

CRAIG BULL

("the Settlor")

and

PLAN B TRUSTEES LIMITED
(ABN 90 054 737 156)

("the Trustee")

DEED OF SETTLEMENT

TJURABALAN NATIVE TITLE LAND ABORIGINAL
CORPORATION CHARITABLE TRUST

**TJURABALAN NATIVE TITLE LAND ABORIGINAL
CORPORATION CHARITABLE TRUST**

THIS DEED OF SETTLEMENT is made on the 24th day of August 2005

PARTIES:

CRAIG BULL of Whyte Accountants 28 Vennor Avenue West Perth in the State of Western Australia in the State of Western Australia
(**"the Settlor"**).

AND

PLAN B TRUSTEES LIMITED (ABN 90 054 737 156) of Level 28 152-158 St Georges Terrace Perth in the State of Western Australia
(**"the Trustee"**).

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RECITALS

- A. On or around April 2005 the Tjurabalan Native Title Land Aboriginal Corporation (**"TNTLAC"**) entered into the Coyote Gold Agreement (**"the Coyote Gold Agreement"**) with Tanami Gold NL and certain other parties.
- B. TNTLAC entered into the Coyote Gold Agreement on behalf of all of the Tjurabalan People.
- C. The Coyote Gold Agreement requires inter alia that the Tjurabalan Native Title Land Aboriginal Corporation Charitable Trust be established with its objects being substantially to provide relief from poverty, sickness, suffering, destitution, misfortune and helplessness to the Tjurabalan People and to support economic, social, health, educational, cultural and heritage benefits to the Tjurabalan People.
- D. The Settlor has paid or intends on the execution of this Deed to pay to the Trustee the settled sum of \$5.00 (the **"Settled Sum"**).
- E. The Trustee has agreed to be the Trustee of the Trust upon the trusts and subject to the terms and conditions set out in this Deed.
- F. Tanami Gold NL is required under the terms of the Coyote Gold Agreement to make certain payments to the Trustee to be used in furtherance of the objects of the Trust as set out in the Coyote Gold Agreement.

TERMS AND CONDITIONS

1. DEFINITIONS & INTERPRETATION

1.1 DEFINITIONS

In this Deed, unless the context indicates a contrary intention, the following terms shall have the following meanings:-

"Accounting Period" means any one of the following periods;

- (a) The period from the date of this Deed to 30 June next;
- (b) Each following period of twelve (12) months ending on 30 June in each year until 30 June immediately preceding the Vesting Day (if any);
- (c) The period from 1 July immediately preceding the Vesting Day (if any) to the Vesting Day

but the Trustee may determine in writing from time to time to alter the Accounting Period to become a period of twelve (12) months ending on any other date nominated by the Trustee and thereupon the references to 30 June and 1 July shall be altered accordingly.

"Advisory Trustees" means the advisory trustees appointed in accordance with the provisions of the Schedule to this Deed.

"Agreement" means an agreement made under the provisions of sub-clause 4.2;

"Agreement Account" means an account set up within the Trust Fund in accordance with the provisions of sub-clause 4.3;

"Coyote Gold Agreement" means the Agreement referred to in Recital A.

"Business Day" means a day which is not a Saturday Sunday or public or bank holiday in Perth.

"Capital" means so much of the Trust Fund as does not constitute Income.

"Charitable Objects" means the objects of the Trust as set out in Recital C to this Deed that satisfy the requirements for endorsement of the Trust under Subdivision 50-B of the *Income Tax Assessment Act 1997*.

"Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation" means the Governing Committee as defined in the Objects and Rules of the Tjurabalan Native Title Land Aboriginal Corporation.

"Income" means the income of the Trust.

"Organisation" means any association, local authority, corporation, institution, person or entity and includes the trustee of a trust.

"Settlor" means Craig Bull of Whyte Chartered Accountants of 28 Veitnor Avenue West Perth the State of Western Australia.

"Tax" includes:

- (a) all taxes levied imposed or assessed under the Income Tax Assessment Acts (1936) and (1997) or any other statute ordinance or law in Australia or elsewhere; and

- (b) taxes in the nature of goods and services tax, sales tax, consumption tax, value added tax, payroll tax, capital gains tax, group tax, PAYG, undistributed profits tax, fringe benefits tax, recoupment tax, withholding tax, land tax, water rates, municipal charges or impositions levied imposed or collected by any government body,

together with any additional tax interest penalty charge fee or other amount of any kind assessed charged or imposed in relation to the non-late or short payment of the same or the failure to file any return.

"Tjurabalan People" means those persons defined as such in the Coyote Gold Agreement.

"Trust" means Tjurabalan Native Title Land Aboriginal Corporation Charitable Trust.

"Trustee" means Plan B Trustees Limited being the trustee or trustees of the Trust for the time being and any substitute or additional person appointed under this Deed;

"Trust Fund" means all of the real and personal property held by the Trustee as Trustee for the Trust, and includes, without limitation:

- (a) the Settled Sum;
- (b) any other real or personal property (including, without limitation, any money or investments) received by the Trustee as trustee of the Trust from Tanami Gold NL and certain other parties under the Coyote Gold Agreement or by way of contributions by any member of the public or Organisation;
- (c) all of the current and accumulated Income of the Trust;
- (d) all accretions to the Trust Fund; and
- (e) the investments from time to time made by the Trustee using all or any part of the Trust Fund and any other property representing all or any part of the Trust Fund.

1.2 INTERPRETATION

Unless the context indicates a contrary intention, the following clauses will apply to the interpretation of this Deed:

- (a) Words denoting the singular include the plural and words denoting the plural include the singular. Words denoting any gender include all genders;
- (b) A reference to a body corporate includes a natural person and a reference to a natural person includes a body corporate;
- (c) A reference to a statute includes any regulation, by-law, requisition or order made under that statute and any amendment to or re-enactment of that statute, regulation, by-law, requisition or order from time to time in force;

(d) A reference to any other document, deed, agreement, instrument or contract as amended, supplemented or varied from time to time.

(e) A reference to a clause is a reference to a clause in this Deed unless otherwise indicated.

2. ESTABLISHMENT OF THE TRUST FUND

By executing this Deed, the Trustee acknowledges receipt of the payment by the Settlor to the Trustee of the Settled Sum. The Trustee acknowledges that it receives the Settled Sum as Trustee of the Trust.

3. DECLARATION OF TRUST

3.1 The Settlor declares that the Trustee shall hold the Trust Fund upon the trusts contained in this Deed in accordance with the terms and conditions set out in this Deed.

3.2 The Trustee declares that it will hold the Trust Fund upon the trusts contained in this Deed in accordance with the terms and conditions set out in this Deed.

3.3 Subject to the terms of this Deed, the Trustee shall be responsible for:-

- (i) the management of the Trust Fund and the Trust; and
- (ii) applying the Trust Fund and its Income to the promotion of the Charitable Objects.

4. ADDITIONS TO THE TRUST FUND

4.1 The Trustee may from time to time accept further money, or any other real or personal property from Tanami Gold NL, under the Coyote Gold Agreement or by way of contributions by any member of the public or Organisation, as Trustee of the Trust (whether as a gift or on such terms as may be agreed by the Trustee) and such money or other property shall form part of the Trust Fund.

4.2 The Trustee shall have power in its absolute discretion to accept any such money or any other property which may be transferred to it as Trustee under sub-clause 4.1 and to hold the same upon trust:-

- (a) for one or more of the Charitable Objects; and
- (b) on such other conditions (if any), as the transferor and the Trustee at the time of the transfer may by agreement ("the Agreement") specifically agree in writing.

