meeting**) within 90 days of the Company's 2013 Annual General Meeting. All of the Directors who were in office when the Company's 2013 Directors' Report was approved, other than any Managing Director of the Company, will cease to hold office immediately before the end of the Spill Meeting, but may stand for re-election at the Spill Meeting. Following the Spill Meeting those persons whose election or re-election as Directors is approved will be the Directors of the Company.

The Remuneration Report sets out the Company's remuneration arrangements for the Directors and senior management of the Company. The Remuneration Report is part of the Directors' report contained in the financial report of the Company for the period ending 30 June 2012.

A reasonable opportunity will be provided for discussion of the Remuneration Report at the Annual General Meeting.

2.2 Voting and Proxy Restrictions

A vote on Item 2 (Adoption of Remuneration Report) must not be cast by or on behalf of a member of the KMP or by any of their closely related parties (such as certain of their family members, dependants and companies they control).

However, this does not prevent a member of the KMP, details of whose remuneration are included in the Remuneration Report, or any of their closely related parties from voting as a proxy for a person who is not a member of those KMP or any of their closely related parties if:

- the person specifies the way the proxy is to vote on Item 2 (Adoption of Remuneration Report) in the proxy form; or
- the person voting as a proxy is the Chairman and the proxy form expressly authorises the Chairman to exercise the proxy even if the resolution is directly or indirectly connected with the remuneration of a member of the KMP for Avexa.

If you choose to appoint a proxy, you are strongly encouraged to direct your proxy how to vote on Item 2 (Adoption of Remuneration Report) by marking any one of 'For', 'Against' or 'Abstain' on the proxy form for that item of business. **As set out in the section on Appointing a Proxy, if you have appointed the Chairman of the meeting as your proxy and you do not mark any of 'For', 'Against' or 'Abstain' on the proxy form, you will be expressly authorising the Chairman to vote any proxies held by him in favour of Item 2 (Adoption of Remuneration Report), even if that item is connected directly or indirectly with the remuneration of a member of the KMP for Avexa.**

The Chairman of the meeting intends to vote any undirected proxies held by him in favour of Item 2 (Adoption of Remuneration Report).

Agenda Item 3: Re-election of Director (Mr Bruce Hewett)

Mr Bruce Hewett retires in accordance with rule 8.2 of the constitution and, being eligible, offers himself for re-election.

Mr Hewett joined the Board on 6 July 2010 as a Non-Executive Director of the Company and is a member of the Avexa Audit Committee and Chairman of the Avexa Remuneration and Nomination Committee. He brings more than 25 years' experience in the pharmaceutical and healthcare industries. He is a Director of private pharmaceutical company Lupin Australia Pty Ltd and public unlisted company Link Equity Pharmaceuticals Pty Ltd. Mr Hewett has held senior roles with Janssen-Cilag, Faulding Pharmaceuticals and founded specialist pharmaceutical company Max Pharma.

Board Recommendation

The Directors (with Mr Hewett abstaining) unanimously recommend that Shareholders vote in favour of the resolution at Item 3.

Agenda Item 4: Election of Director (Dr Duncan Worthington)

Dr Duncan Worthington has been nominated for election as a Director in accordance with rule 6 of the Company's constitution.

Board Recommendation

The Directors do not support the election of Dr Worthington to the Board and unanimously recommend that Shareholders vote against his election.

Information provided by Dr Duncan Worthington

Dr Worthington has provided the following biographical details and platform for election described below. Avexa has not prepared, edited or verified the information provided by Dr Worthington in any way and therefore cannot make any statement as to its accuracy or completeness.

'Dr Duncan Worthington specialised in experimental design, statistical analysis and modelling while a Government Research Scientist. He later developed an interest in the science and design of trials for ATC and Avexa's other projects over several years, while having an interest in a significant number of Avexa Shares. Over the last decade, Duncan has built an IT-based research consulting business providing services to Industry and Government, including a 'Fortune 500' company. Duncan is a Director of two public companies, and regularly communicates with a large number of Avexa Shareholders.

My wife and I have had a significant interest in Avexa Shares over several years, and have confidence in the long term future of Avexa, thanks particularly to its staff.

I am aware my nomination as a Director of Avexa is supported by a significant proportion of Avexa Shareholders, many of which I communicate directly with.

The last few years have been difficult for Avexa, and frustrating for Avexa Shareholders. Despite that, Avexa's staff and current Board have contributed to a period of stability and some significant outcomes to progress the ATC, Integrase and anti-bacterial projects.

At last year's AGM much was promised by the Chairman, particularly about improved communication. More recently, prior to this year's AGM, as immediately prior to last year's AGM, some communication has been released by Avexa to the market.

Some Shareholders are asking if the Board could communicate better, throughout the year, with Shareholders on the questions they want answered, and with the market to promote Avexa's projects.

Some Shareholders are concerned by the significant interests of Avexa's Directors away from Avexa, and question whether Avexa could perform better with the time, effort and interest of an extra Director.

Avexa's share price has remained low for some time, even below the value of cash and assets, placing no value on any of Avexa's valuable projects.

I have agreed to nomination as a Director of Avexa as I am concerned about the above issues, which have been raised with the Avexa Chairman, who in turn has communicated the concerns to the Board.

The Chairman has replied that the Board apparently sees no merit in the arguments, and may prefer to appoint an additional unknown female Director over myself with a significant interest in Avexa and supported by a significant proportion of Avexa Shareholders.

The Chairman has also replied that the Board sees no need for a fourth Director because of the cost to Avexa. The Board has received significant remuneration in cash and share options. A comparable biotech board at Allied Healthcare has recently agreed to lower remuneration, paid in Shares to conserve cash.

As Avexa moves into the next phase of ATC's development, now is the time to add to the scientific strengths of the Board with a Director who also has a significant interest in Avexa promoting its projects.

As a Shareholder and Director of Avexa, I believe I can contribute by asking the right questions of the Board and Executive to encourage more frequent and open communication, answering the questions of Shareholders and promoting Avexa's valuable projects to the market.

I would be keen to devote my energies to working and communicating with staff, the Board, our substantial Shareholder and all Shareholders to promote the best interests of Avexa.

I encourage all Shareholders to vote for a change on the Avexa Board by voting FOR Dr Duncan Worthington as an additional Director of Avexa.'

Reasons why the Board does not support the election of Dr Duncan Worthington as a Director

The Board considers that in order for it to function effectively, there needs to be the correct mix of experience, skills and expertise. All current Board members have extensive public company experience which includes experience with a range of biotechnology companies, pharmaceuticals and legal and regulatory matters.

The Board carefully considers its composition and the mix of skills, experience and perspectives of its members on an ongoing basis and its Remuneration and Nominations Committee has implemented a process to identify and nominate potential Directors in a professional manner where particular knowledge or skills has been identified as being required by Avexa.

The size of the Board is currently considered optimal, as a small Board facilitates efficient decision making and is appropriate for a company of Avexa's size. Further, the Board notes that there has been no change to the remuneration paid to the Directors since 7 July 2010 when fees were, in fact, reduced.

The Board notes that it has not been provided with any evidence that Dr Worthington's appointment is 'supported by a significant proportion of Avexa Shareholders.'

The Board takes the view that Dr Worthington's expertise and experience does not fit the Board requirements at this time. Dr Worthington appears to have no management experience, no relevant scientific experience in the research or commercialisation of pharmaceuticals or HIV medicines generally. Importantly, he does not appear to have public company experience other than the public unlisted not-for-profit Abalone Council of NSW Limited and Abalone Council Australia Ltd. Furthermore, the Board considers that the appointment of Dr Worthington as a Director would be unduly disruptive to the effective operation of the Board. Having regard to these factors **the Board unanimously recommends against the appointment of Dr Duncan Worthington as an additional Director.**

Item 5: Approval of Investment in Alabama Coal Project

5.1 Background

Avexa's principal activity has always been (and continues to be) the discovery, research and development, for commercialisation, of anti-infective pharmaceutical medicines for the treatment of serious human infectious diseases. Since listing on ASX in 2004, its primary focus has been to develop a late stage novel treatment for HIV infection, apricitabine (ATC), development of its in-house Integrase inhibitor program and novel compounds with anti-bacterial activity.

