

Schedule 1 - Terms of Issue - Leighton Notes

1. General

1.1 Form

Leighton Notes are convertible unsecured subordinated resettable notes issued under the Trust Deed. Noteholders are entitled to the benefit of and are bound by the provisions of the Trust Deed.

1.2 Issue Price and Face Value

Each of the Leighton Notes to be issued by the Issuer:

- (a) will have a face value of \$100; and
- (b) must be paid for in full on or before issue.

1.3 Ranking and Subordination

- (a) Leighton Notes are unsecured obligations of the Issuer, and rank equally without any preference among themselves.
- (b) As from the Winding Up of the Issuer, the rights of the Noteholders are subordinated in right of payment to the claims of Other Creditors and accordingly as from the Winding Up of the Issuer:
 - (i) no part of any debt payable by, nor any claim against, the Issuer in respect of the Leighton Notes will be paid, discharged or satisfied until the claims of Other Creditors have been paid, discharged or satisfied in full;
 - (ii) the Trustee and the Noteholders may only lodge in connection with any Leighton Note a proof of debt which is consistent with this clause; and
 - (iii) the liquidator or provisional liquidator of the Issuer must distribute the assets of the Issuer accordingly.
- (c) The Issuer is at liberty from time to time without the consent of the Noteholders to create and issue any class of share capital and to create, issue, secure or guarantee any indebtedness upon such terms, including as to return of capital or repayment in a winding up, as the Issuer may think fit except that the Issuer will not without the prior approval of the Noteholders given by Special Resolution create, issue, secure or guarantee any financial indebtedness the payment or (as applicable) repayment of which, on a winding up of the Issuer, is by its terms subordinated to the claims of Senior Creditors but ranks ahead of the claims of the Noteholders.
- (d) For the purposes of clauses 1.3(c) and (e) only, the term 'Senior Creditor' means any bank, financial institution, or other entity providing any financial accommodation (whether secured or unsecured) including the provision of any bank guarantee, performance bond or equipment lease facility.
- (e) For the purposes of clauses 1.3(b) and (c), a reference to claims of Other Creditors or Senior Creditors is a reference to all or any debts payable to any Other Creditor or (as the case may be) any Senior Creditor by, and all or any claims of any Other Creditor or (as the case may be) any Senior Creditor against, the Issuer (present or future, certain or

contingent, ascertained or sounding only in damages) being debts or claims which by law are admissible to proof against the Issuer in a Winding Up of the Issuer.

1.4 Repayment

Subject to clause 1.3(b), Leighton Notes will be repayable only upon:

- (a) the redemption of the Leighton Notes in accordance with these Terms of Issue; or
- (b) the Winding Up of the Issuer.

2. Interest

2.1 Interest

- (a) Subject to these Terms of Issue, interest will accrue on each Leighton Note on a daily basis in accordance with the following formula:

$$\text{Interest} = \frac{\text{Interest Rate} \times \text{Face Value} \times \text{N}}{365}$$

where:

Interest Rate is:

- (i) for the period from (and including) the Issue Date to (but excluding) the first Reset Date, the greater of:
 - (A) the Minimum Rate; and
 - (B) the Market Rate plus the Initial Margin; and
- (ii) for the period between succeeding Reset Dates (including the Reset Date at the beginning of that period but excluding the Reset Date at the end of that period), the interest rate determined in accordance with clause [3.1](#); and

N is the number of days from (and including) the Issue Date or the preceding Interest Payment Date (whichever is the later) to (but not including) the relevant Interest Payment Date.

- (b) If, during any Interest Period:

- (i) the Credit Rating is downgraded to below Investment Grade; or
- (ii) Leighton Notes cease to have a Credit Rating,

then in each case an amount calculated in accordance with the following formula (**Additional Interest**) will be added to any interest that is due and payable on each Leighton Note under clause 2.2 for that Interest Period:

$$\text{Additional Interest} = \frac{\text{AM} \times \text{Face Value} \times \text{AMN}}{365}$$

where:

AM is the additional margin, which is 0.5% per annum; and

AMN is the number of days during the Interest Period on which the Credit Rating was below Investment Grade or there was no Credit Rating (as applicable).

2.2 Payment of Interest

Subject to clause 2.3, the Issuer must pay the interest accrued on each Leighton Note in arrears on each Interest Payment Date.

2.3 Deferral of Interest

- (a) Subject to clause 2.5, any interest (excluding Reset Interest) on a Leighton Note which is otherwise due and payable on any Interest Payment Date (including any interest deferred by any prior operation of this clause 2.3(a)) that is not paid by the Issuer on that date is automatically deferred and will fall due for payment on the next Interest Payment Date.
- (b) The Issuer will give notice to the Trustee and the Noteholders that payment of interest will be deferred under clause 2.3(a) as soon as practicable after it makes such determination.
- (c) The deferral of any interest payment under clause 2.3(a) will not constitute a default by the Issuer for any purpose.

2.4 Cumulative Interest

Interest accrues on any Outstanding Interest on a daily basis and compounds on a monthly basis from and including the relevant Interest Payment Date up to, but excluding, the date of actual payment at a rate equal to the sum of the then applying Interest Rate and 2% per annum.

2.5 Payment of Outstanding Interest

On a Reset Date, the Issuer must pay all Outstanding Interest due and payable on a Leighton Note.

2.6 Enforcement Restriction

In the event that:

- (a) the Issuer does not pay on a Reset Date all Outstanding Interest due and payable on a Leighton Note in accordance with clause 2.5; and
- (b) as at the Reset Date any monies are owing (actually or contingently) by any Group Company to any Senior Creditor,

then except in the case of failure to pay the Outstanding Interest under clause 7.4, for so long as any monies are owing (actually or contingently) by any Group Company to any Senior Creditor:

- (c) neither the Trustee nor the Noteholder will be entitled to demand payment of that Outstanding Interest or any interest accruing thereon under clause 2.4; and
- (d) the non-payment of the Outstanding Interest or any interest accruing thereon under clause 2.4, will not constitute a default by the Issuer for any purpose.

2.7 Restrictions on Issuer where Interest is deferred

For so long as any Outstanding Interest remains unpaid, the Issuer must not:

- (a) declare or pay any dividend or make any return of capital or other payment to its shareholders in respect of the issued shares of the Issuer;
- (b) set aside any sum or any assets for anything referred to in clause 2.7(a); and
- (c) undertake any arrangement, reconstruction or reorganisation whatsoever (including for the avoidance of doubt any Reorganisation) between itself and its members or any class of them, or between itself and its creditors or any class of them, which would have a material adverse effect on the value of the Leighton Notes.