4.3 Where an Agreement or Agreements are in place under sub-clause 4.2 the Trustee shall hold the funds the subject of each Agreement in a separate account (the "Agreement Account") within the Trust Fund upon and subject to the trusts and provisions of this Deed (deemed varied by the terms of the Agreement as if verified in accordance with clause 13) and shall use the funds contained in each Agreement Account only for the Charitable Object or Objects and on the conditions (if any) specified in the Agreement to which that Agreement Account relates but in all other respects the discretions and powers given to the Trustee under this Deed shall be exercised in accordance with this Deed (as so varied by the Agreement)

- 4.4 The Trustee may in its absolute discretion permit the Trust Fund to be held in the form in which it is received. The Trustee may at any time and from time to time, in its absolute discretion sell, call in or convert into money all or any part of the Trust Fund and the Trustee shall in its absolute discretion invest the money arising thereby in the name or under the control of the Trustee in any of the investments which the Trustee is authorised to make. The Trustee may at any time and from time to time and in its absolute discretion vary and exchange any of the investments it makes for any other investment which the Trustee is authorised to make.

5. TRUST FUND FOR CHARITABLE OBJECTS ONLY

- 5.1 Subject to the terms of this Deed, the Trust Fund shall be applied exclusively for the promotion of the Charitable Objects in accordance with the terms of this Deed **PROVIDED THAT** no payments of money may be distributed to or applied for the benefit of individual members or groups of individual members of the Tjurabalan Native Title Aboriginal Charitable Trust (in this clause "monetary payments") without a prior written direction of the Advisory Trustees. For the avoidance of doubt, the Trustee must be satisfied that any monetary payments will be made to promote the Charitable Objects. It is not intended that significant amounts of money will be distributed as monetary payments directly to individual persons.

- 5.2 Clause 5.1 shall not prevent the payment in good faith of :-

- (i) remuneration to the Trustee, for services provided by the Trustee as Trustee of the Trust, as set out in Clause 23.1;
- (ii) remuneration to any other person (including without limitation any officer, servant or shareholder of the Trustee) for any service provided to the Trustee as Trustee of the Trust;
- (iii) reasonable and proper rental for any real or personal property leased to the Trustee;
- (iv) the payment of all reasonable costs, charges and expenses incurred in connection with the administration of the Trust; and
- (v) the reimbursement to any person (including, without limitation, the Trustee or any officer, servant or shareholder of the trustee) for any out of pocket expense incurred in connection with the administration of the Trust.

6. APPLICATION OF THE CAPITAL AND INCOME OF THE TRUST FUND

- 6.1 Subject to clauses 5.1 and 5.2 the Trustee may at any time and from time to time pay or apply the whole or any part of the Income of the Trust Fund towards the promotion of any one or more of the Charitable Objects (or in the case of an Agreement Account towards the promotion of the Charitable Object) or Objects and on the conditions (if any specified in the relevant Agreement) as the Trustee shall from time to time in its absolute discretion determine.
- 6.2 The Trustee may accumulate as much of the Income of the Trust Fund as the Trustee in its absolute discretion determines. Subject to clause 7, any Income which the Trustee allows to accumulate shall be dealt with as an accretion to the Capital of the Trust Fund.

6.3 Subject to clauses 5.1 and 5.2 the Trustee may at any time and from time to time, as and when the Trustee in its absolute discretion thinks fit, pay or apply the whole or any part or parts of the Capital of the Trust Fund towards the promotion of one or more of the Charitable Objects (and in the case of an Agreement Account towards the promotion of the Object or Objects and on the conditions if any specified in the relevant Agreement) as the Trustee shall from time to time in its absolute discretion determine.

6.4 Without derogating from the Trustee's discretions set out in sub-paragraph 6.1 and 6.3 of this paragraph it is the intention of this Trust that a significant proportion of the Capital of the Trust be preserved within the Trust for the purpose of providing long term benefits for the Charitable Objects.

7. DISTRIBUTION OF INCOME

7.1 At any time before the expiration of any Accounting Period, the Trustee may, with respect to all or any part of the net Income of the Trust Fund for that Accounting Period, determine:-


- (a) to pay, apply or set aside all or any part of the Income for any one or more of the Charitable Objects or in the case of Income within an Agreement Account for the Charitable Object or one or more of the Charitable Objects specified in the relevant Agreement; or
- (b) to accumulate all or any part of the Income.

7.2 The Trustee may create one or more separate Income accounts (the "attributive Income accounts") in respect of a particular nature, type, character or source of income, whether dividends, capital gain or net capital gain or otherwise, and upon receipt of that particular nature, type, character or source of income, pay it into the attributive Income account created for that purpose. At any time before the expiration of any Accounting Period, the Trustee may determine with respect to all or any part of such attributive Income account for that Accounting Period:-

- (a) to pay, apply or set aside all or any part of the attributive Income account for any one or more of the Charitable Objects or in the case of Income within an Agreement Account for one or more of the Charitable Objects specified in the relevant Agreements; or
- (b) to accumulate all or any part of the attributive Income account.

The payment, application or setting aside may be either part of the determination provided for in Clause 7.1 or in a separate determination and shall be deemed for all purposes, to be paid, applied or set aside from that account only.

7.3 In making any determination to pay, apply or set aside any amount (including an amount of a particular nature or from a particular source), the Trustee may:-

- (a) treat as Income of the Trust Fund any profit, gain or receipt which is assessable income for the purposes of the Income Tax Assessment Act 1997;
 - (b) treat as expenditure against Income of the Trust Fund:
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- (i) any expenditure, payment or loss which is an allowable deduction for the purposes of the Income Tax Assessment Act 1997; or
- (ii) any sum which is a capital loss for the purposes of the Income Tax Assessment Act 1997;
- (c) distinguish between income of a particular nature or from a particular source as defined or referred to in the Income Tax Assessment Act 1997 and deal with each in a particular manner irrespective of the manner in which any other income of a particular nature or from a particular source is dealt with; and
- (d) determine the income (within the meaning given in this clause) against which any loss (including, without limitation, any capital loss or any net capital loss), outgoing, expenditure or payment which is a deduction for the purposes of the Income Tax Assessment Act 1997 shall be set off.

7.4 A determination to pay, apply or set aside any Income may be effectually made and satisfied by any one of the following methods:-

- (a) by placing the amount to the credit of the relevant Charitable Object in the books of account of the Trust;
- (b) by paying the amount to such person or persons in furtherance of the relevant Charitable Object as the Trustee thinks fit in such manner as the Trustee thinks fit;
- (c) by a resolution of the Trustee that a sum out of or a portion of the net Income of the Trust Fund or the net Income as defined by the Income Tax Assessment Act 1997 of the Trust Fund for the Accounting Period be paid, applied or set aside for the relevant Charitable Object or otherwise dealt with in furtherance of the Charitable Object and any resolution of the Trustee as provided in this paragraph shall be irrevocable; or
- (d) notwithstanding any other provision of this Deed, by an oral declaration, written statement or a resolution of the Trustee whether or not published to any person.

A certificate by the Trustee as to any determination shall be prima facie evidence that the determination was made as and when set out in the certificate.

7.5 The Trustee may exclude any Charitable Object from any determination to pay, apply or set aside any amount (including an amount of a particular nature or from a particular source or any attributive Income account) and may determine to pay, apply or set aside the amount for any one Charitable Object, or divide it among any two or more of the Charitable Objects (and in the case of Income within an Agreement Account for the Charitable Object or any two or more of the Charitable Objects specified in the relevant Agreement) in such proportions and in such manner as the Trustee thinks fit.

7.6 (a) The Trustee may, pursuant to Clause 7.1(a) set aside a sum, which in the opinion of the Trustee may be sufficient to meet the obligation of the Trustee for income tax on that amount pursuant to any law which imposes income tax on the Trustee;

- (b) To the extent that any sum so set aside is inadequate to meet the tax actually assessed, the Trustee may without prejudice to any other rights given by law or by this Deed resort to the Income of the Trust Fund for any subsequent Accounting Period or may recover the amount of the inadequacy from any money in the Trustee's hands.
- (c) If and whenever it appears to the Trustee that any provision so made was excessive, the amount of the excess shall be credited in the books of account of the Trust Fund to the Charitable Object in respect of which the provision was made and shall be treated as though it had been set aside for that Charitable Object in the Accounting Period in which the provision was first made;
- (d) Nothing in this sub-clause shall oblige the Trustee to set aside any sum or affect any rights of the Trustee in the event of any assessment of tax being made against the Trustee in respect of any amount so paid, applied or set aside.

