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## **GLOSSARY OF TERMS**

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# GLOSSARY OF TERMS

Term	Definition
<b>Administrators</b>	John Spark and Peter McCluskey as Voluntary Administrators of Pasminco
<b>AME</b>	Australian Mineral Economics (Market commentator)
<b>Appointment Date</b>	Date of appointment of Administrators - 19 September 2001
<b>ARA</b>	Australian Refined Alloys - 50/50 joint venture between Pasminco Limited and Simsmetal Ltd
<b>ASIC</b>	Australian Securities & Investments Commission
<b>ASX</b>	Australian Stock Exchange
<b>AUD</b>	Australian Dollar
<b>BIP</b>	Business Improvement Program
<b>BOOM</b>	The business improvement program specific to the smelters
<b>Brook Hunt</b>	Market Commentator
<b>CBA</b>	Commonwealth Bank of Australia Limited
<b>CFADS</b>	Cashflow Available for Debt Servicing
<b>CHR</b>	CHR Metals (Market Commentator)
<b>Committee</b>	Pasminco's Committee of Creditors
<b>The Companies</b>	Pasminco Limited (Administrators Appointed) ACN 004 368 674 -and- All Wholly Owned Australian Subsidiaries
<b>Cross Deeds</b>	Deeds of Cross Guarantee
<b>CRU</b>	Commodities Research Unit (Market commentator)
<b>CSFB</b>	Credit Suisse First Boston
<b>Deed</b>	Deed of Company Arrangement under part 5.3A of the Corporations Act
<b>Deed Administrators</b>	Administrators of the Deeds of Company Arrangement
<b>EBA</b>	Enterprise Bargaining Agreement
<b>EBIT</b>	Earnings Before Interest and Tax
<b>EPA</b>	Environmental Protection Authority
<b>E&amp;Y</b>	Ernst & Young
<b>The Financiers</b>	Financier creditors
<b>FIRB</b>	Foreign Investments Review Board
<b>The Group</b>	All Pasminco Group Companies worldwide whether or not in Administration
<b>IPO</b>	Initial Public Offering

# GLOSSARY OF TERMS

Term	Definition
<b>JLM</b>	Joint Lead Managers - UBS Warburg, Salomon Smith Barney and Deutsche Bank
<b>Ktpa</b>	Thousands of Tonnes per Annum
<b>Newco</b>	Vehicle used to raise float funds. Parent of Ongoing group
<b>NPV</b>	Net Present Value
<b>Ongoing Group</b>	Entities required for ongoing operations post restructure
<b>Pasminco</b>	Pasminco Limited (Administrators Appointed) ACN 004 368 674 -and- All Wholly Owned Australian Subsidiaries
<b>PCCS</b>	Pasminco Cockle Creek Smelter Pty Ltd (Administrators Appointed)
<b>PCML</b>	Pasminco Century Mine Limited (Administrators Appointed)
<b>PFL</b>	Pasminco Finance Limited (Administrators Appointed)
<b>PIH</b>	Pasminco International Holdings Pty Ltd (Administrators Appointed)
<b>PL</b>	Pasminco Limited (Administrators Appointed)
<b>PPT Lease</b>	Port Pipeline Transport lease, being part of Century mine
<b>PPTV</b>	PPTV Pty Ltd
<b>PWC</b>	PricewaterhouseCoopers
<b>RATA</b>	Report as to Affairs
<b>Residual Group</b>	Entities not required going forward
<b>Savage</b>	Savage Resources Limited
<b>Standstill Debt</b>	Money advanced to Pasminco by certain Financiers during the period 03/07/01 to 19/09/01
<b>Summit Facility</b>	New borrowings required to re-finance the VA facility, potentially the standstill debt and additional finance for working capital requirements
<b>UBS</b>	UBS Warburg
<b>USD</b>	United States Dollar
<b>US Operations</b>	This includes the Clinch Valley and Gordonsville mines and the Clarksville smelter owned by Pasminco and located in Tennessee, United States

# LIST OF ANNEXURES

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2	Schedule of Companies in Voluntary Administration
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7	Meeting Forms

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**ANNEXURE 1**

**STATEMENT SETTING OUT DETAILS OF THE  
DEEDS OF COMPANY ARRANGEMENT  
AND OTHER RESTRUCTURE DOCUMENTS**

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Statement setting out details of  
the Deeds and the other  
Restructure Documents for the  
purposes of s439A(4)(c) of the  
Corporations Act

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## 1. Background

A Deed in respect of each company in the Group under administration will be executed if the creditors of that company so resolve.

The Conditional Deed, the Loan Rationalisation Deed, the Security Trust Deed, the PPT Lease Transfer and Waiver Deed, the Contract Novation Deed and the Assumption Deed have been or will be entered into for the purpose of implementing and effecting the restructure contemplated under the Deeds.

This is a statement setting out the details of the Deeds. This Statement also describes aspects of the other Restructure Documents so far as they are relevant to those details.

It is important to note that, as a consequence of developments in the Restructure proposal leading up to the meeting, to the extent permitted under section 439C(a) of the Act, the Deeds and the other Restructure Documents may differ from the details of them contained in this Statement. All differences between the details of the Deeds and other Restructure Documents contained in this Statement and the Deeds will be disclosed.

An overview of the proposed Restructure is contained in Parts 4 to 6 of the Administrators' Report.

## 2. Float of Ongoing Group

### Capital Raising Direction

The Conditional Deed confers on the Deed Administrators, either directly or through their control of certain of the Deed Companies, the power to require Newco to:

- a) purchase all or some of the companies in the Group for nominal consideration;
- b) purchase the debt payable by all or some of the companies in the Group to other companies in the Group for the Rationalised Face Value of the debt; and
- c) once steps (a) and (b) have been completed, then:
  - i) if the Capital Raising is to proceed by way of an offer by Newco of shares in Newco for issue (**Issue Raising**), transfer the Net Proceeds and issue the Newco Shares to or as directed by Pasminco Limited; or
  - ii) if the Capital Raising is to proceed by way of an offer by or on behalf of Pasminco Limited of shares in Newco for sale (**Sale Raising**), issue the Consideration Shares to Pasminco Limited,

(in each case, **Capital Raising Direction**).

### If the Capital Raising Direction is given

If the Deed Administrators require it to do so and Newco:

- a) purchases the companies in the Group and the debt it is required to purchase; and
- b) either:
  - i) in the case of an Issue Raising, transfers the Net Proceeds and issues the Newco Shares to or as directed by Pasminco Limited; or
  - ii) in the case of a Sale Raising, issues the Consideration Shares to Pasminco Limited,

then, on the terms set out in this Statement:

- a) the companies in the Ongoing Group will be released from all Claims against them and Newco will have acquired the Ongoing Group essentially free of debt other than the debt Newco itself has acquired;
- b) the Residual Group will be liquidated; and
- c) the Net Proceeds and the Newco Shares and the proceeds from the liquidation of the Residual Group will be distributed to creditors in settlement of their Claims.

### **If the Capital Raising Direction is not given**

If Newco does not purchase the Ongoing Group and its debt and the Capital Raising Direction is not given, then a further meeting of creditors will be convened and creditors will be asked to approve a winding up or liquidation of the Group or an alternative restructure for the Group on the terms set out in this Statement below.

### **Discretion in relation to the Capital Raising**

Under the terms of the relevant Restructure documents, the Deed Administrators have absolute discretion to determine whether or not the Capital Raising is to proceed by way of an Issue Raising or a Sale Raising.

## **3. Requirement to give the Capital Raising Direction**

### **When requirement arises**

The Deeds will have the effect of requiring the Deed Administrators to give the Capital Raising Direction if and only if, on or before 31 March 2003 or a later date determined by the Deed Administrators with the approval of the Pricing Committee:

- a) FIRB approval of the acquisition by creditors of the Newco Shares is obtained;
- b) all other necessary regulatory approvals are obtained and requirements are met;
- c) Newco has been required to purchase certain of the companies in the Group as specified in the Conditional Deed and certain of the debt owed by those companies to other companies in the Group also as specified in the Conditional Deed;
- d) the Assumption Deed is executed by all the parties to it;
- e) the Contract Novation Deed is executed by all the parties to it;
- f) Newco has received valid applications for shares in Newco under the Capital Raising the aggregate issue or sale price in respect of which would, on issue or sale of the shares, equal or exceed an amount approved by the Pricing Committee;
- g) in the case of an Issue Raising, the shares in Newco issued under the Capital Raising do not exceed the percentage approved by the Pricing Committee of the total number of shares in Newco on issue immediately after the issue of those shares and the Newco Shares;
- h) in the case of a Sale Raising, the Sale Shares do not exceed the percentage approved by the Pricing Committee of the Consideration Shares;
- i) the Deed Administrators are satisfied on reasonable grounds that before or after the issue or sale of the shares under the Capital Raising, the shares will be admitted to quotation on a financial market of ASX within the period prescribed in section 723(3)(b) of the Act; and
- j) the Deed Administrators are satisfied in their absolute discretion that:
  - i) section 723(3)(d) of the Act does not apply in relation to Newco and the Capital Raising;
  - ii) either:

- (A) section 724(2) of the Act does not apply in relation to Newco and the Capital Raising; or
- (B) section 724(2) of the Act does apply in relation to Newco and the Capital Raising and:
  - (I) one month has elapsed expiring on or before 31 March 2003 or the later date determined by the Deed Administrators with the approval of the Pricing Committee; and
  - (II) the amount of withdrawals of applications has not resulted in Newco retaining Valid Applications for less than the minimum amount as provided above;
- iii) there is no order in force under section 739(1) or (3) of the Act in respect of Newco and the Capital Raising; and
- iv) there is no reason known to them why an order under section 739(1) or (3) of the Act may be made in the future in relation to Newco and the Capital Raising.

### **Deed Administrators not liable**

The Deed Administrators will not be liable for any loss incurred by any person bound by the Deeds which results in any way directly or indirectly from the Deed Administrators giving or not giving the Capital Raising Direction.

### **Capital Raising pricing meeting**

The Deed Administrators may put proposals to the Pricing Committee as to the amount referred to in **Section 3(f)** above and the percentage referred to in **Section 3(g)** above (**Pricing Proposals**).

## **4. If the Capital Raising Direction is given**

### **Capital Raising Direction**

If the Deed Administrators give the Capital Raising Direction, the Conditional Deed will require Newco to:

- a) acquire all or some of the Ongoing Group Companies as required by the Deed Administrators;
- b) acquire the debt payable by all or some of the Ongoing Group Companies to companies in the Residual Group as required by the Deed Administrators; and
- c) after steps (a) and (b) have been completed, then:
  - i) in the case of an Issue Raising, transfer the Net Proceeds and issue the Newco Shares to or as directed by Pasminco Limited; or
  - ii) in the case of a Sale Raising, issue the Consideration Shares to Pasminco Limited.

### **Transfer of Net Proceeds, issue of Newco Shares and sell down by Pasminco Limited**

The PL Deed will require Pasminco Limited to:

- a) either:
  - i) in the case of an Issue Raising, direct Newco to transfer the Net Proceeds to Pasminco Limited and issue:
    - (A) all or some of the Newco Shares to the Large Participating Creditors on a pro rata basis in proportion to their Entitlements;

- (B) if the Deed Administrators determine to proceed with the Warrant Issue, one Newco Share to the Warrant Trustee for each warrant to be issued under the Warrant Issue as cover for the warrant; and
- (C) the remaining Newco Shares to Pasminco Limited; and
- ii) in the case of a Sale Raising, direct Newco to issue the Consideration Shares to Pasminco Limited whereupon Pasminco Limited will, after completion of the Sale Raising by sale and transfer of the Sale Shares, transfer:
  - (A) all or some of the Newco Shares to the Large Participating Creditors on a pro rata basis in proportion to their Entitlements; and
  - (B) if the Deed Administrators have determined to proceed with the Warrant Issue, one Newco Share to the Warrant Trustee for each Warrant as cover for the warrant; and
- b) sell its assets in accordance with the rules summarised under **Section 0**.

