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This offering circular has been sent to you in an electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of electronic transmission and consequently none of Incitec Pivot Limited, Incitec Pivot Finance LLC, Dyno Nobel Europe Pty Ltd, Incitec Fertilizers Pty Limited, TOP Australia Pty Limited, Southern Cross Fertilisers Pty Ltd, Southern Cross International Pty Ltd, Incitec Pivot US Holdings Pty Ltd, Incitec Pivot Finance Australia Pty Ltd, Dyno Nobel Pty Limited, Dyno Nobel Asia Pacific Pty Limited, Dyno Nobel Moranbah Pty Ltd, Dyno Nobel Moura Pty Limited, Incitec Pivot Explosives Holdings Pty Ltd, DNX Australia Pty Ltd, Dyno Nobel Australia LLC, Dyno Nobel Inc., Dyno Nobel Holdings USA, Inc., Dyno Nobel Louisiana Ammonia, LLC, Dyno Nobel Holdings V LLC, Dyno Nobel Canada Inc., Incitec Pivot Finance Canada Inc., Dyno Nobel Waggaman Inc., Australia and New Zealand Banking Group Limited or Merrill Lynch (Singapore) Pte. Ltd. or any person who controls any of them or any director, officer, employee or agent of any of them or affiliate of any such person accepts any liability or responsibility whatsoever in respect of any difference between the offering circular distributed to you in electronic format and the hard copy version available to you on request from Incitec Pivot Limited, Incitec Pivot Finance LLC, Dyno Nobel Europe Pty Ltd, Australia and New Zealand Banking Group Limited or Merrill Lynch (Singapore) Pte. Ltd.

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# Incitec Pivot Limited

## Incitec Pivot Limited

(ACN 004 080 264)

(Incorporated with limited liability in Australia)

## Incitec Pivot Finance LLC

(Company Registration No. 4526409)

(Incorporated with limited liability in Delaware, United States of America)

## Dyno Nobel Europe Pty Ltd

(ACN 124 372 130)

(Incorporated with limited liability in Australia)

## U.S.\$1,500,000,000 Euro Medium Term Note Programme

### initially guaranteed by Incitec Pivot Limited (other than in respect of Notes issued by itself) and by certain of its subsidiaries

Under the Euro Medium Term Note Programme described in this Offering Circular (the “**Programme**”), each of Incitec Pivot Limited, Incitec Pivot Finance LLC and Dyno Nobel Europe Pty Ltd (each an “**Issuer**” and together, the “**Issuers**”), subject to compliance with all relevant laws, regulations and directives, may from time to time issue Medium Term Notes (the “**Notes**”) denominated in any currency agreed between the relevant Issuer and the relevant Dealer (as defined herein). References in this Offering Circular to the relevant Issuer shall be to either Incitec Pivot Limited, Incitec Pivot Finance LLC or Dyno Nobel Europe Pty Ltd, as the case may be, as issuer of the Notes under the Programme as specified in the applicable pricing supplement (the “**Pricing Supplement**”).

The payments of all amounts due in respect of the Notes will be unconditionally and irrevocably guaranteed pursuant to the terms of a deed poll guarantee and indemnity dated 14 July 2017 (the “**2017 Guarantee**”), initially by Incitec Pivot Limited (other than in respect of Notes issued by itself), Incitec Pivot Finance LLC (other than in respect of Notes issued by itself), Dyno Nobel Europe Pty Ltd (other than in respect of Notes issued by itself), Incitec Fertilizers Pty Limited, TOP Australia Pty Limited, Southern Cross Fertilisers Pty Ltd, Southern Cross International Pty Ltd, Incitec Pivot US Holdings Pty Ltd, Incitec Pivot Finance Australia Pty Ltd, Dyno Nobel Pty Limited, Dyno Nobel Asia Pacific Pty Limited, Dyno Nobel Moranbah Pty Ltd, Dyno Nobel Moura Pty Limited, Incitec Pivot Explosives Holdings Pty Ltd, DNX Australia Pty Ltd, Dyno Nobel Australia LLC, Dyno Nobel Inc., Dyno Nobel Holdings USA, Inc., Dyno Nobel Louisiana Ammonia, LLC, Dyno Nobel Holdings V LLC, Dyno Nobel Canada Inc., Incitec Pivot Finance Canada Inc. and Dyno Nobel Waggaman Inc. (each an “**Original Guarantor**” and together, the “**Original Guarantors**”). The Original Guarantors and each entity which accedes to the 2017 Guarantee as a “**Guarantor**” pursuant to the terms thereof, to the extent they have not been released as guarantors, in accordance with the terms of the 2017 Guarantee, are together referred to as the “**Guarantors**”.