7.7 If in relation to any Accounting Period, the Trustee has made no effective determination pursuant to the preceding provisions of this clause in respect to any part of the Income of that Accounting Period immediately prior to the end of the last day of that Accounting Period, then the Trustee shall hold that Income as an accretion to the Capital of the Trust Fund.

7.8 If at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to the preceding provisions of this clause exceed the net Income of the Trust Fund for that Accounting Period, the amount of the excess shall be deducted from the amounts which the Trustee has determined to accumulate and only the balance of the amounts shall be accumulated and if any deficiency remains then the Trustee shall be deemed to have applied the Capital of the Trust Fund to the extent of the deficiency.

7.9 The validity of any determination to accumulate Income shall be conditional upon the law in force in relation to this Deed permitting the accumulation at the end of the Accounting Period to which the determination relates and shall be irrevocable.

7.10 Any Income which the Trustee accumulates shall during the Accounting Period be dealt with as an accretion to the Capital of the Trust Fund but the Trustee may resort to that amount and pay or apply the whole or any part of that amount as if it had not been accumulated but was current Income of the Trust Fund.

7.11 Any amount set aside for any Charitable Object and any amount held by the Trustee in trust for any Charitable Object under this clause shall cease to form part of the Trust Fund and shall be held by the Trustee as a separate trust fund on trust for that Charitable Object absolutely with power to the Trustee pending payment for the Charitable Object to invest, apply or deal with the whole or any part of the fund or any resulting income.

8. ADVANCEMENT OF CAPITAL AND BENEFITS

8.1 Provided it is for the purpose of promoting any one or more of the Charitable Objects and in the case of an Agreement Account for the purpose of promoting the Charitable Object or one or more of the Charitable Objects specified in the Agreement, the Trustee may subject to clauses 5.1 and 5.2 at any time or times perform any one or more of the following actions:

- (a) subject to the terms of this Deed and to any Agreement pay any sum out of the Capital of the Trust Fund or transfer in specie the whole or any part of the Trust Fund to any person in such manner and subject to such terms and conditions as the Trustee thinks fit (any sums or property so paid, transferred or applied shall cease to form part of the Trust Fund);
- (b) where the whole or any part of the Capital or Income or accumulated Income has been set aside for a particular Charitable Object (whether absolutely or contingently) pay or apply to or for the benefit of any person (in furtherance of that particular Charitable Object) the whole or any part of such Capital or Income or accumulated Income notwithstanding that such Capital or Income or accumulated Income is liable to be defeated or diminished) in such manner and subject to such terms and conditions as the Trustee thinks fit;
- (c) on consultation with the Advisory Trustees, lend any sum out of the Trust Fund and any money held in trust under this Deed to any person either with or without security and upon such terms and conditions as to repayment and with or without interest as the Trustee thinks fit;
- (d) allow any person to occupy, have custody of or use any property forming part of the Trust Fund with or without payment of rent or other return and on such terms or conditions as the Trustee thinks fit.

9. DISTRIBUTION ON THE WINDING UP OF THE TRUST

If the Trust is dissolved and wound up, the amount which remains after such dissolution and winding up and the satisfaction of all debts and liabilities shall be paid applied by the Trustee subject to and in accordance with a prior direction of the Advisory Trustees to any organization which has objects which are similar to the Charitable Objects and which has rules prohibiting the distribution of its assets and Income to its members and which has been endorsed or named in Division 30 or regulations made for the purposes of Division 30 of the Income Tax Assessment Act 1997.

10. TRUST IRREVOCABLE

10.1 Except as provided in clause 10.2, the Trust shall be irrevocable.

10.2 Where there are no substantial funds in the Trust and no reasonable basis to expect that the Trust will receive further significant funds the Trustee may subject to and in accordance with a prior direction of the Advisory Trustee by deed terminate or revoke the trusts created by this Deed. Any Trust Funds remaining in the Trust as the time of termination or revocation after satisfaction of all debts and liabilities shall be paid and applied in accordance with clause 9 of this Deed.

11. INVESTMENT OF THE TRUST FUND

11.1 The Trustee may:-

- (a) invest the Trust Fund in any form of investment; and

- (b) at any time vary an investment or realise an investment of Trust Funds and reinvest money resulting from the realisation in any form of investment.

11.2 The Trustee may exercise the power to invest the Trust Fund or vary an investment without the need to comply with any rule and principle of law or equity including:

- (a) a duty to exercise the powers of a Trustee in the best interests of all present and future members of the Tjurabalan People;
- (b) a duty to invest the Trust Fund in investments which are not speculative, hazardous or involving waste; and
- (c) a duty to act impartially towards members of the Tjurabalan People and between different classes of members of the Tjurabalan People.

For the purposes of this and the next sub-clause, the expressions "vary an investment" and "varying an investment" includes realizing an investment or a change to a term or condition of an investment.

11.3 In exercising the power of investment, the Trustee may, but is not required to do either or both of the following:

- (a) obtain and consider independent and impartial advice for the investment of the Trust Fund, varying an investment or the management of the investment, from a person whom the Trustee reasonably believes to be competent to give the advice; and
- (b) pay out of the Trust Fund the reasonable costs of obtaining the advice.

For the purposes of this and the next sub-clause, the expressions "vary an investment" and "varying an investment" includes realizing an investment or a change to a term or condition of an investment.

12. POWERS OF TRUSTEE

12.1 In addition to and without limiting the generality of any of the powers vested in the Trustee by any of the provisions of this Deed or by law or equity for the purpose of promoting the Charitable Objects, the Trustee shall, subject to any express provision to the contrary herein contained, have the following powers.

- (a) To accept any gift of real or personal property by way of contributions by any member of the public or Organisation whether subject to any special trust or not, for any one or more of the Charitable Objects. If the Trustee accepts or holds any property which may be subject to any trusts, then the Trustee shall only deal with the same in such manner as is allowed by law having regard to such trusts.
- (b) To make any payment to any person, the power to accept payment from any person, and the power to give and receive receipts in relation to any payment.
- (c) To apply and invest the whole or any part of the Trust Fund in any investments anywhere in the world whether involving liabilities or not or upon personal credit with or without

security and upon such terms and conditions as the Trustee thinks fit including without limitation the subscription for, the taking up on allotment and the purchase of any units, shares, stocks, bonds, mortgages, debentures, obligations or securities of any government, authority or company and the taking up and the purchase or acquisition of the whole or any part of share (including a minority part or share) in any business or partnership or any real or personal property and notwithstanding that the investment may not be income producing or may be wasting or speculative.