2.8 Payment of Outstanding Interest

The Issuer may pay all or any Outstanding Interest on all but not some of the Leighton Notes to the Noteholders at any time, subject to it notifying the Noteholders at least 15 Business Days prior to any such payment of the date of payment and the amount of Outstanding Interest to be paid in respect of each Leighton Note.

2.9 Priority of Interest Payments

Any payment of interest by the Issuer must be applied:

- (a) firstly, in payment of any interest accrued on any Reset Interest under clause 2.4 which has not been paid or otherwise satisfied in full at that time;
- (b) secondly, in payment of any Reset Interest which has not been paid or otherwise satisfied in full at that time;
- (c) thirdly, in payment of any interest accrued on any Deferred Interest under clause 2.4 which has not been paid or otherwise satisfied in full at that time;
- (d) fourthly, in payment of any Deferred Interest which has not been paid or otherwise satisfied in full at that time; and
- (e) lastly, in payment of any other unpaid interest which is due and payable.

All interest payable on the Leighton Notes when paid must be paid on all Leighton Notes.

2.10 Calculation of Interest

All calculations of interest will be rounded to four decimal places. Any fraction of a cent in the payment of any interest in respect of a Noteholder's aggregate holding of Leighton Notes will be disregarded.

3. Reset of Terms

3.1 Reset

Prior to any Reset Date (**Relevant Reset Date**), the Issuer may by notice given to the Noteholders specify or (as applicable) make changes to any or all of the following:

- (a) the next Reset Date after the Relevant Reset Date (which must be at least 12 months but not more than five years from the day after the Relevant Reset Date and which must also be an Interest Payment Date);
- (b) subject to clause 3.2, the rate at which interest is to accrue on Leighton Notes ~~and the rate at which interest is to accrue on any Outstanding Interest~~, or ~~in either case~~ the method of calculating that rate, in each case during the period from (and including) the Relevant Reset Date to (but excluding) the next Reset Date (**Relevant Period**) (for the avoidance of doubt clause 2.4 may not be changed on a Reset Date under this clause 3.1);
- (c) the Conversion Discount applicable to any Conversion Date occurring after the Relevant Reset Date;
- (d) the method of calculating VWAP with respect to any Conversion Date occurring after the Relevant Reset Date; and
- (e) the Interest Payment Dates falling after the Relevant Reset Date.

If the Issuer does not give notice to the Noteholders under this clause 3 specifying or (as applicable) changing any item set out in paragraphs (a) to (e) above before that date which is 70 Business Days before the Relevant Reset Date:

- (i) the terms applying as at the Relevant Reset Date, as amended by any notice given under this clause 3 before that date which is 70 Business Days before the Relevant Reset Date, will continue until the next Reset Date; and
- (ii) that next Reset Date will be such that it is an Interest Payment Date and the length of the period to the next Reset Date is the same (so far as practicable) as the length of the period that has passed from the immediately preceding Reset Date (or in the case of the first operation of this clause 3.3.1, the Issue Date) until the Relevant Reset Date.

3.2 Base Rate

Each interest rate reset under clause 3.1(b) for a Relevant Period shall not be less than the Base Rate for that period. Any determination by the Issuer of the Base Rate, or for the purposes of calculating the Base Rate, shall be conclusive and binding on the Noteholders and the Trustees in the absence of manifest error.

4. Noteholders' Conversion Rights

4.1 Standard Conversion Right

Subject to these Terms of Issue and in particular clause 5.2, if the Issuer does not exercise its right to redeem the Leighton Notes under clause 5.1(a) a Noteholder has the right to convert all or some of their Leighton Notes into Ordinary Shares in accordance with clause 6 by providing a Conversion Notice to the Issuer at least 35 Business Days (but no more than 60 Business Days) prior to the Reset Date.

4.2 Trigger Event Conversion Right

- (a) The Issuer must give notice to the Noteholders that a Trigger Event has occurred as soon as reasonably practicable after it becomes aware of such occurrence.
- (b) Subject to these Terms of Issue and in particular clauses 5.1 and 5.2, a Noteholder has the right to convert all or some of its Leighton Notes into Ordinary Shares in accordance with clause 6 by providing a Conversion Notice to the Issuer within 35 Business Days after the date of the notice issued by the Issuer under clause 4.2(a).

4.3 Conversion Notice

- (a) A Conversion Notice once given cannot be withdrawn without the consent in writing of the Issuer.
- (b) A Conversion Notice must be accompanied by the Leighton Note Certificate (if any) for the relevant Leighton Notes or other evidence of title to the Leighton Notes acceptable to the Issuer.
- (c) A Noteholder must not deal with, transfer, dispose of or encumber any Leighton Notes the subject of a Conversion Notice once that notice has been given.
- (d) Where the Issuer has received a valid Conversion Notice in respect of any particular Leighton Note, any Conversion Notice subsequently issued will apply only to Leighton Notes which were not the subject of the prior Conversion Notice. The Directors may apply such adjustments (if any) as the Directors consider to be reasonably necessary to reflect that the subsequently issued Conversion Notice will apply to a lesser holding of Leighton Notes.

5. Issuer's Rights

5.1 First Right of Redemption

- (a) The Issuer has the right exercisable by notice to the Noteholders, given no later than 65 Business Days prior to the Reset Date, to redeem all (but not some only) of the Leighton Notes in accordance with clause 7.
- (b) The Issuer has the right exercisable by notice to the Noteholders, given no later than 20 Business Days after notification of a Trigger Event under clause 4.2(a), to redeem all (but not some only) of the Leighton Notes in accordance with clause 7.

5.2 Last Right of Redemption or Third Party Transfer

- (a) On receipt of a valid Conversion Notice given by a Noteholder under clause 4.1 or clause 4.2(b), the Issuer must convert the Leighton Notes, the subject of the Conversion Notice, into Ordinary Shares in accordance with clause 6 unless the Issuer elects, by notice given to the relevant Noteholder not less than 25 Business Days prior to the Conversion Date, to effect one of the following alternatives in relation to the Leighton Notes the subject of the Conversion Notice:
 - (i) redeem the Leighton Notes in accordance with clause 7; or
 - (ii) procure the purchase of the Leighton Notes by a third party in accordance with clause 8.
- (b) Where:
 - (i) the Issuer has not previously issued a notice under clause 5.1(b); and
 - (ii) the Noteholder has not given a Conversion Notice under clause 4.2(b) within 35 Business Days after the date of the notice issued by the Issuer under clause 4.2(a),the Issuer has the right exercisable by notice to the Noteholders, given no later than 40 Business Days after notification of a Trigger Event under clause 4.2(a), to redeem the Leighton Notes in accordance with clause 7.