### **Release of Claims against Ongoing Group**

On Newco transferring the Net Proceeds and issuing the Newco Shares to or as directed by Pasminco Limited or issuing the Consideration Shares to Pasminco Limited, as the case may be, the Deeds will have the effect that each company in the Ongoing Group will be released from all Claims (other than specified contingent Claims or classes of contingent Claims) against it and Pasminco Limited will assume liability in respect of the Claims (other than the contingent Claims or classes of contingent Claims not released) and the creditors of that company will be entitled to prove in respect of the Claims against Pasminco Limited under the terms of the PL Deed.

The companies in the Ongoing Group will be released from the contingent Claims and classes of contingent Claims against the Ongoing Group not otherwise released if proceedings in relation to the Claims are not brought on or before a date to be set out or determined in accordance with the Deeds.

### **Sell down by Residual Group**

Each company in the Residual Group other than Pasminco Limited will (unless ownership of the share capital of the company or any holding company of the company is sold or is to be sold as part of the sale process being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company) be required to sell its assets in accordance with the rules summarised under **Section 0** and pay the proceeds to or as directed by Pasminco Limited.

### **Release of Claims against Residual Group**

On:

- a) ownership of the share capital of a company in the Residual Group or any holding company of the company being sold as part of the sale procedure being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company; or
- b) the company in the Residual Group paying the proceeds from the sale of its assets to or as directed by Pasminco Limited,

the company in the Residual Group will be released from all Claims against it and Pasminco Limited will assume liability in respect of the Claims and the creditors of the Company will be entitled to prove in respect of the Claims against Pasminco Limited under the terms of the PL Deed.

### **Distribution to Deed Creditors**

The PL Deed will require Pasminco Limited to receive and hold:

- a) the Net Proceeds from the Capital Raising;
- b) any Newco Shares issued to Pasminco Limited by Newco;

- c) the proceeds from the sale of Pasminco Limited's assets; and
  - d) any distribution received by Pasminco Limited from the companies in the Residual Group,
- for its own benefit and then distribute to each Participating Creditor its Entitlement out of that property in accordance with the procedure set out in **Section 13**.

### **Release of Claims against Pasminco Limited**

On a Participating Creditor being issued the number of Newco Shares Pasminco Limited directs Newco to issue to it or being transferred Newco Shares by Pasminco Limited or the shares being issued or transferred to the Warrant Trustee if there is a Warrant Issue and Pasminco Limited distributing the Participating Creditor's Entitlement to it in accordance with the procedure set out in **Section 0**, the Participating Creditor will release Pasminco Limited from all Claims against it.

### **Deed may be pleaded in absolute bar**

On release of Claims, a Deed may be pleaded in absolute bar of any action, counterclaim, cross-claim, set-off, proceeding or suit which may otherwise have been brought, prosecuted or relied on by a Deed Creditor against the Deed Company in respect of its Claims.

## **5. If the Capital Raising Direction is not given**

If the Deed Administrators form the view that they will not give the Capital Raising Direction within the required time frame as varied from time to time, the Deeds will require them to convene a meeting of Deed Creditors as soon as is practicable having regard to the circumstances.

The notice of the meeting must set out the following resolutions (modified as appropriate, as the Deed Administrators determine) to be voted on by Deed Creditors at the meeting:

### **Resolution 1 - Equity option, Pasminco Limited structure**

That, subject to FIRB approval of the acquisition by creditors of the Pasminco Limited Shares having been obtained, the Pasminco Limited Shares (see **Section 0**).

### **Resolution 2 - Disposal of assets and distribution of proceeds under Deeds**

That the Group be wound up pursuant to the Deeds.

### **Resolution 3 - Formal winding up under the Act**

That the Group be wound up under the Corporations Act.

Resolutions 1 to 3 will be expressed so that they are mutually exclusive.

The notice of meeting may also set out any other resolutions that the Deed Administrators propose in their absolute discretion that the Deed Creditors vote on at the meeting.

## **6. If resolution 1 is passed - Equity option, Pasminco Limited structure**

### **Issue of Pasminco Limited Shares**

If resolution 1 is passed the PL Deed will require Pasminco Limited to:

- a) issue the Pasminco Limited Shares to the Large Participating Creditors on a pro rata basis in proportion to their Entitlements on the dates determined by the Deed Administrators in their absolute discretion;
- b) pay Small Participating Creditors up to 50 cents for each \$1 to which they are Entitled; and
- c) take all appropriate steps to have the Pasminco Limited Shares quoted and the existing shares in Pasminco Limited reinstated to quotation on a financial market conducted by ASX.

### **Release of Claims against Pasminco Limited**

On Pasminco Limited issuing the Pasminco Limited Shares and paying the Small Participating Creditors, each Deed Company will be released from all Claims against it.

### **Deed may be pleaded in absolute bar**

On release of Claims, a Deed may be pleaded in absolute bar of any action, counterclaim, cross-claim, set-off, proceeding or suit which may have been brought, prosecuted or relied on by a Deed Creditor against the Deed Company in respect of its Claims.

## **7. If resolution 2 is passed - Disposal of assets and distribution of proceeds under Deeds**

### **Sell down and payment to Pasminco Limited**

If resolution 2 is passed, the Deed Companies will (unless ownership of the share capital of the company or any holding company of the company is sold or is to be sold as part of the sale process being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company) sell their assets in accordance with the rules summarised under **Section 0** and pay the proceeds to or as directed by Pasminco Limited.

Pasminco Limited will in turn also sell its own assets.

### **Release of Claims against Deed Companies**

On:

- a) ownership of the share capital of each Deed Company or any holding company of the company being transferred as part of the sale process being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company; or
- b) the company paying the proceeds from the sale of its assets to or as directed by Pasminco Limited,

the company will be released from all Claims against it and Pasminco Limited will assume liability in respect of the Claims and the creditors of the Company will be entitled to prove in respect of the Claims against Pasminco Limited under the terms of the PL Deed.

### **Distribution to Deed Creditors**

The PL Deed will require Pasminco Limited to receive and hold:

- a) the proceeds from the sale of Pasminco Limited's assets; and
- b) any distribution received by Pasminco Limited from the other companies in the Group,

for its own benefit and then distribute to each Participating Creditor its Entitlement out of that property in accordance with the procedure set out in **Section 13**.

### **Release of Claims against Pasminco Limited**

On Pasminco Limited distributing the Participating Creditor's Entitlement to it in accordance with the procedure set out in **Section 13**, the Participating Creditor will release Pasminco Limited from all Claims against it.

### **Deed may be pleaded in absolute bar**

On release of Claims, a Deed may be pleaded in absolute bar of any action, counterclaim, cross-claim, set-off, proceeding or suit which may otherwise have been brought, prosecuted or relied on by a Deed Creditor against the Deed Company in respect of its Claims.

## 8. If resolution 3 is passed - Formal winding up under the Act

If resolution 3 is passed, the Deeds will terminate effective on the resolution being passed and the Deed Companies will be wound up in accordance with the Act.

## 9. Certificates of release of Claims

If a Deed Creditor's Claims are released under a Deed:

- a) the Deed Creditor must, if called on to do so, execute and deliver a written release of their Claims in any form required; and
- b) a certificate signed by the Deed Administrators that the Deed Creditor's Claims are released will, in the absence of manifest error, be final and conclusive and binding on the Deed Creditor.

On a Deed Company being released and completely discharged from all Claims and all Claims being extinguished, the Deed Administrators may certify to that effect in writing and lodge with ASIC a notice of termination of the Deed.

## 10. Acknowledgments in respect of releases of Claims

Deed Creditors in respect of the companies in the Group other than Pasminco Limited acknowledge and agree under the Deeds that the assets of the Deed Companies are not available to pay Claims, however, Deed Creditors (other than a Deed Creditor which a company in the Group) may prove in respect of its Claim against Pasminco Limited under the terms of the PL Deed.

## 11. Ascertainment of Entitlements

The rules for determining Entitlements will be the rules prescribed by the Act and the Regulations for proof of debts or claims on a winding up of a company.

## 12. Reduction of Entitlements

On a PL Deed Creditor being issued or transferred Newco Shares and on Newco Shares being transferred to the PL Deed Creditor:

- a) Pasminco Limited shall be deemed to have paid the PL Deed Creditor in respect of the PL Deed Creditor's Entitlement; and
- b) the PL Deed Creditor's Entitlement is reduced by,

an amount per Newco Share issued or transferred to the PL Deed Creditor equal to the highest issue or sale price per Newco Share under the Capital Raising.

Each Warrant Creditor agrees that, for each Newco Share issued or transferred to the Warrant Trustee as cover for a Warrant issued or to be issued by the Warrant Creditor, the Company shall be deemed to have paid the Warrant Creditor in respect of the Warrant Creditor's Entitlement and the Warrant Creditor's Entitlement is reduced by an amount per Newco Share equal to the highest issue or sale price per Newco Share under the Capital Raising.

## 13. Distribution of Entitlements

The PL Deed contains rules for distributing Entitlements to Deed Creditors.

If Pasmenco Limited is required to distribute to each Participating Creditor the Participating Creditor's Entitlement, Pasmenco Limited must apply the Distribution Property or Distribution Amount in payment to the Voluntary Administrators, the Deed Administrators and the Participating Creditors as follows:

- a) first, but only to the extent of the cash component of the Distribution Property, in accordance with the priorities set out in the Security Trust Deed;
- b) secondly, the Small Participating Creditors must be paid up to 50 cents cash for each \$1 they are Entitled to; and
- c) thirdly, the Large Participating Creditors their Entitlements on a pro rata basis,

in such instalments and on the dates determined by the Deed Administrators in their absolute discretion.

Any Deed Creditor which receives an amount in excess of its Entitlement must repay the amount to Pasmenco Limited within seven days after becoming aware that the excess has been paid to it.

The Entitlement of any Deed Creditor which remains unclaimed after a reasonable period of time (to be determined by the Deed Administrators), may be cancelled by the Deed Administrators and remitted to ASIC to be dealt with under Part 9.7 of the Act.

## 14. Warrant Issue

The Deed Administrators are given the power under the PL Deed to require certain creditors as nominated by them to issue warrants over Newco Shares to which they become entitled following a Capital Raising Direction (**Warrant Issue**).

If the Deed Administrators decide to proceed with the Warrants Issue, the PL Deed will:

- a) allow the Deed Administrators to direct Newco to issue or to transfer some of the Newco Shares to a trustee as cover for the warrants (**Warrant Trustee**);
- b) if required by the Deed Administrators, require the nominated creditors to appoint one of the finance creditors (**Issuer**) (who is an approved warrant issuer under the ASX business rules and who has issued warrants before 11 March 2002 so that transitional relief from the FSR disclosure requirements can be obtained) to offer and issue warrants to investors applying for shares in Newco under the Capital Raising. The Deed Administrators may nominate an issuer that is not a finance creditor, including, by way of example, Newco;
- c) contain an authority for the Issuer to issue an offering circular relating to the Warrant Issue complying with the Act, the Regulations and the rules for the warrants so that it is able to be given to investors at the same time as the prospectus for the Capital Raising; and
- d) authorises the Deed Administrators and/or Newco to prepare the offering circular on behalf of the nominated creditors and to give it to ASX.

The PL Deed will contain other provisions facilitating or expediting any Warrant Issue that might take place in the context of the restructure.

## 15. Newco Shares and Pasmenco Limited Shares

Large Participating Creditors agree:

- a) to accept any Newco Shares or Pasmenco Limited Shares issued or transferred to them; and
- b) if they are issued with Newco Shares or Pasmenco Limited Shares or if Newco Shares or Pasmenco Limited Shares are transferred to them:
  - i) to become a member of Newco or Pasmenco Limited; and
  - ii) to be bound by Newco's or Pasmenco Limited's constitution,

as the case may be.

## 16. Realisation of assets

Where a Deed Company is required under a Deed to sell its assets the Deed Administrators must endeavour to sell or otherwise realise all assets of the Deed Company for the best price that is reasonably obtainable having regard to the circumstances existing when those assets are sold.

The Deed Company and each person bound by the Deed must do all things and sign all documents required by the Deed Administrators to effect, ratify and perfect any transfer of assets and liabilities of the Deed Company.

