

Administrators' Supplementary Report to Creditors

Pursuant to Section 439A of the
Corporations Act 2001

15 December 2015

Convergent Minerals Ltd

(Administrators Appointed)

A.C.N. 120 909 953

Montague Resources Australia Pty Ltd

(Administrators Appointed)

A.C.N. 097 875 619

AFL Resources Pty Ltd

(Administrators Appointed)

A.C.N. 147 523 751

NQ Metals Pty Ltd

(Administrators Appointed)

A.C.N. 125 551 537

APPENDICES

- A Notice of Reconvened Meetings
- B Proxy forms and informal proof of debt forms
- C Draft Recapitalisation proposal (Convergent)
- D Additional information regarding DOCA proposal (Convergent)
- E Draft DOCA and draft Creditors' Trust documents (Montague)
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ABBREVIATIONS

Act	Corporations Act 2001
Adjourned meeting	Concurrent second meetings of creditors of the Convergent companies
Administrators	Alan Hayes and Christian Spowles
AFL	AFL Resources Pty Ltd (Administrators Appointed)
AEDT	Australian Eastern Daylight Time
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities & Investments Commission
ASX	Australian Securities Exchange
AusIndustry	Australian Government Department of Industry Innovation and Science
Convergent	Convergent Minerals Ltd (Administrators Appointed)
Convergent companies	CVG, AFL, Montague & NQ Metals
DOCA	Deed of Company Arrangement
FEG	Fair Entitlements Guarantee Scheme
FY	Financial Year
NQ Metals	NQ Metals Pty Ltd (Administrators Appointed)
MH Gold	MH Gold Pty Ltd ACN 608 814 204
Montague	Montague Resources Australia Pty Ltd (Administrators Appointed)
Montague DOCA	DOCA proposal submitted by MH Gold in regard to Montague
Preferred Convergent DOCA	DOCA proposal submitted by Berry Capital Group (Australia) Pty Ltd and
DOCA	BCG E&P No. 1
Reconvened meeting	Adjourned concurrent meetings of creditors of the Convergent companies

PREAMBLE

This report represents the Administrators' Supplementary report to creditors of Convergent Minerals Ltd (Administrators Appointed) ('**Convergent**'), Montague Resources Australia Pty Ltd (Administrators Appointed) ('**Montague**'), AFL Resources Pty Ltd (Administrators Appointed) ('**AFL**') and NQ Metals Pty Ltd (Administrators Appointed) ('**NQ Metals**') ('**Convergent companies**') pursuant to Section 439A of the Corporations Act, 2001 ('**Act**').

This report should be read in conjunction with my report to creditors dated 13 October 2015.

1.0 REPORT STRUCTURE

This report is provided under the following headings:

- 2.0 Background
 - 2.1 Adjournment of second meetings of creditors
 - 2.2 Reconvened second meetings of creditors
- 3.0 Creditor Update
 - 3.1 Sale of CVG listed shell
 - 3.2 R&D Incentive payment
 - 3.3 DOCA Proposals as at date of Adjourned Meeting
 - 3.4 Other Matters – Status of Tenements
- 4.0 Preferred DOCA Proposal – Convergent
- 5.0 DOCA Proposal – Montague
- 6.0 Estimated returns to creditors under DOCA and liquidation scenarios
- 7.0 Administrators' opinions
- 8.0 Risks associated with use of creditors' trusts
- 9.0 Independence
- 10.0 Summaries of Receipts and Payments
- 11.0 Remuneration Reports

2.0 BACKGROUND

2.1 Adjournment of second meetings of creditors

At the concurrent second meetings of creditors of the Convergent companies held on 20 October 2015 ('**Adjourned meeting**'), creditors resolved to adjourn those meetings for a period of up to forty-five (45) business days to allow for:

- A further advertising campaign to be conducted for expressions of interest in the CVG listed company shell and seek to obtain further offers for the listed shell;
- The Administrators to pursue the recovery of the R&D incentive payment potentially due to Montague;
- The Administrators to properly consider the two DOCA proposals received at the date of the Adjourned meeting and any further DOCA proposals received; and
- The Administrators to report further to creditors regarding each of the above matters.

The Administrators have worked on each of these matters and report herein to creditors and reconvene the meetings.

2.2 Notice of reconvened concurrent second meetings of creditors

The Administrators have reconvened the adjourned concurrent meetings of creditors of the Convergent companies to be held at Hayes Advisory, Level 16, 55 Clarence Street, Sydney on **Tuesday, 22 December 2015 at 3.00pm AEDT ('Reconvened meeting')**.

Please note that the Reconvened meeting is to be held at a different place to the Adjourned meeting due to our office relocation.

Formal notice of the Reconvened meeting and meeting agenda is attached as **Appendix A**.

Proxy forms and Informal proof of debt forms for Convergent, Montague, AFL and NQ Metals are attached as **Appendix B1, Appendix B2, Appendix B3 and Appendix B4**, respectively.

If you have already submitted a proof of debt form, there is no need to submit another for the purposes of this meeting, unless you wish to amend your claim.

If you submitted a proxy form for the purposes of the Adjourned meeting, there is no need to resubmit a proxy form for the Reconvened meeting, unless you wish to change your voting instructions. If you appointed a Special proxy (as opposed to a General proxy), for the purposes of the Adjourned meeting, we draw your attention to the additional resolutions to be considered at the Reconvened meeting and note that a new Proxy form would be required to provide voting instructions in regard to those additional resolutions.

Proxy forms and Informal proof of debt forms, if required, should be submitted by 5.00pm on Monday 21 December 2015.

The main purpose of the Reconvened meeting is for creditors of each of the Convergent companies to decide, separately, the future of each of the Convergent companies by resolving to accept one of three options for each company in the Convergent companies:

- The Company executes a Deed of Company Arrangement ('DOCA'); or
- The Company be wound up; or
- The Administration comes to an end (and control of the Company reverts to its Board of Directors).

3.0 CREDITOR UPDATE

3.1 Sale of CVG listed shell

A summary of the sale process undertaken by the Administrators in relation to the sale of the listed company shell of Convergent (being ASX company code: CVG) follows:

- Advertising campaign run in the Australian Financial Review;
- Confidentiality Agreement and/or Information Memorandum issued to 53 parties;
- Expressions of interest required by 10 November 2015 and final offers by 13 November 2015;
- Expressions of interest and/or offers received from 15 parties;
- Six offers identified as credible, being sufficiently detailed and generally in accordance with the guidelines published by the Administrators;
- The Administrators assessed all offers and/or DOCA proposals received for the purposes of forming an opinion as to which offer / DOCA proposal was in the best interests of creditors and the company, having regard, generally, to the quantum of payment(s) to be made, the timing of payments and the certainty of payments being made. Matters specifically considered included, but were not necessarily limited to:
 - the amount to be paid following DOCA approval at the creditors' meeting,
 - the process in respect of achieving any necessary ASX and/or ASIC and associated costs,
 - the process for convening a meeting of shareholders and associated costs,
 - the amount to be paid following shareholder approval, any payment or consideration being subject to successful capital raising,
 - the availability of the R&D incentive payment to creditors (if recovered),
 - representations in regard to the experience of the proponent,
 - the purpose of the proposed acquisition and
 - the prospects of shareholders' approval being obtained.
- An offer submitted by Berry Capital Group (Australia) Pty Ltd and BCG E&P No. 1 LLC, incorporating a DOCA proposal, was considered by the Administrators to be the preferred offer ('**Preferred Convergent DOCA**'). (Refer to Section 4.0).

3.2 R&D Incentive payment

An update on the progress of the R&D incentive payment potentially available to Montague follows:

- The Administrators and/or their staff have had various discussions and a meeting with Montague's external tax accountants for the purposes of reviewing and finalising the R&D tax incentive application.
- A completed 'R&D Tax Incentive Application: Registration of R&D Activities' form for the income period 1 July 2014 to 30 June 2015 for Montague was signed on 27 November 2015 and subsequently submitted by the external accountants.
- Notice of registration for the R&D Tax Incentive for Montague for the 2014/2015 income year was received from the Australian Government Department of Industry Innovation and Science ('AusIndustry') on 2 December 2015.
- Receipt of the abovementioned notice of registration for the R&D Incentive facilitates the finalisation of the FY15 income tax return for Montague. This is subject to a meeting with Montague's external tax accountants for the purpose of final review and execution of the FY15 return.
- The R&D registration form identified total R&D expenditure of \$762,194 for FY15 and is estimated to give rise to a net credit (after external accountants' costs) of approximately \$300,000. This credit remains subject to lodgement and assessment by the ATO of the FY15 income tax return and potential review by AusIndustry.
- Lodgement of the FY15 income tax return is expected to occur prior to the Reconvened meeting.

We are advised by the Convergent companies' external accountants that it is their experience that R&D Tax Incentive claims are not recovered when the claimant is in liquidation. See Section 5 of this report for an explanation of a DOCA proposal by which liquidation may be avoided.

3.3 DOCA proposals as at date of Adjourned meeting and subsequently received

The Administrators have further considered the two DOCA proposals received as at the date of the Adjourned meeting and have formed the view that these proposals were inferior to the Preferred Convergent DOCA. (Refer to further discussion at Section 4.0 of this report.)

Further discussion of offers / DOCA proposals received subsequent to the Adjourned meeting is provided at Section 4.0 of this report.

3.4 Other matters – Status of tenements

We are advised that the formal transfer of the Convergent companies' tenements to M.H. Gold Pty Ltd ('MH Gold') has yet to be effectuated and remains subject to approval of the relevant authorities.

We are also advised that MH Gold and/or its representatives are continuing to respond to, and defend, the forfeiture applications and/or complaints presently subject to actions in the Warden's Court of Western Australia.

4.0 PREFERRED DOCA PROPOSAL - CONVERGENT

A summary of the main components of the Preferred Convergent DOCA is set out below.

- **Proponent** – Berry Capital Group (Australia) Pty Ltd ('Berry Capital') and BCG E&P No.1 LLC ('BCG')
- **Consideration** - \$400,000, comprising \$300,000 cash and \$100,000 in shares.
- **Timing of Consideration**

	(\$)
Payable on execution of DOCA	100,000
Payable on shareholders' approval	200,000
Shares to be issued on capital raising	100,000
Total	400,000

- **Other**
 - The Administrators will be Administrators of the Deed of Company Arrangement
 - A Creditors' Trust is to be established for the purposes of receiving and distributing the funds available. The Administrators will be Trustees of the Trust.
 - Net Deed funds available are to be transferred to a Creditors' Trust.
 - A moratorium on all creditor claims against the company will exist during the term of the DOCA.
 - All creditor claims against Convergent as at the date of the Administrators' appointment are to be extinguished on execution of the DOCA
 - Payments to the DOCA fund to be made by BCG to comprise:
 - \$100,000 subject to execution of the DOCA
 - \$200,000 subject to effectuation of the DOCA, being subject to, amongst other things, shareholder approval for a proposed recapitalisation of Convergent
 - New shares in Convergent to a value of \$100,000, based on the issue price of the shares, to be issued to the Creditors' Trust, subject to the successful recapitalisation of Convergent. A copy of a draft Recapitalisation proposal is attached as **Appendix C**.
 - Berry Capital and/or BCG to be primarily responsible for, and will meet the costs associated with, undertaking all steps necessary to facilitate a recapitalisation of Convergent, including, for example, preparation of an explanatory memorandum, obtaining necessary consents from relevant authorities (including ASX and ASIC), preparing notice to shareholders of a

general meeting, convening and holding the general meeting.
Administrators to provide their reasonable assistance.

- Other funds to be made available to the Deed fund/Creditors' Trust to include:
 - Distribution entitlement arising from the Creditors' Trust for Montague (as referred to in Section 5.0 below), as a consequence of Convergent's status as the major unsecured creditor of Montague, if any such dividend is paid. (Estimated up to \$230,000)
 - Proceeds of sale of shares in Montague, if received (as referred to in Section 5.0 below) (\$10,000)
- Payments to the DOCA fund are to be funded by way of a loan from BCG to Convergent and thereafter to be repayable on Convergent's successful recapitalisation.
- Tenement interests, held in Convergent's name, will not form part of the property available to the Creditors' trust or for distribution to its beneficiaries.
- Distribution priorities from the Trust fund are to reflect the distribution priorities provided for in the Corporations Act as if the company was in liquidation and as if the beneficiaries were unsecured creditors with claims admitted by a liquidator, with the exception that the Trustees' remuneration and costs will be paid first.

The above summary does not necessarily refer to all of the terms of the proposed DOCA and/or Creditors' Trust. Some additional information in regard to the DOCA proposal is attached as **Appendix D**. A copy of the draft DOCA and draft Creditors' Trust documents will be tabled and discussed at the Reconvened meeting.