5.3 Options on occurrence of a Tax Event or Regulatory Event

- (a) The Issuer must give notice to the Noteholders that a Tax Event or Regulatory Event has occurred as soon as reasonably practicable after it becomes aware of such occurrence.
- (b) Within 20 Business Days of notice being provided under clause 5.3(a), the Issuer has the right exercisable by notice to the Noteholders to do either of the following:
 - (i) convert all (but not some only) of the Leighton Notes into Ordinary Shares in accordance with clause 6; or
 - (ii) redeem all (but not some only) of the Leighton Notes in accordance with clause 7.

6. Conversion of Leighton Notes

6.1 Conversion

- (a) On conversion of any Leighton Notes:
 - (i) the Issuer will redeem each of those Leighton Notes for an amount equal to its Face Value and the amount, as at the Conversion Date, of any Outstanding Interest in respect of the Leighton Note and apply the whole of the redemption proceeds in respect of the Noteholder's Leighton Notes being redeemed in subscribing on

behalf of the Noteholder for the number of Ordinary Shares calculated in accordance with clause 6.2; and

- (ii) the relevant Noteholder irrevocably and unconditionally:
 - (A) acknowledges that the application of the redemption proceeds in that manner is in full and final satisfaction of all interest and principal payable by the Issuer in respect of the Leighton Notes; and
 - (B) consents to be a member of the Issuer and agrees to be bound by the Constitution.
- (b) On the conversion of any Leighton Notes, the Issuer must issue to the relevant Noteholder the number of Ordinary Shares as determined under clause 6.2 and any such issue will have effect on and from, and be deemed to have been made on, that Conversion Date.

6.2 Conversion Ratio

Subject to these Terms of Issue, the number of Ordinary Shares into which the Leighton Notes of a Noteholder will be converted is calculated in accordance with the following formula:

$$S = \frac{(FV + OI)}{VWAP - (CD \times VWAP)} \times N$$

Where:

CD means the Conversion Discount applicable on the Conversion Date;

FV means the Face Value of a Leighton Note;

N means the number of Leighton Notes being converted by the Noteholder;

OI means the amount of Outstanding Interest as at the Conversion Date on each Leighton Note being converted;

S means the number of Ordinary Shares being issued to the Noteholder;

VWAP means the VWAP for the Reference Period; and

Reference Period means the 20 Business Days immediately preceding:

- (i) if the Ordinary Shares are suspended from trading on ASX on the Conversion Date, the first day of suspension; and
- (ii) in all other cases, the Conversion Date.

Where the total number of Ordinary Shares calculated in accordance with this clause 6.2 includes a fraction, that fraction will be disregarded.

6.3 Adjustment to VWAP

For the purposes of calculating VWAP in the formula in clause 6.2:

- (a) where, on all or some of the Business Days in the Reference Period, Ordinary Shares have been quoted on ASX as *cum* dividend or *cum* any other distribution or entitlement and the Leighton Notes will convert into Ordinary Shares after the date those Ordinary Shares no longer carry that entitlement (**Ex Date**), then the VWAP on the Business Days on which those shares have been quoted *cum* dividend or *cum* any other distribution or entitlement shall be reduced by an amount (**Cum Value**) equal to:
 - (i) (in the case of a dividend or other distribution), the amount of that dividend or distribution including, if the dividend is franked the amount that would be

included in the assessable income of a recipient of the dividend or distribution who is a resident of Australia and a natural person under the Tax Act;

- (ii) (in the case of an entitlement which is traded on ASX on any of those Business Days), the volume weighted average price of all such entitlements sold on ASX during the Reference Period on the Business Days on which those entitlements were traded; or
 - (iii) (in the case of an entitlement not traded on ASX during the Reference Period for more than three Business Days), the value of the entitlements as reasonably determined by the Directors;
- (b) where, on all or some of the Business Days in the Reference Period, Ordinary Shares have been quoted ex dividend or ex any other distribution or entitlement, and the Leighton Notes will convert into Ordinary Shares which would be entitled to receive the relevant dividend or distribution or entitlement, the VWAP on the Business Days on which those Ordinary Shares have been quoted ex dividend or ex any other distribution or entitlement shall be increased by the Cum Value; and
 - (c) where the Ordinary Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities during a Reference Period, the VWAP shall be adjusted by the Issuer as it considers appropriate. Any adjustment made by the Issuer will constitute an alteration to these Terms of Issue and will be binding on all Noteholders and these Terms of Issue will be construed accordingly. Any such adjustment will promptly be notified to all Noteholders.

6.4 Notice of Conversion

The Issuer will provide notice to each relevant Noteholder that their Leighton Notes have been converted into Ordinary Shares within five Business Days of such conversion.

7. Redemption of Leighton Notes

7.1 Redemption

The Issuer must, where it has provided a Redemption Notice, redeem the relevant Leighton Notes on the relevant Redemption Date.

7.2 Redemption following Scheme Event

The Issuer must, where a Scheme Event has occurred:

- (a) give notice of the Scheme Event to the Noteholders as soon as reasonably practicable after it becomes aware of such occurrence; and
- (b) redeem all the Leighton Notes on the Redemption Date.

7.3 Final Redemption

The Issuer must on the Final Redemption Date redeem all Leighton Notes outstanding at that date.

7.4 Payment

On the redemption of any Leighton Notes under this clause 7, the Issuer must pay on the Redemption Date an amount equal to the Redemption Amount for each Leighton Note being redeemed and any Outstanding Interest as at the Redemption Date in respect of those Leighton Notes.

8. Third Party Transfer

8.1 Transfer

Where the Issuer has given notice under clause 5.2 to a Noteholder that it has elected to procure the purchase of the Leighton Notes the subject of the notice (**Transfer Notes**) by a third party, the Issuer must procure a third party to purchase the Transfer Notes on the Transfer Date. On the transfer of the Transfer Notes under this clause 8, the Issuer must ensure that the Noteholder is paid on the Transfer Date cash consideration equal to the aggregate Face Value of the Transfer Notes and the Outstanding Interest as at the Transfer Date in respect of the Transfer Notes.

8.2 Offer

Each Noteholder is taken irrevocably to offer to sell the Leighton Notes, the subject of a Conversion Notice given by the Noteholder under clause 4.1 or clause 4.2(b), in accordance with this clause 8 if the Issuer elects under clause 5.2 to procure the purchase of those Leighton Notes by a third party in accordance with this clause 8.

8.3 Power of Attorney

Each Noteholder irrevocably appoints the Issuer and any director, liquidator or administrator of the Issuer (each an **Authorised Person**) severally to be the attorney of the Noteholder and the agent of the Noteholder with power in the name and on behalf of the Noteholder to do all such acts and things, including signing all documents or transfers as may in the opinion of the Authorised Person be necessary or desirable to be done in order to record or perfect the transfer of any Leighton Notes under this clause 8.