In May 2010 the previous Avexa Board announced its decision to close Avexa's ATC drug development activity and to conduct a 'strategic review' of the Company. This (controversial) decision led to the Shareholders voting in a new Board which was completed in July 2010.

The new Board's particular areas of focus for the last two years have been a thorough re-examination of ATC (assisted by independent experts), its HIV integrase inhibitor program and conserving, so far as practicable, the Company's cash resources.

Avexa's existing cash resources are insufficient to fund the development of ATC through late stage, Phase III trials to marketing approval which the Directors conservatively estimate to be in the range of \$30 million to \$40 million. Given the current market capitalisation of Avexa and the current risk-averse equity capital markets, the Directors have concluded that a sufficiently large capital raise to fund these trials is unlikely to be achieved – at least in the short term.

Further, and as explained in some detail in Avexa's 2012 Directors' Report, it has become very clear that the number of large pharmaceutical companies active in the area of HIV drug discovery and development has shrunk considerably. The likelihood of funding these Phase III trials by securing a meaningfully large out-licensing deal is considered by the Directors to be improbable.

Therefore, the Company's original commercialisation strategy for ATC had to be adapted by pursuing regional specialist pharmaceutical sales and marketing companies with a goal of entering into a co-marketing arrangement with a suitable party.

In mid-year 2012, Avexa initiated a global search for such regional specialist pharmaceutical sales and marketing companies with a view to establishing a potential sales network for ATC. The strategy is to create a sales network in order to establish the metric for potential revenue returns to form a basis for an investment strategy to secure the additional capital required for Avexa to take ATC to market.

In parallel with this process, the Directors have also been actively seeking investment opportunities to assist with funding its exciting drug development programs and projects.

5.2 Rationale for the Proposed Transaction

To seek returns to offset some of its fixed operating expenses, Avexa has made several liquid, alternative investments through its wholly owned subsidiary, AVI Capital Pty Ltd. These investments are intended to diversify its investment portfolio and seek greater returns than placing funds on term deposit where rates have been on a downward trend.

Consistent with this strategy, and given that the cost of Phase III clinical trials for ATC are currently unaffordable for Avexa, the Company has been seeking to further diversify its investment portfolio with the twin objectives of:

- (a) generating better returns for Shareholders than investing existing cash reserves in bank deposits; and
- (b) adding to the Company's existing cash resources and generating dividend flows with the aim of accreting cash flow to fund its key anti-infective pharmaceutical programs and projects.

Over the past 12 months Avexa has considered and rejected a multitude of potential investment and merger opportunities, many of which attributed no value to the Company's anti-infective projects. However, the Board has recently become aware of an investment opportunity which has the potential to meet the above twin objectives.

Accordingly, on 5 November 2012, the Company announced to ASX that it proposes to enter into a Conditional Agreement (described further in section 5.7 below) to purchase a 25.5 per cent equity share in Coal Holdings USA LLC (**Coal Holdings**) for the price of US\$4 million and to make available a working capital debt facility of up to US\$6 million to Coal Holdings (together, **Proposed Transaction**).

5.3 Summary of the Proposed Transaction

As noted above, Avexa proposes to invest US\$4 million (A\$3.88 million) to purchase a 25.5 per cent equity share in Coal Holdings USA LLC (**Coal Holdings**).

Coal Holdings currently holds a mineral lease that allows it to mine the North Pratt Coal Seam over an area of approximately 4,200 acres containing an estimated 20 million in-situ tons of a metallurgical grade coal over a 20 year period (**Alabama Coal Project**). Coal Holdings also owns a 100 per cent interest in North Pratt LLC (**North Pratt**).

In addition, Avexa proposes to make available a working capital debt facility of up to US\$6 million (A\$5.82 million approx.) to Coal Holdings in order to fund its working capital requirements. The facility will be interest bearing secured by a charge (or similar security) over Coal Holdings' assets and real property. The loan together with all accrued interest is to be repaid from the Alabama Coal Project cash flows – with repayments to commence as soon as production recommences and revenues are generated.

In total, Avexa proposes to invest a sum of US\$10 million (A\$9.7 million approx.) to fund capital and working capital expenditure required to recommence mining and coal production.

Please refer to Section 5.7 for further details regarding the terms of the Proposed Transaction.

5.4 Details of the Alabama Coal Project

The Alabama Coal Project's general location is near the township of Graysville in Jefferson County, some 15 miles north west of Birmingham in the State of Alabama in the United States of America.

The North Pratt Coal Mine is an existing mine with an estimated 20 million tons of remaining in-situ coal reserves. A National Instrument 43-101 (a geological/ technical report) shows a measured and estimated resource of approximately 10.55 million clean recoverable tons of metallurgical coal. The life of the mine is about 15 years depending on production levels per annum. The mine, once operational, will employ up to 100 workers, working two shifts a day. The first coal is expected to be produced within nine to 12 months from commencement and Avexa expects to receive its first cash flow from its investment in approximately 18 months.

The mine is budgeted to produce 660,000 tons of coal a year at full production, generating US\$85 million in sales a year based on the economic assumptions used in the business plan provided by Coal Holdings.

The Directors have concluded that the proposed investment in the Alabama Coal Project gives Avexa the best chance of locking in an annuity revenue stream to assist it to develop its portfolio of drug assets, as far as possible in-house.

Avexa is attracted to the US\$10 million investment opportunity contained in the Alabama Coal Project's business plan. The technical and economic assumptions used in the business plan have been reviewed and confirmed by two qualified consultants PERC and Censere.

Based on the Alabama Coal Project business plan referred to in Section 5.14, Avexa expects to generate US\$12.5 million profit per annum before finance costs and tax. If the assumptions used in the business plan base case hold then the investment has a pay-back period of less than two years.

5.5 Investment Structure

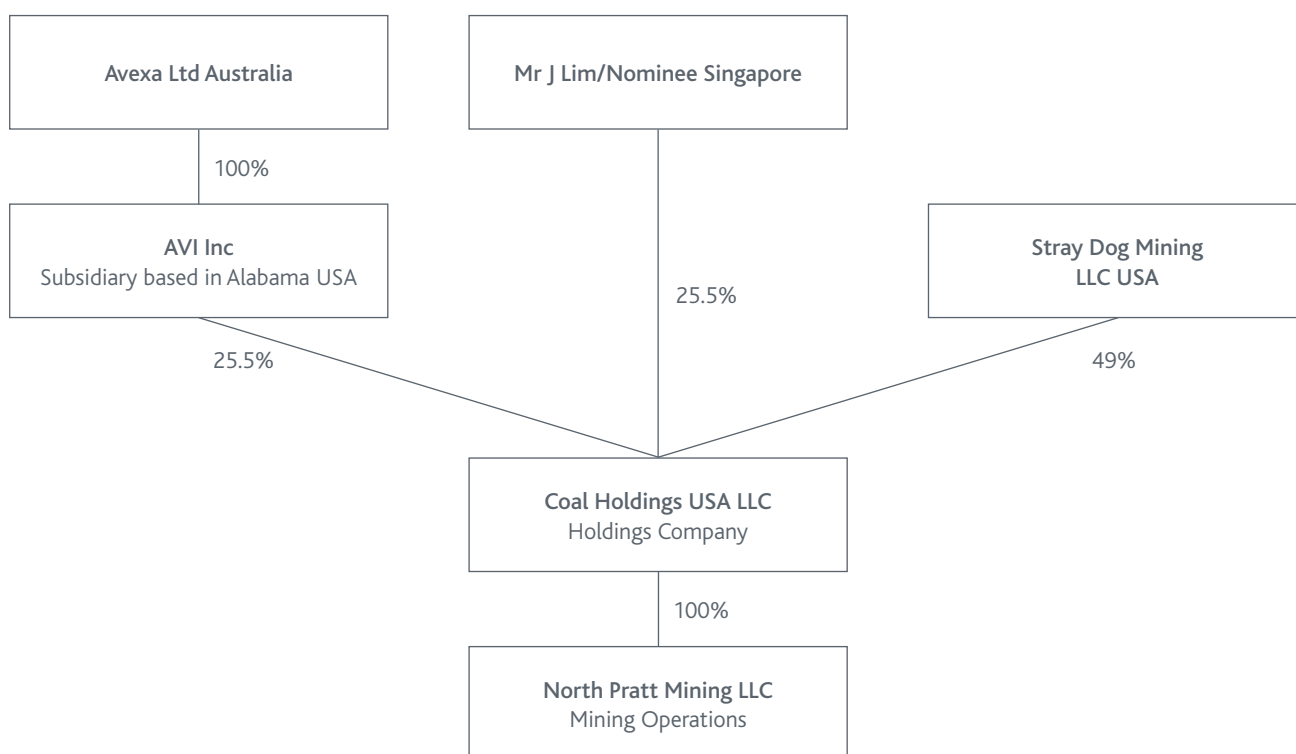
Coal Holdings is currently 100 per cent owned by Stray Dog Mining LLC (**Stray Dog Mining**). In turn, Stray Dog Mining is owned by an experienced coal identity, Mr Jimmie Ryan, and Wild Dog Mining Pty Ltd, an Australian private company associated with experienced mining contractor Mr Colin Macdonald. Details relating to Messrs Ryan and Macdonald are set out in Section 5.11 below.