5.0 DOCA PROPOSAL – MONTAGUE

A DOCA proposal has been received from MH Gold in regard to Montague ('**Montague DOCA**')

A summary of the main components of the Montague DOCA are summarised below:

- **Proponent** – MH Gold
- **Consideration** - \$20,000, comprising \$10,000 payment to a Deed fund and \$10,000 to Convergent for the purchase of its shares in Montague
- **Timing of Consideration** - On execution of the DOCA
- **Other**
 - A Creditors' Trust is to be established for the purposes of receiving and distributing the funds available. The Administrators will be Trustees of the Trust.
 - Net Deed funds available are to be transferred to the Creditors' Trust.

- Admitted creditors to receive distribution as beneficiaries of the Trust.
- Creditor claims against Montague to be extinguished on successful completion of the DOCA
- Shares held by Convergent in Montague (being 100% of shares issued) to be transferred to MH Gold.
- R&D incentive payment, if received, to be paid to the Creditors' Trust and form part of funds available for distribution to beneficiaries (being the Admitted creditors)
- Tenement interests, held in Montague's name, will not form part of the property available for distribution to beneficiaries
- Distribution priorities from the Trust fund are to reflect the distribution priorities provided for in the Corporations Act as if the company was in liquidation and as if the beneficiaries were unsecured creditors with claims admitted by a liquidator, with the exception that the Trustees' remuneration and costs will be paid first.

The above summary does not refer to all of the terms of the proposed DOCA and/or Creditors' Trust. A copy of the draft DOCA and draft Creditors' Trust documents is attached as **Appendix E**.

6.0 ESTIMATED RETURNS TO CREDITORS UNDER DOCA AND LIQUIDATION SCENARIOS

6.1 Estimated returns to creditors under DOCA and liquidation scenario - Convergent

A comparison of estimated returns to creditors of Convergent under DOCA and liquidation scenarios is set out in Table 1, below.

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Convergent Minerals Ltd (Administrators Appointed)	DOCA (low)	DOCA (high)	Liquidation
	\$,000	\$,000	\$,000
Cash at bank	13	13	13

Add: Estimated future receipts:

Sale of motor vehicle	15	15	15
Sale of shares in Montague	10	10	10
Dividend from Montague	-	230	230
DOCA contributions	300	400	-
Total estimated future receipts	325	655	255
Total Receipts	338	667	267

Less: Estimated future payments:

Administrators' estimated future legal costs	8	8	8
Administrators' out of pocket expenses	3	3	3
Employee payments	15	15	15
Storage costs - books and records	1	1	1
PAYG	5	5	5
Share management fees	0	0	0
Tenement management fees	8	8	8
Valuation fees	6	6	6
Total estimated future payments	46	46	46
Estimated funds available to creditors	291	621	221

Less: Administrators' fees:

For the period 14/9/2015 to 8/10/2015	80	80	80
For the period 9/10/2015 to 27/11/2015	102	102	102
For the period 28/11/2015 to 21/12/2015	17	17	17
For the period 22/12/2015 to commencement of Deed	8	8	-
Sub-total	207	207	199

Less: Deed Administrators' estimated fees	14	14	-
Less: Liquidators' estimated fees	-	-	17
Less: Trustees' estimated fees	10	10	-

Less: Disbursements

Disbursements incurred to 30 November 2015	5	5	5
Disbursements to be incurred to finalisation	2	2	2
Sub-total	7	7	7

Estimated net surplus /(shortfall) available to creditors	63	393	(1)
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Estimated returns to each class of creditors / trust beneficiaries

1. Priority creditors / trust beneficiaries

Estimated total claims	123	123	123
Estimated funds available	63	393	(1)
Estimated dividend return (cents per dollar)	0.51	100.00	0.00

2. Ordinary unsecured creditors / trust beneficiaries

Estimated total claims	439	439	439
Estimated funds available	0	270	(1)
Estimated dividend return (cents per dollar)	0.00	61.56	0.00

The estimated return under the DOCA scenario, as set out in the above table, has been prepared based on “high” and “low” bases, incorporating the following assumptions:

High basis

- The proposed recapitalisation of Convergent will be successfully completed
- The Montague DOCA is effectuated giving rise to the proceeds from sale of shares and dividend payment
- The R&D incentive payment will be received by Montague in the maximum estimated potential amount, thereby allowing for a dividend to be paid by Montague to Convergent.
- That no additional creditor claims are received such that only those creditors listed on the directors RATA and otherwise known to the Administrators prove their claims in the Creditors’ Trust.

Low basis

- The DOCA is completed however the recapitalisation is unsuccessful, resulting in deed payments being limited to \$300,000.
- No dividend is received from Montague
- That no additional creditor claims are received such that only those creditors listed on the directors RATA and otherwise known to the Administrators prove their claims against the Creditors’ Trust.

The Administrators do not believe the ‘Low basis’ DOCA scenario is likely.

6.2 Convergent - Employee entitlements and Fair Entitlement Guarantee

The Australian Government provides financial assistance to cover certain unpaid employment entitlements to eligible employees who lose their job due to the liquidation or bankruptcy of their employer.

Employees who are owed certain employee entitlements after losing their job because their employer went bankrupt or into liquidation may be able to obtain financial help from the Australian Government. This help is available through the Fair Entitlements Guarantee (‘FEG’).

FEG is a legislative safety net scheme of last resort, with assistance available for:

- Wages – up to 13 weeks of unpaid wages
- Annual leave
- Long service leave
- Payment in lieu of notice – maximum of 5 weeks
- Redundancy pay – maximum of 4 weeks per full year of service

Under the FEG scheme, an annual salary cap of \$127,452 is used for the purposes of determining FEG entitlements under various employee entitlement categories. As a result, employees with an annual salary in excess of the capped amount will receive less under FEG than they might otherwise been entitled to receive from their employer. FEG also applies some other limits in regard to certain categories of entitlements claimed.

To be eligible for FEG assistance, former employees must meet all of the eligibility requirements outlined in the *Fair Entitlements Guarantee Act 2012*. Further information is available via www.employment.gov.au/fair-entitlements-guarantee-feg.

A criteria for eligibility under FEG is that the employer entered into liquidation. Employees are ineligible to claim under FEG if the company enters into a DOCA and that DOCA is successfully completed.

Employees should consider their eligibility to claim under FEG when assessing the DOCA versus liquidation scenarios set out in this report, and therefore cast their vote on the future of the company.

For the assistance of the employees we have set out below a comparison of employee claims versus an estimated claim entitlement under FEG. These calculations are estimates only. FEG claims will be subject to eligibility determination and assessment by FEG. As a result any final approved FEG claims may vary from the numbers presented below.

Table – Employee claims amounts versus Estimated FEG claims

Employee	Total claimed (\$)	Estimated FEG claim (\$)
CEO		
Annual leave	5,191	2,663
Redundancy	72,500	31,863
Total	77,691	34,526
CFO		
Annual leave	8,592	9,125
Redundancy	25,000	21,242
Total	33,592	30,367
Geologist		
Annual leave	3,095	3,095
Redundancy	8,750	8,750
Total	11,845	11,845
Grand Total	123,128	76,738

The variance between the total claimed and estimated FEG claim is a consequence of limits placed by FEG.

6.3 Estimated returns to creditors under DOCA and liquidation scenario – Montague

A comparison of estimated returns to creditors of Montague under DOCA and liquidation scenarios is set out in Table 2, below.

Table 2:

Montague Resources Australia Pty Ltd (Administrators Appointed)	DOCA \$,000	Liquidation \$,000
Cash at bank	2	2
Add: Estimated future receipts:		
R&D Incentive payment	300	-
DOCA contributions	10	-
Total estimated future payments	310	0
Total Receipts	312	2
Less: Estimated future payments:		
Administrators' estimated future legal costs	8	8
Total estimated future payments	8	8
Estimated funds available to creditors	304	(6)
Less: Administrators' fees:		
For the period 14/9/2015 to 8/10/2015	12	12
For the period 9/10/2015 to 27/11/2015	22	22
For the period 28/11/2015 to 21/12/2015	11	11
For the period 22/12/2015 to commencement of Deed	8	-
Sub-total	53	45
Less: Deed Administrators' estimated fees	14	-
Less: Liquidators' estimated fees	-	11
Less: Trustees' estimated fees	5	-
Less: Disbursements		
Disbursements incurred to 30 November 2015	1	1
Disbursements to be incurred to finalisation	1	1
Sub-total	2	2
Net funds available to creditors	230	(64)
Estimated returns to each class of creditors / trust beneficiaries		
<u>1. Priority creditors / trust beneficiaries</u>		
Estimated total claims	-	-
Estimated funds available	230	(64)
Estimated dividend return (cents per dollar)	0.00	0.00
<u>2. Ordinary unsecured creditors / trust beneficiaries</u>		
Estimated total claims	10,545	10,545
Estimated funds available	230	(64)
Estimated dividend return (cents per dollar)	0.02	0.00

The estimated return under the DOCA scenario, as set out in the above table, has been prepared based on, amongst other things, the following assumption:

- That the R&D incentive payment will be received by Montague in the maximum estimated potential amount.
- That no additional creditor claims are received such that only those creditors listed on the directors RATA and otherwise known to the Administrators prove their claims against the Creditors' Trust.

There is a risk that abovementioned event may not be achieved and/or may be partly achieved, in which case the estimated returns to creditors / trust beneficiaries might be significantly less and possibly nil. The DOCA scenario should, therefore, be considered as a "best possible" outcome.

6.4 Estimated returns to creditors – AFL

No DOCA proposal has been received for AFL and no funds are expected to be available to creditors of AFL in a liquidation scenario.

6.5 Estimated returns to creditors – NQ Metals

No DOCA proposal has been received for NQ Metals and no funds are expected to be available to creditors of NQ Metals in a liquidation scenario.

7.0 ADMINISTRATORS' OPINIONS

Section 439A of the Act requires Administrators to provide their opinion on which of the three (3) alternative courses of action available to creditors, is in their interests.

7.1 Administrators' opinion – Convergent

The Administrators' opinions in regard to Convergent are:

- It would be in the creditors' interests for Convergent to execute a DOCA. Our reasons include:
 - The dividend that creditors may expect to receive from the DOCA is greater and more certain than that they may expect to receive from the liquidation.
 - The Company may continue its existence.
- It would not be in the creditors' interests for the administration to end. Our reason is:
 - The company is insolvent.
- It would not be in the creditors' interests for Convergent to be wound up. Our reason is:

- The expected return to creditors from the Company's winding up (liquidation) is significantly less in quantum than that possible through a DOCA.

7.2 Administrators' opinion – Montague

The Administrators' opinions in regard to Montague are:

- It would be in the creditors' interests for Montague to execute a DOCA. Our reasons include:
 - The Montague DOCA provides for a potentially larger, quicker and more certain return to creditors than is estimated to be achieved in a liquidation scenario, as a result of, amongst other things:
 - a The payment by MH Gold of \$10,000 to the Deed Fund.
 - b The preservation of the claim in regard to the potential R&D Incentive payment.
 - The company may continue its existence.
- It would not be in the creditors' interests for the administration to end. Our reason is:
 - The company is insolvent.
- It would not be in the creditors' interests for Montague to be wound up. Our reason is:
 - The estimated return to creditors in a liquidation scenario is smaller and less certain than the potential return available as a result of the company executing the Montague DOCA.

7.3 Administrators' opinion – AFL

The Administrators' opinions in regard to AFL are:

- It would not be in the creditors' interests for AFL to execute a DOCA. Our reason is:
 - DOCA proposal has not been received and therefore this alternative is not currently available to creditors.
- It would not be in the creditors' interests for the administration to end. Our reason is:
 - The company is insolvent.
- It would be in the creditors' interests for AFL to be wound up. Our reasons include:
 - AFL is insolvent.
 - DOCA proposal has not been received.

7.4 Administrators' opinion – NQ Metals

The Administrators' opinions in regard to NQ Metals:

- It would not be in the creditors' interests for NQ Metals to execute a DOCA. Our reason is:
 - DOCA proposal has not been received and therefore this alternative is not currently available to creditors.
- It would not be in the creditors' interests for the administration to end. Our reason is:
 - The company is insolvent.
- It would be in the creditors' interests for NQ Metals to be wound up. Our reasons include:
 - NQ Metals is insolvent.
 - DOCA proposal has not been received.

8.0 RISKS ASSOCIATED WITH THE USE OF CREDITORS' TRUSTS

The Preferred Convergent DOCA and Montague DOCA proposals discussed above each involve the use of Creditors' trust in conjunction with the DOCA.

In essence, subject to the specific terms of the respective DOCAs and Creditors' Trust deeds, the proposals in these regards provide for:

- Funds available from the company administration / DOCA processes to be transferred to a Creditors' Trust;
- The Administrators become trustees of the Trust;
- Those creditors with admitted claims against the company become beneficiaries of the Creditors Trust; and
- Admitted creditors receive a distribution from the funds held by the Trust in their capacity as beneficiaries.