- (d) To make or purchase any investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee thinks fit and the Trustee may make or purchase any investments for a sum greater than the amount of the Trust Fund for the time being and the Trustee may agree to pay for the investments wholly or in part from any future property which may come into the hands of the Trustee.
- (e) To deal with, manage, vary, transpose and realise any property constituting the Trust Fund or any property comprised in any security as the Trustee thinks fit and the Trustee shall not be accountable in any way for any loss arising out of the making or management of or the failure to realise any investment.
- (f) To sell or dispose of the whole or part of or share or interest in any property of the Trust Fund and to join with any other co-owner or partner in selling or disposing of the property by public auction, tender or private treaty at such price and whether for cash or on terms and generally upon such terms and conditions as the Trustee thinks fit.
- (g) To borrow or raise money from any person (including the Trustee) on current account or otherwise at such rate of interest and whether to be capitalized or not and on such terms and conditions as the Trustee thinks fit and as security therefore or for the purpose of securing or joining in securing any money to sign and execute mortgages, bills of sale, negotiable instruments and other securities in such form as the Trustee thinks fit over all or any part of the Trust Fund. No person lending money to the Trustee or taking any securities for any money shall be concerned to see to or enquire as to the proper application of any money lent or as to the power of the Trustee to give or join in any giving any security. The Trustee is expressly empowered to join with any person in executing any mortgage, bill of sale, negotiable instrument or other security for the purpose of securing the payment of money by the Trustee jointly with any person or for the purpose of securing the payment of money to any person.
- (h) To advance and lend all or any moneys for the time being part of the Trust Fund to any person, with or without interest, with or without security and upon such terms and conditions as the Trustee shall in its absolute discretion think proper after consultation with the Advisory Trustees. The Trustee is expressly empowered to join with any other person in executing any mortgage, bill of sale or other document for the purpose of securing the payment of money to the Trustee jointly with any person or for the purpose of securing the payment of money to any other person.
- (i) To invest the whole or any part of the Trust Fund in a mixed contributory mortgage secured over any property through the agency or in the name of nominees acting as such for the contributors to the mortgage.

- (j) To give any guarantee or indemnity or both for the payment of money or the performance of any contract, obligation or undertaking by any person and to secure by mortgage, charge or security or otherwise that obligation or to secure by mortgage, charge or security or otherwise any obligation of any person.
- (k) The power to discharge any liabilities affecting property real or personal including but not limited to affecting leasehold or other property of a wasting or onerous nature.
- (l) To purchase, take on lease or in exchange, hire or otherwise acquire, hold, use, construct, demolish, maintain, repair, renovate, reconstruct, develop, improve, sell, transfer, convey, surrender, let, lease, exchange, take and grant options or rights in, alienate, mortgage, charge, pledge, reconvey, release or discharge or otherwise deal with any real or personal property.
- (m) To establish, promote or acquire any company either alone or jointly or join in the promotion, establishment or acquisition of any company.
- (n) To open any account with any bank, building society, credit union or other institution and to operate by all usual ways the account and to delegate to any person the authority to sign cheques or other documents and operate upon the account without that person being liable or responsible for any resulting loss.
- (o) To give effectual receipts and discharges for any money received by or on behalf of the Trustee or otherwise relating to anything provided for in this Deed.
- (p) To permit any property of the Trust Fund to be held or registered in the name of any nominee of the Trustee and to deposit securities and other documents belonging or relating to the Trust Fund with any person.
- (q) To draw, make, accept, endorse, discount, execute and issue cheques, commercial bills, promissory notes, bills of exchange and other negotiable instruments.
- (r) To enter into agreements to take on lease, hire or bailment any property and to enter into "floor-plan" or dealer agreements.
- (s) To grant options of any nature in respect of any real or personal property of the Trust Fund to any person.
- (t) To purchase or acquire any reversionary or deferred property or rights of any description or any life, life endowment, sinking-fund, term or other policy of insurance of any nature and at any premium whether single or payable periodically and upon any terms and conditions and to pay out of the Income or Capital of the Trust Fund all sums payable from time to time for premiums or otherwise for the making or maintenance of any policy of insurance (whether owned by the Trustee or otherwise).
- (u) To grant an annuity to any person and to cancel or redeem the whole or any part of the annuity.
- (v) To exercise all rights and privileges and perform all duties and do all such acts matters and things appertaining to any shares, stock, units, debentures or investments (in this

provision, called "the investments") in any company, unit trust, partnership or other entity (in this provision, called the "entity") in which any part of the Trust Fund is invested or in which the Trustee is otherwise interested and in particular without limitation:-

- (i) to pay all calls on all or any part of any investments or to permit the whole or any part of any investments of the entity to be forfeited and sold;
 - (ii) to take up the whole or any part of any new issues or purchase any further investments of the entity;
 - (iii) to lend money to the entity with or without security and at such rate of interest and upon such terms as the Trustee thinks fit;
 - (iv) to hold any investments for as long as the Trustee thinks fit;
 - (v) to sell any investments at such price (whether or not the price is less than the sum that appears from the accounts of the entity to be the value of the investments) and upon such terms with or without security as the Trustee thinks fit;
 - (vi) to assent to or join in any arrangement relating to the sale, transfer or exchange of the whole or any part of the investments or modifying any rights or privileges in relation to the whole or any part of the investments and to agree to any scheme or arrangement for the increase or reductions of the value or amounts of the whole or any part of any investments or of the capital of the company or by which the whole or any part of the investments are substituted or given in exchange either wholly or partly for other investments whether in the same entity or not and for that purpose to deposit, surrender or exchange any certificate or document of title relating to the whole or any part of the investment and to pay any contribution or incur any necessary expense in connection with the scheme or arrangement;
 - (vii) to agree in respect of a winding up of the entity with the liquidator or any member of the entity or any other person for the division or partition in kind of the property of the entity and to accept any of the property in payment or satisfaction of any interest in the entity with power to pay any money by way of equality of division or partition; and
 - (viii) to become a director of the entity or to appoint any person to act as its director and to receive the remuneration attached to that office without accounting to the Trust for the remuneration.
- (w) To pay out of the Trust Fund or its Income all costs, charges and expenses incidental to the management of the Trust Fund or to the exercise of any power, authority or discretion contained in this Deed or in carrying out or performing the trusts of this Deed which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund, costs of the preparation and execution of this Deed and all money which the Trustee may be required to pay as stamp or revenue duties in respect of the Trust Fund or on this Deed.

- (x) The power to insure against loss or damage by fire or from any other risks any property for the time being comprised in the Trust Fund to any amount and to pay the premiums for such insurance out of the Income or Capital of the Trust Fund or the property itself and any money received by the Trustees under such a policy shall be treated as if it were the proceeds of sale of the property insured.
- (y) To allow any person to have custody of or use any property forming part of the Trust Fund with or without payment of interest, rent or other return and on such terms or conditions as the Trustee thinks fit.
- (z) To partition or agree to the partition of or to subdivide or agree to the subdivision of the whole or any part of any land or other property which or any interest in which, may for the time being be subject to the trusts of this Deed and to pay any money by way of equality of partition.
- (aa) To appropriate (and Section 30(1)(k) of the Trustees Act 1962 shall not be applicable) any part of the Trust Fund in its then actual condition or state of investment in or towards the promotion of any one of the Charitable Objects. In making that appropriation to conclusively determine the value of the Trust Fund or any part in such manner as the Trustee thinks fit or to employ such persons to make such valuations as the Trustee thinks fit without obtaining any consents otherwise required by law. Every appropriation so made shall bind all persons interested in the Trust Fund notwithstanding that they may be not yet in existence or be under a legal disability.
- (bb) To exercise or concur in exercising all powers and discretions by this Deed or by law given to the Trustee or such of them as by their nature are capable of being so exercised jointly or as tenants in common or as partner with any other person or for the common or several purposes of this and any other trust of which the Trustee or any other person may be trustee.

13. POWERS TO VARY THE TRUST DEED

- 13.1 For the purpose of furthering the promotion of the Charitable Objects, the Trustee may modify or vary the trusts and powers hereby declared if and insofar as the same may be required for the purpose of maintaining or obtaining any exemption from any tax or duty which would otherwise be payable by the Trust, including, without limitation, an exemption from taxation for the Income of the Trust Fund.
- 13.2 The Trustee may supplement or alter or amend the administrative provisions of this Deed to the extent that it appears to the Trustee that:-
 - (i) as a result of a change in the law affecting the administration of charities or trusts; or
 - (ii) as a result of changes in social or political conditions; or
 - (iii) as a result of any defect or omission in the provisions of this Deed; or
 - (iv) to attract additional funding; or
 - (v) for the more effectual execution of the trusts,

such changes will generally benefit the Charitable Objects. Nothing in the clause shall authorize or be deemed to authorize any departure or modification of the trusts declared in this Trust Deed. For the avoidance of doubt this power to vary includes the power to limit the power to vary the Trust in accordance with this clause.