In addition to the 25.5 per cent sell-down to Avexa, Stray Dog Mining has separately agreed to sell a further 25.5 per cent of Coal Holdings on the same terms and conditions applicable to Avexa (including as to the working capital facility) to Singapore-based entrepreneur, Mr Jonathan Lim. It is noted that Mr Jonathan Lim holds 17.05 per cent of the issued Shares in Avexa.

Following completion of the Proposed Transaction, Stray Dog Mining will hold a minority 49 per cent interest in Coal Holdings.

The proposed investment structure, assuming completion of the Proposed Transaction, can be represented diagrammatically as follows:

Alabama Coal Project – post investment ownership schematic



Avexa proposes to enter into an Operating and Management Agreement with Stray Dog Mining and Mr Lim/other third party investor to govern and regulate the affairs of Coal Holdings among themselves. The parties have agreed that operational supervision of the mine will be the responsibility of Stray Dog Mining, while management and financial control will be vested in Avexa, in consultation with Mr. Lim/ other third party investor. The Operating and Management Agreement will take effect only upon completion of the Conditional Agreement.

5.6 Regulatory Requirements – ASX Listing Rule 11.1

ASX Listing Rule 11.1 provides that where an entity proposes to make a significant change, either directly or indirectly, to the nature or scale of its activities, it must provide full details to ASX as soon as practicable and comply with the following:

- (a) provide to ASX information regarding the change and its effect on future potential earnings, and any information that ASX asks for;
- (b) if ASX requires, obtain the approval of holders of its Shares and any requirements of ASX in relation to the notice of meeting; and
- (c) if ASX requires, meet the requirements of Chapters 1 and 2 of the ASX Listing Rules as if the Company were applying for admission to the official list of ASX.

ASX has indicated to the Company that, given the significant nature of the Proposed Transaction (having regard to the nature and scale of the Alabama Coal Project) it requires the Company to obtain the approval of its Shareholders for the Proposed Transaction.

The Company therefore seeks Shareholder approval to enter into the Proposed Transaction under ASX Listing Rule 11.1.2.

The ASX has indicated to the Company that it will not require the Company to re-comply with the admission requirements set out in Chapters 1 and 2 of the ASX Listing Rules.

5.7 Summary of the Terms of the Proposed Transaction Documents

(a) Member Interest Purchase Agreement

Avexa proposes to enter into a conditional Member Interest Purchase Agreement (**Conditional Agreement**) with Coal Holdings, under which Coal Holdings will issue new member's interests (being a 25.5 per cent equity interest) in Coal Holdings to Avexa.

Avexa's 25.5 per cent equity interest will rank pari passu with all other equity interests issued in the capital of Coal Holdings. Completion of the Conditional Agreement is subject to the following key conditions precedent (amongst others) having been fulfilled:

- approval by Avexa's Shareholders;
- further due diligence investigations having been completed to the complete satisfaction of Avexa;
- all permits and right of access required by North Pratt to recommence mining activity having been issued by the relevant authorities and obtained from the rights holders, respectively; and
- Coal Holdings having secured additional funding in the sum of US\$10 million contemporaneously with, and on the same terms as, Avexa's investment. That is, US\$4 million for the purchase of a 25.5 per cent equity interest in Coal Holdings, and US\$6 million to be made available by way of a working capital debt facility on the terms described at paragraph (b) (**Shareholders' Loan Agreement**) below.

Subject to satisfactory fulfilment of all conditions precedent, completion of the Conditional Agreement is scheduled to occur on or before 31 January 2013.

(b) Shareholder's Loan Agreement

A working capital debt facility of US\$6 million will be made available by way of a Shareholder's loan agreement to be entered into between Avexa (as lender) and Coal Holdings (as borrower).

Draw-down of the loan will be conditional upon completion occurring under the Conditional Agreement, and will be drawn in tranches in accordance with an agreed budget and expenditure program. The debt facility will accrue interest at a rate of 6 per cent per annum, and will be secured by a charge (or similar security) over Coal Holdings' assets and real property.

The principal amount of the loan facility, together with all accrued interest, will be repaid out of the Alabama Coal Project cash flows once production recommences and net revenues are generated. The repayments are subject to there being sufficient cash flow available for working capital requirements. It will be a term of the Shareholder's Loan Agreement that no dividend can be paid by Coal Holdings until the loan facility is repaid. Any amount repaid by Coal Holdings cannot be redrawn.

It has been agreed that any available cash from the operations of the Alabama Coal Project in the first two initial years of production must be used to pay down the advances made under the Shareholder's Loan Agreement. Thereafter, parties will consider if any profits from the production and sale of coal should be re-invested to increase production.

(c) Operating and Management Agreement

It is anticipated that Avexa, the third party investor, Coal Holdings, Stray Dog Mining and Messrs Jimmie Ryan and Colin Macdonald will enter into an Operating and Management Agreement dealing with, amongst other things:

- the manner in which Coal Holdings (and North Pratt) will be managed and operated;
- the annual budget for Coal Holdings;
- the composition of the management committee of Coal Holdings;
- pre-emptive rights and tag-along and drag-along rights;
- funding requirements;
- reserved matters, the action of which requires approval by all members; and
- the Operating and Management Agreement will only be effective if completion of the Conditional Agreement takes place.

5.8 Information on Coal Holdings and the Alabama Coal Project

Coal Holdings currently holds a mineral lease from RGGGS Land & Minerals Ltd., L.P. that allows Coal Holdings to mine the Pratt Coal Seam over an area of approximately 4,224.6 acres containing an estimated 20+ million in-situ tons of a metallurgical grade coal over a 20 year period.

Coal Holdings commissioned Mr Leslie Stephens of PERC Engineering of Jasper, Alabama to complete a National Instrument 43-101 report on the North Pratt Reserve prior to the commencement of any works on the project.

National Instrument 43-101 (**NI 43-101**) is a mineral resource classification scheme used for the public disclosure of information relating to mineral properties in Canada. The NI 43-101 is a strict guideline for how public companies can disclose scientific and technical information about mineral projects on bourses supervised by the Canadian Securities Administrators.