We draw creditors' attention to the key risks for creditors associated with the use of Creditors' trusts, which include the following:

- Under a DOCA proposal, which incorporates the transfer of funds or specified property to a Creditors' Trust, the DOCA may be effectuated and creditors' rights against the company extinguished before:
 - The amount available for distribution to creditors of the company/beneficiaries of the trust has been ascertained; or
 - The trust fund has been received in full by the Trustee; or
 - Creditors of the company/beneficiaries of the trust have received any payment from either the deed administrator or the trustee.

- Creditors may have less (or no) legal rights if the DOCA proposal is not fully complied with by all relevant parties.
- The processes specified under the Act for resolving disputed creditors' claims (in a liquidation) do not apply to disputed claims by a beneficiaries against the Trustee of the Creditors' Trust.
- The Trustee's remuneration will not be subject to the same creditors' approval process as applies to the remuneration of an Administrator or may apply to a Deed Administrator.

We note that the use of the Creditors' Trust is a fundamental component of both the Preferred Convergent DOCA and the Montague DOCA. Creditors' Trusts are not uncommon and are often used.

9.0 INDEPENDENCE

There is no change to the information provided in the Declaration of Independence, Relevant Relationships and Indemnities dated 15 September 2015, as attached to our Initial report.

10.0 SUMMARIES OF RECEIPTS AND PAYMENTS

Summaries of the Administrators' Receipts and Payments for each of the Convergent companies for the period 14 September 2015 to 9 December 2015 are provided at **Appendix F**.

11.0 REMUNERATION

11.1 Voluntary Administration

At the meeting of creditors held on 20 October 2015, creditors approved our remuneration as follows:

Company Name	Period	(\$)
Convergent	14 September 2015 – 8 October 2015 Approved	72,830
Montague	14 September 2015 – 8 October 2015 Approved	10,893
AFL	14 September 2015 – 8 October 2015 Approved	<u>8,786</u>
	Total approved to date	<u>92,509</u>

At the reconvened meeting of creditors to be held on 22 December 2015 at 3:00pm the Administrators will seek creditor approval for the remuneration set out in the **Remuneration Report** pursuant to section 449E of the Act, which is attached as **Appendix G**.

At the forthcoming concurrent meetings, creditors will be asked to consider the following resolutions:

Convergent Companies' Voluntary Administrations Remuneration Resolutions		
Company	Period	Remuneration sought for approval (\$ excl. GST)
Convergent	9 October 2015 – 27 November 2015 Actual	92,853
	28 November 2015 – 21 December 2015 Estimate	15,000
	22 December to commencement of Deed	7,500
	Total	115,353
Montague	9 October 2015 – 27 November 2015 Actual	19,711
	28 November 2015 – 21 December 2015 Estimated	10,000
	22 December to commencement of Deed	7,500
	Total	37,211
AFL	9 October 2015 – 27 November 2015 Actual	7,476
	28 November 2015 – 21 December 2015 Estimated	5,000
	22 December to commencement of Deed	5,000
	Total	17,476
NQ Metals	14 September 2015 – 8 October 2015 Actual	7,454
	9 October 2015 – 27 November 2015 Actual	6,701
	28 November 2015 – 21 December 2015 Estimated	5,000
	22 December to commencement of Deed	5,000
	Total	24,155
Total		194,195

Please refer to the Remuneration Report attached as **Appendix G** for each of the resolutions to be approved as summarised in the above table.

A copy of the information sheet 'Approving Fees: a guide for creditors' can be found on the ASIC website at www.asic.gov.au.

11.2 Deed Administration

If the creditors resolve that Convergent and/or Montague execute a Deed of Company Arrangement, approval of the Deed Administrators' future remuneration will be sought in accordance with the remuneration report attached as **Appendix H**. A summary of the tasks to be completed by the Deed Administrators and his staff in the conduct of the Deed Administration from its commencement to completion also outlined in the **Remuneration Report**.

At the concurrently held meeting, creditors will be asked to consider the following resolution for Convergent and Montague:

'That the remuneration of the Deed Administrators, as set out in the Deed Administrators' remuneration report, for the period from the commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$12,500 plus GST and that the Deed Administrators be authorised to make payment on account as required.'

11.3 Liquidation

If any of the Convergent companies are placed in liquidation, approval of the Liquidators' future fees will be sought in accordance with the remuneration report attached as **Appendix I**. A summary of the tasks to be completed by the Liquidators and his staff in the conduct of the liquidation for the period 22 December 2015 to the completion of the liquidation is also outlined in the **Remuneration Report**.

At the concurrently held meeting, creditors will be asked to consider the following resolutions:

Convergent Companies' Creditors Voluntary Liquidation Remuneration Resolutions		
Company	Period	Remuneration to be approved (\$ excl GST)
CVG	For the period 22 December 2015 to completion of winding up	15,000
Montague	For the period 22 December 2015 to completion of winding up	10,000
AFL	For the period 22 December 2015 to completion of winding up	5,000
NQ Metals	For the period 22 December 2015 to completion of winding up	5,000
Total		35,000

Please refer to the Remuneration Report attached as **Appendix I** for each of the resolutions to be approved as summarised in the above table.

Should you have any questions, please call Geoff Knoke of our office on (02) 8270 9308 or Brandon Lee on (02) 8270 9304.

DATED this the 15th December 2015

Alan Hayes

Joint & Several Administrator

Convergent Minerals Ltd (Administrators Appointed)

Montague Resources Australia Pty. Ltd. (Administrators Appointed)

AFL Resources Pty Ltd (Administrators Appointed)

NQ Metals Pty Limited (Administrators Appointed)

Appendix



Instructions for Attendance by Telephone Conference
(Relating to the accompanying Notices of Meeting)

Convergent Minerals Ltd
(Administrators Appointed)
ACN 120 909 953

Montague Resources Australia Pty. Ltd.
(Administrators Appointed)
ACN 097 875 619

NQ Metals Pty Limited
(Administrators Appointed)
ACN 125 551 537

AFL Resources Pty Ltd
(Administrators Appointed)
ACN 147 523 751

Pursuant to Regulation 5.6.13A of the Corporations Regulations, please see below information regarding attendance by telephone conference:

- a) Conference Call Dial in telephone number - **03 8672 0100** and the **Access Code – 920 857**. If you wish to attend by telephone, please contact Mr Brandon Lee of my office on (02) 8270 9304 or blee@hayesadvisory.com.au to confirm your attendance;
- b) a person, or the proxy or attorney of a person, who wishes to participate in the meeting by telephone must give to Christian Sprowles, Joint & Several Liquidator, not later than the second-last working day before the day on which the meeting is to be held (i.e. **Tuesday, 22 December 2015**), a written statement setting out:
 - (i) the name of the person and of the proxy or attorney (if any); and
 - (ii) an address to which notices to the person, proxy or attorney may be sent; and
 - (iii) a telephone number at which the person, proxy or attorney may be contacted; and
 - (iv) any facsimile transmission number to which notices to the person, proxy or attorney may be sent; and
- c) a person, or the proxy or attorney of a person, who participates in the meeting by telephone must pay any costs incurred by the person, proxy or attorney in participating and is not entitled to be reimbursed for those costs from the assets of the Company.

Corporations Act 2001
Section 439A(3)(a)
Sub-regulation 5.6.12(2)

FORM 529

NOTICE OF RECONVENED SECOND MEETINGS OF CREDITORS

**Convergent Minerals Ltd
(Administrators Appointed)
ACN 120 909 953**

**Montague Resources Australia Pty. Ltd.
(Administrators Appointed)
ACN 097 875 619**

**NQ Metals Pty Limited
(Administrators Appointed)
ACN 125 551 537**

**AFL Resources Pty Ltd
(Administrators Appointed)
ACN 147 523 751**

NOTICE IS GIVEN that the adjourned concurrent meetings of the creditors of the Convergent companies will be reconvened to be held at **Hayes Advisory, Level 16, 55 Clarence Street, Sydney NSW 2000** on **22 December 2015 at 3:00 p.m. (AEDT)**

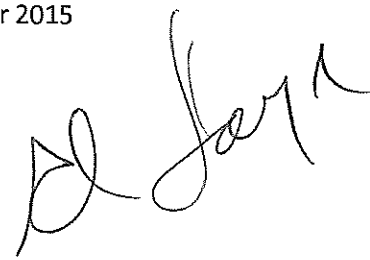
Telephone conference facilities are available and instructions are contained on the first page within Annexure A.

AGENDA

1. To review the Administrators' report concerning the company's business, property, affairs and financial circumstances.
2. For creditors to consider the options available and to resolve either:
 - a) that the company execute a Deed of Company Arrangement; or
 - b) that the administration should end; or
 - c) that the company be wound up.
3. For creditors to:
 - a) approve the Voluntary Administrators' remuneration; and
 - b) determine the remuneration of the Liquidator/Deed Administrators, if one is appointed.
4. For creditors to consider the appointment of an alternative Deed Administrators or Liquidator
5. If the company is wound up, to consider the appointment of a Committee of Inspection.
6. If the company is wound up, to consider the early destruction of the books and records at the conclusion of the liquidation.

7. To consider any other business that may be brought before the meeting.

DATED this 15th December 2015

A handwritten signature in black ink, appearing to read 'A Hayes', is written over the printed name and title.

Alan Hayes
Joint & Several Administrator

Hayes Advisory Pty Limited, Level 16, 55 Clarence Street Sydney NSW 2000.

Appendix

B

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

**Convergent Minerals Ltd
(Administrators Appointed)
A.C.N. 120 909 953**

Name of creditor:

Amount of debt claimed:

(see note)

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 Administrators; or
- b. he has lodged with the Administrators 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 Administrators

FORM 532

Regulation 5.6.29

Corporations Act 2001

APPOINTMENT OF PROXY

**Convergent Minerals Ltd
(Administrators Appointed)
A.C.N. 120 909 953**

I/We¹ _____

of _____

a creditor of **Convergent Minerals Ltd**,
appoint²

or in his/her absence _____

as *my/our *general/special proxy³ to vote at the meeting of creditors to be held on 22 December 2015 at 3:00 PM,
or at any adjournment of that meeting, to vote:

a) on all matters arising at the meeting; **OR**

b) on each of the following resolutions in the manner specified:

		For	Against	Abstain
i)	A resolution that the Administration end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii)	A resolution that the company be required to execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii)	A resolution that the company be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 9 October 2015 to 27 November 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015 be approved in the sum of \$92,852.50 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹ If a firm, strike out 'I' and set out the full name of the firm.

² Insert the name, address and description of the person appointed.

³ If a special proxy, add the words 'to vote for' or the words 'to vote against' and specify the particular resolution.

v)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period from 28 November 2015 to 21 December 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015, be approved in the sum of \$15,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
vi)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 22 December 2015 to signing of the Deed (if applicable), is calculated in accordance with the applicable time costs charged by Hayes Advisory for work of this nature and is fixed and paid in the sum at \$7,500 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
vii)	That the remuneration of the Deed Administrators, as set out in the Deed Administrators' remuneration report, for the period from the commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$12,500 plus GST and that the Deed Administrators be authorised to make payment on account as required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
viii)	That the remuneration of the Liquidators, as set out in the Liquidators' remuneration report, for the period 22 December 2015 to completion is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$15,000 plus any applicable GST and that the Liquidators be authorised to make payment on account as required.'	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ix)	A resolution that a committee of inspection be appointed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
x)	A resolution that the books and record of the company be disposed of 6 months after the dissolution of the company or earlier at the discretion of the ASIC.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED this

2015

.....
Signature⁴

CERTIFICATE OF WITNESS⁵

I _____ of _____
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

DATED this _____ day of _____ 20____

Signature of Witness _____

Description _____

Place of Residence _____

⁴ The signature of the creditor is not to be attested by the person nominated as proxy.

⁵ This certificate is to be completed only where the person giving the proxy is blind or incapable of writing.

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

**Montague Resources Australia Pty Ltd
(Administrators Appointed)
ACN 097 875 619**

Name of creditor:

Amount of debt claimed: (see note)

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 Administrators; or
- b. he has lodged with the Administrators 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 Administrators

FORM 532

Regulation 5.6.29

Corporations Act 2001

APPOINTMENT OF PROXY

Montague Resources Australia Pty Ltd
(Administrators Appointed)
ACN 097 875 619

I/We⁶ _____

of _____

a creditor of **Montague Resources Australia Pty Ltd**
, appoint⁷

or in his/her absence _____

as *my/our *general/special proxy⁸ to vote at the meeting of creditors to be held on 22 December 2015 at 3:00 PM,
or at any adjournment of that meeting, to vote:

a) on all matters arising at the meeting; **OR**

b) on each of the following resolutions in the manner specified:

		For	Against	Abstain
i)	A resolution that the Administration end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii)	A resolution that the company be required to execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii)	A resolution that the company be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 9 October 2015 to 27 November 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015 be approved in the sum of \$19,711 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

⁶ If a firm, strike out 'I' and set out the full name of the firm.