14. DELEGATION AND USE OF ADVISERS

14.1 The Trustee may delegate the exercise of all or any of the powers or discretionary authorities hereby conferred upon the Trustee and may execute any powers of attorney or other instruments necessary to for such delegation.

14.2 The Trustee shall be at full liberty to act through managers or to employ any adviser, consultant, contractor, manager, solicitor, accountant, counsel, clerk, workmen, employee, servant or agent to transact all or any business of any nature required to be done in relation to the Trust including the receipt and payment of money. The Trustee shall decide the remuneration to be allowed and paid including all charges and expenses so incurred.

14.3 The Trustee may take and act upon the opinion (given in writing) of any professional or other advisers (including, without limitation, legal advisers) practicing in any jurisdiction where the Trust Fund or any part thereof may for the time being be invested in relation to the interpretation or effect of this Deed or any other document or statute or as to the administration of the Trust without being liable to any of the persons beneficially interested in respect of any act done by the Trustee in accordance with such opinion. The Trustee may at any time apply to the Court for directions.

15. TRUSTEE'S ABSOLUTE DISCRETION

15.1 Subject always to any express provision to the contrary herein contained, every discretion vested in the Trustee shall be absolute and uncontrolled and every power vested in the Trustee shall be exercisable at the Trustee's absolute discretion. The Trustee shall have absolute and uncontrolled discretion in deciding whether or not to exercise any such power.

15.2 The Trustee shall determine whether any real or personal property or any increase or decrease in amount or number or value of any property or holdings or any receipts or payments, gains or losses from or in connection with any real or personal property shall be treated as credited or debited to the Capital or Income and generally to determine all matters as to which any doubt, difficulty or question may arise under or in relation to the execution of the trusts and powers of this Deed. Every determination of the Trustee in relation to these matters whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

16. TRUSTEE'S RECEIPT

The Trustee is authorised to receive Capital and other moneys and to give a valid and effectual receipt therefore for all purposes and in particular for the purposes of any statutory enactments including the receipt of capital moneys which may or may be deemed to be capital moneys for the purposes of any statute. The receipt of any officer of the Trustee shall be sufficient to discharge the Trustee for any payment made to or on behalf of Trustee.

17. EXERCISE OF POWERS BY TRUSTEE

The Trustee may exercise any power, discretion or authority conferred by this Deed in relation to which a method of exercise is not otherwise expressly provided herein by any of the following methods:

- (a) by a resolution duly passed at a meeting of the Trustee;
- (b) by written resolution signed by the authorised representatives of the Trustee; or
- (c) a resolution of the directors of the Trustee, a written memorandum of a duly appointed representative of the Trustee or by an ordinary resolution of the Trustee.

18. TRUSTEE'S LIABILITY

18.1 The Trustee's liability in respect of the management and administration of the Trust Fund and the Trust shall be governed by the provisions of the Trustees Act 1962.

19. TRUSTEE'S INDEMNITY

19.1 INDEMNITY

- (a) the Trustee is entitled to be indemnified out of the Trust Fund against all claims damages losses actions liabilities debts obligations costs expenses fees Taxes duties and impositions suffered or incurred by the Trustee in carrying out administering and discharging the Trust and in exercising any power discretion or authority conferred upon the Trustee by this document or by law except to the extent that the same arises from the Trustee's own dishonesty fraud or breach of Trust.
- (b) the Trustee does not lose its right of indemnity in relation to a cost or expense properly incurred by the Trustee merely because the Trustee is not entitled to be indemnified in relation to a cost or expense which has not been properly incurred. A default by the Trustee in relation to one transaction does not prejudice the Trustee's right of indemnity in relation to a transaction in relation to which the Trustee is not in default.
- (c) the Trustee may apply the Trust Fund to satisfy the rights of reimbursement or indemnity to which it may be entitled under this document or by law.

19.2 NO LIABILITY FOR LEGALLY RESTRAINED ACTS

The Trustee is not liable to any person in respect of:

- (a) doing or performing any act or thing which the Trustee is required to do or perform; or
- (b) failing to do or perform any act or thing which the Trustee is hindered; prevented or forbidden from doing or performing

by reason of any provision of any present or future law or decree order or judgment of any court of competent jurisdiction.

19.3 NO LIABILITY FOR TAXES PAID

The Trustee is not liable to account to the members of the Tjurabalan People for any payments made by the Trustee in good faith to any duly empowered fiscal authority for Taxes imposts or other charges made upon or in respect of the Trust or with respect to any transaction involving the Trust even if any such payment ought or need not have been made except to the extent that such payments are attributable to the Trustee's own dishonesty fraud or breach of trust.

19.4 TRUSTEE'S ADVISERS

The Trustee may act upon:

- (a) information provided by the Advisory Trustees on behalf of the Tjurabalan People;
- (b) the opinion or advice of or information provided by any lawyer banker accountant valuer adviser expert or other person provided they are independent of the Trustee and the Trustee believes in good faith that they are competent in relation to the matters upon which they are consulted

and the Trustee is not liable to any person for anything done or suffered by the Trustee in good faith in reliance upon any information opinion or advice (even if the same proves to be incorrect) provided.

19.5 TRUSTEE NOT LIABLE FOR ADVISER'S MISTAKES

The Trustee is not liable to any person for any misconduct mistake error of judgment or want of prudence on the part of any auditor actuary valuer attorney banker receiver receiver and manager barrister solicitor agent expert or other person acting as agent of or adviser to the Trustee except to the extent that the loss is attributable to the Trustee's (or a related body corporate's) own dishonesty fraud or breach of trust.

19.6 TRUSTEE MAY RELY ON DOCUMENTS

The Trustee is not liable to any person for any action taken or thing suffered by the Trustee in reliance upon any notice resolution direction consent certificate receipt affidavit statement certificate for stock plan of re-organisation application or other document reasonably believed by the Trustee to be genuine and to have been possessed produced passed signed or endorsed by the proper parties where liability would attach by reason solely that such paper or document was not in fact genuine or so possessed produced passed signed or endorsed.

20. DISCLOSURE

Without prejudice to any right of the Trustee under the general law to refuse disclosure of any document, the Trustee shall not be bound to disclose to any person any information or document concerning:-

- (i) any deliberations of the Trustee relating to the manner in which the Trustee should or might exercise any power or discretion conferred on the Trustee by this Deed;

(ii) the reasons for any particular exercise or non-exercise of any such power or any such discretion; or

(iii) the material upon which such reasons shall be or might have been based.

21. ACCOUNTS AND AUDIT

The Trustee shall cause true and proper accounts of the Trust to be kept and, on advice of the Advisory Trustees, cause such accounts to be audited annually by a qualified accountant appointed from time to time by the Trustee and whose reasonable fees shall be paid from the Trust Fund. The Trustee shall furnish to such accountants whatever information such accountant may require for the proper performance of the annual audit of the Trust. The Trustee shall make such audited accounts available for inspection by the Advisory Trustees but the Trustees shall not be obliged to provide information in relation to the accounts to any other persons.

22. APPOINTMENT OF NEW TRUSTEE

The Power of Appointment of new trustees shall vest in the Trustee, on the advice of the Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation, **PROVIDED ALWAYS** that any Trustee (other than an Advisory Trustee) appointed either under this provision or by operation of law shall be a trustee corporation as defined in S6 (1) Trustees Act 1962, or other trustee, approved by a prior unanimous decision of the Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation at the time of the appointment.

23. RETIREMENT OF TRUSTEE

The Trustee may retire at any time without assigning any reason upon giving not less than 90 days' notice to the Applicants of its intention so to do, provided, however, that no such retirement shall take effect until a new Trustee willing to act has been appointed in accordance with the provisions of clause

24. EXECUTION OF DOCUMENTS ON RETIREMENT

On retirement, death or removal of the Trustee, the retiring Trustee must at the reasonable cost of the Trust do all such things and execute all such deeds and assurances as are reasonably necessary for the purpose of vesting in the new trustee or new trustees all money, property, rights, powers, authorities and discretions vested in the Trustee under this Deed.