A NI 43-101 is broadly comparable to the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (**JORC Code**) which regulates the publication of mineral exploration reports on the ASX. The reporting codes are, however, not entirely congruent in practice, in that NI 43-101 is more prescriptive in terms of the manner in which mineral exploration reporting is presented, although the content of the technical reports, and the scientific rigors to which the mineral resource classifications within them are put, are often very similar. **However, Shareholders should be aware that the NI 43-101 does not necessarily comply with the content requirements of the JORC Code.**

The NI 43-101 Report defined the reserve as follows:

- The subject property of this report is located in Jefferson County, Alabama, United States of America. It consists of 4,224.60 acres.
- 1,562.95 acres of Surface Rights is owned by United States Steel Corporation. RGGGS Land & Minerals Ltd., L.P. owns the Mineral Rights.
- 1,541.65 acres of Mineral Rights is owned by RGGGS Land & Minerals Ltd., L.P. beneath the Surface owned by others.
- 400 acres of Surface Rights is owned by United States Steel Corporation. RGGGS Land & Minerals Ltd., L.P. owns the Mineral Rights except the Mary Lee Seam.
- 80 acres of Mineral Rights is owned by RGGGS Land & Minerals Ltd., L.P. except the Mary Lee Seam beneath the Surface owned by others.
- 640 acres of Mineral Rights for the Pratt Seam only is owned by RGGGS Land & Minerals Ltd., L.P.
- Alabama has a long history of mining both Coal and Iron ore and in years past was a major steel producer.
- A large number of coalmines are still operating within the State, the mining industry remains a major employer within Alabama, which has as a result a large available workforce of suitably qualified and skilled workers resident within close proximity to the mine site, ensuring the Company has no requirement to provide accommodation for the workforce.
- This Pratt Seam Reserve area was drilled and evaluated by United States Steel Corporation Southern Appalachian Field Office in Fairfield, Alabama in April 1983, producing a reserve report that in summary says:
 - A total of 184 data points consisting of lithologic logs, measured mine sections and surveyed mine elevations, show 20.9 million tons of measured in situ Pratt seam reserves underlying the North Pratt area, located in Jefferson County, Alabama, some 15 miles north west of Birmingham.
 - These reserve tonnages apply to the total Pratt seam, including coal and rock.
 - In-place coal and rock tonnages total 18.5 million and 2.4 million tons, respectively. Pratt seam reserves for the entire 3,674 acre area are controlled by RGGGS.
 - Total thickness of the Pratt seam ranges from 2.39 feet to 3.93 feet and averages 3.05 feet.
 - The seam normally consists of an upper bench, main parting and lower bench. Thickness variability for each seam component is as follows: upper bench – 0.08 to 0.83 feet; lower bench – 1.80 to 3.56 feet; and main parting – 0.04 to 0.29 feet.
 - Analytical data for the North Pratt area show the following for 1.55 specific gravity:

	Washability Yield (%)	Ash (%)	Sulfur (%)	Volatile Matter (%)	Calorific Value (Btu/lb)
Maximum	85.1	7.3	1.58	31.5	15,160
Minimum	71.9	3.4	1.04	27.2	14,206
Average	81.5	4.6	1.33	29.0	14,953

- These values combined with additional analyses for coal quality show the Pratt seam in the North Pratt area to be a high quality coal suitable for metallurgical purposes, as a primary feedstock or as a blend component, or for steam generation.

PERC utilised the information contained in this reserve report as one element in the preparation of the NI 43-101 Report. PERC also utilised mapping, actual production and mining cost information from previous operations, proposed mine plan and method of mining, United States Steel Corporation property and mineral ownership records, along with their own experience of this coal seam and the local mining environment.

5.9 Previous Exploration and Production

A previous mining operation targeting the Pratt Coal Seam was located at the relevant site and was operated on and off for approximately six years prior to 2006.

The mine was last operated by Sunrise Coal LLC until it closed in February 2006, when despite rising coal prices (and resulting cost increases) Sunrise Coal LLC was not able to negotiate a suitable increase in the sale price with the larger coal company to which it had contracted to sell the coal. The increased pressure on margins made the deposit uneconomical under the prevailing conditions at the time and the mine was closed.

The NI 43-101 Report prepared by PERC and summarised at Section 5.8 above, using the mapping from the previous operations, estimates the tonnage previously mined from the Pratt Seam at this location to be approximately 600,000 tons.

Based on the Conceptual Mine Plan, the mine area will consist of approximately 2,490 acres.

Mining is planned to occur by way of underground room and pillar method using continuous miners. This is a popular method of thin seam coal mining where the material is mined leaving behind 'pillars' of coal of a specific size and shape designed to support the ground above and to prevent subsidence.

Stray Dog Mining proposes to mine to a height of 50 feet to allow for the use of specific equipment and to create a safer and generally better working environment for the miners, which in turn is expected to yield significant productivity increases over 'in seam' mining which would see a mine with a maximum height of only 36 feet.

Stray Dog Mining has informed Avexa that the resulting recovery rate from this type of mining is expected to be 50 per cent and therefore, with an average seam height of 0.4 feet for the upper bench and 2.45 feet for the lower bench, this mine should yield 6,800,000 clean tons of the Pratt Seam without any secondary recovery.

Additional tonnage can be recovered through the subsequent removal of the support pillars. 'Pillaring' is a process whereby, once the room and pillar mining process is completed in a given area of the mining operation and it is time to retreat from that area, the pillars are removed allowing the collapse of the mine in that area.

There are approximately 1,890 acres where no surface structures exist which due to potential subsidence from removal of pillars would prohibit the retreat mining of the pillars.

The PERC NI 43-101 Report estimates an additional recovery of 40 per cent for the 1,890 acres of Pillaring that should yield a further 3,750,000 clean tons of coal.

This extra available coal brings the total estimated Pratt Seam tonnage to be recovered from this mining lease area to be 10,550,000 clean tons. (Being the amount of coal to be yielded after mining and cleaning losses in US short tons).

5.10 US Coal Market

According to the World Coal Association and the US Energy Information Agency (EIA) the US has some of the largest coal reserves in the world followed by Russia, China and India. In 2011 the US produced some 1 billion tons of coal from 25 states; Wyoming is the largest producer and Alabama the 14th largest.

Over 90 per cent of the coal consumed in the US is used to generate electricity and in 2011 42 per cent of the US' electricity was generated by coal with more than 500,000 people employed in the US coal sector. The US is a net exporter of coal and in 2011 exports increased to 10 per cent of production. Metallurgical coal dominated US coal exports in 2011 with Europe the largest importer followed by Asia.

According to data collected and published by the EIA, in 2011 the average price of US metallurgical exports was \$US181 per short ton. In the 2012 year to date, the average metallurgical coal export price was US\$162.

5.11 Senior Management

While overall operational and technical supervision of the Alabama Coal Project will rest with Stray Dog Mining, Mr Colin Macdonald and Mr Jimmie Ryan will each enter into a service agreement with Coal Holdings (on terms acceptable to Avexa) to provide their services to the Alabama Coal Project for a period of at least three years.

Biographical details for Mr Colin Macdonald and Mr Jimmie Ryan are as follows:

Mr Jimmie R Ryan

Mr Ryan began his mining career in West Virginia in 1963 and spent the next few years honing his skills and management abilities, advancing to General Manager for Bethlehem Mines.

In 1979 he formed Ryan Robinson Coal, his first company. Before selling this company to Big River Minerals, he had expanded it to operating 16 mines with a combined production of over 4 million tons per year.

Mr Ryan then formed Boone Resources, operating two mines reaching an average production of 1.2 million tons per year. He sold it to Anker Energy in 1997. Later, he formed Sunrise Coal Company and Ryanstone Coal Company which operated mines in Alabama, Oklahoma, and West Virginia.

These two companies combined employed over 250 miners and support staff.

Mr Ryan is well known and respected in the coal mining industry for his strategic planning skills and project development.

With over 45 years' mining experience, he has assisted or controlled mining operations producing in excess of 100 million tons of clean coal.