⁷ Insert the name, address and description of the person appointed.

⁸ If a special proxy, add the words 'to vote for' or the words 'to vote against' and specify the particular resolution.

- | | | | | |
|-------|---|--------------------------|--------------------------|--------------------------|
| v) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period from 28 November 2015 to 21 December 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015, be approved in the sum of \$10,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| vi) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 22 December 2015 to signing of the Deed (if applicable), is calculated in accordance with the applicable time costs charged by Hayes Advisory for work of this nature and is fixed and paid in the sum at \$7,500 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| vii) | That the remuneration of the Deed Administrators, as set out in the Deed Administrators' remuneration report, for the period from the commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$12,500 plus GST and that the Deed Administrators be authorised to make payment on account as required. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| viii) | That the remuneration of the Liquidators, as set out in the Liquidators' remuneration report, for the period 22 December 2015 to completion is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$10,000 plus any applicable GST and that the Liquidators be authorised to make payment on account as required.' | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ix) | A resolution that a committee of inspection be appointed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| x) | A resolution that the books and record of the company be disposed of 6 months after the dissolution of the company or earlier at the discretion of the ASIC. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DATED this

2015

.....
Signature⁹

CERTIFICATE OF WITNESS¹⁰

I _____ of _____
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

DATED this _____ day of _____ 20____

Signature of Witness _____

Description _____

Place of Residence _____

⁹ The signature of the creditor is not to be attested by the person nominated as proxy.

¹⁰ This certificate is to be completed only where the person giving the proxy is blind or incapable of writing.

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

AFL Resources Pty Ltd
(Administrators Appointed)
ACN 147 523 751

Name of creditor:

Amount of debt claimed:

(see note)

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 Administrators; or
- b. he has lodged with the Administrators 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 Administrators

FORM 532

Regulation 5.6.29

Corporations Act 2001

APPOINTMENT OF PROXY

AFL Resources Pty Ltd
(Administrators Appointed)
ACN 147 523 751

I/We¹¹ _____

of _____

a creditor of **AFL Resources Pty Ltd**,
appoint¹²

or in his/her absence _____

as *my/our *general/special proxy¹³ to vote at the meeting of creditors to be held on 22 December 2015 at 3:00 PM,
or at any adjournment of that meeting, to vote:

a)	on all matters arising at the meeting; OR			
b)	on each of the following resolutions in the manner specified:			
		For	Against	Abstain
i)	A resolution that the Administration end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii)	A resolution that the company be required to execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii)	A resolution that the company be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 9 October 2015 to 27 November 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015 be approved in the sum of \$7,475.50 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹¹ If a firm, strike out 'I' and set out the full name of the firm.

¹² Insert the name, address and description of the person appointed.

¹³ If a special proxy, add the words 'to vote for' or the words 'to vote against' and specify the particular resolution.

- | | | | | |
|-------|---|--------------------------|--------------------------|--------------------------|
| v) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period from 28 November 2015 to 21 December 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015, be approved in the sum of \$5,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| vi) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 22 December 2015 to signing of the Deed (if applicable), is calculated in accordance with the applicable time costs charged by Hayes Advisory for work of this nature and is fixed and paid in the sum at \$5,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| vii) | That the remuneration of the Deed Administrators, as set out in the Deed Administrators' remuneration report, for the period from the commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$12,500 plus GST and that the Deed Administrators be authorised to make payment on account as required. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| viii) | That the remuneration of the Liquidators, as set out in the Liquidators' remuneration report, for the period 22 December 2015 to completion is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$5,000 plus any applicable GST and that the Liquidators be authorised to make payment on account as required.' | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ix) | A resolution that a committee of inspection be appointed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| x) | A resolution that the books and record of the company be disposed of 6 months after the dissolution of the company or earlier at the discretion of the ASIC. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DATED this 2015

.....
Signature¹⁴

CERTIFICATE OF WITNESS¹⁵

I _____ of _____
certify that the above instrument appointing a proxy was completed by me in the presence of and at the
request of the person appointing the proxy and read to him or her before he or she signed or marked the
instrument.

DATED this _____ day of _____ 20____

Signature of Witness _____

Description _____

Place of Residence _____

¹⁴The signature of the creditor is not to be attested by the person nominated as proxy.

¹⁵This certificate is to be completed only where the person giving the proxy is blind or incapable of writing.

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

**NQ Metals Pty Ltd
(Administrators Appointed)
ACN 125 551 537**

Name of creditor:

Amount of debt claimed: (see note)

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 Administrators; or
- b. he has lodged with the Administrators 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 Administrators

FORM 532

Regulation 5.6.29

Corporations Act 2001

APPOINTMENT OF PROXY

NQ Metals Pty Ltd
(Administrators Appointed)
ACN 125 551 537

I/We¹⁶ _____

of _____

a creditor of **NQ Metals Pty Ltd** appoint¹⁷

or in his/her absence _____

as *my/our *general/special proxy¹⁸ to vote at the meeting of creditors to be held on 22 December 2015 at 3:00 PM,
or at any adjournment of that meeting, to vote:

a)	on all matters arising at the meeting; OR			
b)	on each of the following resolutions in the manner specified:			
		For	Against	Abstain
i)	A resolution that the Administration end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii)	A resolution that the company be required to execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii)	A resolution that the company be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 14 September 2015 to 8 October 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015 be approved in the sum of \$7,454 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
v)	That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 9 October 2015 to 27 November 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015 be approved in the sum of \$6,700.50 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹⁶If a firm, strike out 'I' and set out the full name of the firm.

¹⁷Insert the name, address and description of the person appointed.

¹⁸If a special proxy, add the words 'to vote for' or the words 'to vote against' and specify the particular resolution.

- | | | | | |
|-------|---|--------------------------|--------------------------|--------------------------|
| vi) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period from 28 November 2015 to 21 December 2015, in accordance with the applicable time costs charged by Hayes Advisory as at 1 July 2015, be approved in the sum of \$5,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| vii) | That the remuneration of the Administrators, as set out in the Administrators' remuneration report, for the period 22 December 2015 to signing of the Deed (if applicable), is calculated in accordance with the applicable time costs charged by Hayes Advisory for work of this nature and is fixed and paid in the sum at \$5,000 plus any applicable GST and that the Administrators, Deed Administrators or Liquidators be authorised to pay the remuneration. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| viii) | That the remuneration of the Deed Administrators, as set out in the Deed Administrators' remuneration report, for the period from the commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$12,500 plus GST and that the Deed Administrators be authorised to make payment on account as required. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ix) | That the remuneration of the Liquidators, as set out in the Liquidators' remuneration report, for the period 22 December 2015 to completion is charged in accordance with the hourly rates of Hayes Advisory as at 1 July 2015 (as amended from year to year, by a maximum of 10%) and be fixed at \$5,000 plus any applicable GST and that the Liquidators be authorised to make payment on account as required.' | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| x) | A resolution that a committee of inspection be appointed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| xi) | A resolution that the books and record of the company be disposed of 6 months after the dissolution of the company or earlier at the discretion of the ASIC. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DATED this 2015

.....
Signature¹⁹

CERTIFICATE OF WITNESS²⁰

I _____ of _____
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

DATED this _____ day of _____ 20____

Signature of Witness _____

Description _____

Place of Residence _____

¹⁹The signature of the creditor is not to be attested by the person nominated as proxy.

²⁰This certificate is to be completed only where the person giving the proxy is blind or incapable of writing.

Appendix

C

Schedule 1: Recapitalisation

Subject to clause (Conditions to Recapitalisation), the key terms of the Recapitalisation are as follows:

1.	Share Consolidation	Convergent's share capital be consolidated on the basis of 1 fully paid ordinary share for every 10 fully paid ordinary shares issued in Convergent, rounded to the nearest number, effective from the time of the Shareholders Meeting.
2.	Sale of BCG LLC	The parties agree to procure that the BCG LLC Members will transfer to Convergent, and Convergent agrees to acquire, free from Encumbrances, 100% of all of the issued capital of BCG LLC held by the BCG LLC Members in consideration for Convergent agreeing to pay the Consideration Amount to the BCG LLC Members in proportions to be determined. The parties must negotiate (and BCG LLC must procure the BCG LLC Members negotiate) terms for the Share Sale Agreement with reasonable diligence and in good faith and must use their respective reasonable endeavours to enter into the Share Sale Agreement as soon as practicable after Shareholders Approval has been granted.
3.	Board Structure	As part of completion of the sale contemplated in the Share Sale Agreement (Sale Completion), the parties must procure: <ul style="list-style-type: none"> (a) the retirement of all then current Convergent directors; and (b) that the persons nominated in writing for that purpose by BCG LLC or the BCG LLC Members (as the case may be) and who have consented to so act, are appointed as directors of Convergent. Convergent and the Administrators must also procure that a resolution noting and effecting these changes of directors is passed at Sale Completion.
4.	Change of Company Name	Convergent must change its company name from "Convergent Minerals Ltd" to "East West Energy Limited" upon Sale Completion.
5.	Share and capital raising	The parties must procure that the following share and capital raising transactions take place as soon as practicable after Shareholders Approval is granted: <ul style="list-style-type: none"> (a) Placement to the BCG LLC Members Convergent will:

		<p>(i) issue 700,000,000 Convergent Shares to the BCG LLC Members in proportions to be determined, at an issue price of \$0.00001 per Convergent Share to raise \$7,000; and</p> <p>(ii) issue 50,000,000 options to the BCG LLC Members in proportions to be determined, at an issue price of \$0.00001 per option to raise \$500, with an exercise period of 2 years and an exercise price of \$0.02 per option. Each option may be exercised by the option holder to be issued with 1 Convergent Share.</p> <p>Each Convergent Share issued in accordance with this placement will rank equally with the other Convergent Shares already on issue (including, for the avoidance of doubt, all rights to dividends and voting rights).</p> <p>(b) General Offer</p> <p>Convergent will:</p> <p>(i) issue 600,000,000 Convergent Shares at an issue price of \$0.02 per Convergent Share to raise \$12,000,000; and</p> <p>(ii) for every 2 Convergent Shares that are issued in accordance with item 5(b)(i), issue 1 option. Each option may be exercised by the option holder to be issued with 1 Convergent Share, with an exercise period of 2 years from the date of issue and an exercise price of \$0.04 per Convergent Share.</p> <p>Each Convergent Share issued in accordance the General Offer will rank equally with the other Convergent Shares already on issue (including, for the avoidance of doubt, all rights to dividends and voting rights).</p> <p>(c) Share Purchase Plan</p> <p>As part of the General Offer, Convergent will provide the Convergent Shareholders the ability to top up their shareholding through a share purchase plan on terms to be agreed.</p> <p>(d) Convertible Notes</p> <p>Convergent will issue 100,000,000 convertible notes to persons to be determined on the following terms:</p> <p>(i) 100,000,000 convertible notes (with a face value of \$0.08 per Convergent Share), each note being convertible into 1 Convergent Share;</p>
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		<p>(ii) term of 3 years from the date of issue;</p> <p>(iii) coupon rate of 10% per annum, calculated and payable every 6 months from the date of issue or on conversion or redemption of the convertible notes; and</p> <p>(iv) for each convertible note issued, Convergent will issue 1 option (to purchase 1 Convergent Share for every 1 option) with an exercise period of 3 years from the date of issue and an exercise price of \$0.08 per Convergent Share.</p> <p>(e) Placement to the Creditors</p> <p>Convergent will issue 5,000,000 Convergent Shares to the Creditors' Trust, at an issue price of \$0.02 per Convergent Share.</p> <p>Each Convergent Share issued in accordance with this placement will rank equally with the other Convergent Shares already on issue (including, for the avoidance of doubt, all rights to dividends and voting rights).</p> <p>The parties agree that BCG LLC will be responsible for the preparation of all documentation required to give effect to the transactions set out above. The parties further agree that the terms of the transactions set out above are indicative only and that BCG LLC will have the right to vary the terms of the transactions at its sole discretion (subject to approval from the Convergent Shareholders and the ASX, where necessary and provided that the Creditors' Trust receives the same value as the intended share issue stated at item 5(e) of this Schedule 1).</p> <p>Notwithstanding the above, the parties agree that BCG Aust will be responsible for overseeing the share and capital raising activities set out in this item 5, subject to the Administrators right to take such steps as are necessary to enable them to comply with their obligations under the Corporations Act.</p>
6.	Research & Development Refund	Any research & development refund that becomes available to Convergent as a result of an application to the Australian Taxation Office prior to the date of this Agreement for a research & development refund in respect of the 2015 financial year will be held on trust for the benefit of the Creditors.