9. Enforcement

9.1 Events of Default

Each of the following is, subject to clause 9.2, an Event of Default.

- (a) The Issuer fails to pay any interest or principal on any of the Leighton Notes within 10 Business Days of it becoming due and payable.
- (b) The Issuer fails to comply with any of its other material obligations under the Trust Deed or these Terms of Issue and, if in the opinion of the Trustee that failure can be remedied, is not remedied to the reasonable satisfaction of the Trustee within 20 Business Days (or such longer period as the Trustee may permit) after notice of the failure has been given to the Issuer by the Trustee.

9.2 Exceptions

Each of the following do not constitute an Event of Default falling within clause 9.1(a).

- (a) The non-payment by the Issuer of any interest or principal due and payable in respect of any of the Leighton Notes:
 - (i) in order to comply with any fiscal or other law or regulation or with the order of any court of competent jurisdiction, in each case applicable to such payment; or
 - (ii) (subject as provided in the Trust Deed) in cases of doubt as to the validity or applicability of any such law, regulation or order, in accordance with advice given by an independent law firm acceptable to the Trustee as to such validity or applicability.
- (b) The deferral of any interest payment under clause 2.3(a).

- (c) The non-payment by the Issuer of any Outstanding Interest in the circumstances mentioned in clause 2.6(a) and (b), except where the non-payment of the Outstanding Interest arises as a result of a failure to comply with clause 7.4 .

9.3 Consequences

If an Event of Default occurs and continues, the Trustee may institute such proceedings against the Issuer as it may think fit on account of that Event by Default except that upon the occurrence of an Event of Default falling within clause 9.1(a) the remedies available to the Trustee shall be limited to taking action to wind up the Issuer or to prove in a winding up of the Issuer.

9.4 Trustee not bound to enforce

The Trustee shall not in any event be bound to take any action referred to in clause 9.3 unless:

- (a) it shall have been so requested by Noteholders holding between them at least 25% of the Leighton Notes for the time being on issue or it shall have been so directed by an Extraordinary Resolution; and
- (b) it shall have been indemnified to its satisfaction by the Noteholders against all costs, charges, liabilities and expenses which may be incurred by it in connection with that action.

9.5 No remedy against Issuer

Except as specifically provided by this clause 9, no remedy against the Issuer shall be available to the Trustee or the Noteholders whether for the recovery of amounts owing in respect of any breach by the Issuer of any of its obligations under the Trust Deed (including these Terms of Issue) or otherwise (other than the payment of the costs, charges, liabilities, expenses or remuneration of the Trustee).

9.6 Noteholders' right to enforce

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

10. Payments

10.1 Record Dates

For the purposes of determining a Noteholder's entitlement to payments of interest on the Leighton Notes, only those persons who are registered as Noteholders at 7.00pm on the Record Date for a payment shall be entitled to receive the payment.

10.2 Deductions

- (a) The Issuer may deduct from any interest or other amount payable to a Noteholder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. If any such deduction has been made and the amount of the deduction accounted for by the Issuer to the relevant revenue authority and the balance of the amount payable has been paid to the Noteholder concerned, then the full amount payable to such Noteholder shall be deemed to have been duly paid and satisfied by the Issuer.

- (b) The Issuer shall pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and shall, if required by any Noteholder, deliver to that Noteholder the relevant receipt issued by the revenue authority without unreasonable delay after it is received by the Issuer.

10.3 No Set Off

A Noteholder has no right to set off any amounts owing by it to the Issuer against claims owing by the Issuer to the Noteholder.

10.4 Payment Method

Any amount which is payable to Noteholders in respect of the Leighton Notes in accordance with these Terms of Issue will, unless the Issuer and the Noteholder otherwise agree, be paid by direct credit to a nominated account at an Australian financial institution or by cheque drawn in favour of such Noteholder and sent by prepaid post to the address of the Noteholder in the Leighton Note Register.

11. General

11.1 Quotation

The Issuer must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure official quotation of:

- (a) the Leighton Notes; and
- (b) the Ordinary Shares issued on conversion of Leighton Notes,

on a stock market conducted by ASX and to procure such quotation is maintained.

11.2 Ranking of Ordinary Shares

Each Ordinary Share issued on conversion of a Leighton Note will, as from the Conversion Date of that Leighton Note, rank equally in all respects with the Ordinary Shares, except that they will not be entitled to any dividend or any other distribution or entitlement that has been declared or determined but not paid as at the Conversion Date.

11.3 Voting

Noteholders may attend general meetings of the Issuer but Leighton Notes do not carry a right to vote at a general meeting of the Issuer, unless provided for by the Listing Rules or the Corporations Act.

11.4 Reporting Requirements

- (a) The Issuer will observe the reporting requirements set out in the Trust Deed, which include requirements to furnish reports on the financial performance of the Issuer.
- (b) The Issuer will send to each Noteholder a copy of all reports, notices and announcements sent to holders of Ordinary Shares at the time they are sent.

11.5 Leighton Notes redeemed or bought back

All Leighton Notes redeemed or bought back by the Issuer in accordance with these Terms of Issue will thereupon be cancelled and may not be reissued.

11.6 Participation in New Issues

Until converted, Leighton Notes confer no rights to subscribe for new securities in the Issuer.

12. Holding statements and certificates

12.1 Uncertificated holdings and holding statements

The Directors may determine not to issue Leighton Note Certificates where not contrary to the Corporations Act, the Listing Rules and the SCH Business Rules. Where the Directors have made such a determination, a Noteholder will be entitled to receive statements of the holdings of Leighton Notes of the Noteholder as the Issuer is required to give pursuant to the Corporations Act, the Listing Rules and the SCH Business Rules.

12.2 Cancellation of Leighton Note Certificates

The ranking of the Leighton Notes will in no way be affected by the cancellation of any Leighton Note Certificate on which they were originally included or of any subsequent Leighton Note Certificate on which they were included.

13. Transfer of Leighton Notes

13.1 Forms of transfer

A Noteholder may transfer any Leighton Notes the Noteholder holds by:

- (a) a Proper ASTC Transfer or any other method of transferring or dealing in Leighton Notes introduced by ASX or operated in accordance with the SCH Business Rules or the Listing Rules and, in any such case, recognised under the Corporations Act; or
- (b) a written instrument of transfer in any usual form or in any other form approved by either the Directors or ASX, that is otherwise permitted by law.

13.2 Registration of transfer

A transferor of Leighton Notes remains the owner of the Leighton Notes transferred until the transfer is registered and the name of the transferee is entered in the Leighton Note Register in respect of the Leighton Notes, and the transferee of Leighton Notes on being entered on the Leighton Note Register shall have all the rights and obligations which the transferor had and all the rights and obligations of a Noteholder under the Trust Deed.