Mr Colin G Macdonald

Mr Macdonald's long career in resource projects and mining operations spans most States and Territories in Australia and he has worked in overseas projects in Chile and the USA.

He commenced with Thiess Bros Pty Ltd at the Tarong power station project near Nanango Queensland.

Since then he has been engaged in numerous roles with companies such as Thiess Contractors Pty Ltd, Hastings Deering Pty Ltd and Leighton Contractors on several projects including the Blair Athol coal project, Riverside rail loop, Goonyella overburden project, Callide pipeline project as plant supervisor, then held responsibility for all plant operations in the Gladstone area.

He has worked on several gold mining operations involving crushing operations, a tailings reclamation project, civil works, plant hire and heavy haulage in Western Australia including being in charge of five operating gold mines including the Nth Kalgoorlie 'Super Pit' operation and subsequently a role in Perth as plant supervisor controlling all plant and maintenance throughout Western Australia working at some 15 mine sites.

He has been a Plant Manager of a diverse fleet of mid-sized earthmoving equipment involved in plant hire, mining and civil engineering projects throughout Western Australia and the Northern Territory.

At Eltin Ltd he worked on a gold mining operation, one overburden removal project at a copper mine and a significant gold mine in Chile, South America and was a part of the executive team involved in the administration and management of all open cut operations within Australia and overseas.

In more recent years he consulted to Boral Contracting and became their Plant Manager, Pollock Group in Perth as Operations Manager overseeing the operations of Goldfields Contracting and Kalgoorlie Contracting.

He has also worked in Tasmania as Plant Manager for Civil Construction Corporation an enterprise business unit of the Tasmanian Government. After this company was sold to Downer EDI Works Infrastructure he continued to work as the Plant Manager of this division of Works Infrastructure for some months before being offered and accepting a role as Plant Manager Tasmania, Victoria, South Australia and Northern Territory, a position he held for some 12 months.

He now operates his own businesses in Civil Engineering and Mining Sector Contracting, Consulting and earthmoving and mining equipment acquisition, management and disposal.

5.12 Effect of the Proposed Transaction

(a) Effect of the Proposed Transaction on the Company's assets and liabilities

The likely effect of the Proposed Transaction upon the Company's assets and liabilities, if completed, is detailed in section 5.15 below.

(b) Effect of the Proposed Transaction on the Capital Structure and Control of the Company

The Proposed Transaction will have no effect on the capital structure or control of the Company.

(c) Effect of the Proposed Transaction on the Company's Board of Directors

There is no present intention to alter the composition of the present Board of the Company as a consequence of the Proposed Transaction.

5.13 Legislative and Regulatory Regime for Mining in Alabama

In the United States, coal mines and mining are regulated on both the national and State level. Regulation generally covers the areas of permitting/authorisations, health and safety, and environmental protection. The following provides a brief description of the United States and State of Alabama authorities responsible for regulating the Alabama Coal Project.

Permitting and Authorisations

The Alabama Surface Mining Commission (**ASMC**) is the primary regulatory authority for surface and underground coal mining operations for the State of Alabama under the federal Surface Mining Control and Reclamation Act of 1977 (**SMCRA**) (30 U.S.C. §§ 1201-1328), Alabama Surface Mining Act of 1969 (Alabama Code § 9-16-1 et seq.), and the Alabama Surface and Mining Control and Reclamation Act of 1981 (Alabama Code § 9-16-70 et seq.). The ASMC regulates surface and underground coal mining operations pursuant to the ASMC's surface mining and underground coal mining permitting program, governed by regulations found under Alabama Administrative Code Chapters 880-X-1A through 880-X-12A.

The operator of the mine must, before commencing mining activities, obtain a licence and permit from the ASMC. In addition, a bond is required to cover reclamation costs should the producer fail to reclaim the surface as required by the SMCRA. After the mining is completed, the permittee must reclaim the surface. As each increment of the mine is reclaimed, the permittee obtains a release of part of its bond. When reclamation is fully achieved, the bond is fully released.

Additionally, the operator of a mine must register with the US Department of Labor, Mine Safety and Health Administration (**MSHA**). For a previously registered mine which already has its MSHA identification number but has been considered inactive or abandoned, the operator must notify MSHA before commencing mining.

Health and Safety

MSHA administers the Federal Mine Safety and Health Act of 1977, as amended in 2006 by the Mine Improvement and New Emergency Response Act of 2006 (**MINER Act**). MSHA's central responsibility is to issue and enforce regulations in accordance with these and other related federal statutes that prevent death, disease, and injury to, and to promote safe and healthful workplaces for, miners. MSHA regulations include a broad array of requirements applicable to mining operations, for example, requiring certain safety equipment for individual miners and the mine itself, training requirements, equipment and mine condition inspection and monitoring, and reporting obligations. MSHA may issue violations, including monetary fines, and in certain circumstances order work stoppages, for noncompliance with its regulations.

At the State level, the Alabama Department of Labor (**ADL**), Inspections Division, inspects all working places in mines to ensure compliance with State laws and rules which protect the safety of persons working in the mining industry, Alabama Code § 25-9-1 et seq., which include, for example, restrictions such as the minimum age required to work in a coal mine, certain protective clothing, and ventilation fan requirements. This Division of ADL also coordinates rescue efforts in the event of a mine disaster and investigates fatal mine accidents (Alabama Code § 25-9-60 et seq.).

While MSHA and ADL regulate workplace health and safety standards for underground coal mines, they do not govern liability for miner injuries and fatalities. Generally, in Alabama, injuries to employees while they are performing work-related duties are compensated through a statutory workers' compensation scheme, which requires employers to obtain insurance and, in the case of work-related injury, to compensate an injured worker in accordance with set standards. The workers' compensation scheme generally replaces, and bars, employer tort liability for workplace injuries. However, in some limited instances an employee may be able to assert liability in tort against individual co-employees.

One category of mine-related illness is not governed by the Alabama workers' compensation scheme. The US Department of Labor Division of Coal Mine Workers' Compensation, however, administers the federal Black Lung program under the Black Lung Benefits Act (**BLBA**) (30 U.S.C. § 901 et seq.). The BLBA provides compensation to coal miners who are totally disabled by pneumoconiosis (commonly referred to as 'Black Lung') arising out of coal mine employment, compensation to survivors of coal miners whose deaths are attributable to Black

Lung, and medical coverage for eligible miners for the treatment of lung diseases related to pneumoconiosis pursuant to regulations in 20 C.F.R. Parts 718 and 725. If such compensation is found due, funds are provided by the responsible mine operator or its insurance carrier or, if responsibility cannot be assessed, by the Black Lung Disability Trust Fund, which is itself funded by a per-ton tax on coal mined in the United States and sold.

Environmental

The Alabama Department of Environmental Management (**ADEM**) is the primary environmental regulatory authority in Alabama. Alabama is an 'authorised' State; therefore, it is authorised by the US Environmental Protection Agency (**EPA**) to administer State environmental law in lieu of most federal environmental laws. In Alabama, a National Pollutant Discharge Elimination System (**NPDES**) permit for point sources of wastewater discharge is required to be obtained from ADEM before the ASMC may issue a mining permit.

For some mining operations, the US Army Corps of Engineers (**Corps**) must issue a permit under Section 404 of the Clean Water Act (**CWA**) authorising dredging or depositing fill material in a United States waterway. While the NPDES and possibly the CWA Section 404 permits are required before a mining permit may issue, mining operations must continue to comply with any restrictions, limitations, or conditions contained in the permits.

The US EPA also has the authority to regulate underground coal mining operations in some limited respects, for example, requiring greenhouse gas emission monitoring and reporting for some mines. Violations may be issued for failure to comply with environmental permits or ADEM or EPA regulations.