Appendix

D

Deed of Company Arrangement – Terms and Conditions

Completion	<p>(a) Completion will take place at the offices agreed by all parties.</p> <p>(b) Completion must take place on the Completion Date.</p> <p>(c) On the Completion Date, the following must occur:</p> <ul style="list-style-type: none"> (i) BCG LLC must pay the Second Tranche Amount to the Creditor's Trust Account in accordance with the Loan Agreement; (ii) the Deed Administrators must deliver all documents necessary to evidence satisfaction of all the Conditions (subject to any waivers); (iii) the Company must transfer to the Trustee all of the assets of the Company as contemplated by and in accordance with the Transfer to Trustee; (iv) the Company must accept the transfer of all of the membership interests in BCG LLC from the BCG LLC Members and the BCG LLC Members must pay the Consideration Amount to the [Creditor's Trust Account]; (v) all current Directors must resign and be replaced by the BCG LLC Nominees and resolutions passed effecting these board changes; (vi) subject to the appropriate resolution being passed at the Shareholders Meeting, the Company will change its name from "Convergent Minerals Limited" to "East West Energy Limited"; and (vii) the Deed Administrators must deliver possession of all of the documents and information related to the Company to the Directors. <p>(d) Completion is conditional on, and will not be taken to have occurred until, each of the obligations listed above have been discharged in accordance with its terms.</p>
Termination upon successful Completion	This Deed will terminate immediately after Completion, when control of the Company will return to its then Directors.
Other Termination	<p>In the event that:</p> <ul style="list-style-type: none"> (a) the Company is unable to comply with the fundamental provisions of the DOCA, including the payment of monies required by the DOCA; or (b) the Deed Administrators determine or form the view, in their reasonable discretion, that it is no longer practicable or desirable to continue to implement the DOCA, <p>then the DOCA Administrators may, in their absolute discretion, convene a meeting of the Creditors, at which Creditors may resolve to:</p> <ul style="list-style-type: none"> (c) vary the terms of the DOCA; (d) terminate the DOCA; (e) terminate the DOCA, wind up the Company, and appoint the Deed Administrators as the liquidators of the Company; (f) enforce the terms of the DOCA; or

- (g) approve any other proposal permitted under the Corporations Act,

provided that the DOCA will not be capable of termination after the Deed Fund has been distributed in accordance with the Deed.

**Termination on
Failure of Deed**

The DOCA automatically terminates in respect of the Company upon the happening of any one of the following events:

- (a) the court makes an order terminating the DOCA under section 445D of the Corporations Act; and
- (b) the Admitted Creditors of the Company with a Claim pass a resolution terminating the DOCA at a meeting convened under section 445F of the Corporations Act by notice setting out the proposed resolution.

Conditions

- 1.1 A general meeting held by the Company approving the Recapitalisation Proposals in compliance with the Corporations Act, the ASX Listing Rules and the constitution of the Company (Shareholders Condition);
- 1.2 BCG LLC receiving a written assurance from the ASX (in a form reasonably acceptable to it) confirming that, if the DOCA terminates in accordance with the Termination clause of the DOCA, the suspension from listing of the Company will be lifted and the quotation for trading of the Shares will be re-instated on the ASX on and from the Completion Date, or such later date upon which the relevant conditions have been satisfied (ASX Condition);
- 1.3 The deregistration or transfer of all Subsidiaries of the Company by the Deed Administrators at the Deed Administrators' own cost and on terms acceptable to the BCG LLC Members and BCG LLC;
- 1.4 The termination of all arrangements with any persons employed or contracted by Company (Convergent Personnel) and formal acknowledgment from the Deed Administrators that the BCG LLC Members, BCG LLC and their Related Entities will be indemnified against all Claims and Liabilities in respect of or arising from or directly or indirectly related to the engagement of the Convergent Personnel;
- 1.5 The discharge of all Encumbrances or other third party interests registered over any Shares or any other securities or assets of the Company on terms satisfactory to the BCG LLC Members and BCG LLC;
- 1.6 The BCG LLC Members completing and being satisfied with the results of its due diligence investigations in the Company;
- 1.7 The exercise or redemption of any options or redeemable shares that were issued by the Company prior to the execution of the Sale Agreement

Appendix

E

K&L GATES

Deed of Company Arrangement

Christian Sprowles and Alan Hayes
In their capacity as joint and several administrators
of Montague Resources Australia Pty Limited

Montague Resources Australia Pty Limited (Administrators
Appointed)
ACN 097 875 619

and

MH Gold Pty Limited
ACN 608 814 204

Draft No: 8
Date: 14 December 2015

K&L Gates
Sydney office
Ref: TLEN.7409918.00010

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Deed of Company Arrangement

Date 2015

Parties

1. **Christian Sprowles and Alan Hayes** in their capacity as joint and several administrators of the Company of Level 11, 66 King Street, Sydney NSW (**Deed Administrators**)
2. **Montague Resources Australia Pty Limited** ACN 097 875 619 of Level 11, 66 King Street, Sydney NSW (**Company**)
3. **MH Gold Pty Limited** ACN 608 814 204 of 8 Prince Albert Street, Mosman (NSW) (**MHG**)

Recitals

- A. On 14 September 2015, Christian Sprowles and Alan Hayes were appointed as joint and several administrators of the Company by a resolution passed by the board of directors pursuant to section 436A of the Corporations Act.
- B. On 24 September 2015 the first meeting of Creditors of the Company was held and the Deed Administrators were retained as the voluntary administrators of the Company.
- C. On 20 October 2015, the second meeting of Creditors of the Company was held and Creditors resolved to adjourn the meeting for up to 45 business days.
- D. At the adjourned meeting of the Creditors of the Company held on [] 2015 and duly convened pursuant to section 439A of the Corporations Act, the Creditors of the Company resolved that the Company execute a deed of company arrangement under section 444B(2)(b) of the Corporations Act in accordance with the terms of this Deed.
- E. The Company, the Deed Administrators, and MHG have agreed to execute this Deed because of the resolution mentioned in recital C.
- F. The Deed Administrators have consented to be the administrators of this Deed.
- G. Subject to the terms of this Deed, this Deed binds all creditors of the Company in accordance with section 444D of the Corporations Act and also binds the Company, its Officers and Members in accordance with section 444G of the Corporations Act.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Deed:

Administration Period - the period of time commencing on the Appointment Date and concluding on the Commencement Date.

Administrators - jointly and severally, Christian Sprowles and Alan Hayes in their capacity as administrators of the Company and any successor to that office appointed pursuant to the Corporations Act.

Appointment Date - 14 September 2015.

ASIC - the Australian Securities and Investment Commission.

Assets - all the undertakings and assets of the Company.

Business Day - any day other than a Saturday, Sunday or public holiday in Sydney.

Claim - a debt payable by, and all claims against the Company (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims any of 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 Corporations Act, if the Company had been wound up and the winding up is taken to have commenced on the Appointment Date.

Company means Montague Resources Australia Pty Limited (Administrators Appointed) ACN 097 875 619.

Company Shareholders - the holders of the Shares as at the Record Date.

Commencement Date - the date that this Deed is executed by the Deed Administrators and the Company.

Controller - has the same meaning as in the Corporations Act.

Corporations Act - the Corporations Act 2001 (Cth).

Costs - includes costs, charges, fees, government charges, taxes and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Administrators and Deed Administrators' duties, obligations and responsibilities under the Corporations Act and the Deed during the Administration Period and the Deed Period.

Creditor - any person who would have been entitled to prove in a winding up of the Company, if the Company had been wound up and the winding up was taken to have commenced on the Appointment Date.

Deed - this deed of company arrangement as amended from time to time.

Deed Administrators - jointly and severally, Christian Sprowles and Alan Hayes in their capacity as administrators of the Deed and any successor to that office appointed pursuant to the Corporations Act.

Deed Administrators' Account - an Australian dollar denominated bank or other account operated and specified by the Administrators or Deed Administrators for the purpose of the administration of the Company or this Deed.

Deed Fund - means the fund and assets comprised in accordance with clause 6 of this Deed.

Deed Period - means the period commencing on the Commencement Date and ending on the Termination Date.

Directors - the directors of the Company from time to time.

Employee Creditor - an employee or former employee of the Company with a Claim in their capacity as an employee of the Company.

Employee Priority Claims - the Claims of Employee Creditors, other than an Excluded Superannuation Debt, that would be entitled to be paid in priority to the payment of other unsecured Claims under section 556 of the Corporations Act if the Company was taken to be in liquidation on the Appointment Date.

Employee Priority Claims Amount - the amount in aggregate of any Employee Priority Claims.

Encumbrance - any:

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, or title retention or flawed deposit arrangement and any 'security interest' as defined in sections 12(1) or (2) of the PPSA; or
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) right that a person (other than the owner) has to remove something from land (known as a profit a prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or
- (d) third party right or interest or any right arising as a consequence of the enforcement of a judgment,

or any agreement to create any of them or allow them to exist.

Enforcement Process - has the same meaning as in the Corporations Act.

Excluded Superannuation Debt - a Claim in respect of which the Trustees make a determination under clause 7.5 of the Trust Deed.

Legal Personal Representative - a trustee or executor appointed to the Deed Administrators or Administrators upon death, incapacity, insanity or any combination of them.

Member - has the meaning given to that term in section 9 of the Corporations Act.

Officer - has the meaning as defined in section 9 of the Corporations Act

PPSA - the Personal Properties Securities Act 2009 (Cth).

Priority Creditor – means those Creditors whose Claims against the Company have priority pursuant to the provisions of Section 556(1)(e)(h) of the Corporations Act as if the Company were in liquidation.

RD Refund means the Research & Development Tax Incentive administered by AusIndustry on behalf of the Australian Federal Government in respect of the Company's past activities.

Regulations - the Corporations Regulations 2001 (Cth).

Related Body Corporate - has the meaning that 'related body corporate' has in the Corporations Act.

Relevant Creditors – means all Creditors other than Priority Creditors and the Secured Creditor.

Remuneration - the remuneration payable to the Administrators and Deed Administrators for acting as:

- (a) the administrators of the Company under Part 5.3A of the Corporations Act; and
- (b) the Deed Administrators of the Company under the Deed.

Section 439C Resolution - the resolution referred to in recital C of this Deed.

Secured Creditor – means MH Gold Pty Limited ACN 608 814 204.

Secured Creditor Claims – means Claims of Secured Creditors (in relation to which Claims the Secured Creditors have security over any assets or undertakings of the Company for payment of those Claims).

Security - any mortgage, chattel mortgage, pledge, charge, agreement, encumbrance, lien, right of set-off (arising otherwise than by operation of law or as a result of a banker's right to combine accounts) and assignment which provides for and secures the payment of any debt or monetary liability or the performance of any obligation and any 'security interest' as defined in sections 12(1) or (2) of the PPSA.

Subsidiary has the meaning ascribed to that term in the Corporations Act.

Shares - all of the issued ordinary shares in the Company.

Subordinated Creditors - a Creditor with a 'subordinate claim' as defined in section 553A of the Corporations Act.

Termination Date - the date upon which the Deed is terminated.

Trust - the Creditors' Trust to be established under the Trust Deed.

Trust Creditors - all the Creditors other than the Subordinated Creditors.

Trust Deed - the trust deed to be entered into between the Company, Christian Sprowles and Alan Hayes of Hayes Advisory in their capacity as joint and several administrators of the Company, of Level 11, 66 King Street, Sydney NSW 2000 substantially in the form of that contained in Schedule 1 of this Deed, which creates the Trust.

Trust Fund - has the same meaning as under the Trust Deed.

Trustees - the trustees of the Trust established under the Trust Deed

1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;

- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

1.3 Inconsistency with Act or Regulations

If there is any inconsistency between the provisions of this Deed and the Corporations Act or Regulations, this Deed prevails to the extent permitted by law.

1.4 Other inconsistencies

If there is any inconsistency between the provisions of this Deed and the constitution of the Company and any other obligation binding on the Company, the provisions of this Deed prevail to the extent of the inconsistency and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which will be borne by the Company.

1.5 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, that act, matter or thing will be done on the immediately succeeding Business Day

1.6 Bar to Claims

This Deed may be pleaded and tendered by:

- (a) The Company against any person having or asserting a Claim released, discharged and extinguished by clause 5.4 of this Deed; and
- (b) the recipient of any release or covenant contained in this Deed, as an absolute bar and defence to any legal proceeding brought or made at any time in respect of a claim, release or covenant as the case may be.

1.7 Exclusion of Prescribed Provisions

Subject to clause 9.2, the prescribed provisions contained in Schedule 8A of the Regulations do not apply to this Deed.

1.8 Required Provisions

To the extent that the Corporations Act requires any provision to be included in this Deed which is not expressly included in this Deed, such provision will be deemed to be included in this Deed.

2. Operation

2.1 Commencement Date

Subject to clause 2.3(a) of this Deed, this Deed will commence and take effect on the Commencement Date and ends on the Termination Date.