13.3 Transfers which are not Proper ASTC Transfers

The following provisions apply to instruments of transfer referred to in clause 13.1(b):

- (a) unless the instrument of transfer is otherwise a sufficient transfer under the Corporations Act, the instrument must be signed by, or executed by or on behalf of:
 - (i) the transferor; and
 - (ii) if required by the Issuer, the transferee;
- (b) the instrument of transfer duly stamped will be left at the place where the Leighton Note Register is kept, accompanied by the Leighton Note Certificate (if any) in respect of the Leighton Notes to be transferred and such other evidence as the Directors require to prove the transferor's title to, or right to transfer, the Leighton Notes;
- (c) the instrument of transfer must be endorsed or accompanied by an instrument executed by the transferee to the effect that the transferee agrees to accept the Leighton Notes subject to the terms and conditions on which the transferor held them, to become a Noteholder and to be bound by the Trust Deed and these Terms of Issue; and
- (d) on registration of a transfer of Leighton Notes, the Issuer will cancel the old Leighton Note Certificate (if any).

13.4 Directors to register transfers

Subject to clauses 13.3 and 13.5, the Directors will not refuse to register or fail to register or give effect to a transfer of Leighton Notes.

13.5 Refusal to register transfers other than Proper ASTC Transfer

- (a) The Directors may refuse to register any transfer of Leighton Notes (other than a Proper ASTC Transfer) where the Listing Rules permit the Issuer to do so.
- (b) The Directors will refuse to register any transfer of Leighton Notes (other than a Proper ASTC Transfer) where the Corporations Act or the Listing Rules require the Issuer to do so, or the transfer is in breach of the Listing Rules.

13.6 Notice of refusal to register

- (a) Where the Directors refuse to register a transfer of Leighton Notes under clause 13.5, the Issuer will give written notice of the refusal and the reasons for the refusal to the transferee and the person who lodged the transfer, if not the transferee, within five Business Days after the date on which the transfer was lodged with the Issuer.
- (b) Failure by the Issuer to give notice under clause 13.6(a) will not invalidate the refusal to register the transfer in any way.

14. Joint Noteholders

14.1 Leighton Note Certificates

- (a) Subject to clause 12.1, joint Noteholders will be entitled to one Leighton Note Certificate only in respect of Leighton Notes held by them jointly and the Leighton Note Certificate will be delivered to the first joint holder named on the register.
- (b) Delivery of a Leighton Note Certificate for any Leighton Note to the first joint holder named in the Leighton Note Register in relation to that Leighton Note is deemed to be delivery to all the joint holders.

14.2 Payment to one Noteholder effective discharge

If several persons are entered in the Leighton Note Register as joint Noteholders in respect of a Leighton Note, the payment to any one of such persons of any monies from time to time payable to the joint Noteholders will be an effective discharge to the Issuer for the monies so paid.

14.3 More than three joint Noteholders

Subject to the SCH Business Rules, the Issuer will not be bound to register more than three persons as the joint holders of any Leighton Notes. A Leighton Note registered in the name of more than one person is held by those persons as joint tenants.

14.4 Actions of joint Noteholders

All of the joint Noteholders in respect of any Leighton Note must join in any:

- (a) transfer of the relevant Leighton Note;
- (b) application for the replacement of a Leighton Note Certificate which has been lost or destroyed; or
- (c) delivery of a Conversion Notice.

15. Non-resident Noteholders

- (a) Where Leighton Notes are held by, or on behalf of, a person resident outside the Commonwealth of Australia, then, despite anything to the contrary contained in or implied by these Terms of Issue, it is a condition precedent to any right of the Noteholder:
 - (i) to receive payment of any monies in respect of those Leighton Notes; or
 - (ii) to obtain Ordinary Shares on conversion of any of those Leighton Notes, that all necessary authorisations (if any) and any other statutory requirements which may then be in existence are obtained at the cost of the Noteholder and satisfied.
- (b) For the purposes of clause 15(a), authorisation includes any consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with any government or any Governmental Agency.

16. Indemnity to the Issuer

- (a) Whenever in consequence of:
 - (i) the death of a Noteholder;
 - (ii) the non-payment of any Income Tax or other Tax payable by a Noteholder;
 - (iii) the non-payment of any stamp or other duty by the legal personal representatives of a Noteholder or his estate; or
 - (iv) any other act or thing in relation to a Leighton Note or a Noteholder, any law for the time being of any country or place, in respect of a Leighton Note, imposes or purports to impose any liability of any nature whatever on the Issuer to make any payments to any Governmental Agency, the Issuer will in respect of that liability be indemnified by that Noteholder and his legal personal representatives and any monies paid by the Issuer in respect of that liability may be recovered from that Noteholder and/or the Noteholder's legal personal representative as a debt due to the Issuer and the Issuer shall have a lien in respect of those monies upon the Leighton Notes held by that Noteholder or his legal personal representatives and shall be entitled to set off those monies against any monies payable by it in respect of those Leighton Notes.
- (b) Nothing in clause 16(a) will prejudice or affect any right or remedy which any such law may confer or purport to confer on the Issuer.

17. Death or legal disability

17.1 Death or legal disability

If a Noteholder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated, the survivor (in the case of joint Noteholders), the legal personal representative or the person entitled to Leighton Notes as a result of the death, disability, bankruptcy or liquidation of the Noteholder will be recognised, on providing such evidence of that person's title as the Issuer thinks sufficient, as having an enforceable claim to Leighton Notes registered in the Noteholder's name.

17.2 Transfer, transmission under clause 17.1

Subject to the Listing Rules, the Issuer need not register any transfer or transmission under clause 17.1 unless the transferee provides an indemnity in favour of the Issuer in a form determined by or satisfactory to the Issuer in respect of any consequence arising from the transfer or transmission.

17.3 Two or more persons jointly entitled

Where two or more persons are jointly entitled to any Leighton Note in consequence of the death of the registered holder of that Leighton Note, for the purpose of these Terms of Issue they will be deemed to be joint holders of that Leighton Note.

17.4 Monies payable in respect of Leighton Notes

The Directors will be at liberty to retain any monies payable in respect of any Leighton Notes which any person under this clause 17 is entitled to or to transfer until such person is registered or has duly transferred the Leighton Notes in accordance with these Terms of Issue.