The Abandoned Mine Land Reclamation Program, a federal program under Title IV of SMCRA, administered by ADL under Alabama Code § 9-16-120 et seq., restores land and water resources which have been adversely affected by past coal mining when no person or entity has continuing reclamation responsibility under State or federal law. The program also provides rapid reclamation assistance in situations involving sudden or unforeseen mine hazards capable of harming the public. Alabama receives federal grants to fund the program, which come from fees paid by active coal mine operators on each ton of coal mined.

Applications for all permits required by each of the regulatory bodies described above have been made by Coal Holdings on behalf of North Pratt and are in their advanced stages of being processed and final issuance.

5.14 Project Assumptions and Use of Funds

The US\$20 million to be invested by Avexa and Mr Jonathan Lim are to be applied by Coal Holdings as follows:

Use of Funds	US\$ millions
Capital expenditure	13.1
Start-up costs	3.1
Rehabilitation Bond	0.5
Other miscellaneous costs	1.3
Promoter fees and transaction costs	2.0
Total investment	20.0

The key technical and economic assumptions used in the Alabama Coal Project's base case are:

- Coal sales price: US\$130 per short ton.
- Production costs: US\$55 per clean ton.
- Project Weighted Average Cost of Capital (**WACC**): 17.5 per cent.
- Total produced tons: 7 million.
- Coal specification: 'Mid Vol' metallurgical coal.

Based on the Alabama Coal Project business plan base case prepared by Coal Holdings, a total sum of US\$16.2 million will be expended to purchase mining equipment and to prepare the site for re-commencement of mining, and a total sum of US\$1.8 million will be expended for general working capital requirements. Of the total amount of US\$20.0 million invested, a sum of US\$1.5 million will be paid to Stray Dog Mining as promoter's fees and a sum of US\$500,000 will be paid to Meridian Equity Partners (previously known as Zulu Capital) as introducer fees.

The combined equity investment and loan funding from Avexa and Mr Lim totalling US\$20 million is expected to be sufficient to recommence operations with initial production of up to 250,000 tons of clean coal per annum being achieved within nine to 12 months from the date of the completion of the Proposed Transaction.

To increase production up to 660,000 tons per annum, further capital expenditure will be required. It will be a term of the Shareholder's Loan Agreement that any available cash from the operations of the mine in the first two initial years of production will be applied first in paying down the working capital loan facility extended by Avexa and Mr Lim (in equal proportions). Thereafter, Avexa is at liberty to consider whether or not any profits from the production and sale of coal should be re-invested to increase production. Avexa will not be obliged under the terms of the Conditional Agreement to provide any further funding at this time.

As referred to in Section 5.4 above, Censere was engaged to undertake an investigation and analysis to conduct a business plan review and feasibility study with regard to the Alabama Coal Project. Censere reported to the board of Avexa that nothing has come to their attention that indicates that it is not feasible to operate the Alabama Coal Project based on, among other things, the business plan submitted by Coal Holdings. Censere's review of the base case, using the technical and economic assumptions above, shows an NPV of approximately US\$81 million which indicates an Internal Rate of Return of approximately 45 per cent.

5.15 Pro Forma Balance Sheet

An unaudited pro forma balance sheet of the Company to show the effect of the Proposed Transaction (as if it occurred at 30 June 2012) is as follows. The adjusted pro forma balance sheet has been prepared by adjusting the audited balance sheet as at 30 June 2012 for the transactions forming part of the Proposed Transaction as if it had occurred as at 30 June 2012.

Statement of Financial Position as at 30 June 2012

	Avexa \$'000 Audited	Proposed Transaction \$'000	Pro Forma following closing of the Proposed Transaction \$'000 Unaudited
Current assets			
Cash	12,570	(3,880)	8,690
Investments	3,679	-	3,679
Receivables	1,046	-	1,046
Total current assets	17,295	(3,880)	13,415
Non-current assets			
Investments	-	9,700	9,700
Property, plant and equipment	325	-	325
Total non-current assets	325	9,700	10,025
Total assets	17,620	5,820	23,440
Current liabilities			
Accounts payable	284	-	284
Employee benefits	79	-	79
Other	201	-	201
Investment loan	-	5,820	5,820
Total current liabilities	564	5,820	6,384
Non-current liabilities			
Employee provision	27	-	27
Total non-current liabilities	27	-	27
Total liabilities	591	5,820	6,411
Net assets	17,029	-	17,029

Assumptions

- Investment value does not include costs associated with the investment, e.g. legal, consultants etc.
- Costs incurred prior to making the investment will be expensed.
- Exchange rates used as at date of investment: \$.97USD = \$1AUD.

Forecast Financial Information

The Directors believe the prospective information in this Explanatory Memorandum to have been prepared with due care and attention and to be reasonable as at the date hereof. Actual financial results are likely to vary and any variation may be materially positive or negative. The assumptions on which the prospective financial information is based are by their very nature subject to significant uncertainties and contingencies many of which are outside the control of Avexa. Further, anticipated events and circumstances often do not occur as expected. Therefore actual results can vary.

Accordingly the Directors cannot and do not guarantee that any forecasts or prospective financial or other information will be achieved. Events and outcomes may differ in quantum and timing from the assumptions with a material consequential effect on Avexa.

5.16 Advantages of the Proposed Transaction

The Directors are of the view that the following non-exhaustive list of advantages may be relevant to a Shareholder's decision on how to vote on the resolution at Item 5:

- (a) the Alabama Coal Project represents a significant opportunity for the Company without any dilution to existing Shareholders;
- (b) the continuing viability of the Company as a going concern depends on identifying suitable opportunities which will sustain its anti-infective pharmaceutical programs and projects;
- (c) Shareholders will have an opportunity to participate in the potential revenues and growth flowing from the Alabama Coal Project; and
- (d) the proposed investment in the Alabama Coal Project gives Avexa an excellent chance of locking in an annuity revenue stream to develop its portfolio of drug assets as far as possible 'in-house'.

5.17 Disadvantages of the Investment Proposal

The Directors are of the view that the following non-exhaustive list of disadvantages may be relevant to a Shareholder's decision on how to vote on the resolution at Item 5:

- (a) the Company will be investing significant funds in coal production activities which may not be consistent with the objectives of all Shareholders;
- (b) a significant future outlay of funds will be required, further reducing the Company's existing cash resources; and
- (c) there are many risk factors associated with Coal Holdings' business and operations to which Avexa, as a proposed investor, will be indirectly exposed. Some of these risks are set out in Section 5.19 below.

5.18 Plans for the Company if the Proposed Transaction is Not Approved

In the event that Shareholders do not approve the resolution at item 5, the Company's current activities will not change in the short term. However, Shareholders should be aware that Avexa's existing cash resources are insufficient to fund the development costs of ATC through late stage, Phase III trials to marketing approval which the Directors conservatively estimate to be in the range of \$30 million to \$40 million.

Accordingly the Company will be forced to significantly slow down or halt the development of ATC until the requisite capital is raised or an income stream is secured to cover its remaining clinical development. In such circumstances ATC may never be commercialised. It is noted that the Company does have sufficient funds to advance its Integrase inhibitor compound into a pre-clinical/Phase I trial which, if successful, may provide an out-licensing opportunity.

There is also the risk that, if Shareholder approval is not obtained, the market price of the Company's Shares will continue to decline further.

5.19 Risk Factors

Shareholders should be aware that if the resolution at Item 5 is approved, the Company will be indirectly exposed to coal production activities which are subject to a multitude of risk factors.

Based on the information available, a non-exhaustive list of risk factors are as follows:

(a) Risks relating to the Proposed Transaction

The Alabama Coal Project is located in Alabama, in the USA. The Company will therefore be subject to the risks associated with operating in Alabama. Such risks can include economic instability, currency non-convertibility or instability and changes of law affecting foreign ownership, government participation, taxation, working conditions, rates of exchange, exchange control, exploration licensing, export duties, repatriation of income or return of capital, environmental protection, mine safety, labour relations as well as government control over mineral properties or government regulations.