2.2 Interim Effect

To the extent that a person would be bound by this Deed if it had already been executed, the person must not, at any time after the Section 439C Resolution is passed but before this Deed is executed, do anything inconsistent with the terms of this Deed, except with the leave of the court.

2.3 Execution by all Parties

- (a) This Deed is subject to and conditional upon the execution of this Deed by each person named as a party to it.
- (b) If as a result of clause 2.3(a), this Deed has not come into full force and effect on or prior to the expiration of 15 Business Days (or such further period as the court allows) after the Section 439C Resolution is passed, then this Deed will terminate automatically.

2.4 Secured Creditors

Notwithstanding any other provision of this Deed this Deed does not affect or impact on the rights and obligations between the Company and a Secured Creditor (or between Secured Creditors) in relation to Secured Creditor Claims. The

Secured Creditor agrees to vote in favour of this Deed and be bound to this Deed and to have no participation in this Deed or claim to or participation in the Trust Fund.

2.5 Discharge of Claims

Each Creditor, other than the Secured Creditors, must accept its entitlements under this Deed in full satisfaction and complete discharge of any and all Claims which it has or claims to have against the Company and will, if called upon to do so, execute and deliver to the Company such form of release of any such Claim as the Deed Administrators may require.

3. Conditions

3.1 Conditions

The operation of clause 6 of this Deed is conditional upon all of the following events taking place within 7 Business Days of the Commencement Date:

- (a) the Deed Administrators and the Company executing the Trust Deed;
- (b) the execution of the transfer of Shares from Convergent Minerals Limited (Administrators Appointed) to MHG (or its nominee) for a consideration of \$10,000 to be paid by MHG to Convergent Minerals Limited (Administrators Appointed) on the Commencement Date; and
- (c) the registration of the transfer of Shares described in 3.1(b).

3.2 Obligation to satisfy conditions

To the extent that it is within the relevant party's control, the parties must use reasonable endeavours to ensure that the conditions referred to in clause 3.1 are satisfied.

3.3 Consequence of non-satisfaction of the conditions

If each of the conditions referred to in clause 3.1 is not satisfied within 25 Business Days of the Commencement Date (or such later date as may be agreed between MHG and the Deed Administrators), the Deed Administrators will convene a meeting of Creditors to determine the future of the Company.

4. The Officers and Members

4.1 Effect of the Deed on the Company's Officers

- (a) During the Deed Period, unless authorised in writing by the Deed Administrators, the Directors and Officers of the Company cannot perform or exercise, and must not purport to perform or exercise, a function or power as an Officer of the Company.
- (b) During the Deed Period, the Directors must:
 - (i) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;
 - (ii) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and

- (iii) perform their obligations pursuant to the Deed.

4.2 Effect of this Deed on the Company's Members

Until this Deed terminates any Member of the Company and any Creditor holding any Encumbrance over any Shares must not without the consent of the Deed Administrators deal with Shares or exercise shareholder rights that are contrary to this Deed or the purpose of the Deed.

5. Moratorium and Release

5.1 Binding Effect

The Deed binds:

- (a) in accordance with section 444D of the Corporations Act, all Creditors who have a Claim; and
- (b) in accordance with section 444G of the Corporations Act, the Company, its Officers and Members and the Deed Administrators.

5.2 No Limitation

Nothing in the Deed limits the rights in law or equity of the Deed Administrators:

- (a) to make an application under section 444F of the Corporations Act: or
- (b) to apply for orders or directions pursuant to the Corporations Act (including, without limitation, section 447A(1) or section 447D of the Corporations Act).

5.3 Moratorium

During or after the Deed Period no Creditor may in relation to that Creditor's Claim:

- (a) make or proceed with an application for an order to wind up the Company;
- (b) institute, revive or continue any action, suit, arbitration, mediation or proceeding against the Company or in relation to the property of the Company;
- (c) institute, revive or continue with any Enforcement Process against the property of the Company;
- (d) take any action whatsoever to seek to recover any part of its Claim;
- (e) exercise any right of set off or defence, cross claim or cross action to which that Creditor would not have been entitled had the Company been wound up on the Appointment Date;
- (f) commence or take any further step in any arbitration against the Company or to which the Company is a party in relation to any matter arising or occurring before the Appointment Date; or
- (g) otherwise enforce any right it may have or acquire.

5.4 Release Upon Completion

Each Creditor agrees that upon this Deed terminating pursuant to clause 13.1 (a) of this Deed, each of their Claims are extinguished and released.

5.5 Execution of all necessary documents

Each Creditor must, if required by the Company or the Deed Administrators, execute any document that the Company or a Deed Administrator may require from time to time to give effect to the releases in clause 5.4 of this Deed.

5.6 Bar to Claims

Subject to section 444D of the Corporations Act, this Deed may be pleaded by the Company or the Deed Administrators against any person having a Claim against the Company as an absolute bar and defence to any legal proceeding brought at any time in respect of that Claim.

5.7 Conversion of Claims

The Deed Administrators and the Creditors agree that, upon all Claims being released pursuant to clause 5.4 of this Deed, each Trust Creditor who had a Claim, will be entitled to make a claim against the Trust Fund, in accordance with the Trust Deed, which is equal in amount to their released Claim.

5.8 Subordinated Creditors

The Subordinated Creditors are not entitled to participate in or receive any distribution from, and will not prove to recover any Claim for the purposes of, and in relation to the Trust Fund.

5.9 MHG Payment

MHG agrees on the date of this deed to pay the amount of \$10,000 to the Deed Administrators to be held by the Deed Administrators as part of the Deed Fund.

6. Deed Fund

6.1 Implementation steps

Within 7 business days of the Commencement Date, the parties must take the steps specified in this clause 6.

6.2 Property comprising the Deed Fund

- (a) The Deed Fund shall comprise of the cash amount of A\$10,000 paid to the Deed Administrator pursuant to clause 5.9 of this Deed, the Company's property in the RD Fund and any proceeds from it and all other property of the Company, other than Company property the subject of a Security in favour of MHG.
- (b) Any of the Deed Fund amounts which are cash, will be paid into the Deed Administrators Account upon receipt by the Company.

6.3 Distributing the Deed Fund

- (a) The Deed Administrators must promptly distribute the Deed Fund cash and assign the non-cash property in the Deed Fund to the Trustees, to be held and dealt with in accordance with the Trust Deed, which requires at clause 4.3 that the Trust Fund be distributed in the order of priority which would apply in a liquidation, as if the Trustees were liquidators and Trust Creditors were creditors.

- (b) For the avoidance of doubt, the Secured Creditor shall not participate in the distribution of the Deed Fund.

6.4 Implementation steps to be simultaneous

The actions to take place as contemplated by clause 6.1 to 6.4 are interdependent and must take place, as nearly as possible, simultaneously. If one action contemplated under clause 6 does not take place, then without prejudice to any rights available to any party under this Deed as a consequence:

- (a) there is no obligation on any party to undertake or perform any of the other actions under clause 6.1 to 6.5;
- (b) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
- (c) the Deed Administrators or MHG (as applicable) will be entitled to require the return of all documents delivered to it under clause 6.1 to 6.4 and to require the repayment of all payments made under clause 6.1 to 6.4, without prejudice to any other rights any party may have in respect of that failure.

6.5 Trust Creditors' Available Assets

Subject to the provisions of this Deed, the only property that is available to pay the Trust Creditors' Claims is the assets of the Trust Fund.

6.6 Consistency with the Corporations Act

- (a) For the purposes of section 444DA of the Corporations Act, any eligible Employee Creditor will retain a priority from the Deed Fund at least equal to that they would have been entitled to if the property of the Company had been applied in accordance with sections 556, 560 and 561 of the Corporations Act.
- (b) For the purposes of section 444DB of the Corporations Act, the Deed Administrators must determine that a debt (or part thereof) by way of superannuation contribution (Superannuation Debt) is not admissible to proof against the Company (including as a Trust Creditor Claim) if:
 - (i) that debt (or that part of the debt) by way of superannuation guarantee charge:
 - (A) has been paid; or
 - (B) is, or is to be admissible against the Company; and
 - (ii) the Deed Administrators are satisfied that the superannuation guarantee charge is attributable to the Superannuation Debt.
- (c) If the Deed Administrators make a determination in accordance with clause 6.6(b), the Superannuation Debt is to be treated as extinguished as against the Company.

6.7 RD Refund

The Company and MHG undertake to:

- (a) promptly pay to the Trustees the amount of any RD Refunds received by the Company after the Company becomes a Subsidiary of MHG;

- (b) authorise the Trustee to seek the RD Refunds from the Australian Federal Government;
- (c) promptly provide a copy of all communications about the RD Refunds to the Trustees;
- (d) secure the payment of the RD Fund by a Security (in the form of Schedule 2) granted to the Trustees, to be registered pursuant to the PPSA;
- (e) retain BDO East Coast Partnership (at the cost of the Trustees) as the Company's tax accountants for the purpose of claiming the RD Refund; and
- (f) give BDO East Coast Partnership an irrevocable authority and direction to pay any RD Refund to the Trustees and to communicate the progress of claiming the RD Refund to the Trustees.

7. Deed Administrators' Appointment

7.1 Appointment

The Deed Administrators are appointed joint and several administrators of the Deed.

7.2 Acceptance of Appointment

The Deed Administrators:

- (a) accept the appointment as administrators of the Deed; and
- (b) agree to act as administrators of the Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with the Deed or the Corporations Act.

7.3 Deed Administrators are agents

In exercising the powers conferred by the Deed and carrying out the duties arising under the Deed, the Deed Administrators will act as agent for and on behalf of the Company.

7.4 Management

The Deed Administrators will retain day to day management and control of the Company until the Termination Date to the exclusion of the Directors of the Company.

7.5 Joint and several

The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.

7.6 Deed Administrators' resignation

Any Deed Administrator may resign at any time by giving not less than 28 days' prior written notice to the Company in which event the Deed Administrator must:

- (a) convene a meeting of Creditors in accordance with clause 12(a) of this Deed for the purpose of nominating a replacement deed administrator;

- (b) assign to a replacement deed administrator nominated by the Creditors the Deed Administrators' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause 7.6(b).

8. Committee of Inspection

For the purposes contemplated by this Deed, and to assist the Deed Administrators, the Creditors may resolve to form a Committee of Inspection in accordance with paragraph 11 of Schedule 8A of the Regulations.

9. Powers of the Deed Administrators

9.1 General Powers

Subject to clause 7.4 of this Deed, the Deed Administrators are entitled to exercise all the rights, powers, privileges, authorities and discretions which are conferred by the Company's constitution or otherwise by law on the Company's Directors to the exclusion of the Company's Directors, provided that the Deed Administrators will not be responsible for such statutory obligations that may continue to be imposed on the Directors of the Company during the Deed Period.

9.2 Additional Powers

Without limiting the powers in clause 9.1 of this Deed, and for the purpose only of administering this Deed, the Deed Administrators have the following powers:

- (a) to remove from office a Director;
- (b) to appoint a person as a director of the Company, whether to fill a casual vacancy or not;
- (c) to enter upon or take possession of the property of the Company;
- (d) to lease or let on hire property of the Company;
- (e) to insure property of the Company;
- (f) to insure the Deed Administrators for actions taken during the Deed Period;
- (g) to repair or renew property of the Company;
- (h) to call in, collect or convert into money the property of the Company;
- (i) to administer the assets available for the payment of Claims in accordance with the provisions of this Deed;
- (j) to borrow and grant security;
- (k) to bring, prosecute and defend in the name and on behalf of the Company or in the name of the Deed Administrators any actions, suits or proceedings;
- (l) to refer to arbitration any question affecting the Company;
- (m) to resolve any dispute of any nature commercially;
- (n) to make payments to any Secured Creditor of the Company and any person who is an owner or lessor;

- (o) to convene and hold meetings of the Members or Creditors of the Company for any purposes the Deed Administrators think fit;
- (p) to appoint agents to do any business or to attend to any matter or affairs of the Company that the Deed Administrators are unable to do, or that it is unreasonable to expect the Deed Administrators to do in person;
- (q) to engage or discharge employees on behalf of the Company;
- (r) to appoint a solicitor, accountant or other professionally qualified person to assist the Deed Administrators;
- (s) to permit any person authorised by the Deed Administrators to operate any account in the name of the Company;
- (t) to do all acts and execute in the name and on behalf of the Company all deeds, receipts and other documents, using the Company's common or official seal when necessary;
- (u) subject to the Bankruptcy Act 1966, to prove in the bankruptcy of any contributory or debtor of the Company or under any deed executed under that act;
- (v) subject to the Corporations Act, to prove in the winding up of any contributory or debtor of the Company or under any scheme of arrangement entered into, or deed of company arrangement executed, under the Corporations Act;
- (w) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the Company;
- (x) to take out letters of administration of the estate of a deceased contributory or debtor. and do any other act necessary for obtaining payment of any money due from a contributory or debtor, or the estate of a contributory or debtor. that cannot be conveniently done in the name of the Company;
- (y) to defend any application for the winding up of the Company;
- (z) to control the Company's business, property and affairs;
- (aa) to carry on the business of the Company on such terms and conditions and for such purposes and times and in such manner as the Deed Administrators think fit subject only to the limitations imposed by this Deed;
- (bb) to perform any function and exercise any power that the Company or any of its Officers could perform or exercise if the Company was not subject to this Deed;
- (cc) to compromise any Claims brought by or against the Company on such terms as the Deed Administrators think fit and to take security for the discharge of any debt forming part of the property of the Company;
- (dd) to enter into and complete any contract for the sale of Shares in the Company;
- (ee) in accordance with section 444GA of the Corporations Act, to transfer Shares in the Company;
- (ff) to enter into the Trust Deed;

- (gg) to do anything that is incidental to exercising a power set out in this clause; and
- (hh) to do anything else that is necessary or convenient for the purpose of administering this Deed.