## 17. The security structure

### Guarantee and charge

Each Deed Company and Newco will provide security to the Security Trustee under the Security Trust Deed in the form of a fixed and floating charge over all of its assets to secure its obligations in respect of:

- (a) fees and costs of the Security Trustee;
- (b) the Summit Facility (described in **Section 21** below) and any facility which replaces the Summit Facility after the Capital Raising;
- (c) the indemnities provided by the Deed Companies to the Voluntary Administrators and the Deed Administrators for personal liabilities incurred in their capacities as administrators of the Deed Companies (described in **Section 0** below);
- (d) employee entitlements; and
- (e) the cross-guarantee and indemnity granted by each Deed Company and Newco in favour of the Security Trustee, guaranteeing the obligations of the other guarantors in respect of the obligations described at (a) to (e) above.

Newco will not incur any liabilities under the guarantee and charge until a Capital Raising Direction is given in respect of a Capital Raising and Newco purchases the companies in the Ongoing Group.

Once a Capital Raising Direction is given and Newco acquires the companies in the Ongoing Group, the Security Trust Deed operates to:

- (a) release Pasmenco Limited and the companies in the Residual Group in respect of obligations listed at **(a)** to **(e)** above owed by Newco and the companies in the Ongoing Group; and
- (b) release Newco and the companies in the Ongoing Group in respect of obligations listed at (a) to (e) above owed by Pasmenco Limited and the companies in the Residual Group.

### Security Trust Deed

Under the Security Trust Deed, the Security Trustee holds the benefit of the guarantee and the charge for each of the following beneficiaries:

- (a) the Security Trustee;
- (b) the agent under the Summit Facility or any replacement facility;
- (c) each financier under the Summit Facility or any replacement facility;
- (d) the Voluntary Administrators;
- (e) the Deed Administrators; and
- (f) a trustee for the employees.

The Security Trustee is obliged to act in accordance with the instructions of the majority of financiers and the Voluntary Administrators, if applicable, and the Deed Administrators in enforcing the security.

## Priorities

The Security Trust Deed contains rules for distributing the proceeds of enforcement of the security to the beneficiaries after a default. Generally, proceeds of enforcement will be distributed in the following order of priority:

- (a) to any receiver appointed in connection with the enforcement of the security for its costs and remuneration;
- (b) to the Security Trustee for its costs and remuneration;
- (c) to the agent under the Summit Facility or the replacement facility for its costs and remuneration;
- (d) to the Voluntary Administrators in respect of any remaining personal liabilities;
- (e) to the financiers under the Summit Facility or the replacement facility for principal, accrued interest and other amounts payable to the financiers (except principal and accrued interest in respect of financial accommodation under the Summit Facility used to repay the Standstill Debt);
- (f) to the Deed Administrators in respect of any remaining personal liabilities incurred in their capacity as administrators of the Deeds;
- (g) to the financiers under the Summit Facility for principal and accrued interest in respect of financial accommodation used to repay the Standstill Debt; and
- (h) to the trustee for the employees for any employee entitlements.

The exact ordering of the priorities as between (d), (e), (f) and (g) is subject to final agreement with the Summit Facility financiers.

This priority regime will also be followed in the distribution of Entitlements to Deed Creditors (as described in **Section 13** above).

## 18. The Assumption Deed

The Assumption Deed provides that from the date Newco transfers the Net Proceeds and issues the Newco Shares to or as directed by Pasminco Limited (if the Capital Raising proceeds as an Issue Raising) or issues the Consideration Shares to Pasminco Limited (if the Capital Raising proceeds as a Sale Raising), Newco assumes the obligations of Pasminco Limited and other entities in the Residual Group under certain specified liabilities set out in the Assumption Deed so that Pasminco Limited and the other entities in the Residual Group are released and discharged from those obligations and Newco undertakes to perform and observe those obligations in substitution for Pasminco Limited and the other entities in the Residual Group.

The beneficiaries of the obligations under the specified liabilities consent to the assumption of those obligations by Newco and agree to the release and discharge of Pasminco Limited and the other entities in the Residual Group.

## 19. The Contract Novation Deed

The Contract Novation Deed provides for the novation of specified contracts as set out in the deed from Pasminco Limited and other entities in the Residual Group to Newco from the date Newco transfers the Net Proceeds and issues the Newco Shares, to or as directed by Pasminco Limited (if the Capital Raising proceeds as an Issue Raising) or issues the Consideration Shares to Pasminco Limited (if the Capital Raising proceeds as a Sale Raising).

Pasminco Limited and the other entities in the Residual Group are released and discharged from the specified contracts and Newco undertakes to perform and observe the terms and obligations of the specified contracts in substitution for Pasminco Limited and the other entities in the Residual Group.

The parties entitled to the benefit of the specified contracts release and discharge Pasminco Limited and the other entities in the Residual Group from all claims under the specified contracts and Pasminco Limited and the other entities in the Residual Group release and discharge those persons from any liability to them under the specified contracts.

Newco indemnifies the parties entitled to the benefit of the specified contracts for any claim (other than Claims) any of them may have against Pasminco Limited and the other entities in the Residual Group as at the date of operation of the Deed and Pasminco Limited and the other entities in the Residual Group indemnify Newco against all such liabilities for which the parties entitled to the benefit of the specified contracts make a claim against Newco.

## 20. PPT Lease Transfer and Waiver Deed

The PPT Lease Transfer and Waiver Deed provides for the waiver of events of default and consent to the arrangements contemplated by the relevant Deeds under the PPT Transaction Documents and a transfer of Pasminco Finance's interest in the leasing partnership to Newco. Subject to agreement with the PPT transaction parties, the deed also contemplates granting PCML a right to acquire the PPT Assets on expiry of the term of the PPT leases.

## 21. Mine Fleet Assets Transaction Waiver and Consent Deed

The Mine Fleet Assets Transaction Waiver and Consent Deed provides for the for the waiver of events of default and consent to the arrangements contemplated by the relevant Deeds under the Mine Fleet Assets Transaction Documents in favour of PCML.

## 22. Summit Facility

It is proposed that PCML will borrow money from a group of financiers (each of whom is a Deed Creditor) under a short-term revolving facility to:

- (a) refinance the financial accommodation provided to the Voluntary Administrators during the course of their appointment;
- (b) refinance the Standstill Debt;
- (c) provide immediate working capital; and
- (d) cash collateralise transactional banking liabilities,

during the period in which the Deed Companies are subject to the Deeds.

If the Capital Raising Direction is given, the proceeds of the Capital Raising will be used to pay out the Summit Facility, among other things.

The Summit Facility will contain standard representations and warranties, undertakings and events of defaults for a facility of this nature.

Amounts owing under the Summit Facility may be accelerated after an event of default. In addition, a review event will occur if a Capital Raising Direction is not given by a certain date. If a review event occurs, all amounts owing under the Summit Facility may be accelerated and the Summit Facility will be cancelled.

## 23. The Loan Rationalisation Deeds

The Loan Rationalisation Deeds provides for a number of set offs and assignments of debt between members of the Group which will have the effect of significantly reducing the number of debts outstanding between the various members of the Group.

The Deeds also ensures that after completion of the set offs and assignments the total debt owing by any member of the Ongoing Group to the members of the Residual Group does not exceed the total net assets of the member of the Ongoing Group (adjusted by removing from the calculation any indebtedness between the member of the Ongoing Group and any member of the Residual group, obligations arising under the ASIC Cross Deed and Contingent obligations)

## 24. Commencement and execution

Each Deed will take effect on the date it has been executed by all parties to it.

Each Deed will be executed by the Deed Company, each other entity in the Group and the Deed Administrators in their capacities as the Deed Administrators and the Voluntary Administrators of the Deed Company.

## 25. Interim effect

If a person would be bound by a Deed if the Deed had already been executed, at any time from the time the resolution to execute the Deed is passed to the earlier of:

- a) the time the Deed is executed; and
- b) the end of the period in which section 444B(2) of the Act requires the Deed Company to execute the Deed,

the person must not:

- c) do anything inconsistent with the Deed except with the leave of the Court; or
- d) do any of the following:
  - i) make or proceed with an application for an order to wind up the Deed Company or take or concur in taking any step to wind up the Deed Company;
  - ii) appoint a court approved receiver or a provisional liquidator to the Deed Company or any of the Deed Company's assets;
  - iii) begin or proceed with a proceeding against the Deed Company or in relation to any of its assets except with the leave of the Court and in accordance with such terms (if any) as the Court imposes; or
  - iv) begin or proceed with any enforcement process in relation to assets of the Deed Company except with the leave of the Court and in accordance with such terms (if any) as the Court imposes.

## 26. Termination

Each Deed will terminate on whichever of the following occurs first:

- a) the Court makes an order under section 445D of the Act in respect of the Deed;
- b) the Deed Creditors resolve to terminate the Deed at a meeting called under the Deed of Deed Creditors in accordance with section 445C(b) of the Act;

- c) the Deed Creditors of any Deed Company do not resolve that the Deed Company execute a Deed in respect of that company;
- d) the Security Trust Deed is not executed by all the parties to it on or before a date to be set out in or determined under the Deeds or such other date as the Deed Administrators determine with the approval of the Pricing Committee; and
- e) the Deed Administrators lodging with ASIC a notice of termination of the Deed as contemplated in **Section 9**.

The termination of a Deed will not affect its previous operation.

## 27. Winding up

Each Deed will have the effect that the Deed Company will be wound up under the Act on termination of the Deed if:

- a) the event summarised in **Section 26(c)** above occurs;
- b) the Deed Creditors pass resolution 2 summarised in **Sections 5** and **7** above; or
- c) the Deed Creditors resolve at a meeting of Deed Creditors that the Deed Company is to be wound up.

## 28. Representations and warranties

Certain minimal representations and warranties are given to Newco under the Conditional Deed in relation to the companies and debt Newco can be required to acquire.

The Deed Administrators are not liable for any liabilities Newco suffers or incurs by reason of any representation or warranty being untrue or inaccurate.

The representations and warranties are subject to and are qualified by various matters specified in the Conditional Deed.

Liability for a representation or warranty being untrue or inaccurate is limited under the Conditional Deed.

Certain obligations are imposed on Newco in relation to making claims against the representations or warranties.

## 29. Prescribed provisions

Subject to **Section 36(f)**, the Deeds do not include the provisions in Schedule 8A to the Regulations.

## 30. Inconsistency with Act or Regulations

If there is any inconsistency between the provisions of a Deed and the Act or Regulations, the Deed will prevail to the extent permitted by law.

## 31. Failure of arrangements

Notwithstanding anything else in each Deed, if the Deed Administrators determine that it is no longer practicable or desirable either to continue to carry on the business of the Deed Company or to implement the Deed, the Deed Administrators:

- a) may cease to carry on the business of the Deed Company except so far as is necessary in their opinion for the orderly winding up of the Deed Company; and
- b) must summon a meeting of Deed Creditors for the purpose of passing a resolution terminating the Deed.

## 32. Moratorium

### **Deeds bind all persons**

Subject to the rights of any owner or lessor pursuant to section 444D(3) of the Act, each Deed binds:

- a) in accordance with section 444D(1) of the Act, all Deed Creditors;
- b) in accordance with section 444G of the Act, the Deed Company, its officers and members and the Deed Administrators;
- c) any owner or lessor who voted in favour of the resolution of Deed Creditors that the Company executed the Deed; and
- d) any secured creditor who voted in favour of the resolution of Deed Creditors that the Company executed the Deed.

### **Restrictions on persons bound**

While a Deed is in force, without the Deed Administrators' prior written consent and, where section 444E of the Act applies, the leave of the Court, a Deed Creditor must not in relation to its Claim under a Deed:

- a) make or proceed with an application for an order to wind up the Deed Company or take or concur in taking any step to wind up the Deed Company;
- b) appoint a court approved receiver or a provisional liquidator to the Deed Company or over any of the assets of the Deed Company;
- c) begin or continue any proceeding against the Deed Company or in relation to any of its assets except with the leave of the Court and in accordance with such terms (if any) as the Court imposes;
- d) begin or continue with any enforcement process in relation to the assets of the Deed Company except with leave of the Court and in accordance with such terms (if any) as the Court imposes;
- e) take or continue any action whatsoever to seek to recover any part of its Claim other than pursuant to the Deed; or
- f) commence or take any further step in any arbitration against the Deed Company or to which the Company is a party.