Coal Holdings requires various permits and approvals from the regulatory bodies described in paragraph 5.13 to carry out mining activities. These permits when issued or renewed may be subject to conditions other than anticipated, and the cost of compliance of which may have an adverse impact on Coal Holdings' cost of production. Failure to obtain or renew any such permit would have a material adverse impact on its operations, business and financial performance.

Changes to Alabama's mining or investment policies and legislation or a shift in political attitude may adversely affect Coal Holdings' operations, business and financial performance and, therefore, also Avexa.

(b) Production Risks and Risks Arising from the Mining Concession Areas

The business of coal project development and production involves inherent risks. Success depends on the successful appraisal, design and construction of efficient recovery and processing facilities, competent operational and managerial performance, and efficient distribution and marketing services.

Production and operations can be hampered by delays in the procurement of key plant and equipment, engineering difficulties, cost overruns, inconsistent recovery rates and other unforeseen events.

The outcome of Coal Holdings' proposed project development and production programs will affect the future financial performance of Avexa and the price of its Shares.

If and when Coal Holdings commences production, production may be curtailed or shut down for considerable periods of time owing to a range of factors such as adverse weather and natural disasters, unexpected equipment failure, accidents, labour disputes, disruptions to transport infrastructure, lack of market demand, government regulation, production allocations or force majeure events. If these curtailments continue for a considerable period of time, they may have a materially adverse effect on the operations and/or financial position of Coal Holdings and the Company.

In the United States of America (USA), the rights to mine and remove minerals are distinct from the rights to the surface land where the mineral deposits are found. The concession areas to which Coal Holdings has been granted the rights to mine and remove coal are owned by its lessor, RGGSLand & Minerals Ltd L.P. (RGGSLand), which in turn has a 'Use Agreement' with the owner of the surface rights (including rights to forestry and timbering), United States Steel Corporation (US Steel), for access onto the surface land where the coal deposits are found. In carrying out its mining activity, Coal Holdings will have to take into consideration any forestry and timbering rights granted by US Steel to third parties. This may result in increased compliance costs for Coal Holdings and, therefore, its cost of production.

The severing of surface rights from mineral rights dates back to more than a 100 years in the state of Alabama, USA. While due diligence and title searches can provide a high degree of assurance to Avexa that RGGSLand does own the mineral rights granted to Coal Holdings, there is no complete assurance that there are no competing rights to the ownership rights of RGGSLand asserted by a third party or that RGGSLand's ownership of the mineral rights is perfect.

(c) General Economic and Political Risks

Changes in the general economic and political climate in the USA and on a global basis could affect economic growth, coal prices, interest rates, rate of inflation, taxation and tariff laws, environmental and green energy laws and domestic security policies which may affect the value and viability of any coal activity that may be conducted by Coal Holdings.

(d) Coal Price Volatility and Exchange Rate Risks

In the short term, substantially all of Avexa's revenues and cash flows will be derived from the proceeds of the sale of coal. Therefore, the financial performance of Avexa would be exposed to fluctuations in the coal price.

Historically, the coal price has fluctuated widely and has experienced periods of significant decline. Coal prices are affected by numerous factors and events that are beyond the control of Coal Holdings. These factors and events include general economic activity, world demand, forward selling activity as well as general global economic conditions and political trends.

If coal prices should fall below or remain below the costs of production for any sustained period due to these or other factors and events, Coal Holdings' proposed production could be delayed or even abandoned. A delay in production or the abandonment of the Alabama Coal Project may have a material adverse effect on Coal Holdings' production, earnings and financial position.

Furthermore, the Alabama Coal Project is located in the USA, whereas the revenue from its operations are and will be taken into account in Australian currency, exposing Avexa to the fluctuations and volatility of the rate of exchange between the United States dollar and the Australian dollar as determined in international markets.

(e) Technology Risks

Both domestically and internationally, governments and organisations are expending large amounts of money on developing new technology aimed at replacing, in whole or in part, fossil fuels as an energy source. If these new technologies are successful at developing new energy sources that prove to be economic to utilise, this may impact on the demand for coal both domestically and internationally.

(f) Coal Marketing and Coal Prices

If Coal Holdings is successful in developing its mining operations, the marketability of its coal production will depend on the quality and tonnage demand from international and domestic markets. If it fails to secure contracts to sell its coal or does not satisfy conditions in any off-take agreements, this may adversely affect the financial conditions and performance of Avexa's investment in Coal Holdings.

The prices Coal Holdings may receive for its coal are subject to market forces that are beyond its control. While Coal Holdings and Avexa will monitor the stability and trends of market prices closely and, where possible, endeavour to negotiate agreements to reflect the movements in market prices and maintain underlying profit margins, if the market prices for coal fall to uneconomical levels, the financial performance of Coal Holdings will be materially and adversely affected.

Customers may default on their contractual obligations with Coal Holdings.

Potential contractual defaults may include non-payment for coal or failure to take delivery of contracted volumes. If defaults occur, Coal Holdings may experience difficulties accessing other customers.

To manage the exposure of Coal Holdings to price risks, it may enter into coal price and or foreign currency hedging arrangements with respect to its production. While intended to reduce the effects of volatile coal prices, these arrangements may limit potential gains if coal prices were to rise substantially over the price established by the hedge. In addition, such transactions may expose Coal Holdings to the risk of financial loss.

(g) Environmental Risks

Coal Holdings will be subject to environmental laws and regulations in connection with its operations in Alabama. Avexa understands that Coal Holdings intends to conduct its activities in an environmentally responsible manner and in accordance with all applicable laws. However, Coal Holdings may be the subject of accidents or unforeseen circumstances that could subject it to extensive liability.

Further, Coal Holdings may require approval from the relevant authorities before it can undertake activities that are likely to impact the environment. Failure to obtain such approvals will prevent Coal Holdings from undertaking its desired activities.

Coal Holdings is unable to predict the effect of additional environmental laws and regulations that may be adopted in the future, including whether any such laws or regulations would materially increase its cost of doing business or affect its operations in any area.

(h) Competition

Coal Holdings will compete with other companies, including major coal companies. Some of these companies have greater financial and other resources than Coal Holdings and, as a result, may be in a better position to compete for future business opportunities. There can be no assurance that the Coal Holdings can compete effectively with these companies.

(i) Regulatory

Changes in relevant taxes, legal changes in relevant taxes, legal and administration regimes, accounting practice and government policies may adversely affect the financial performance of Coal Holdings.

(j) Insurance

Insurance against all risks associated with coal production is not always available or affordable. Avexa understands that Coal Holdings will maintain insurance where it is considered appropriate for its needs however it may not be insured against all risks either because appropriate cover is not available or because its directors consider the required premiums to be excessive having regard to the benefits that would accrue.

(k) Operating Risks

The operations of Coal Holdings may be affected by various factors, including failure to achieve predicted well production flow rates, operational and technical difficulties encountered in production, difficulties in commissioning and operating plant and equipment, mechanical failure or plant breakdown, adverse weather conditions, industrial and environmental accidents, industrial disputes and unexpected shortages or increases in the costs of consumables, spare parts, plant and equipment.

(l) General Risks

Additional Requirements for Capital

Coal Holdings' capital requirements depend on numerous factors. Depending on Coal Holdings' ability to generate income from its operations, Coal Holdings may require further financing in the future. Any additional equity financing will dilute shareholdings, and debt financing, if available, may involve restrictions on financing and operating activities. If Coal Holdings is unable to obtain additional financing as needed, it may be required to reduce the scope of its operations.

Future Capital Requirements

Coal Holdings' activities will require substantial expenditures. If existing funding is not sufficient to fund operations and expansion, there can be no assurances that Coal Holdings will have sufficient capital resources for that purpose, or other purposes, or that it will be able to obtain additional fundraising on terms acceptable to Avexa or at all. Any additional equity financing may be dilutive to Shareholders and any debt financing if available may involve restrictive covenants, which may limit Coal Holdings' operations and business strategy.