9.3 Solicitors and Consultants

- (a) The Deed Administrators may engage solicitors and consultants, and the Company will pay all costs of any solicitors and consultants engaged by the Deed Administrators.
- (b) The Deed Administrators may delegate their powers under this clause 9 including by way of appointing agents and authorises such agents to act on behalf of the Deed Administrators or the Company.

9.4 No Personal Liability

During the Deed Period, the Deed Administrators are acting as the agent of the Company and accept no personal liability for any acts, matters or omissions relating to things done or not done in that capacity, including (without limitation) any liability relating to any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the Company.

10. Reporting

Except as required by law, the Deed Administrators are not required to report to Creditors. However, the Deed Administrators may, in their absolute discretion, report to Creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of the Creditors.

11. Deed Administrators' remuneration and indemnity

11.1 Remuneration

- (a) The Deed Administrators and Administrators are entitled to their reasonable Remuneration and their Costs on the basis of the time spent by them their partners and staff in the performance of services in connection with or in relation to the administration of the Company under Part 5.3A of the Corporations Act and this Deed and such time will be charged at the Administrators and Deed Administrators' standard rates, from time to time, for work of that nature.
- (b) The Deed Administrators and Administrators acknowledge that their Remuneration and Costs will be paid by the Company out of the Deed Fund via the Trust Deed.

11.2 Indemnity

The Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to be indemnified by the Company for:

- (a) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments whatsoever arising out of or in any way connected to the administration of the Company or their role as Deed Administrators and incurred or sustained in good faith and without gross negligence;

- (b) any amount which the Administrators are, or would but for the transactions contemplated by this Deed be entitled to be indemnified out of the assets of the Company for, in accordance with the Corporations Act, at law or in equity, including any amounts payable pursuant to section 443A, section 443B or section 443BA of the Corporations Act;
- (c) any debts, liabilities, damages, losses and remuneration to which the statutory indemnity under section 443D of the Corporations Act applies;
- (d) any amount for which the Deed Administrators or the Administrators are entitled to exercise a lien at law or in equity on the property of the Company;
- (e) the Deed Administrators' and Administrators Remuneration and Costs; and
- (f) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments arising out of or in the course of the Deed and incurred or sustained in good faith and without gross negligence.

11.3 Continuing Indemnity

The indemnity in the Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators or the Administrators and the appointment of new Deed Administrators or Administrators or the termination of the Deed for any reason whatsoever.

11.4 Indemnity not to be affected or prejudiced

The indemnity under clauses 11.2 and 11.3 will not

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Deed Administrators or the Administrators and extends to cover any actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Deed Administrators or the Administrators or defect in the approval or execution of the Deed or otherwise; or
- (b) affect or prejudice all or any rights that the Deed Administrators or the Administrators may have against the Company or any other person to be indemnified against the Costs, and liabilities incurred by the Deed Administrators or the Administrators in the performance of, or incidental to, any of the powers or authorities conferred on the Deed Administrators or the Administrators by the Deed or otherwise.

11.5 Deed Administrators' lien

Until termination of this Deed, the Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to exercise a lien over the Deed Fund for all amounts in respect of which they are entitled to an indemnity from the Company under clause 11.2.

11.6 Priority

The Deed Administrators' or the Administrators' right of indemnity under clause 11.2 and their lien under clause 11.5 have priority over the Claims of all Creditors.

12. Application of the Corporations Act and Regulations to Creditors' Meetings

- (a) The Deed Administrators may convene a meeting of Creditors at any time in accordance with section 445F of the Corporations Act, and must convene such a meeting when required to do so under section 445F(1)(b) of the Corporations Act.
- (b) Regulations 5.6.12 to 5.6.36A of the Regulations apply with such modifications as are necessary, to meetings of Creditors held under this Deed as if the references to the liquidator, 'the liquidator or provisional liquidator', 'the liquidator, provisional liquidator or chairman' or the liquidator, provisional liquidator or trustee for debenture holders', as the case may be, were references to the Deed Administrators.
- (c) For the purpose only of convening, holding and voting at a meeting of Creditors of the Company held under this Deed, in addition to persons who have Admitted Claims against the Company, any person who lodges a proof of debt for the purpose of that meeting or, if no such proof of debt is lodged, a proof of debt lodged by the person for the purpose of any previous meeting of the Creditors of the Company under this Deed, will be entitled to attend and vote at a meeting, to the extent the person is admitted by the chairman to vote in accordance with the Regulations, as applied to the relevant meeting under clause 13(b).
- (d) The decision of the Deed Administrators to admit or reject a proof of debt at any meeting of Creditors will not bind the Deed Administrators in considering whether to admit or reject the proof of debt or any subsequent proof of debt sought to be relied on by the relevant Creditor for the purpose of any subsequent meeting.

13. Termination of the Deed

13.1 Termination

- (a) The Deed will terminate upon completion of the implementation steps in clauses 6.1 to 6.4 of this Deed.
- (b) In the event that:
 - (i) the Company is unable to comply with the fundamental provisions of this Deed, including the payment of monies required by this Deed; or
 - (ii) the Deed Administrators determine or form the view, in their reasonable discretion, that it is no longer practicable or desirable to continue to implement this Deed,

then the Deed Administrators may, in their absolute discretion, convene a meeting of the Creditors, at which Creditors may resolve to:

- (iii) vary the terms of this Deed;
- (iv) terminate this Deed;
- (v) terminate this Deed, wind up the Company, and appoint the Deed Administrators as the liquidators of the Company;
- (vi) enforce the terms of this Deed; or

(vii) approve any other proposal permitted under the Act,

provided that the Deed will not be capable of termination after the Deed Fund has been distributed in accordance with the Deed.

13.2 Termination on failure of Deed

This Deed automatically terminates in respect of the Company upon the happening of any one of the following events:

- (a) the court makes an order terminating this Deed under section 445D of the Corporations Act; and
- (b) the Creditors of the Company with a Claim pass a resolution terminating this Deed at a meeting convened under section 445F of the Corporations Act by notice setting out the proposed resolution.

13.3 Termination on satisfaction of Deed

Upon termination in accordance with the provisions of clause 13.1(a), the Deed Administrators or one of them must immediately certify, in writing that the terms of this Deed have been fulfilled and, as soon as practicable, must within 28 days lodge with ASIC a notice of termination of this Deed substantially in the following form:

Montague Resources Australia Pty Limited

'We, Christian Sprowles and Alan Hayes of Level 11, 66 King Street, Sydney NSW 2000 as administrators of the deed of company arrangement executed on [date], CERTIFY that the deed has been wholly effectuated in respect to Montague Resources Australia Pty Limited.'

and the execution of the notice terminates, in respect to the Company, this Deed and all Claims of Creditors of the Company will be extinguished, discharged and released if not extinguished or released earlier under the Deed.

13.4 Effect of Termination

In accordance with section 445H of the Corporations Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

13.5 Severance

If any part of this Deed is or becomes illegal, ineffective, invalid or unenforceable, that part will be severed from this Deed and that severance will not affect the effectiveness, validity or enforceability of the remaining part of this Deed.

13.6 Consequences of Termination of the Deed for non-performance

Upon termination of the Deed under clause 13.2:

- (a) the Company will be taken to have passed a special resolution under section 491 of the Corporations Act that the Company be voluntarily wound up and that the Deed Administrators be the Company's liquidators;
- (b) Regulation 5.3A.07 of the Regulations will apply; and
- (c) the Company will be wound up.

13.7 Survival of clauses

Despite any other provision of this Deed, clauses 5.4, 5.6, 5.6, .7, 5.8, 5.9, 6.7 and 11. survive the termination of this Deed.

14. General

14.1 Variation

Subject to the terms of the Corporations Act, a variation of any term of this Deed must be in writing and signed by all parties to this Deed.

14.2 Assignment

Rights arising out of or under this Deed are not assignable by a party without the prior written consent of the other parties.

14.3 Power of Attorney

The Company hereby irrevocably appoints each of the Deed Administrators jointly and severally as its attorney to exercise or refrain from exercising (in the Deed Administrators' absolute discretion) any and all of the Company's rights or powers in relation to or in connection with its right, title and interest in the Assets and the Company will make, do and provide all things and documents reasonably necessary to give proper effect to this clause.

The Deed Administrators may appoint sub-attorneys to exercise their powers under the appointment in this clause 14.3.

14.4 Further Assurances

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this Deed and the transactions contemplated by it.

14.5 Governing Law

This deed is governed by the law in force in the State of New South Wales.

14.6 Waiver

No party to this Deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 14.6 are set out below.

conduct - includes delay in the exercise of a right.

right - any right arising under or in connection with this Deed and includes the right to rely on this clause.

waiver - includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

14.7 Counterparts

(a) This deed may be executed in any number of counterparts.

- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Deed by signing any counterpart.

15. Notices

15.1 Address of Notice

Any notice or document required to be given to or served upon any of the parties pursuant to or in connection with the Deed must be in writing and will be deemed to be duly given or made when delivered (in the case of facsimile provided confirmation of the transmission has been received) to the party to which such notice is given or served by:

- (a) any means permitted by the law or the regulations; or
- (b) pre-paid post to the person's address last known to the Deed Administrators.

15.2 Notice by Post

Any notice sent by pre-paid post will be taken to have been received by the addressee at the time at which it would have been delivered in the ordinary course of post.

15.3 Notice by facsimile

Any notice given by facsimile on a day which is not a Business Day will be deemed dispatched on the next succeeding Business Day.

15.4 Signing of Notice

Any notice may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.

K&L GATES

Schedule 1

Creditors' Trust Deed

Christian Sprowles and Alan Hayes
In their capacity as joint and several Deed Administrators
of Montague Resources Australia Pty Limited

and

Montague Resources Australia Pty Limited (Subject to
Deed of Company Arrangement)
ACN 097 875 619

and

MH Gold Pty Limited
ACN 608 814 204

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Creditors' Trust Deed

Date 2015

Parties

1. **Christian Sprowles and Alan Hayes** in their capacity as joint and several Deed Administrators of the Company of Level 11, 66 King Street, Sydney (NSW) (**Trustees**)
2. **Montague Resources Australia Pty Limited (Subject to Deed of Company Arrangement)** ACN 097 875 619 of Level 11, 66 King Street, Sydney NSW (**Company**)
3. **MH Gold Pty Limited** ACN 608 814 204 of, 8 Prince Albert Street, Mosman (NSW) (**MHG**)

Background

- A. On 14 September 2015, Christian Sprowles and Alan Hayes were appointed as administrators of the Company pursuant to Part 5.3A of the Corporations Act.
- B. On 20 October 2015 the second meeting of Creditors was held and Creditors resolved to adjourn the meeting for up to 45 business days.
- C. At a meeting held on [] 2015 and convened pursuant to section 439A of the Corporations Act the Creditors of the Company resolved that the Company execute a deed of company arrangement under section 444B(2)(b) of the Corporations Act.
- D. The Company, the Deed Administrators, and MHG agreed to execute this Deed because of the resolution mentioned in recital B.
- E. The Deed Administrators have consented to be the Trustees of the Trust.

This deed witnesses as follows:

1. Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Act - the Corporations Act 2001 (Cth).

Administrators has the meaning as defined in the DOCA;

Administration Period - the period of time commencing on the Appointment Date and concluding on the Commencement Date.

Admitted Claim - means any Claim of a Trust Creditor that has been admitted to proof by the Administrators pursuant to the provisions of this Deed.

Appointment Date – 14 September 2015, being the date on which the Deed Administrators were appointed voluntary administrators of the Company pursuant to section 436C of the Act.

Business Day - any day other than a Saturday, Sunday or public holiday in Sydney.

Claim - a debt payable by, and all claims against, either of the Company (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date that would be admissible to proof against either of the Company in accordance with Division 6 of Part 5.6 of the Act, if the Company had been wound up and the winding up is taken to have commenced on the Appointment Date.

Commencement Date - the date of the DOCA.