25. RELEASE

By the force of this clause when the Trustee retires or is removed, the Trustee is, to the extent permitted by law, discharged and released from its obligations, covenants and liabilities under this Deed arising after the date it retires or is removed. The Applicants must then, if required by the Trustee, execute a confirmation of release in favour of the Trustee in a form and substance reasonably acceptable to the Trustee (including but not limited to that the provisions in this Deed in relation to the indemnity given by the Trust to the Trustee for any fee, costs charge, expense or liability will apply even after the date of release if the action, omission or event giving rise to such fee, cost, expense, loss or liability occurred prior to the date of release but

only to the extent that such fee, cost, expense, loss or liability is not attributable to the Trustee's fraud, gross negligence or breach of trust of the Trustee or a related body corporate of the Trustee).

26. COSTS OF RETIREMENT OR REMOVAL

If the Trustee retires or is removed, everything it is required to do under this clause is at the Trust's reasonable expense

27. CHARGING

27.1 TRUSTEE'S FEES

The Trustee is entitled to charge and be paid out of the Trust Fund:

- (a) The sum of \$5,400 for the first year which fee will incorporate the Trustees establishment fee (including the preparation and settlement of the Trust Deed) together with all work performed by the Trustee for the Trust in that first year.
- (b) At the first anniversary of the Trust the Trustee will then review the fee structure for the second year on reasonable commercial terms and will advise the Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation of the reviewed fee structure. The Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation will inform the Trustee if they accept the reviewed fee structure. If the Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation do not accept the reviewed fee structure under paragraph (b), a replacement trustee shall be appointed under Clause 22.

PROVIDED ALWAYS that the above fee structure can be varied by the Trustee with the prior unanimous consent of the Governing Committee of the Tjurabalan Native Title Land Aboriginal Corporation.

27.2 COSTS AND EXPENSES

The Trustee may pay or reimburse itself for all costs and expenses properly incurred in carrying out administering and discharging the Trust and in exercising any power discretion or authority conferred upon the Trustee by this document or by law out of the Trust Fund (either from Capital or Income as the Trustee may determine).

28. PROPER LAW

This Trust is established under the laws of Western Australia. The rights of all parties and the construction and effect of the provisions hereof shall be subject to the exclusive jurisdiction of and construed and regulated according to the laws of Western Australia and the Commonwealth of Australia.

29. NOTICES

29.1

GENERAL

A notice demand certification process or other communication relating to this document is to be written in English and may be given by an agent of the sender.

29.2

METHOD OF SERVICE

In addition to any lawful means a communication may be given by:

- (a) being personally served on a party;
- (b) being left at the party's current address for service;
- (c) being sent to the party's current address for service by pre-paid ordinary mail or if the address is outside Australia by pre-paid air mail; or
- (d) facsimile to the party's current number for service.

29.3

SERVICE

If a communication is given by:

- (a) post it is taken to be received if posted within Australia to an Australian address three (3) Business Days after posting and in any other case seven (7) Business Days after posting; or
- (b) facsimile and the sender's facsimile machine produces a transmission confirmation report indicating that the facsimile was sent to the addressee's facsimile the report is prima facie evidence that the facsimile was received by the addressee at the time indicated on that report.

THE SCHEDULE

Section 14 of the Trustees Act 1962 reads:

"Advisory Trustees may be appointed to assist responsible Trustee

- (a) In the administration of any trust property any trustee may act, to the extent in this section provided, with an Advisory Trustee or Advisory Trustees.
- (b) An Advisory Trustee or Advisory Trustees may be appointed in respect of all or any part of the trust property: –
 - (i) by the testator, settlor or other creator of the trust, in the instrument creating the trust;
 - (ii) by order of the Court made on the application of any beneficiary or trustee or of any person on whose application the court would have power to appoint a new Trustee; or
 - (iii) by any person having power to appoint a new Trustee.
- (c) Where a Trustee acts with an Advisory Trustee or Advisory Trustees, the trust property shall be vested in, the first mentioned Trustee (in this section referred to as "the responsible Trustee"), who shall have the sole management and administration of the estate and its trusts as fully and effectually as if he were the sole trustee, and in any such case: –
 - (i) the responsible Trustee may consult the Advisory Trustees on any matter relating to the Trusts or the estate;
 - (a) the Advisory Trustees may advise the responsible Trustee on any matter relating to the trusts or the estate, but shall not be Trustees in respect of the Trust;
 - (b) where any advice or direction is tendered or given by the Advisory Trustees, the responsible Trustee may follow and act on that advice or direction without being liable for anything done or omitted by him by reason of his following that advice or direction;
 - (c) where, the responsible Trustee is of opinion that any advice or direction of any Advisory Trustee conflicts with the trusts or any rule of law, or exposes him to any liability, or is otherwise objectionable, he may apply to the Court for directions in the matter, and any decision and order therein shall be final and shall bind the responsible Trustee and the Advisory Trustee, and the Court may make such order as to costs as appears proper; but nothing in this section makes it necessary for the responsible Trustee to apply to the Court for any such directions; and
 - (d) where Advisory Trustees are not unanimous, and tender to the responsible Trustee conflicting advice or directions, the responsible Trustee may apply to

the Court for directions in like manner and with like effect as provided by paragraph (iv) of this subsection."

- (e) A person dealing with the responsible Trustee in relation to any Trust property shall not be concerned to inquire as to the concurrence or otherwise of the Advisory Trustees or be affected by notice of the fact that the Advisory Trustees have not concurred.
- (f) Subject to the provisions of the instrument (if any) creating the Trust and to any order made by the Court, where remuneration is payable to the Trustee of any Trust property, remuneration or commission may be paid to both the responsible Trustee and the Advisory Trustees, and subject as aforesaid the amount thereof shall be: -
- (g) as regards the responsible Trustee, where the responsible Trustee is the Public Trustee, as prescribed under the Public Trustee Act 1941; and
- (h) in any other case, as may be determined by the responsible Trustee if he is entitled to fix his own remuneration or by the Court.

2. The provisions of Section 14 of the Trustees Act 1962 shall apply to this Deed subject to the following modifications:-

- (a) There shall at all times be a minimum of 3 and a maximum of 7 Advisory Trustees. The initial Advisory Trustees shall be appointed by the Trustee following the execution of this Deed. All subsequent Advisory Trustees shall be appointed by the Trustee in accordance with the provisions of sub paragraphs (b) to (d) below
- (b) The Trustee may at the direction of the Advisory Trustees appoint one Advisory Trustee who is not a member of Tjurabalan People ("the Independent Advisory Trustee").
- (c) The appointment of each Advisory Trustee shall be for a period of one year but he or she shall be eligible for reappointment by the Trustee. Any casual vacancies arising during the year shall be filled by appointment by the Trustee in its sole discretion (subject to the provisions of sub paragraph (b) above).
- (d) Nominations for the position of Advisory Trustees in each year shall be made in writing to the Trustee at least one month prior to each anniversary date of this Trust Deed provided always that if more nominations are received by the Trustee than positions available then the Trustee shall have full discretion as to which of the nominees shall be appointed **PROVIDED THAT** apart from the Independent Advisory Trustee the Trustee shall give priority to nominations recommended by any body or corporation that from time to time may, in the opinion of the Trustee represent the majority of the Claimants.
- (e) The Advisory Trustees:-
 - (i) shall hold meetings not less than four (4) times in every calendar year approximately once every three (3) months. A special meeting at any time may be summoned by any two Advisory Trustees upon fourteen (14) days notice to the

other Advisory Trustees of the business to be transacted or discussed. Meetings may be held by telephone or video link-up;

- (ii) may from time to time appoint any one of their number to be their chairperson;
- (iii) shall cause minutes of the proceedings to be taken at meetings and shall keep the proper accounts;
- (iv) subject to what is contained in this Deed the Advisory Trustees may from time to time make rules for their meetings and the conduct of their business and otherwise for the management of the meetings as they shall deem fit.
- (f) Any decision by the Advisory Trustees and any advice or directions given to the Trustee shall be unanimous and shall take the form of a minute signed by all of the Advisory Trustees and given to the Trustee.
- (g) Any Advisory Trustee being a person engaged in any profession or business is entitled to charge and be paid out of the Trust Fund all usual professional or business charges for business transacted, time expended, and acts done by him in connection with the Trust, including acts that a Trustee not being in any profession or business would have done personally.