18. Amendments to the Terms of Issue

18.1 Amendment without Consent

Subject to complying with all applicable laws, providing the Trustee with a copy of the alteration and the alteration not altering any of the rights and obligations of the Trustee, the Issuer may, by an instrument in writing, alter without the authority, assent or approval of Noteholders, these Terms of Issue if the alteration is, in the opinion of an independent law firm appointed by the Issuer:

- (a) of a formal, minor or technical nature;
- (b) made to correct a manifest error;
- (c) required to facilitate a Reorganisation taking place and is not prejudicial to the interests of the Noteholders, provided alterations of an inconsequential or minor nature are deemed not to be prejudicial; or
- (d) will not (taken as a whole and in conjunction with all other alterations, if any, to be made contemporaneously with that alteration) be materially prejudicial to the interests of the Noteholders.

18.2 Amendment by Extraordinary Resolution

Without limiting clause 18.1, the Issuer may by an instrument in writing alter these Terms of Issue if the alteration has been approved by Noteholders by an Extraordinary Resolution and provided the alteration does not alter any of the rights and obligations of the Trustee.

18.3 Alteration

In this clause 'alter' includes modify, cancel, amend or add to.

19. Governing law and jurisdiction

19.1 Governing Law

Leighton Notes and these Terms of Issue are governed by the laws of New South Wales, Australia.

19.2 Jurisdiction

The Issuer and each Noteholder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia in connection with matters concerning the Leighton Notes or these Terms of Issue. The Issuer and each Noteholder waives any right they have to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

20. Notices

20.1 Service of notices

- (a) Without limiting anything else in these Terms of Issue, a notice may be given by the Issuer to any Noteholder, or in the case of joint Noteholders to the Noteholder whose name appears first in the Leighton Note Register, personally, by leaving it at the Noteholder's registered address or by sending it by prepaid post (airmail if posted to a place outside Australia) or facsimile transmission addressed to the Noteholder's registered address or, in any case, by other electronic means determined by the Directors. If the notice is signed, the signature may be original or printed.
- (b) A notice given by a Noteholder to the Issuer must:
 - (i) be in writing; and
 - (ii) be left at, or sent by prepaid post (airmail if posted from a place outside Australia) to the address below or the address last notified by the Issuer, or sent by facsimile transmission to the fax number below or the fax number last notified by the Issuer:

Leighton Holdings Limited

Level 5, Leighton House

472 Pacific Highway, St Leonards NSW 2065

Attention: Company Secretary

Fax No: (02) 9925 6005

20.2 When notice considered to be received

- (a) Subject to clause 20.2(b), any notice is taken to be given:
 - (i) if served personally or left at the intended recipient's address, when delivered;
 - (ii) if sent by post, on the second Business Day after it is mailed in a prepaid envelope to the intended recipient's address; and
 - (iii) if sent by facsimile or other electronic transmission, on production of a report by the machine or other system by which the transmission is sent indicating that the transmission has been made in its entirety to the correct fax number or other transmission address and without error.
- (b) Any Conversion Notice given by a Noteholder to the Issuer will be taken to be given only on receipt by the Issuer of that notice.

20.3 Notice to transferor binds transferee

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

20.4 Service on deceased Noteholders

A notice served in accordance with this clause 20 is (despite the fact that the Noteholder is then dead and whether or not the Issuer has notice of the Noteholder's death) considered to have been properly served in respect of any Leighton Notes, whether held solely or jointly with other persons by the Noteholder, until some other person is registered in the Noteholder's place as the Noteholder or joint Noteholder. The service is sufficient service of the notice or document on the Noteholder's personal representative and any person jointly interested with the Noteholder in the Leighton Notes.

21. Interpretation and definitions

21.1 Interpretation

In these Terms of Issue, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause or paragraph is to a clause or paragraph of these Terms of Issue;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar, \$ or cent is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) 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; and
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

21.2 Definitions

The following definitions apply in these Terms of Issue:

Additional Interest has the meaning given to it in clause 2.1.

Associate has the meaning given to it in the Corporations Act.

ASX means Australian Stock Exchange Limited (ABN 98 008 624 691).

ASX Business Rules means the business rules of ASX as amended or replaced from time to time.

Base Rate means the rate equal to the lower of:

(a) the lower of:

(i) the rate determined by the Issuer in good faith as the average of the mid points of the average swap reference rates for a term determined in good faith by the Issuer to be reasonably equivalent to the Relevant Period quoted on Reuters page CMBE (or any page that replaces that page) at three times (selected by the Issuer) before 10.00am on the first day of the Relevant Period; and

(ii) the rate determined in good faith by the Issuer as the average swap reference rate for a term determined in good faith by the Issuer to be reasonably equivalent to the Relevant Period quoted on Reuters page IRSW (or any page that replaces that page) as near as practical to 10.00am on the first day of the Relevant Period; and

(b) the rate determined by the Issuer in good faith as the average bid rate for Australian bank bills of exchange for a term determined in good faith by the Issuer to be reasonably equivalent to the Interest Period commencing on the first day of the Relevant Period quoted on Reuters page BBSW (or any page that replaces that page) as near as practical to 10.00am on the first day of the Relevant Period.

provided that if for any reason any of the abovementioned rates is not capable of being determined by the Issuer, that rate will be the rate determined by the Issuer in good faith having regard to comparable rates available as near as practical to 10.00am on the first day of the Relevant Period. Each rate so determined by the Issuer will be expressed as a percentage per annum and will be rounded up to 4 decimal places.

Bookbuild means the process conducted by the Issuer prior to the opening of the Initial Offer whereby certain professional and institutional investors and brokers who wish to obtain a firm allocation of the Leighton Notes (whether for themselves or their clients) lodge bids for the Leighton Notes and, on the basis of those bids, the Issuer determines the Initial Margin and announces its determination prior to the opening of the Initial Offer.

Business Day has the same meaning as in the Listing Rules.

Constitution means the constitution of the Issuer.

Conversion Date means in relation to any Leighton Notes each of the following dates:

- (a) where the Leighton Notes are being converted into Ordinary Shares in accordance with clause 4.1 or clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.1), the Reset Date;
- (b) where the Leighton Notes are being converted into Ordinary Shares in accordance with clause 4.2(b) or clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.2(b)), 65 Business Days after the notification of a Trigger Event under clause 4.2(a); and
- (c) where the Leighton Notes are being converted into Ordinary Shares in accordance with clause 5.3(b), 25 Business Days after the Issuer has provided notice under clause 5.3(b).

Conversion Discount means:

- (a) for the period to (and including) the first Reset Date, 2.5%; and
- (b) for the period between succeeding Reset Dates (excluding the Reset Date at the beginning of that period but including the Reset Date at the end of that period), the conversion discount determined in accordance with clause 3.3.1.

Conversion Notice means a notice given by a Noteholder to the Issuer substantially in the form set out in Schedule 2 to the Trust Deed or in such other form as the Issuer may accept.