Coal Holdings' failure to raise capital if and when needed could delay or suspend Coal Holdings' business strategy and could have a material adverse effect on its activities.

Economic Risks

General economic conditions, movements in interest and inflation rates and currency exchange rates may have an adverse effect on Coal Holdings' development and production activities, as well as on its ability to fund those activities.

Reliance on Key Management

The responsibility of overseeing the day-to-day operations and the strategic management of Coal Holdings depends substantially on its senior management and its key personnel. There can be no assurance that there will be no detrimental impact on Coal Holdings if one or more of these employees cease their employment.

Investment Speculative

The above list of risk factors ought not to be taken as exhaustive of the risks faced by Coal Holdings or by Avexa in investing in Coal Holdings. The above factors, and others not specifically referred to above may, in the future, materially affect the financial performance of Coal Holdings and the value of Avexa's investment in Coal Holdings.

5.20 Competent Person Statement and JORC

The information in this Notice of AGM which relates to exploration results and/or mineral resources is based on information compiled by Mr Leslie G Stephens who is employed by PERC. Mr Stephens has sufficient experience which is relevant to the style of mineralisation and type of deposit under consideration and to the activity which he (or she) is undertaking to qualify as a Competent Person as defined in the 2004 Edition of the 'Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves'. PERC has consented to the inclusion in the report of the matters based on his information in the form and context in which it appears.

5.21 Directors' Recommendations

In relation to the resolutions at item 5, the Directors unanimously recommend that Shareholders vote in favour of the resolution. It is the view of the Directors that the Proposed Transaction will give the Company the opportunity to participate in a potentially significant production program that gives Avexa the best chance of locking in an annuity revenue stream to develop its portfolio of drug assets in-house for the benefit of Shareholders.

Each of the Directors confirms that they have no direct or indirect interest (of any kind) in the outcome of the resolution at item 5.

Based on all the information available, including the information contained in this Explanatory Memorandum and the risks outlined in this section 5 after weighing up the expected advantages against the possible disadvantages and risks, all of the Directors consider that the Proposed Transaction is in the best interests of the Company and recommend that Shareholders vote in favour of the resolution at item 5.

GLOSSARY

Unless the context requires otherwise, in the Notice of AGM and this Explanatory Memorandum:

AGM means the meeting convened by the Notice of AGM.

Alabama Coal Project means the activities to be carried out, including the mining of coal, at the North Pratt Coal Seam covering 4,224,60 acres in Jefferson County, Alabama USA.

ASX means ASX Limited or the Australian Securities Exchange operated by ASX Limited, as the context requires.

Auditor's Report means the auditor's report required to be prepared and laid before the AGM in accordance with section 317 of the Corporations Act.

Board means the Board of Directors of Avexa.

Censere means Censere Holdings Ltd of 3/F, Tower 2, Tern Centre, 251 Queens Road, Central, Hong Kong.

Coal Holdings means Coal Holdings USA LLC.

Company or **Avexa** means Avexa Limited ACN 108 150 750.

Constitution means the constitution of the Company.

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

Corporations Regulations means the Corporations Regulations 2001 (Cth).

Directors means the Directors of the Company.

Directors' Report means the Directors' report required to be prepared and laid before the AGM in accordance with section 317 of the Corporations Act.

Explanatory Memorandum means the explanatory memorandum accompanying, and forming part of, the Notice of AGM.

Financial Report means the financial report required to be prepared and laid before the AGM in accordance with section 317 of the Corporations Act.

Listing Rules means the listing rules of the ASX.

North Pratt means North Pratt LLC.

Notice of AGM means the Notice of Meeting accompany this Explanatory Memorandum.

PERC means PERC Engineering of Jasper, Alabama.

Proposed Transaction means the proposed acquisition by Avexa of a 25.5 per cent equity interest in Coal Holdings and provision of a \$6 million working capital facility as summarised in section 5.3.

Remuneration Report means the Remuneration Report required to be prepared in accordance with section 300A of the Corporations Act.

Share means a fully paid ordinary share in the capital of the Company.

Shareholder means a Shareholder in the Company.

Stray Dog Mining means Stray Dog Mining LLC.





A V E X A

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**A V E X A****Avexa Limited**

ABN 53 108 150 750

Lodge your vote:**By Mail:**

Computershare Investor Services Pty Limited
GPO Box 242,
Melbourne Victoria 3001

In Person:

Computershare Investor Services Pty Limited
Yarra Falls, 452 Johnston Street,
Abbotsford Victoria 3067

Alternatively you can fax your form to
(within Australia) 1800 783 447
(outside Australia) +61 3 9473 2555

For Intermediary Online subscribers only
(custodians) www.intermediaryonline.com

For all enquiries call:

(within Australia) 1300 850 505
(outside Australia) +61 3 9415 4000

Proxy Form



**For your vote to be effective it must be received by
10.00am (AEDT) Thursday, 13 December 2012**

How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

Appointment of Proxy

Voting 100% of your holding: Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote as they choose. If you mark more than one box on an item your vote will be invalid on that item.

Voting a portion of your holding: Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

Appointing a second proxy: You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

A proxy need not be a securityholder of the Company.

Signing Instructions

Individual: Where the holding is in one name, the securityholder must sign.

Joint Holding: Where the holding is in more than one name, all of the securityholders should sign.

Power of Attorney: If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

Companies: Where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please sign in the appropriate place to indicate the office held. Delete titles as applicable.

Attending the Meeting

Bring this form to assist registration. If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Appointment of Corporate Representative" prior to admission. A form may be obtained from Computershare or online at www.investorcentre.com under the information tab, "Forms".

Comments & Questions: If you have any comments or questions for the company, please write them on a separate sheet of paper and return with this form.

Turn over to complete the form ➔



View your securityholder information, 24 hours a day, 7 days a week:

www.investorcentre.com

- ☒ Review your securityholding
- ☒ Update your securityholding

Your secure access information is:



PLEASE NOTE: For security reasons it is important that you keep your SRN/HIN confidential.

☐

Change of address. If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.

Proxy Form

Please mark ☒ to indicate your directions

STEP 1 Appoint a Proxy to Vote on Your Behalf

XX

I/We being a member/s of Avexa Limited hereby appoint

☐

the Chairman
of the Meeting OR



PLEASE NOTE: Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the Meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law, as the proxy sees fit) at the Annual General Meeting of Avexa Limited to be held at KPMG, 147 Collins Street, Melbourne, Victoria on Friday, 14 December 2012 at 10.00am (AEDT) and at any adjournment or postponement of that Meeting.

The Chairman of the Meeting intends to vote all available undirected proxies in favour of each item of business other than in respect of Item 4.

Chairman authorised to exercise undirected proxies on remuneration related resolutions: Where I/we have appointed the Chairman of the Meeting as my/our proxy (or the Chairman becomes my/our proxy by default), I/we expressly authorise the Chairman to exercise my/our proxy on Item 2 (except where I/we have indicated a different voting intention below) even though Item 2 is connected directly or indirectly with the remuneration of a member of key management personnel, which includes the Chairman.

Important Note: If the Chairman of the Meeting is (or becomes) your proxy you can direct the Chairman to vote for or against or abstain from voting on Item 2 by marking the appropriate box in step 2 below.

STEP 2 Items of Business



PLEASE NOTE: If you mark the **Abstain** box for an item, you are directing your proxy not to vote on your behalf on a show of hands or a poll and your votes will not be counted in computing the required majority.

	For	Against	Abstain
Item 2 Adoption of Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 3 Re-election of Director - Mr Bruce Hewett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 4 Election of Director - Dr Duncan Worthington	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Item 5 Investment in Alabama Coal Project	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Chairman of the Meeting intends to vote all available proxies in favour of each item of business, other than Item 4 which the Chairman of the Meeting will be voting against this item.

SIGN

Signature of Securityholder(s) *This section must be completed.*

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director/Company Secretary

Contact
Name

Contact
Daytime
Telephone

Date / /