EXECUTED BY THE PARTIES AS A DEED

SIGNED as a deed by

[Redacted Signature]

in the presence of:-

[Redacted Signature]

Signature of Witness

[Redacted Signature]

SABINA MARIE SCHLINK

Commissioner for Taking Affidavits

Supreme Court of Western Australia

Please print full names

[Redacted Name]

State Address

[Redacted Address]

Occupation

The COMMON SEAL of
PLAN B TRUSTEES LTD
(ABN 054 737 156)
was hereunto affixed by
authority of the Directors
in the presence of:



Director

Secretary

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THE SCHEDULE

**DEED OF APPOINTMENT
OF ADVISORY TRUSTEES
TJURABALAN NATIVE TITLE CHARITABLE TRUST**

PLAN B TRUSTEES LIMITED

**"The Trustees"
of the First part**

AND

VERONICA FATIMAH LULU

TOMATO GORDON

RAYMOND CHUNGULLA

DONOVAN JENKINS

**"The Advisory Trustees"
of the Second part**

26th day of JULY

2007.

PLAN B TRUSTEES LIMITED (ABN 90 054 737 156) of Level 28, 152 - 158 St
Georges Terrace, Perth, Western Australia 6000

of the First part

VERONICA FATIMAH LULU of

TOMATO GORDON

RAYMOND CHUNGULLA of

DONOVAN JENKINS

of the Second part

A. The Trustee is the Trustee of the TJURABALAN NATIVE TITLE CHARITABLE TRUST (the Trust) established by a Deed of Settlement dated the 29th day of August 2005 (as amended) ("**the Deed of Settlement**").

B. The Trustee wishes to appoint the Advisory Trustees to be Advisory Trustees of the Deed of Settlement in accordance with the provisions of Section 14 of the Trustees Act 1962.

PROVISIONS

1. In accordance with the powers given to it by Section 14 of the Trustees Act 1962 as varied by the provisions of the Deed of Settlement the Trustee appoints the Advisory Trustees and the Independent Advisory Trustee to be the Advisory Trustees and the Independent Advisory Trustee respectively of the Deed of Settlement.
2. By execution of this Deed the Advisory Trustees accept the appointment as Advisory Trustees under Section 14 of the Trustees Act 1962 .

EXECUTED BY THE PARTIES AS A DEED

EXECUTED by The Common Seal of)
PLAN B TRUSTEES LIMITED)
was affixed hereto by authority of the Directors)
of the Company in the presence of)
[REDACTED]



SIGNED as a Deed by VERONICA) [REDACTED]
FATIMAH LULU in the presence of:)

[REDACTED]

Signature of Witness

[REDACTED]

Please print full names

[REDACTED]

State full address

[REDACTED]

Occupation

SIGNED as a Deed by TOMATO
GORDON in the presence of:

)
) TOMATO

Signature of Witness

Please print full names

State full address

Occupation

SIGNED as a Deed by RAYMOND
CHUNGULLA in the presence of:

Signature of Witness

Please print full names

Occupation

SIGNED as a Deed by DONOVAN
JENKINS in the presence of:

Signature of Witness

Please print full names

State full address

Occupation

Deed of retirement and appointment of trustee

Plan B Trustees Limited ACN 054 737 156

Kimberley Sustainable Development Pty Ltd ACN 102 303 855

Deed of retirement and appointment of trustee

Dated 15 November 2010

Parties

Retiring Trustee **Plan B Trustees Limited ACN 054 737 156**

of 'Central Park', Level 28, 152-158 St Georges Terrace, Perth, Western Australia
6000

New Trustee **Kimberley Sustainable Development Pty Ltd ACN 102 303 855**

of c/o Kimberley Land Council Aboriginal Corporation, 36 Pembroke Road, Broome,
Western Australia 6725

Background

- A The Retiring Trustee is the trustee for the Trust under the terms of the Trust Deed.
- B The Retiring Trustee wants to retire.
- C The Retiring Trustee has power under clause 22 of the Trust Deed to appoint a new trustee.
- D The Retiring Trustee wants to appoint the New Trustee to be trustee for the Trust.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this document:

Term	Definition
Trust	means Tjurabalan Native Title Land Aboriginal Corporation Charitable Trust.
Trust Deed	means the deed for the Trust dated 29 August 2005.

1.2 Interpretation

In this document:

- (a) a singular word includes the plural and vice versa;
- (b) a word which suggests one gender includes the other gender;

- (c) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (d) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (g) a reference to this document includes the agreement recorded by this document;
- (h) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it; and
- (i) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity.

2 Retirement and appointment

2.1 Appointment

Under clause 22 of the Trust Deed and the *Trusts Act 1962* (WA) the Retiring Trustee appoints the New Trustee to be the trustee for the Trust.

2.2 Consent

The New Trustee consents to the appointment and accepts the duties and obligations attaching to it.

2.3 Retirement

The Retiring Trustee wants to be discharged from the obligations under the Trust Deed and the New Trustee consents to that discharge upon the Retiring Trustee signing this document.

2.4 Retirement - The Retiring Trustee and the New Trustee acknowledge that this change of trustee has been undertaken with the unanimous decisions of the governing committee of The Tjurabalan Native Title Land Aboriginal Corporation

3 Transfer of property dated 4 May 2010 and 14 October 2010

3.1 Vesting of property

To the extent permitted by law, the signing of this document, without any conveyance, vests in the New Trustee all property of the Trust for the purposes of the Trust Deed.

3.2 Vesting of property if not fully effective

The Retiring Trustee and the New Trustee agree that, to the extent the vesting provided for in clause 3.1 is not effective or is not fully effective:

- (a) the Retiring Trustee will transfer the assets of the Trust to the New Trustee; and

- (b) the Retiring Trustee and the New Trustee will execute all documents necessary or desirable to evidence or give effect to that transfer.

3.3 Items to be delivered to the New Trustee

The Retiring Trustee must give the New Trustee:

- (a) all assets capable of transfer by delivery; and
- (b) all books, documents, and records in its possession or under its control relating to the Trust.

3.4 New Trustee to hold all assets

The New Trustee must hold all assets vested in it or transferred to it on the terms of the Trust Deed.

4 Signing and stamping of documents

4.1 Signing

Each party must, on the request of any other party, do everything reasonably necessary to give effect to this document and the transactions contemplated by it (including preparation and signing of documents).

4.2 Stamping

The Retiring Trustee authorises the New Trustee to sign all statutory declarations and other documents required under the *Duties Act 2008* (WA) for stamping this deed and any related documents.

5 Indemnity

The New Trustee indemnifies, releases and discharges the Retiring Trustee from and against any claims that may be made by any person arising out of any act which before the date of this document may have been done or omitted to be done by the Retiring Trustee as Trustee under the Trust Deed.

6 General

6.1 Counterparts

This document may be executed in any number of counterparts. All counterparts together make one instrument.

6.2 Entire agreement

- (a) This document supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion has no effect except to the extent expressly set out or incorporated by reference in this document.

6.3 Further assurances

Each party must do all things necessary to give effect to this document and the transactions contemplated by it.

6.4 Governing law and jurisdiction

- (a) Western Australia law governs this document.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the Western Australia courts and courts competent to hear appeals from those courts.