### **Deed Administrators not liable**

The Deed Administrators are not liable in an action for damages in respect of a refusal to give an approval or consent for the purposes of the moratorium.

### **No termination event**

The Deeds also provide that if:

- a) the appointment of the Voluntary Administrators;
- b) the execution or performance of a Deed; or
- c) any transaction contemplated under a Deed,

would entitle a person or cause the person to be entitled to any remedy or to take any action under or to terminate, repudiate or rescind any agreement, arrangement or the like (**Trigger Event**) and

- d) the person voted in favour of the resolution of Deed Creditors that the Company execute the relevant Deeds; or
- e) the Court orders under section 444F of the Act that the person is bound by the relevant clause, the person is absolutely barred from exercising the remedy, taking the action, or terminating, repudiating or rescinding the agreement, arrangement or the like.

The Deeds also provide that if:

- a) the execution or performance of the Conditional Deed by the person or any other person; or
- b) any transaction contemplated under the Conditional Deed, including without limitation Newco being required under the Conditional Deed to purchase and purchasing the share capital of SPC, would constitute or cause, directly or indirectly, a Trigger Event and:
- c) the person voted in favour of the resolution of Deed Creditors that the Company executed the relevant Deeds; or
- d) the Court orders under section 444F of the Act that the person is bound by the relevant clause, the person is absolutely barred from exercising the remedy, taking the action, or terminating, repudiating or rescinding the agreement, arrangement or the like.

### **Pirie Silver**

The Deeds also provide that if:

- a) Pirie Silver voted in favour of the resolution of Deed Creditors that the Company executed the relevant Deeds; or
- b) the Court orders under section 444F of the Act that Pirie Silver is bound by the relevant clause, Pirie Silver agrees that the Silver Sale Agreement and the Sales Agency Agreement have terminated and are of no further force or effect and that Pirie Silver has no legal, beneficial or other proprietary interest in silver dore plate or silver under the Silver Sale Agreement or the Sales Agency Agreement.

### **PPT Lease waivers**

The Deeds also provide that if the PPT Lease Transfer and Waiver Deed is not entered into on or before the Commencement Date and:

- a) the PPT Parties voted in favour of the resolution of Deed Creditors that the Company executed the relevant Deeds; or
- b) the Court orders under section 444F of the Act that the PPT Parties are bound,

then:

the waivers and transfer contemplated under the PPT Lease Transfer and Waiver Deed will be effected under the Deeds.

### **Other such waivers**

The Deeds will contain clauses with similar effect to the above in respect of other leasing and joint venture arrangements involving companies in the Ongoing Group, including, without limitation, the Mine Fleet Assets Transaction and the Accommodation Village Transaction. The clauses will contemplate documentation similar to the PPT Lease Transfer and Waiver Deed being entered in respect of the relevant arrangements.

### **No release**

A Deed does not release the Deed Company from any Claims, except to the extent expressly provided in the Deed.

### 33. Transfer of certain rights of action

The Deeds will have the effect that all claims which companies in the Ongoing Group may have against certain persons including, without limitation, current or former officers, auditors and advisers of the Company, will be transferred to Pasmenco Limited effective immediately but conditional on the Claims against the companies in the Ongoing Group being released on Newco complying with a Capital Raising Direction.

Pasmenco Limited will then be entitled bring actions in respect of those claims defend any counter claims brought against the companies in the Ongoing Group.

### 24. Members Bound by Deed

By virtue of section 444G(b) of the Act, Members of each Deed Company are bound by the Deed.

The Members appoint the Deed Administrators as their proxies or attorneys (with power to appoint proxies) to vote and pass resolutions to give effect to the terms of the Deed.

The Members agree that they will not, unless requested by the Deed Administrators, request or call a general meeting of the Deed Company (whether under section 249D or 249F of the Act or otherwise) or pass any resolution including a resolution that the Deed Company be wound up.

### 35. Role of the Deed Administrators

#### General role

The Deed Administrators:

- a) will retain day-to-day management and control of the Deed Company until the Termination Date to the exclusion of the Deed Company's directors;
- b) have control of the Deed Company's business, assets and affairs;
- c) may carry on that business and manage those assets and those affairs;
- d) may terminate or dispose of all or part of that business and may dispose of any of those assets;
- e) may perform any function and exercise any power that the Deed Company or any of its officers could perform or exercise if the Deed Company were not subject to the Deed;
- f) may issue, sell or dispose of shares in the Deed Company on such terms and conditions and with such rights and restrictions as they think fit; and
- g) may transfer assets or novate liabilities (or both) to or from the Deed Company (or both).

#### Deed Administrators act as Company's agent

In performing their functions under each Deed, the Deed Administrators are acting as the agents on behalf of the Deed Company.

To the maximum extent permitted by law, they will not be personally liable and accept no personal liability for any acts, matters or omissions relating to things done or not done in that capacity.

#### Deed Administrators may investigate affairs

The Deed Administrators may investigate the Deed Company's business, assets, affairs and financial circumstances and may report the results of their investigations to ASIC and/or the Deed Creditors.

#### Deed Administrator's rights to Company's books

A person bound by a Deed is not entitled as against the Deed Administrators:

- a) to obtain possession of books or records of the Deed Company; or
- b) to claim or enforce a lien on such books or records, but such a lien is not otherwise prejudiced.

## 36. Powers of the Deed Administrators

### General powers

The Deed Administrators will be entitled in their capacity as Deed Administrators to exercise all the rights, powers, privileges, authorities and discretions which are conferred by the Deed Company's constitution or otherwise by law on the Deed Company's directors to the exclusion of the Deed Company's directors.

### Specific powers

Without limiting the above, the Deed Administrators will have the following powers to the maximum extent permitted by the Act:

- a) the power to remove from office a director of the Deed Company;
- b) the power to appoint a person as a director of the Deed Company, whether to fill a vacancy or not;
- c) the power to execute a document, bring or defend proceedings, or do anything else, in the Deed Company's name and on its behalf;
- d) the powers conferred on the members of the Deed Company to the exclusion of those members;
- e) the powers conferred on the directors of the Deed Company to the exclusion of the directors of the Deed Company;
- f) all of the powers set out in paragraph 2 of Schedule 8A to the Regulations;
- g) the power to alter share capital of the Deed Company;
- h) the power to issue shares in the Deed Company on such terms and conditions and with such rights or restrictions as they think fit;
- i) the power to offer for sale and to transfer shares held by the Deed Company;
- j) the power to vary or cancel class rights attaching to shares;
- k) the power to change the Deed Company's name;
- l) the power to reduce the Deed Company's capital;
- m) the power to alter the Deed Company's constitution;
- n) the power to convene meetings of members of the Deed Company;
- o) the power to resolve any dispute of any nature commercially;
- p) in relation to the assets of the Deed Company, all the powers of a natural person who is the absolute and beneficial owner of such assets, including (without limitation) the power to sell or otherwise realise any such assets pursuant to a sale process conducted by the Deed Administrators;
- q) the power to assign and transfer assets and novate liabilities, of the Deed Company to another company in the Group or any other person;
- r) the power to accept and take an assignment or transfer of assets and to accept novation of liabilities from another company in the Group or any other person;
- s) the power to control the Deed Company's business, assets and affairs;
- t) the power to carry on that business and manage those assets and those affairs;
- u) the power to terminate or dispose of all or part of that business and dispose of any of those assets;

- v) the power to perform any function and exercise any power that the Deed Company or any of its officers could perform or exercise if the Deed Company were not subject to the Deed or subject to voluntary administration;
- w) the power to cause the Company to enter into hedging agreements (any derivative contracts including commodity, currency and interest rate risk management products including but not limited to commodity, currency and interest rate swaps, forwards, futures and options and any combination of them);
- x) the power to cause the Company to pay amounts under the PPT Transaction Documents;
- y) grant a security over any or all of the assets of the Deed Company for any period and on such terms as the Deed Administrators think fit and whether in substitution for any existing security or otherwise;
- z) the power to cause a Deed Company to register or join in the registration of a company; and
- aa) the power to incur or agree to incur and treat a payment obligation arising during or before the period the Deed is in force in relation to the administration of the Deed including for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of, or in the possession of, the Deed Company.

### **Power to engage lawyers and consultants**

The Deed Administrators will also have power to engage lawyers, stockbrokers, investment banks, financial advisers, accountants, auditors and other consultants, and the Deed Company must pay all costs of any lawyers, stockbrokers, investment banks, financial advisers, accountants, auditors and other consultants engaged by the Deed Administrators.

### **Power to engage the Deed Administrators' Firm**

The Deed Administrators may engage the Deed Administrators' Firm and any member or employee of the firm.

## **37. Powers of other officers suspended**

While a Deed Company is subject to a Deed, a person (other than the Deed Administrators) cannot perform or exercise and must not purport to perform or exercise a function or power as an officer of the Deed Company except with the Deed Administrators' prior written approval.

## **38. Administrators' remuneration and costs**

The Voluntary Administrators and Deed Administrators will be:

- a) remunerated by each Deed Company in respect of:
  - i) any work done by the Voluntary Administrators, and any partner of the Voluntary Administrators or employee of the Voluntary Administrators' Firm acting on behalf of the Voluntary Administrators, in connection with the conduct of the Voluntary Administrators under the Act and the performance of their duties as administrators of the Deed Company; and
  - ii) any work done by the Deed Administrators, and any partner of the Deed Administrators or employee of the Deed Administrators' Firm acting on behalf of the Deed Administrators, in connection with the administration of the Deed and the performance of their duties under the Deed,

at the scale of rates charged from time to time by the Voluntary Administrators' Firm for the work done by the Voluntary Administrators and the Deed Administrators' Firm as applicable for the

work done by the Deed Administrators, such remuneration to be approved from time to time by the Deed Creditors; and

- b) reimbursed by the Deed Company in respect of all:
- i) costs, fees and expenses incurred in connection with the performance of their duties as administrators of the Deed Company; and
  - ii) costs, fees, expenses, taxes, levies or charges incurred in connection with the performance of their duties, obligations and responsibilities under the Deed,
- including without limitation in respect of all payments to any lawyers, stockbrokers, investment banks, financial advisers, accountants, auditors and other consultants engaged by them.

The Deed Administrators may pay amounts out of the Deed Company funds to remunerate and reimburse the Voluntary Administrators and the Deed Administrators in accordance with the above.

## 39. Voluntary and Deed Administrators' Indemnity

### Indemnity

The Voluntary Administrators and the Deed Administrators are indemnified as a continuing indemnity out of the assets of each Deed Company for:

- a) all loss and damage suffered by them as a consequence of or arising out of the Deed Company failing to comply with its obligations to remunerate the Deed Administrators and pay their costs as summarised above;
- b) all loss and damage suffered by them as a consequence of or arising out of another Deed Company failing to comply with its obligations to remunerate the Voluntary Administrators and Deed Administrators and pay their costs;
- c) all debts payable, liabilities incurred by and Claims against the Voluntary Administrators in relation to the administration of the Deed Company, including any amounts payable by the Voluntary Administrators by virtue of section 443A of the Act or by virtue of them having agreed to treat a payment obligation as if it were a debt arising under section 443A of the Act;
- d) all debts payable, liabilities incurred by and Claims against the Deed Administrators in relation to the administration of the Deed or their acting as Deed Administrators, including any amounts agreed or accepted by the Deed Administrators or held by a court as payable for services rendered, goods bought or property hired, leased used or occupied by or on behalf of, or in the possession of, the Deed Company;
- e) all costs, expenses, losses and liabilities incurred or suffered by them in any way directly or indirectly arising from the Deed Administrators giving or not giving the Capital Raising Direction under the Conditional Deed;
- f) their remuneration whether as Voluntary Administrators or as Deed Administrators;
- g) to the extent permitted by law, any cost, expense, loss or liability incurred or suffered by them in connection with the Capital Raising, including, without limitation, in connection with the preparation and lodgment of the Prospectus or supplementary or replacement prospectus and any offer of shares under the Capital Raising; and
- h) all other costs, expenses, losses and liabilities incurred or suffered by them in performing any of their functions, duties or obligations, or exercising any of their powers, under or in accordance with the Act, any other applicable law, or the Deed in connection with their administration of the Deed Company or the administration of the Deed.