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

Credit Rating means the credit rating assigned to the Leighton Notes (if any) by Standard & Poor's or any equivalent rating of any other similar rating agency approved by the Trustee and the Issuer from time to time.

Deferred Interest means at any time, any interest deferred under clause 2.3(a).

Directors means all or some of the directors of the Issuer acting as a board.

Event of Default has the meaning given to it by clause 9.1.

Extraordinary Resolution has the meaning given to it in the Trust Deed.

Face Value means, in relation to a Leighton Note, the principal amount specified in clause 1.2(a).

Final Redemption Date means that date which is 100 years after the date of the Trust Deed.

Governmental Agency means a government or a governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Group Company means either the Issuer or any Subsidiary of the Issuer.

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

Hochtief means either Hochtief AG ARBN 101 525 651 or any Subsidiary of Hochtief AG.

Income Tax means any tax which is assessed, levied, imposed or collected on income or capital gains by or on behalf of any Governmental Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect of the above.

Initial Margin means a rate (expressed as a percentage per annum) determined under the Bookbuild.

Initial Offer means the invitation made pursuant to the prospectus dated on or about 29 October 2003 issued by the Issuer relating to Leighton Notes.

Interest Payment Date means in relation to a Leighton Note each of the following dates:

- (a) for the period up to and including the first Reset Date, 31 May 2004 and thereafter each 30 November and 31 May (or, if any such day is not a Business Day, the next following Business Day);
- (b) for the period between succeeding Reset Dates, each date determined under clause ~~3.3.1~~ and
- (c) except in clauses 2.2 and 2.3, its Conversion Date, Redemption Date or Transfer Date.

Interest Period means in respect of a Leighton Note:

- (a) the period from (and including) the Issue Date until (but not including) the first Interest Payment Date; and
- (b) thereafter, the period from (and including) each Interest Payment Date until (but not including) the day of the first to occur of:
 - (i) the next Interest Payment Date; and
 - (ii) the Conversion Date, Redemption Date or Transfer Date in respect of the Leighton Note.

Interest Rate has the meaning given to it in clause 2.1.

Investment Grade means a credit rating by Standard & Poor's of BBB- or higher or any equivalent rating of any other similar rating agency approved by the Trustee and the Issuer from time to time.

Issue Date means in relation to a Leighton Note, the issue date specified in the Leighton Note Register.

Issuer means Leighton Holdings Limited ACN 004 482 982.

Leighton Note Certificate means a certificate in respect of Leighton Notes.

Leighton Note Register means the register of Noteholders (established and maintained in accordance with the Trust Deed) and, where appropriate, includes:

- (a) a sub-register conducted by or for the Issuer pursuant to the Corporations Act, the Listing Rules or SCH Business Rules; and
- (b) any branch register.

Leighton Notes means the convertible unsecured subordinated resettable notes issued or to be issued by the Issuer on these Terms of Issue.

Listing Rules means the listing rules of ASX as amended or replaced from time to time.

Market Rate means a rate (expressed as a percentage per annum) that equals the lower of:

- (a) the average of the mid points of the quoted average five year swap reference rate at three times prior to 10.00am (chosen by the Issuer) on the Issue Date on the Reuters page CMBE (or any page which replaces that page); and
- (b) the quoted average five year swap reference rate at 10.00am on Reuters page IRSW 10AM (or any page which replaces that page) on the Issue Date.

Minimum Rate means the rate (expressed as a percentage per annum) determined by the Issuer following the Bookbuild and prior to the opening of the Initial Offer.

Noteholder means in relation to any Leighton Notes a person whose name is for the time being registered in the Leighton Note Register as the holder of those Leighton Notes.

Ordinary Share means ordinary share in the capital of the Issuer.

Other Creditors means all creditors of the Issuer other than:

- (a) the Noteholders (in their capacity as such); and
- (b) creditors whose claims against the Issuer rank equally with or after the claims of the Noteholders.

Outstanding Interest means in relation to a Leighton Note the aggregate of:

- (a) any unpaid Reset Interest in respect of that Leighton Note;
- (b) any unpaid Deferred Interest in respect of that Leighton Note; and
- (c) any other unpaid interest which is due and payable in respect of that Leighton Note (including any interest accrued or compounded under clause 2.4).

Proper ASTC Transfer has the meaning given in regulation 1.0.02 of the Corporations Regulations 2001.

Record Date means, in relation to an Interest Period, the date that is 11 Business Days (or such other period as determined by the Directors from time to time in accordance with the Listing Rules) before the Interest Payment Date for that Interest Period.

Redemption Amount means:

- (a) where the Issuer has provided a Redemption Notice to the Noteholders under clause 5.1(b) on account of the occurrence of a Takeover Event, the greater of:
 - (i) the VWAP of a Leighton Note over the 20 Business Days prior to the announcement of the Takeover Event excluding any Outstanding Interest and any other unpaid accrued interest on a Leighton Note from each daily volume weighted average sale price taken into account in the calculation of the VWAP; and
 - (ii) the Face Value;
- (b) where the Issuer has provided a Redemption Notice to the Noteholders under clause 7.2 on account of the occurrence of a Scheme Event, the greater of:
 - (i) the VWAP of a Leighton Note over the 20 Business Days prior to the Issuer's announcement to the ASX of its intention to effect the scheme of arrangement which resulted in the Scheme Event excluding any Outstanding Interest and any other unpaid accrued interest on a Leighton Note from each daily volume weighted average sale price taken into account in the calculation of the VWAP; and
 - (ii) the Face Value; and
- (c) in all other cases, the Face Value.

Redemption Date means in relation to any Leighton Notes each of the following dates:

- (a) where the Leighton Notes are being redeemed in accordance with clause 5.1(a) or clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.1), the Reset Date;
- (b) where the Leighton Notes are being redeemed in accordance with clause 5.1(b) or clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.2(b)) or clause 5.2(b), 65 Business Days after the notification of a Trigger Event under clause 4.2(a);
- (c) where the Leighton Notes are being redeemed in accordance with clause 7.2(b), 65 Business Days after notification of the Scheme Event under clause 7.2(a);
- (d) where the Leighton Notes are being redeemed in accordance with clause 5.3(b), 25 Business Days after the Issuer has provided notice under clause 5.3(b); and
- (e) where the Leighton Notes are being redeemed in accordance with clause 7.3, the Final Redemption Date.

Redemption Notice means a notice of intention to redeem Leighton Notes provided by the Issuer to a Noteholder under clause 5.1, clause 5.2 or clause 5.3 .

Reference Period means the period referred to in clause 6.2.