6.5 Joint and several liability

If a party to this document consists of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several; and
- (b) a right of those persons is held by each of them severally.

Execution

EXECUTED as a deed

Signed sealed and delivered
by Plan B Trustees Limited ACN 054 737 156 as
Retiring Trustee by:


A Director


A Full name of Director

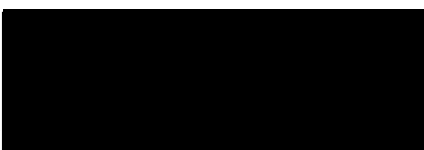

A Director/Secretary


A Full name of Director/Secretary

Signed sealed and delivered
by Kimberley Sustainable Development Pty Ltd
ACN 102 303 855 as New Trustee by:


A Director


A Full name of Director


A Director/Secretary


A Full name of Director/Secretary

**TJURABALAN NATIVE TITLE LAND ABORIGINAL CORPORATION
CHARITABLE TRUST**

KIMBERLEY SUSTAINABLE DEVELOPMENT PTY LTD

AND

**TJURABALAN NATIVE TITLE LAND ABORIGINAL CORPORATION RNTBC
ICN 3937**

**DEED OF RETIREMENT AND
APPOINTMENT OF NEW TRUSTEE AND
AMENDMENT OF THE NAME OF THE TRUST**



Level 27
44 St Georges Terrace
PERTH WA 6000

Ref: JK4001329

THIS DEED dated 22nd day of February 2024

PARTIES

KIMBERLEY SUSTAINABLE DEVELOPMENT PTY LTD ACN 102 303 855 of
11 Gregory Street, Broome WA ("**Retiring Trustee**")

AND

TJURABALAN NATIVE TITLE LAND ABORIGINAL CORPORATION RNTBC ICN
3937 Suite 3, 190 Stirling Street, Perth WA ("**New Trustee**")

BACKGROUND

- A. The Retiring Trustee wishes to retire as the trustee of the Trust.
- B. The New Trustee has agreed to become the trustee of the Trust.
- C. The Retiring Trustee and the New Trustee have agreed to sign all documents and do all things necessary to ensure an orderly transition from one to the other as set out in this deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed:

"**ACNC**" means the Australian Charities and Not for Profits Commission;

"**Trust**" means Tjurabalan Native Title Land Aboriginal Corporation Charitable Trust.

"**Trust Deed**" means the deed for the Trust dated 29 August 2005, the Deed of Appointment of Advisory Trustees undated and the Deed of Retirement and appointment of Trustee dated 15 November 2010.

1.2 Interpretation

In this deed:

- (a) a singular word includes the plural and vice versa;
- (b) a word which suggests one gender includes the other gender;
- (c) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this deed and references to this deed include any schedules or annexures;

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- (d) a reference to a party to this deed or any other deed, document or agreement includes the party's successors, permitted substitutes and permitted assigns;
 - (e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (f) a reference to a document or agreement (including this deed) is to that document or agreement as amended, supplemented, varied or replaced;
 - (g) a reference to this deed includes the agreement recorded by this deed;
 - (h) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it; and
 - (i) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, other entity whether or not it comprises a separate legal entity.
 - (j) a word which is defined in the Trust Deed has the same meaning in this deed unless it has been varied or defined differently by this deed.

2. APPOINTMENT AND CONSENT OF NEW TRUSTEE

- (a) Pursuant to clause 22 of the Trust Deed the Retiring Trustee appoints the New Trustee to be the trustee for the Trust.
- (b) The Retiring Trustee and New Trustee acknowledge that consultation has taken place with the New Trustee's governing committee with respect to its appointment as the trustee of the Trust as is required by clause 22 of the Trust.
- (c) The New Trustee of the Trust consents to the appointment and accepts the duties and obligations as the trustee of the Trust.

3. RETIREMENT OF RETIRING TRUSTEE

The Retiring Trustee wishes to retire as the trustee of the Trust and the New Trustee consents to the Retiring Trustee resigning as trustee of the Trust as at midnight 29 February 2024 and discharges the Retiring Trustee as trustee on 1 March 2024.

4. VESTING OF PROPERTY AND TRANSFER OF TRUST MANAGEMENT ACCOUNTS

- (a) As at 1 March 2024 all Trust property vests in the New Trustee to the extent permitted by law without any conveyance.
- (b) To the extent that any property cannot vest pursuant to clause 4(a):
 - (i) the Retiring Trustee agrees that it will transfer the Trust assets to the New Trustee; and

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- (ii) the Retiring Trustee and the New Trustee will execute all documents necessary or desirable to evidence or give effect to that transfer.
 - (c) The Retiring Trustee agrees to deliver to the New Trustee on or before 16 February 2024:
 - (i) the detailed management accounts for the Trust for the period July 2023 to December 2024;
 - (ii) the Trust bank account statements for the period up to and including 15 February 2024;
 - (iii) details of any existing distribution policies and programs of the Trust and any other information relating to the operation of the Trust; and
 - (iv) details of any anticipated expenditure of the Trust for the months of January and February 2024.
 - (d) The Retiring Trustee agrees to deliver to the New Trustee on or before 23 February 2024 the detailed management accounts for January 2024.
 - (e) The Retiring Trustee agrees to deliver to the New Trustee on or before 1 March 2024 Trust bank statements for the months of January and February 2024.
 - (f) The Retiring Trustee agrees to deliver to the New Trustee on or before 7 March 2024 the final management accounts for the Trust and transfer the accounting system or the accounting data file both current and historical.
 - (g) The Retiring Trustee agrees to be available to the Trust Auditor as and when the Auditor may require the Retiring Trustee's assistance to complete an audit of the Trust's accounts.

5. INDEMNITY TO RETIRING TRUSTEE

- (a) Subject to sub clause 5(b), the New Trustee indemnifies, releases and discharges the Retiring Trustee from and against any claims that may be made by any person arising out of any act which before the date of this deed may have been done or omitted to be done by the Retiring Trustee as trustee under the Trust Deed.
- (b) The Retiring Trustee remains liable for any claim that may be made by any person arising out of any act which before the date of this deed was done or omitted to be done by the Retiring Trustee which is negligent.

6. AMENDMENT TO NAME OF THE TRUST

Pursuant to clause 13 of the Trust Deed, the Retiring Trustee amends the name of the Trust so that from the date of this deed the Trust will be known as the Tjurabalan Charitable Trust.

7. GENERAL

6.1 Costs

The parties costs of the drafting of this deed and review of the deed will be paid out of the Trust funds as a Trust expense.

6.2 ACNC

The New Trustee will ensure that a copy of this deed is lodged with the ACNC as required by the *Australian Charities and Not for Profit Commission Act 2012*.

6.3 Counterparts

This deed may be executed in any number of counterparts. All counterparts together make one instrument.

6.4 Further Assurances

Each party must do all things necessary to give effect to this deed and the transactions contemplated by it.

6.5 Governing Law and Jurisdiction

The parties agree this deed is governed by the law of Western Australia and submit to the exclusive jurisdiction of the courts of Western Australia.

EXECUTED AS A DEED

EXECUTED by **KIMBERLEY SUSTAINABLE**)
DEVELOPMENT PTY LTD ACN 102 303 855)
pursuant to section 127 of the Corporations Act)
2001 at *CALOUNDRA* on the *12th* day of *FEBRUARY* 2024)

[Redacted]

Print Name of Director

[Redacted]

Signature of Director

[Redacted]

Print Name of Director/Secretary

[Redacted]

Signature of Director/Secretary

EXECUTED by TJURABALAN NATIVE TITLE)
LAND ABORIGINAL CORPORATION RNTCB)
ICN 3937 pursuant to section 99.5 of the)
Corporations (Aboriginal and Torres Strait)
Islander) Act 2006 on the 22nd day of February 2024)

[Redacted]

Print Name of Director

[Redacted]

Signature of Director

[Redacted]

Print Name of Director

[Redacted]

Signature of Director