In the case of companies in the Ongoing Group, the indemnity under **(b)** and **(c)** above will not apply after the Capital Raising Direction has been given.

### **Indemnity not affected**

The indemnity will not affect or prejudice any rights that the Voluntary Administrators or Deed Administrators may have against the Deed Company or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Voluntary Administrators or the Deed Administrators on or incidental to the exercise or performance of any of the powers or authorities conferred on the Voluntary Administrators or the Deed Administrators by the Act, at law, by the Deed or otherwise.

### **Continuing indemnity**

The indemnity is a continuing indemnity and will enure for the benefit of the Voluntary Administrators and the Deed Administrators' legal personal representatives notwithstanding:

- a) cessation of the voluntary administration of the Deed Company or termination of the Deed;
- b) the termination of the Deed for any reason whatsoever; or
- c) removal of the Deed Administrators and appointment of a new administrator of the Deed,

and will not be affected or limited in any way by any defect or invalidity in the appointment of either the Voluntary Administrators or the Deed Administrators.

## **40. Priority of rights of Voluntary and Deed Administrators**

The rights of the Voluntary Administrators and the Deed Administrators summarised under **Sections 38** and **39** will be given first priority ahead of the Claims and certain other liabilities of the Deed Company in accordance with the Security Trust Deed.

## **41. Limitation on Administrators' liability**

To the extent permissible by law, the Voluntary Administrators and the Deed Administrators will not be personally liable for:

- a) any debt payable by or liabilities incurred by the Deed Administrators being debts or liabilities payable or incurred on behalf of the Deed Company in relation to the administration of the Deed Company or the administration of the Deed;
- b) any debt payable by or liabilities incurred by the Deed Administrators being debts or liabilities payable or incurred on behalf of the Deed Company pursuant to the Deed;
- c) any loss or damage caused by any act, default or omission by the Voluntary Administrators or on behalf of the Voluntary Administrators in the performance of their powers, functions and duties as administrators of the Deed Company or administrators of the Deed; or
- d) any loss or damage caused by any act, default or omission by the Deed Administrators or on behalf of the Deed Administrators in the performance of the Deed Administrators' powers, functions, and duties under the Deed.

## **42. Creditors Committee**

### **Composition of Creditors Committee**

There will be a committee:

- a) under the PL Deed comprising those persons elected by the PL Deed Creditors; and
- b) under each other Deed comprising the members of the committee under the PL Deed (**Creditors Committee**).

## Function

The function of the Creditors Committee will be:

- a) to consult with the Deed Administrators about matters relating to the matters dealt with or contemplated by the Deeds;
- b) to receive and consider reports by the Deed Administrators.

## No directions to Deed Administrators

The Creditors Committee cannot give and must not purport to give directions to the Deed Administrators.

## Rules

The following rules apply to the Creditors Committee:

- a) each member of the Creditors Committee must be a Deed Creditor, an attorney of a Deed Creditor or a person otherwise authorised in writing by a Deed Creditor to be a member of the Creditors Committee;
- b) a Deed Creditor is not entitled to have more than one representative (including the Deed Creditor himself or herself, if a natural person) on the committee;
- c) if the minutes (if any) of a meeting purport to be signed by the chairman of the meeting, the minutes are prima facie evidence of the matters contained in them;
- d) unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings taken at the meeting are taken to have been duly passed and taken;
- e) a corporation (being otherwise qualified for membership of the Creditors Committee) is entitled to be a member and may appoint a person to represent it on the Creditors Committee; and
- f) if required by the Deed Administrators, each member of the Creditors Committee must enter into a deed of confidentiality in favour of the Deed Company and the Deed Administrators in a form reasonably required by the Deed Administrators.

## No remuneration for members of the Creditors Committee

A member of the Creditors Committee may be entitled to be reimbursed for the reasonable out of pocket expenses incurred by him or her in attending meetings of the Creditors Committee, as may be approved from time to time by the Creditors Committee and the Deed Administrators, but must not otherwise be entitled to claim or receive from the Deed Company, the Deed Administrators or the Deed Creditors any remuneration for acting as a member of the Creditors Committee and such reimbursement must form part of the Deed Administrators' costs and expenses.

## 43. Pricing Committee

### 43.1 Composition of Pricing Committee

There will be a committee:

- a) under the PL Deed comprising those persons with Claims of \$5 million or more who consent in writing to their appointment; and
- b) under each other Deed comprising the members of the committee under the PL Deed (**Pricing Committee**).

Each member of the Pricing Committee must be a PL Deed Creditor, an attorney of a PL Deed Creditor or a person otherwise authorised in writing by a PL Deed Creditor to be a member of the Pricing Committee.

A PL Deed Creditor is not entitled to have more than one representative (including the PL Deed Creditor himself or herself, if a natural person) on the Pricing Committee.

A corporation (being otherwise qualified for membership of the Pricing Committee) is entitled to be a member and may appoint a person to represent it on the Pricing Committee.

### **Function**

The sole functions of the Pricing Committee will be to:

- a) receive and approve or reject Pricing Proposals by the Deed Administrators; and
- b) approve a later date determined by the Deed Administrators mentioned under **Sections 3 and 26(d)**.

### **Rules**

Unless otherwise provided in or inconstant with the relevant Deed, sections 549, 550 and 551 of the Act and Regulations 5.6.12 to 5.6.36A inclusive (other than Regulations 5.6.14A and 5.6.27) apply, with such modifications as the Deed Administrators determine in their absolute discretion are necessary or expedient, to a Pricing Committee established under a Deed, as if references to 'committee of inspection' were references to the Pricing Committee, references to 'liquidator' were references to the Deed Administrators and the references to 'contributories' were deleted.

The Deeds will allow notices of meetings and other materials relating to the Pricing Committee to be sent to members of the committee by electronic communication.

### **Confidentiality**

If required by the Deed Administrators, each member of the Pricing Committee must enter into a deed of confidentiality in favour of the Deed Company and the Deed Administrators in a form reasonably required by the Deed Administrators.

### **No remuneration for members of the Pricing Committee**

A member of the Pricing Committee may be entitled to be reimbursed for the reasonable out of pocket expenses incurred by him or her in attending meetings of the Pricing Committee, as may be approved from time to time by the Pricing Committee and the Deed Administrators, but must not otherwise be entitled to claim or receive from the Deed Company, the Deed Administrators or the Deed Creditors (other than, where applicable, the member's appointer) any remuneration for acting as a member of the Pricing Committee and such reimbursement must form part of the Deed Administrators' costs and expenses.

## **44. Acknowledgments and agreements of Owners and Lessors**

### **Acknowledgments**

Each Owner and Lessor bound by a Deed acknowledges and agrees that:

- a) the Voluntary Administrators have not, during the Voluntary Administration Period or prior to or as at the Commencement Date, adopted, ratified or become liable to the Lessors under any lease with the Lessors;
- b) the Deed Administrators will not adopt, ratify or become liable to the Lessors under any lease with the Lessors; and
- c) it will use its best endeavours to mitigate any loss and damage suffered by it.

### **Voluntary Administrators not personally bound**

The Voluntary Administrators have not ratified, adopted or in any other manner become bound under, or become liable to, any Lessor under any lease by virtue of:

- a) any discussions or correspondence they may have had or entered into with any Lessor; or
- b) the use, occupation or possession of any premises or equipment by the Deed Company,

during the Voluntary Administration Period or prior to or as at the Commencement Date.

Nothing above is intended to avoid the Voluntary Administrators' liability under section 443A or 443B of the Act for the payment of rent or other amounts payable in respect of a lease.

### **Owners and Lessors**

A Deed does not affect a possessory right that an Owner or Lessor of real property has in relation to that real property except so far as:

- a) the Court grants any equitable relief;
- b) the Deed so provides in relation to that Owner or Lessor who voted in favour of the resolution of Deed Creditors that the Company execute the Deed; or
- c) the Court orders under section 444F(4) of the Act or otherwise.

### **Deed Administrators' rights not limited**

Nothing in the Deeds affects or limits in any way or at any time the rights of the Deed Administrators to:

- a) oppose any attempt by an Owner or Lessor to enforce, realise or otherwise deal with its real property or property as the case may be, at common law or under the Act; or
- b) to seek relief from the Court pursuant to section 444F or otherwise.

## **45. Meetings of Deed Creditors**

The rules governing meetings of Deed Creditors will be as prescribed in the Act and the Regulations.

## **46. Goods and services tax**

A GST clause is included in each Deed. The clause has been broadly drafted and allows any person bound by the Deed to recover an amount on account of GST for any taxable supply that it makes. As most transactions involve the transfer of shares or debt, it is unlikely that a GST liability will arise for entities in the Group (noting that a GST Group currently exists, meaning that intra-Group transactions are disregarded for GST purposes). The clauses allow the Voluntary and Deed Administrators to recover an amount on account of GST in relation to their services.

## **47. Jurisdiction**

Proceedings concerning each Deed may only be brought in the Court, unless otherwise agreed in writing by the Deed Administrators or unless the Court does not have jurisdiction to deal with the proceedings.

## **48. Governing Law**

Each Deed will be governed by and construed in accordance with the laws of Victoria.

## **49. Reporting**

Except as required by law, the Deed Administrators will not be required to report to the Deed Creditors. However, the Deed Administrators may report to the Deed Creditors at such times as the Deed Administrators consider appropriate.

## 50. Further assurances

Each person bound by a Deed must do all things reasonably required to give full effect to the provisions of the Deed.

## 51. Deed Administrators' discretion

Any power exercisable by the Deed Administrators under Deeds is exercisable by them in their absolute discretion unless expressly stated otherwise.

## 52. Power of attorney

The Deed Companies appoint the Deed Administrators their attorney to the exclusion of all other persons to exercise the Deed Companies' rights and powers in relation to their assets.

## 53. Company not to Prosecute

The Deed Companies agree not to prosecute any action which in any way relates directly or indirectly to the assets of the Deed Company without the prior consent of the Deed Administrators.

## 54. Definitions

In this Statement unless the contrary intention appears:

**Accommodation Village Transaction** means the transaction documented in the Accommodation Village Transaction Documents.

**Accommodation Village Transaction Documents** means each of the transaction documents (as defined in the Equipment Lease dated 14 August 1998 between National Australia Bank Ltd (ACN 004 004 937) and Northern Accommodation Management Pty Ltd (ACN 082 396 638)).

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

**Appointment Date** means the date the Voluntary Administrators were appointed as administrators of the companies in the Group under administration under Part 5.3A of the Act, being 19 September 2001.

**ASIC** means the Australian Securities and Investments Commission.

**ASIC Cross Deed** means the cross deed of covenant dated 23 April 1997 and lodged with ASIC by Pasmenco Limited and its wholly owned subsidiaries.

**Assumption Deed** means the deed summarised under **Section 18** of this Statement.

**ASX** means Australian Stock Exchange Limited ACN 008 624 691.

**Capital Raising** means the proposed offer of shares in Newco for issue by Newco or offer of shares in Newco for sale by or on behalf of Pasmenco Limited. Details in relation to the Capital Raising are provided in Part 6 of the Administrators' Report.

**Capital Raising Direction** means the Deed Administrators' power to require Newco to transfer the Net Proceeds and issue the Newco Shares as summarised under **Section 2**.

**Claim** means, in respect of a Deed Company, a claim against the Deed Company the circumstances giving rise to which occurred on or before the Appointment Date that would be admissible to proof against the Company in accordance with Division 6 of Part 5.6 of the Act as if the Company were to be wound up.

**Commencement Date** means, in respect of a Deed, the date the Deed has been executed by all parties to this Deed.

**Conditional Deed** means the deed summarised under **Sections 0, 2, 4 and 28** of this Statement.

**Consideration Shares** means the shares in Newco acquired by Pasminco Limited where the Capital Raising proceeds as a Sale Raising.