Regulatory Event means in the opinion of the Directors (having obtained an opinion from reputable legal counsel) there is more than an insubstantial risk that the Issuer will be exposed to additional costs or the imposition of additional requirements which the Directors determine at

their sole discretion to be unacceptable, as a result of the occurrence of any of the following on or after the Issue Date:

- (a) the introduction, enactment, amendment, change, repeal, replacement or revocation of any law or regulation affecting securities or any amendment or change to the Listing Rules, or the announcement (including on a prospective basis) of any of the foregoing by a Governmental Agency or ASX; or
- (b) any pronouncement, action or decision of a Governmental Agency or ASX interpreting or applying any such law or regulation or the Listing Rules .

Relevant Period means the period mentioned in clause 3.1(b).

Relevant Reset Date means at any given time the next Reset Date.

Reorganisation means any arrangement, reconstruction or reorganisation of the Issuer (other than a Scheme Event or a Takeover Event) which does not result in an increase in the voting power of Hochtief or any of its Associates in the Issuer or an increase in the number of Ordinary Shares in which Hochtief or any of its Associates has a relevant interest within the meaning of the Corporations Act.

Reset Date means 30 November 2008 or, if that day is not a Business Day, the next following Business Day and, thereafter, the date as determined under clause ~~3.3.1~~.

Reset Interest means any interest that is not paid by the Issuer on a Reset Date in the circumstances mentioned in clause 2.6.

SCH means ASX Settlement and Transfer Corporation Pty Ltd as operator of a prescribed CS facility and, where the case requires, includes an agent appointed by SCH.

SCH Business Rules means the business rules of SCH as amended or replaced from time to time.

Scheme Event means the Court approves a scheme of arrangement that the Issuer proposes to enter into under Part 5.1 of the Corporations Act, which, if implemented, will result in:

- (a) in the case of any person other than Hochtief or any Associate of Hochtief, a person having a relevant interest in more than 50% of the Ordinary Shares that will be on issue after the scheme is implemented; or
- (b) in the case of Hochtief or any Associate of Hochtief, it having a relevant interest in more than 75% of the Ordinary Shares that will be on issue after the scheme is implemented,

and that approval has become effective pursuant to section 411(10) of the Corporations Act and all conditions to that approval have been satisfied or waived.

Senior Creditor means, subject to clause 1.3(d), any bank, financial institution, or other entity providing any financial accommodation (whether secured or unsecured) for an amount exceeding A\$5,000,000 or its equivalent and for the purposes of this definition the provision of financial accommodation includes the provision of any bank guarantee, performance bond or equipment lease facility.

Special Resolution has meaning given to it in the Trust Deed.

Subsidiary has the meaning given to it by Division 6 of Part 1.2 of the *Corporations Act*.

Takeover Event means a takeover bid (as defined in the Corporations Act) is made to acquire all or some of the Ordinary Shares and the offer is, or becomes unconditional, and:

- (a) in the case of any bidder other than Hochtief or any Associate of Hochtief, the bidder has at any time during the offer period, a relevant interest in more than 50% of the Ordinary

Shares on issue and the Directors issue a statement recommending acceptance of the offer;
or

- (b) in the case where Hochtief or any Associate of Hochtief is the bidder, it has at any time during the offer period, a relevant interest in more than 75% of the Ordinary Shares on issue.

Tax means:

- (a) a tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding;
- (b) income, stamp or transaction duty, tax or charge; or
- (c) GST,

which is assessed, levied, imposed or collected by, or payable to, a Governmental Agency (excluding Income Tax other than interest withholding tax) and includes, but is not limited to, interest, fines, penalties, charges, fees or other amounts imposed on or in respect of any of the above.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or *Income Tax Assessment Act 1997* (Cth) (as appropriate).

Tax Event means:

- (a) if in the opinion of the Directors (having obtained an opinion from reputable legal counsel or tax adviser):
 - (i) a change in any taxation law, interpretation or ruling issued by any relevant Governmental Agency has occurred (or is announced) and that as a result there is more than an insubstantial risk that the Issuer would be exposed to more than a negligible increase in costs or effective cost of funds having regard to the taxation treatment of interest paid or payable on the Leighton Notes and the timing of any available deductions, in relation to the Leighton Notes or as a result of the Leighton Notes being on issue (having regard to any tax consequences impacting the Issuer or any increased charges or civil liabilities); or
 - (ii) the Issuer will or there is more than an insubstantial risk that the Issuer would be denied deductibility of the interest payable on the Leighton Notes; or
- (b) the Issuer is denied deductibility of the interest payable on the Leighton Notes.

Terms of Issue means these terms and conditions of issue.

Transfer Date means in relation to any Leighton Notes each of the following dates:

- (a) where the Leighton Notes are being purchased by a third party in accordance with clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.1), the Reset Date; and
- (b) where the Leighton Notes are being purchased by a third party in accordance with clause 5.2(a) (following receipt by the Issuer of a Conversion Notice under clause 4.2(b)), 65 Business Days after the notification of a Trigger Event under clause 4.2(a).

Trigger Event means each and any of the following events:

- (a) the Issuer sends a notice to its shareholders convening a meeting to consider a special resolution to wind up the Issuer;
- (b) the appointment of a provisional liquidator to the Issuer;

- (c) the making of an order by a Court for the winding up of the Issuer (other than to effect a solvent reconstruction);
- (d) an administrator of the Issuer is appointed under sections 436A, 436B or 436C of the Corporations Act;
- (e) the Issuer executes a deed of company arrangement;
- (f) official quotation of the Ordinary Shares or Leighton Notes is either suspended by ASX for more than 20 consecutive Business Days or ended by ASX;
- (g) the Issuer sends a notice to its shareholders convening a meeting to consider an ordinary resolution to dispose of its main undertaking (as defined in the Listing Rules);
- (h) a Takeover Event occurs; or
- (i) the aggregate Face Value of the Leighton Notes on issue falls below \$50 million after the Issue Date.

Trust means the trust constituted by the Trust Deed.

Trust Deed means the deed dated 20 October 2003 between the Issuer and the Trustee.

Trustee means Permanent Nominees (Aust.) Limited in its capacity as trustee of the Trust.

VWAP means, in relation to a period and subject to clause 6.3, the arithmetic average of the daily volume weighted average sale price of the Ordinary Shares (or for the purposes of the definition of Redemption Amount, the Leighton Notes) sold on ASX for each Business Day during the relevant period (excluding the effect of any transaction defined in the ASX Business Rules as 'special', any crossings prior to the commencement of normal trading or during the after hours adjust phase on ASX, any overseas trades or the exercise of options over Ordinary Shares).

Winding Up of the Issuer means the appointment of a liquidator or provisional liquidator of the Issuer (and where the appointment is made by a court, by a court of competent jurisdiction in Australia).