Court - the Supreme Court of New South Wales or any court having jurisdiction to hear and determine matters under the Act and the Trustees Act.

Creditor - any creditor who would have been entitled to prove in a winding up of the Company, if the Company had been wound up and the winding up was taken to have commenced on the Appointment Date.

Deed - this creditors' trust deed as amended from time to time.

Deed Administrators - jointly and severally, Christian Spowles and Alan Hayes in their capacity as administrators of the DOCA and any successor to that office appointed pursuant to the Act.

Deed Administrators' Costs - includes costs, charges and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Administrators and Deed Administrators' duties, obligations and responsibilities under the Act and the DOCA during the Administration Period and the DOCA Period.

Deed Fund - has the meaning as defined in the DOCA.

Dividend - any amount paid to a Trust Creditor in respect of that creditors' Admitted Claim.

DOCA - the deed of company arrangement executed by the Company, the Deed Administrators and MHG on or about [].

DOCA Period - the period commencing on the Commencement Date and ending on the DOCA Termination Date.

DOCA Termination Date - the date upon which the DOCA is terminated.

Employee Creditor - an employee or former employee of the Company with a Claim in their capacity as an employee of the Company.

Employee Priority Claim - a Claim of an Employee Creditor, other than an Excluded Superannuation Debt, that would be entitled to be paid in priority to the payment of other unsecured Claims under section 556 of the Corporations Act if the Company was taken to be in liquidation on the Appointment Date.

Excluded Superannuation Debt - a Claim in respect of which the Trustees make a determination under clause 7.5 of this Deed.

Final Dividend - the last Dividend payment to be made by the Trustees to any Trust Creditor under this Deed.

GST - has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Priority Creditor – has the meaning given to it in the DOCA.

RD Refund has the meaning given to it in the DOCA.

Regulations - the Corporations Regulations 2001 (Cth).

Related Body Corporate - has the meaning that 'related body corporate' has in the Act.

Relevant Creditor – has the meaning given to it in the DOCA.

Remuneration – has the meaning given to it in the DOCA.

Scheduled Rates - the rates set out in Schedule 1 of this Deed.

Secured Creditor has the meaning given to it in the DOCA.

Subordinated Creditors - a Creditor with a 'subordinate claim' as defined in section 563A of the Corporations Act.

Termination Date - the date on which the Trust terminates in accordance with clause 14.

Trust - the trust established by this Deed.

Trust Creditors - all the Creditors other than

- (a) the Subordinated Creditors,

and includes Employee Creditors to the extent that an Employee Creditor has a Claim which has not been paid in full under clause 7.3 of the DOCA.

Trust Fund - the fund and assets contemplated by the DOCA and established under this Deed including the Trustees' right to enforce the covenants in clause 3 and any sum received by the Trustees as a result of those covenants.

Trustee Act - the Trustee Act 1925 (NSW).

Trustees - jointly and severally, Christian Sprowles and Alan Hayes in their capacity as trustees of the Trust and any successor to that office appointed pursuant to the Trustee Act.

Trustees' Costs - the costs, charges and expenses, incurred by the Trustees in connection with the performance of their duties, obligations and responsibilities as trustees of the Trust, including those incurred in connection with advisers.

1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;

- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

1.3 Inconsistency with Act or Regulations

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

1.4 Other inconsistencies

If there is any inconsistency between the provisions of this Deed and the constitution of the Company and any other obligation binding on the Company, the provisions of this Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by the Company.

1.5 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

2. Payment of Trust Fund

The Deed Administrators will pay the Trustees the Deed Fund in accordance with clause 6.3(a) of the DOCA.

3. RD Refund

The Company and MHG undertake to:

- (a) promptly pay to the Trustees the amount of any RD Refunds received by the Company after the Company becomes a Subsidiary of MHG;
- (b) authorise the Trustee to seek the RD Refunds from the Australian Federal Government;
- (c) promptly provide a copy of all communications about the RD Refunds to the Trustees;
- (d) secure the payment of the RD Fund by a Security (in the form of Schedule 2) granted to the Trustees, to be registered pursuant to the PPSA;
- (e) retain BDO East Coast Partnership (at the cost of the Trustees) as the Company's tax accountants for the purpose of claiming the RD Refund; and
- (f) give BDO East Coast Partnership an irrevocable authority and direction to pay any RD Refund to the Trustees and to communicate the progress of claiming the RD Refund to the Trustees.

4. Declaration of Trust

4.1 Declaration

The Trustees acknowledge and declare that the Trust Fund will be held on trust by the Trustees for the Trust Creditors the Administrators, the Deed Administrators and (for any surplus remaining in the Trustees' hands after all other proper payments) for MHG on the terms in this Deed.

4.2 Name of Trust

The trust constituted by this Deed will be called the MRA Creditors' Trust.

4.3 Trustees' powers

Without limiting the powers that the Trustees have by operation of the Trustees Act, for the purposes of administering the trust created by this Deed, the Trustees have the following powers:

- (a) to administer the Trust Fund in accordance with the provisions set out in the DOCA and this Deed;
- (b) to fulfil the Trustees' obligations in accordance with the terms of this Deed;

- (c) to sell, re-invest or otherwise deal with the assets of the Trust Fund;
- (d) to perfect title in any assets of the Trust Fund;
- (e) to insure any assets of the Trust Fund;
- (f) to, at any time, call meetings of the Creditors for the purpose of considering the variation or termination of this Deed in accordance with the provisions of this Deed;
- (g) to admit Claims to proof in accordance with the provisions of the DOCA and this Deed;
- (h) to determine Admitted Claims and then to pay Dividends in accordance with the terms of this Deed;
- (i) to act as attorney for the Company or any other person for any purpose associated with the Trust or this Trust Fund;
- (j) to enforce compliance with the terms of this Deed;
- (k) to accept the transfer of any shares, stocks, debentures, debenture stock, annuities, bonds, obligations or other securities of whatever nature that may at any time be transferred to it;
- (l) to open bank accounts for the Trust in accordance with the Banking Act 1959 and effect Trust Fund financial transactions through them;
- (m) to enter upon or take possession of the Trust Fund and to collect the revenue or income from or interest on the Trust Fund and exercise any rights or powers relating to any part of the Trust Fund;
- (n) to bring, prosecute and defend any claim, action, suit or proceeding, which power includes the power to bring and defend any claim, counter-claim, set-off, action, suit or proceeding in either of the Company's' name or (after assignment, if necessary) in the Trustees' name, to enforce any right, claim or cause of action that forms part of the Trust Fund, and to that end:
 - (i) to issue or accept service of any writ, summons or other legal process and to appear or be represented in any court and before all wardens, magistrates or judicial or other officers as the Trustees think fit and to commence or defend and conduct any action or other proceeding in any court of justice in relation to the Trust Fund and any claim, proceeding or action forming part of the Trust Fund and to prosecute, discontinue, compromise, stay, terminate or abandon that proceeding or action as the Trustees think fit;
 - (ii) to appoint any solicitor and counsel to prosecute or defend in those proceedings as occasion may require; and
 - (iii) to take any other lawful ways and means for the recovering or getting in any of the Trust Fund;
- (o) to convene and hold meetings of the Creditors for any purpose as the Trustees consider fit;
- (p) to permit any person authorised by the Trustees to operate any account in the name of the Trust;

- (q) to do all acts and execute in the name and on behalf of the Trust all deeds, receipts and other documents;
- (r) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the Trust;
- (s) subject to the Act, to prove in the winding up of or under any scheme of arrangement entered into by, or deed of company arrangement executed by, any contributory or debtor of the Trust;
- (t) to bring or defend an application for the vesting or winding up of the Trust;
- (u) to report to the Creditors from time to time;
- (v) to make interim or other distributions of the Trust Fund;
- (w) to appoint agents to do any business or attend to any matter or affairs of the Trust that the Trustees are unable to do, or that it is unreasonable to expect the Trustees to do, in person;
- (x) to appoint a solicitor, accountant or other professionally qualified person to assist the Trustees;
- (y) to compromise any claim, action, suit or proceeding brought by or against the Trustees on such terms as the Trustees consider fit, which power includes the power to compromise any claim, action, suit or proceeding referred to in paragraph (m) of this clause;
- (z) to provision for and set aside a sum or sums equal to an amount which the Trustees reasonably anticipate may be payable in respect of any tax, including income tax, capital gains tax or GST;
- (aa) to do anything incidental to exercising a power set out in this Deed; and
- (bb) to do anything else that is necessary or convenient for administering the Trust.

5. Trust Fund

5.1 Trust Fund

The Trust Fund shall be comprised of:

- (a) the Deed Fund received by the Trustees under clause 2(a) of this Deed;
- (b) the Trustees' the right to enforce the covenants in clause 3 and any sum received by the Trustees as a result of those covenants.

5.2 Trust Deed

The Trust Fund is to be held by the Trustees for the benefit of the Administrators, Deed Administrators and Trust Creditors on the terms of this Deed.

5.3 Distribution of the Trust Fund

Provided that each Trust Creditor has an Admitted Claim, the Trust Fund will be available for distribution to the Trustees, Trust Creditors, the Administrators and the Deed Administrators in the order of priority which would apply if the Trustees were liquidators of a company in

liquidation and Trust Creditors were creditors in that liquidation, with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.

5.4 Surplus in the Trust Fund

In the event that there is

- (a) a surplus or balance in the Trust Fund after the Trust Creditors have received 100 cents in the dollar on their Admitted Claims; or
- (b) a remaining balance of any distribution of trust property to Trust Creditors which has remained under the control of the Trustees and has been unclaimed for more than 6 months after the day on which the Trustees declare their intention to distribute a Final Dividend in accordance with this Deed,

such surplus or balance shall be paid by the Trustees to MHG.

5.5 Postponement

Should proceedings be brought by any person in respect of the distribution of the Trust Fund then the Trustees are entitled at their sole discretion to postpone the payment of any entitlement until determined by the Trustees.

6. Perpetuity Period

Notwithstanding any other provision in this Deed, each:

- (a) interest in property; and
- (b) Trustees' power over or in connection with property,

created or granted by this Deed that, but for this provision, might vest, take effect, or be exercisable after the expiry of eighty (80) years commencing on the date of this Deed, but which has not vested or taken effect by that date,

- (c) will vest or take effect on the last day of that period; and
- (d) is exercisable only on or before the last day of that period.

7. Claims

7.1 Admissibility of Claims

- (a) Upon this Deed being settled, and in accordance with clause 5.7 of the DOCA, all Claims of the Trust Creditors against the Company will convert to and become claims against the Trust Fund under this Deed, equal in amount to the released Claims.
- (b) Upon this Deed being settled, all claims which the Administrators, and Deed Administrators would have had against the Company and under the DOCA to be paid Remuneration and Deed Administrators' Costs will convert to and become claims against the Trust Fund under this Deed and be indemnified out of the Trust Fund.
- (c) Interest will not accrue or be payable on any Admitted Claim.

7.2 Trustees' discretion

The Trustees may:

- (a) admit all or part of a Claim;
- (b) reject all or part of a Claim; or
- (c) pay any Admitted Claim,

in accordance with the provisions of this Deed.

7.3 Determination of Claims

- (a) Subdivisions A, B, C, D and E of Division 6 of Part 5.6 of the Act (except sections 554A(3) to 554A(8) and section 556 (other than to the extent expressly incorporated)) apply to Claims under this Deed as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (b) Any eligible Employee Creditor will retain a priority from the Trust Fund at least equal to what they would have been entitled to if the property of the Company had been applied in a liquidation in accordance with sections 556, 560 and 561 of the Act.
- (c) Regulations 5.6.11A, 5.6.37, 5.6.39 to 5.6.43 (inclusive), 5.6.44 to 5.6.53 (inclusive) and 5.6.55 to 5.6.72 (inclusive) of the Regulations shall apply to this Deed and to the Trustees as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (d) The Trustee may make interim distributions of trust property under this Deed.
- (e) The Trustee must declare and distribute trust property under this Deed as soon as practicable after the Trust comes into effect under clause 3.1. However, subject to clauses 7.3(a) and 7.3(b), the Trustee has an absolute and unfettered discretion as to the admission of Claims, and the amount and timing of the distribution of the trust property in payment of Admitted Claims.
- (f) Where the Trustee proposes to reject a Claim (whether in part or in full) the Trustee shall send a notice to the claimant informing the claimant of the proposed rejection and giving the party 21 days within which to make an application to the Court under Part 54 rule 3 of the Uniform Civil Procedure Rules 2005 (NSW) to determine the questions relating to the Claim.

7.4 Retention of and Access to Records

- (a) The Company must retain all records relating to the period prior to the Commencement Date for 7 years in accordance with section 286(2) of the Act.
- (b) The Trustees may at any time inspect and copy the books and records of the Company and the Company authorise the Trustees and their staff to enter the Company's premises for the purpose of conducting such an inspection and for the purpose of doing anything necessary or desirable in the exercise of their powers and