**Contract Novation Deed** means the deed summarised under **Section 19** of this Statement.

**Court** means the Federal Court of Australia.

**Deed** means, in respect of a company in the Group, the deed of company arrangement it is proposed that company execute.

**Deed Administrators** means, in respect of the Deeds, the administrators of the Deeds and, in respect of a Deed, the administrators of the Deed.

**Deed Administrators' Firm** means Ferrier Hodgson, Melbourne and includes interstate and overseas affiliated firms.

**Deed Company** means a company in the Group it is proposed will be subject to a Deed.

**Deed Creditor** means a person with a Claim under a Deed.

**Entitlement** means the amount a Participating Creditor is entitled to be paid under the PL Deed in settlement of its Claims as calculated in accordance with the procedure summaries in **Section 11**.

**Excluded Creditors** means any Deed Creditor to the extent they have been paid or their Claim has been satisfied during or after the Voluntary Administration Period or under the Deed.

**FIRB** means the Foreign Investment Review Board.

**Group** means Pasminco Limited and its controlled entities comprising the Ongoing Group and the Residual Group.

**Group Creditor** means a Deed Creditor that is a company in the Group.

**Issue Raising** has the meaning given in **Section 2**.

**Issuer** has the meaning given in **Section 14**.

**Large Participating Creditor** means a Participating Creditor with an Entitlement of more than \$10,000.

**Lessor** means any person other than the Deed Company which is the legal or beneficial owner of, or holds a leasehold or security interest in, property that is used or occupied by or in the possession of the Deed Company or in relation to which the Deed Company is liable as at the Appointment Date to pay any amount in connection with occupation of the property.

**Loan Rationalisation Deed** means the deed so called the effect of which is summarised in **Section 23** of this Statement.

**Mine Fleet Assets Transaction** means the transaction documented in the Mine Fleet Assets Transaction Documents.

**Mine Fleet Assets Transaction Documents** means each of the transaction documents (as defined in the Participation Agreement dated 12 August 1998 between, among others, Roche Bros Pty Ltd (ACN 004 142 223), Eltin Surface Mining (ACN 062 450 113) and ANZ Leasing (Vic) Pty Ltd (ACN 006 362 474)).

**Mine Fleet Assets Transaction Waiver and Consent Deed** means the deed summarised under **Section 21** of this Statement.

**Net Proceeds** means the total funds raised under the Capital Raising less the sum of the costs of the Capital Raising?.

**Newco** means a public company that, as at the date of the Deeds, will be a wholly owned subsidiary of Pasminco Limited.

**Newco Shares** means:

- a) where the Capital Raising proceeds as an Issue Raising, generally speaking, the number of fully paid ordinary shares in Newco equal in value at the issue price under the Capital Raising to the net values of the assets of the Ongoing Group less the Net Proceeds; or
- b) where the Capital Raising proceeds as a Sale Raising, the Consideration Shares less the Sale Shares.

**Notice of Meeting** means the notice of meeting accompanying this Statement of the creditors of the companies listed in the notice.

**Ongoing Group** means the entities in the Group Newco is required to purchase under the Conditional Deed.

**Owner** means any person other than the Deed Company which is the legal or beneficial owner of, or the holder of a security interest in, property used or occupied by or on behalf of or in the possession of the Deed Company at the Appointment Date.

**Participating Creditor** means a Deed Creditor under the PL Deed other than Small Claim Recipients, Group Creditors and Excluded Creditors.

**Pasminco Finance** means Pasminco Finance Limited (Administrators Appointed) ACN 007 289 296.

**Pasminco Limited** means Pasminco Limited (Administrators Appointed) ACN 004 368 674.

**Pasminco Limited Shares** means the number of fully paid ordinary shares in Pasminco Limited which the Deed Administrators determine in their absolute discretion.

**Pasminco Port Pirie** means Pasminco Port Pirie Smelter Pty Ltd (Administrators Appointed) ACN 008 046 428.

**PCML** means Pasminco Century Mine Limited (Administrators Appointed) ACN 006 670 300.

**Pirie Silver** means Pirie Silver Company Pty Ltd (Administrators Appointed) ACN 087 600 897.

**PL Deed** means the form of deed of company arrangement proposed to be entered into by Pasminco Limited.

**PL Deed Administrators** means the administrators of the PL Deed.

**PL Deed Creditor** means a person with a Claim under the PL Deed.

**PPT Assets** means each item of equipment and other property the subject of the Operating Leases and the Finance Leases (as defined in the Common Provisions Agreement - PPT Assets dated 23 August 1999 between, among others, Pasminco Limited, Pasminco Century Mine Limited ACN 006 670 300 and Commonwealth Bank of Australia as agent), including a pipeline, port facilities and a transfer vessel.

**PPT Lease Transfer and Waiver Deed** means the deed summarised under **Section 20** of this Statement.

**PPT Transaction Documents** means each of the transaction documents (as defined in the Common Provisions Agreement - PPT Assets dated 23 August 1999 between, among others, Pasminco Limited, Pasminco Century Mine Limited ACN 006 670 300 and Commonwealth Bank of Australia as agent).

**Pricing Committee** has the meaning given in **Section 43.1**.

**Pricing Proposal** has the meaning given in **Section 3**.

**Rationalised Face Value** in respect of debt payable by a company in the Ongoing Group to a company in the Residual Group means the face value of the debt as rationalised under the relevant Loan Rationalisation Deed between those companies.

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

**Residual Group** means the entities in the Group Newco is not required to purchase under the Conditional Deed.

**Restructure** means the restructure contemplated under the Restructure Documents as explained in this Statement.

**Restructure Documents** means the Deeds and the other documents for the purposes of the Restructure including the Conditional Deed, the Loan Rationalisation Deed, Security Trust Deed, the PPT Transfer and Waiver Deed, the Assumption Deed and the Contract Novation Deed.

**Sales Agency Agreement** means the sales agency agreement dated 26 May 1999 between Pirie Silver Company Pty Ltd (ACN 087 600 897) and Pasmenco Metals Pty Ltd (ACN 005 565 284).

**Sale Raising** has the meaning given in **Section 2**.

**Sale Shares** means shares in Newco offered for sale (if any) under the Capital Raising.

**Savage EHM** means Savage EHM Pty Ltd (Administrators Appointed) ACN 071 375 114.

**Section** means a section in this Statement.

**Section 439A(4)(c) Statement** means this statement setting out details of the Deeds for the purposes of section 439A(4)(c) of the Act.

**Security Trust Deed** means the deed summarised under **Section 17** of this Statement.

**Security Trustee** means the security trustee under the Security Trust Deed.

**Silver Sale Agreement** means the agreement so called between Pasmenco Port Pirie and Pirie Silver on the terms which Pasmenco Port Pirie offered silver on 26 May 1999.

**Small Claim Recipient** means a Deed Creditor with an Entitlement of less than \$25.

**Small Participating Creditor** means a Participating Creditor with an Entitlement of \$10,000 or less.

**SPC** means SPC (Nominees) Pty Ltd ACN 083 405 556.

**Standstill Debt** means the funding provided by six financiers from 3 July 2001 until 19 September 2001, excluding any accommodation provided pursuant to the securitisation program arranged by Capel Court.

**Summit Facility** means the facility summarised under **Section 23** of this Statement.

**Termination Date** in respect of a Deed means the date the Deed terminates.

**Voluntary Administrators** means the Deed Administrators in their capacity as voluntary administrators of the companies listed in the Notice of Meeting.

**Voluntary Administrators' Firm** means Ferrier Hodgson, Melbourne and includes interstate and overseas affiliated firms.

**Voluntary Administration Period** means the period of time commencing on the Appointment Date and concluding on the Commencement Date.

**Warrant Issue** means the possible warrant issue mentioned in **Section 14**.

**Warrant Trustee** has the meaning given in **Section 14**

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**ANNEXURE 2**

**SCHEDULE OF COMPANIES IN  
VOLUNTARY ADMINISTRATION**

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## **PASMINCO GROUP COMPANIES IN VOLUNTARY ADMINISTRATION**

- Pasminco Limited A C N 004 368 674
- Pasminco Investments Holdings Pty Limited A C N 082 291 736
- Pasminco Century Mine Limited A C N 006 670 300
- Pasminco Cockle Creek Smelter Pty Limited A C N 000 083 670
- Pasminco Metals Pty. Limited A C N 005 565 284
- Pasminco Finance Limited A C N 007 289 296
- Pasminco Pacific Pty. Limited A C N 005 416 008
- Pasminco Australia Limited A C N 004 074 962
- Pasminco Port Pirie Smelter Pty Limited A C N 008 046 428
- Pasminco International Pty. Limited A C N 004 934 534
- Pasminco International (Holdings) Pty Limited A C N 066 088 159
- The Emu Bay Railway Company Limited A C N 009 475 790
- Pasminco Investments Pty Limited A C N 082 291 674
- PCML SPC Pty Ltd A C N 083 652 500
- Pasminco Broken Hill Mine Pty Limited A C N 000 005 774
- Pasminco Global Trading Pty Ltd A C N 082 932 116
- Savage Resources Limited A C N 009 551 624
- Ramala Holdings Pty Limited A C N 056 689 117
- Savage Australian Exploration Pty Ltd A C N 071 375 169
- Savox Pigments Pty Ltd A C N 003 035 694
- Savage EHM Pty Ltd A C N 071 375 114
- Savage EHM Finance Pty Ltd A C N 071 375 221

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**ANNEXURE 3**

**SUMMARY OF KEY TASKS PERFORMED**

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**PASMINCO LIMITED**  
**(ADMINISTRATORS APOINTED)**  
**A C N 004 368 674**

**And**  
**All Wholly Owned Australian Subsidiaries**

**Time charged in respect of the Administration for the period 19 September 2001 to 15 June 2002.**

<b>FERRIER HODGSON MELB. ("FH(Melb)") FEES:</b>	<b>\$6,114,200.40</b>
<b>INTERSTATE FEES (TO 15 JUNE 2002):</b>	<b>\$ 684,017.70</b>
<b>TOTAL</b>	<b>\$6,798,218.10</b>

- Below is an analysis of work performed by the Administrators and their staff for the period 19 September 2001 to 15 June 2002.

**TRADING TEAM**

- Monthly reporting to funding banks and committee on trading results
- Approval of payments
- Approval of capital expenditure applications
- Contract negotiations and approval of contracts
- Preparation of forecasts
- Review and prepare financial models
- Negotiation of working capital bank facility
- Treasury issues, including foreign exchange and metal hedging
- Various meetings and discussions with large suppliers
- Meetings with Pasminco management and staff
- Review of working capital requirements of the business
- Review of various external contractors
- Management of funding position
- Review and improvement of business systems
- Redesign of purchase order systems
- Debtor securitisation facility- close out negotiations
- Attend sites and any site specific issues (local and overseas)
- Payroll payment authorisations
- Bank reconciliations
- Attending to creditor queries
- Attend to various ongoing trading issues
- Implementation of standard terms for inclusion in post administration contracts
- Strategy model review
- Company Micro Model Forecasts and reconcile to strategy model
- Monitor treasury cash flow
- Accounting systems review project
- Analysis of head office expenses
- Reconciliation of the ANZ master lease
- Attend to former Savage shareholder queries re: unclaimed monies
- Various environmental issues
- Review of intercompany loan balances
- Identifying and quantifying the following creditor categories as at the date of our

appointment: financiers, trade creditors, employees, contingent/breach of contract creditors

- Dealing with claims in relation to the foreign exchange closeout of the option and forward portfolios.
- Oversee stock take and review the flow of inventory and working capital from mines and smelters through to eventual sale
- Contract collation and review
- Assisting to compile information on a legal entity basis for restructure purposes
- Review of insurance premiums for 2002/03
- Work on cash flow forecasts for 2002/03
- Audit of financial statements for 30 June 2001 and 31 December 2001
- Resolution of issues in relation to REJV and PPT
- Ongoing work in relation to asset carrying values, including the write off of non-effective hedge cover
- Review of SAP and supporting processes
- Review of Pasminco working capital levels
- Respond to various Financier enquiries into trading, cashflows, asset values, etc.
- Group cost review and review of BOOM project
- Review and negotiation of metal forward facilities
- Review of future hedge policies

#### **EMPLOYEE TEAM**

- Arrange for the calculation of employee entitlements
- Liaise with Pasminco Payroll and Human Resource staff regarding post appointment arrangements
- Reviewing employee benefit controls
- Liaising with employees and unions including various meetings
- Various occupational health and safety issues
- Addressing and managing workers compensation issues including engagement of consultants to manage claims, ensure appropriate insurance arrangements in place and determine future workers compensation strategies
- Liaising with State authorities re self insurance licences in NSW, SA and TAS
- Negotiating settlement with Rio Tinto regarding their exposure to workers compensation entitlements of former employees
- Attend to various ongoing payroll issues and payment authorisations including wages, termination entitlements, payroll tax, workers compensation insurance and other workers compensation payments, etc.
- Liaise with Minter Ellison Lawyers and various Pasminco staff regarding directors' entitlements
- Preparation of various schedules regarding employee entitlements and daily payments made
- Addressing various superannuation queries
- Liaising with Group office and site representatives on industrial relations matters
- Reviewing and authorising a remuneration review across sites
- Site visits to explain administration implications and various developments as required
- Settlement issues re employee entitlements arising from sale of Broken Hill Mine
- Assisting in the preparation of regular newsletters re developments during voluntary administration
- Coordinating the distribution of documents for Meetings of Creditors including voting forms to employees
- Drafting employee related sections of reports to Creditors

## **LEGAL TEAM**

- Oversee all legal issues that arise during the Administration
- Monitor sale of assets
- Pooling analysis
- Deal with statutory and compliance issues
- Attend to supplier and contract issues – existing and new
- Attending to general legal issues and status of legal actions in progress
- Attend to insurance issues
- Analyse and adjudicate the claims from foreign exchange counterparties
- Indemnification of directors

## **STATUTORY**

- Compilation of financial history data in the months leading up to our administration
- Investigation into insolvent trading
- Investigation into Directors', Advisors' and Auditors' duties
- Investigation of the Savage and Pasminco hedge books
- Chronology of events leading up to the Administration
- Investigation into the acquisition of Savage
- Attendance at Pasminco premises to collect books and records.
- Review and compiling of books and records for investigation
- Review lessor letters as lease agreements are received
- Distribution of correspondence
- Oversee preparation of the Report As To Affairs of the company
- Updating creditors listing and maintaining proof and proxy files
- Attend to creditor and shareholder queries
- Deal with issues that arise from phone calls
- Preparing attendance registers
- Convening and holding the first meeting of creditors
- Preparation of precedents for and after appointment
- Preparation of creditors' circulars
- Preparation of the Administrators' Report to Creditors for the second meeting of creditors
- Preparation of status reports to shareholders
- Attend to written queries
- Convening second meeting of creditors

## **ASSET SALES - OVERSEAS AND LOCAL**

- Assisting with the possible sales of the overseas assets
- Analysis of offers received for Broken Hill and Century and communication/discussion with major creditors
- Sale of property at Broken Hill and Elura mines, including exploration tenements and shiploader facility

## **FINANCIAL ANALYSIS AND MODELLING**

- Co-ordination of a complete financial and cash flow model for Pasminco in conjunction with RFC and AMC
- Numerous meetings to further refine the model with:
  - RFC
  - AMC
  - Pasminco

- Numerous meetings with the major creditors to explain the workings of the model
- Utilise the model in assessing the various restructure choices available
- Utilisation of the model for future cash flow funding needs
- Utilisation of the model to run various scenarios and sensitivities and extract information at the request of the major creditors

### **RESTRUCTURE TEAM**

- Structuring of a number of possible options relating to the restructure
- Liaising on a regular basis with:
  - Pasmenco Management
  - Investment Banking Advisors/Joint Lead Managers
  - Minter Ellison
  - Major creditors
  - External Auditors
- Involvement in the design and testing of all aspects of the proposed restructure including:
  - Legal and accounting issues
  - Tax Aspects
  - Regulatory requirements
  - Commercial issues
- Qualitative and Quantitative analysis of restructure options
- Preparation of a detailed report regarding the restructure options and recommendations
- Preparation of restructure presentation
- Meetings with Investment Banks as regards potential float transaction
- Discussions with recruitment consultants regarding appointment of directors
- Further work on the appointment of new Board of Directors, including KPI drafting
- Preparation of Potential Directors Due Diligence Pack, including Risk Management Review
- Development of Loan Rationalisation Model
- Arrangement of insurance for restructure process
- Review of legal documents encompassing the terms of the proposed restructure

### **OTHER MATTERS**

- Funding of overseas subsidiaries, including funding structure and procurement of security
- Liaising with overseas directors, vis-à-vis aspects of the Voluntary Administration
- Dealing with miscellaneous issues regarding Budel and the United States including frequent communications and correspondence
- Word Processing
- Preparation of Reports
- Organising Meetings
- General Messages
- Filing
- General Typing - letters, memorandums, reports
- Setting up remote communications for staff working on various sites
- Setting up an ISDN connection between Ferrier Hodgson Melbourne and Pasmenco
- Setting up roaming accounts for staff interstate and overseas
- Deploy staff to Pasmenco St Kilda Road
- Assisting in developing various spreadsheet models

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**ANNEXURE 4**

**FERRIER HODGSON SCALE OF RATES**

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**PASMINCO LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 004 368 674  
AND ITS WHOLLY OWNED AUSTRALIAN SUBSIDIARIES**

**FERRIER HODGSON SCALE OF RATES**

<b>Classification</b>	<b>Hourly Rate \$</b>
Partner	450
Director	350
Manager 1	300
Manager 2	250
Supervisor/HRM	200
Senior 1	170
Senior 2	150
Intermediate 1	120
Intermediate 2	110
Secretary/WPO	105
CP Operator	100
Clerk	80
Typist	80
Junior	50

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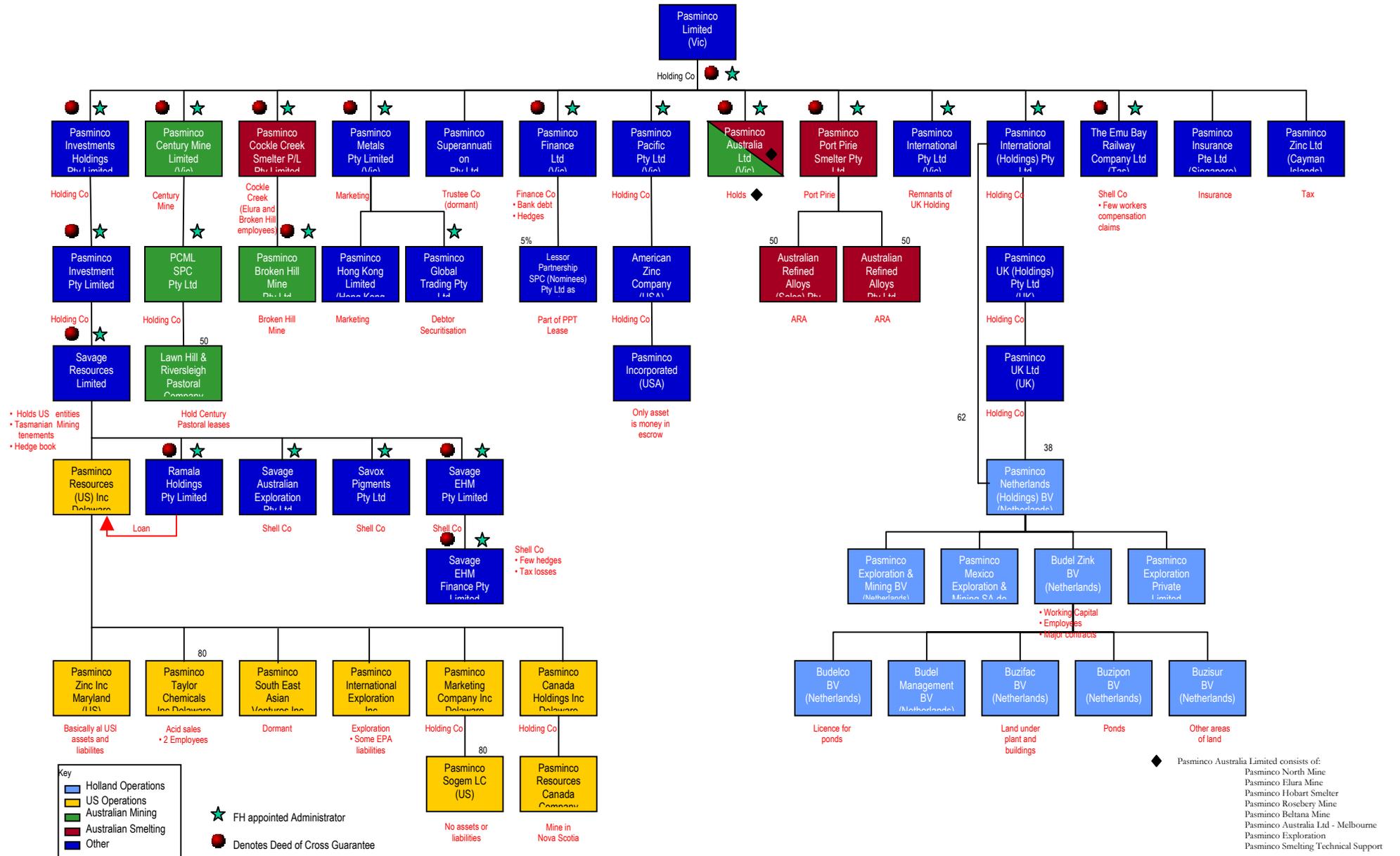
**ANNEXURE 5**

**PASMINCO GROUP STRUCTURE**

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# PASMINCO GROUP STRUCTURE

(All Companies 100% Owned Unless Otherwise Indicated)



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**ANNEXURE 6**

**DIRECTORS OF SUBSIDIARY COMPANIES  
AS AT 19 SEPTEMBER 2001**

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**DIRECTORS OF SUBSIDIARY PASMINCO COMPANIES**

NAMES	APPOINTMENT DATES					
	Mathew Pollard	Stephen O'Donnell	Ian Williams	Anthony Barnes	David Lambert	Thomas O'Brian
Pasminco Australia Ltd A C N 004 074 962	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Broken Hill Mine Pty Ltd A C N 000 005 774	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Century Mine Ltd A C N 006 670 300	23/03/2000	23/03/2000	1/08/1994	17/05/2001		
Pasminco Cockle Creek Smelter Pty Ltd A C N 000 083 670	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Finance Ltd A C N 007 289 296	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Global Trading Pty Ltd A C N 082 932 116	23/03/2000	23/03/2000	9/12/1999	17/05/2001		9/12/1999
Pasminco International (Holdings) Pty Ltd A C N 066 088 159	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco International Pty. Ltd A C N 004 934 534	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Investments Holdings Pty Ltd A C N 082 291 736	22/01/2001	22/01/2001	22/01/2001	24/05/2001		
Pasminco Investments Pty Ltd A C N 082 291 674	22/01/2001	22/01/2001	22/01/2001	24/05/2001		
Pasminco Metals Pty Ltd A C N 005 565 284	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Pacific Pty. Ltd A C N 005 416 008	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Pasminco Port Pirie Smelter Pty Ltd A C N 008 046 428	6/03/2000	23/03/2000	18/06/1999	17/05/2001		
PCML SPC Pty Ltd A C N 083 652 500	19/10/2000		19/10/2000		19/10/2000	
Ramala Holdings Pty Ltd A C N 056 689 117			18/06/1999	17/05/2001		
Savage Australian Exploration Pty Ltd A C N 071 375 169	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Savage EHM Finance Pty Ltd A C N 071 375 221			18/06/1999	17/05/2001		
Savage EHM Pty Ltd A C N 071 375 114			18/06/1999	17/05/2001		
Savage Resources Ltd A C N 009 551 624	23/03/2000	23/03/2000	18/06/1999	17/05/2001		
Savox Pigments Pty Ltd A C N 003 035 694			18/06/1999	17/05/2001		
The Emu Bay Railway Company Ltd A C N 009 475 790	23/03/2000	23/03/2000	18/06/1999	17/05/2001		

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**ANNEXURE 7**

**MEETING FORMS**

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**PASMINCO LIMITED  
(ADMINISTRATORS APPOINTED)  
A C N 004 368 674  
AND ITS WHOLLY OWNED SUBSIDIARY COMPANIES  
("THE COMPANIES" OR "PASMINCO")**

**INSTRUCTIONS FOR COMPLETING PROXY FORMS**

- **Complete either Side A or Side B of the Proxy Form only. Do not complete both sides (refer below for further explanation).**

**General Instructions**

- Proxy Forms must be completed by:
  - All corporate creditors who wish to be represented at the meeting. Eg. if XYZ Pty Ltd is a creditor, it will need to appoint a person to act as its proxy.
  - Individuals who are creditors (eg. employees) who are not attending the meeting to vote personally.
- Each creditor must fill out the information at the top of the Proxy Form providing the following information:
  - The name of the creditor.
  - The address of the creditor.
  - The relevant Pasmenco company that is indebted to the creditor. If unsure of the relevant Pasmenco company, please write in the site to which you supply goods or services to or are employed at. Please do not just write in "Pasmenco" as this may invalidate the Form.
  - The person being appointed as the proxy (eg. A director or other representative of a corporate creditor, union or staff representative of an employee).
  - An alternate to the proxy (if any) in case the first person appointed cannot attend.
- If the creditor wishes to direct the person appointed as their proxy as to how they wish to vote (a special proxy), the appropriate box next to the resolutions should be ticked in accordance with that direction. You must tick one box per resolution only ie. For or Against or Abstain.
- If the creditor wishes to allow the proxy appointed to vote as the proxy determines, they should not tick any of the boxes.
- Creditors must also include the amount owing to them and sign the Proxy Form in the spaces provided.

**Employees**

- Employees must complete a Proxy Form if they wish to appoint someone else to vote on their behalf. Many employees have already completed a Proxy Form provided in March 2002.

**Employees who have already completed and returned this Proxy Form do not need to complete another Proxy Form. Completion of 2 Proxy Forms may invalidate both Forms.**

- Completion of Side A or Side Fifteen of the Pasminco Companies in Administration are subject to a Deed of Cross Guarantee (“Cross Deed”). As a result of the existence of the Cross Deed (refer Part 11.1.5 of the report for an explanation of the Cross Deed), for voting purposes, creditors of one Cross Deed company are creditors of all Cross Deed Companies.
- Accordingly, creditors are able to vote on resolutions for all fifteen companies.
- **If a creditor wishes to vote in the same manner for all fifteen companies, they should complete Side A only.** Eg. if a creditor is in favour of the Deeds of Company Arrangement, they can tick the “For” box on Side A and this will be recorded as a vote “For” the Deeds for all fifteen Cross Deed companies.
- **If a creditor wishes to vote differently on the one resolution for different companies, they should complete Side B only.** Eg. if a creditor wishes to vote against the Deed for Pasminco Limited but in favour of the Deeds of all other Cross Deed companies, they should tick the “Against” box under PL and tick the relevant “For” boxes for all other companies listed.
- Side B of the Proxy Form has been provided to allow creditors to vote differently for the one resolution in different companies. **We do not know of any reason why creditors may wish to vote differently for the one resolution for different companies and suggest that only Side A be completed.**
- We are not aware of any external creditors of the 7 non Cross Deed companies. If a creditor claims to be a creditor of any of these companies, they should complete Side A only.
- **Should you have any queries in relation to the completion of any forms, please contact Ms Christine Bertolotti (telephone (03) 9604 5121) or Mr Tim Cipolloni (telephone (03) 9604 5125) of this office.**

**DO NOT COMPLETE BOTH SIDE A AND SIDE B OF THE PROXY FORM.**  
**THIS MAY INVALIDATE THE FORM.**

**List of Abbreviations of company names on Side B of the Proxy Form**

PIH	Pasminco Investments Holdings Pty Ltd
PCML	Pasminco Century Mine Limited
PCCS	Pasminco Cockle Creek Smelter Pty Ltd
PM	Pasminco Metals Pty Ltd
PFL	Pasminco Finance Limited
PAL	Pasminco Australia Limited
PPPS	Pasminco Port Pirie Smelter Pty Ltd
TEBRC	The Emu Bay Railway Company Limited
PInv	Pasminco Investments Pty Ltd
PBHM	Pasminco Broken Hill Mine Pty Ltd
SRL	Savage Resources Limited
RH	Ramala Holdings Pty Ltd
SEHM	Savage EHM Pty Ltd
SEHMF	Savage EHM Finance Pty Ltd
PL	Pasminco Limited

CORPORATIONS ACT 2001

**PASMINCO LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 004 368 674**

**AND ITS WHOLLY OWNED AUSTRALIAN SUBSIDIARIES ("THE COMPANIES")**

\*I/\*We .....(creditor name)  
of .....(creditor address)  
a primary creditor of.....(Pasminco company name)  
appoint .....(proxy appointed)  
or in their absence .....(proxy alternate)  
as \*my/our \*(i) general OR \*(ii) special proxy to vote at the meeting of creditors to be held on 15 July 2002, or at any  
adjournment of that meeting, to vote  
(i) on all matters arising at the meeting; OR  
(ii) on each of the following kinds of resolution in the manner specified:

**COMPLETE BELOW IF YOU WISH TO VOTE IN THE SAME MANNER FOR ALL COMPANIES OF WHICH YOU ARE A CREDITOR**

	For	Against	Abstain
1. A resolution that:			
(a) All companies of which I am a creditor be required to execute the relevant Deeds of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) The Administrations of all companies of which I am a creditor should end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) All companies of which I am a creditor be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. A resolution that a Committee of Creditors/ Inspection be appointed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A resolution that the remuneration of the Administrators of the Companies be fixed pursuant to Section 449E of the Corporations Act (2001) for the period 19 September 2001 to the conclusion of the Voluntary Administration period at \$8,250,000 plus GST as applicable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If Deeds of Company Arrangement are resolved for the Companies, a resolution that the Deed Administrators' remuneration be calculated in accordance with Ferrier Hodgson's scale of rates, as amended from time to time, up to the sum of \$3,400,000, plus GST as applicable and that the Deed Administrators be authorised to draw their remuneration on a periodic basis.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I am an unsecured creditor and the total amount owed to me is \$

OR

I am a secured creditor and the total amount owed to me is \$

DATED this                      day of                      2002

.....  
Signature<sup>2</sup> of individual or person<sup>3</sup>  
authorised by corporate resolution to  
represent the corporation

OR      The Common Seal of<sup>1</sup>  
  
was hereunto affixed in the  
presence of

<b>FOR OFFICE USE ONLY</b>	
Proxy Valid:	Yes/No
Cross Deed Creditor:	Yes/No
Amount admitted for voting:	
\$.....	

.....  
Director  
  
.....  
Secretary

<sup>1</sup> The method of affixing the Common Seal should be prescribed by the creditor corporation's articles. See Note (2).  
<sup>2</sup> The signature of the creditor is not to be attested by the person nominated as proxy.  
<sup>3</sup> Note that a corporation may by resolution of its directors provide standing authority for a person to represent it at members meeting and appoint proxies. Copy of authority to be annexed.

**SIDE B**

**CORPORATIONS ACT 2001  
APPOINTMENT OF PROXY**

**PASMINCO LIMITED  
(ADMINISTRATORS APPOINTED) ACN 004 368 674  
AND ITS WHOLLY OWNED AUSTRALIAN SUBSIDIARIES ("THE COMPANIES")**

\*I/\*We .....(creditor name)  
of .....(creditor address)  
a primary creditor of.....(Pasminco company name)  
appoint .....(proxy appointed)  
or in their absence .....(proxy alternate)  
as \*my/our \*(i) general OR \*(ii) special proxy to vote at the meeting of creditors to be held on 15 July 2002, or at any  
adjournment of that meeting, to vote  
(i) on all matters arising at the meeting; OR  
(ii) on each of the following kinds of resolution in the manner specified:

**COMPLETE BELOW IF YOU WISH TO VOTE DIFFERENTLY FOR DIFFERENT COMPANIES OF WHICH YOU ARE A CREDITOR**

*The full company name and corresponding abbreviation is listed in the Instructions to Completing the Proxy Form (on the previous page)*

**PIH PCML PCCS PM PFL PAL PPS TEBRC PInv PBHM SRL RH SEHM SEHMF PL**

		PIH	PCML	PCCS	PM	PFL	PAL	PPS	TEBRC	PInv	PBHM	SRL	RH	SEHM	SEHMF	PL
1. A resolution that:																
(a)	the Company be required to execute the relevant Deed of Company Arrangement.	For	<input type="checkbox"/>													
		Against	<input type="checkbox"/>													
		Abstain	<input type="checkbox"/>													
(b)	the Administration of the Company should end.	For	<input type="checkbox"/>													
		Against	<input type="checkbox"/>													
		Abstain	<input type="checkbox"/>													
(c)	The Company be wound up.	For	<input type="checkbox"/>													
		Against	<input type="checkbox"/>													
		Abstain	<input type="checkbox"/>													
2. A resolution that a Committee of Creditors/Inspection be appointed.														For	<input type="checkbox"/>	
														Against	<input type="checkbox"/>	
														Abstain	<input type="checkbox"/>	
3. A resolution that the remuneration of the Administrators of the Companies be fixed pursuant to Section 449E of the Corporations Act (2001) for the period 19 September 2001 to the conclusion of the Voluntary Administration period at \$8,250,000, plus GST as applicable.														For	<input type="checkbox"/>	
														Against	<input type="checkbox"/>	
														Abstain	<input type="checkbox"/>	
4. If Deeds of Company Arrangement are accepted for the Companies, a resolution that the Deed Administrators' remuneration be calculated in accordance with Ferrier Hodgson's scale of rates, as amended from time to time, up to the sum of \$3,400,000, plus GST as applicable and that the Deed Administrators be authorised to draw their remuneration on a periodic basis.														For	<input type="checkbox"/>	
														Against	<input type="checkbox"/>	
														Abstain	<input type="checkbox"/>	

I am an unsecured creditor and the total amount owed to me is: OR I am a secured creditor and the total amount owed to me is:  
\$..... \$.....

DATED this ..... day of

2002

.....  
Signature<sup>6</sup> of individual or person<sup>7</sup>  
authorised by corporate resolution to  
represent the corporation

OR The Common Seal of<sup>5</sup>

was hereunto affixed in the  
presence of

.....  
Director

.....  
Secretary

<sup>5</sup> The method of affixing the Common Seal should be prescribed by the creditor corporation's articles. See Note (5).

<sup>6</sup> The signature of the creditor is not to be attested by the person nominated as proxy.

<sup>7</sup> Note that a corporation may by resolution of its directors provide standing authority for a person to represent it at members meeting and appoint proxies. Copy of authority to be annexed.

**INFORMAL PROOF OF DEBT FORM FOR VOTING PURPOSES**

Regulation 5.6.23

**PASMINCO LIMITED  
(ADMINISTRATORS APPOINTED)  
ACN 004 368 674  
AND ITS WHOLLY OWNED AUSTRALIAN SUBSIDIARIES**

Name of creditor: \_\_\_\_\_

Amount of debt claimed: \_\_\_\_\_ (see note)

Primary Pasminco company debt claimed against: \_\_\_\_\_

Consideration for debt: \_\_\_\_\_

Whether debt secured or unsecured: \_\_\_\_\_

If secured, give details of security including dates, etc:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Balance, if any, after deducting value of security (see note):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

.....  
Creditor (or person authorised by creditor)

\_\_\_\_\_

NOTE:

Under the Corporations Regulations, a creditor is not entitled to vote at a meeting unless (Regulation 5.6.23):

- a. his claim has been admitted, wholly or in part, by the Administrator; or
- b. he has lodged with the Administrator particulars of the debt or claim, or if required, a formal proof of debt.

For the purposes of Part 5.3A, a secured creditor may vote (Regulation 5.6.24):

- a. for the whole of his debt without regard to the estimated value of his security.

Proxies must be made available to the Administrator.