The Notes may be issued in bearer or registered form. The aggregate nominal amount of the Notes outstanding will not at any time exceed U.S.\$1,500,000,000 (or the equivalent in other currencies) unless such amount is otherwise increased pursuant to the terms of the Programme. The Notes may be issued on a continuing basis to one or more of the Dealers specified under “Summary of the Programme” or any additional Dealer appointed under the Programme from time to time by the relevant Issuer (each a “**Dealer**” and together the “**Dealers**”), which appointment may be for a specific issue or on an on-going basis. References in this Offering Circular to the “**relevant Dealer**” shall, in the case of an issue of Notes being (or intended to be) subscribed for by more than one Dealer, be to all Dealers agreeing to subscribe for such Notes.

Application has been made to the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”) for permission to deal in and the listing and quotation of any Notes which are agreed at the time of issue thereof to be so listed on the SGX-ST. Such permission will be granted when such Notes have been admitted to the Official List of the SGX-ST. There is no assurance that the application for the admission to the Official List of the SGX-ST for the listing of the Notes of any Series (as defined in “Overview of the Programme”) will be approved. The SGX-ST assumes no responsibility for the correctness of any of the statements made, opinions expressed or reports contained herein or the contents of this document. Admission to the Official List of the SGX-ST and quotation of any Notes on the SGX-ST is not to be taken as an indication of the merits of the Issuers, the Guarantors, their subsidiaries (if any), their associated companies (if any), the Programme or the Notes.

The Programme provides that Notes may be listed or admitted to trading, as the case may be, on such other or further stock exchanges or markets as may be agreed between the relevant Issuer and the relevant Dealer. The relevant Pricing Supplement in respect of the issue of any Notes will specify whether or not such Notes will be listed on the SGX-ST or any other stock exchange. The Issuers may also issue unlisted Notes.

The Notes of each Series issued in bearer form (the “**Bearer Notes**”) will be represented on issue by a temporary global note in bearer form (each a “**temporary Global Note**”) or a permanent global note in bearer form (each a “**permanent Global Note**”) and, together with the temporary Global Note, the “**Global Note**”). Interests in a temporary Global Note will be exchangeable, in whole or in part, for interests in a permanent Global Note on or after the date 40 days after the later of the completion of the distribution and the relevant issue date (the “**Exchange Date**”), upon certification as to non-U.S. beneficial ownership. Notes in registered form (the “**Registered Notes**”) will be represented by registered certificates (each a “**Certificate**”), one Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series. Global Notes and Certificates may be deposited on the relevant issue date with a common depository on behalf of Euroclear Bank SA/NV (“**Euroclear**”) and/or Clearstream Banking S.A. (“**Clearstream, Luxembourg**”) (the “**Common Depository**”). The provisions governing the exchange of interests in Global Notes for other Global Notes and definitive Notes are described in “Summary of Provisions Relating to the Notes while in Global Form”.

The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”) or with any securities regulatory authority of any state or other jurisdiction of the United States, and Notes in bearer form are subject to U.S. tax law requirements. The Notes may not be offered, sold or (in the case of Notes in bearer form) delivered within the United States, subject to certain exceptions. Accordingly, the Notes are being offered and sold only outside the United States in reliance on Regulation S under the Securities Act. For a description of these and certain further restrictions on offers, sales and transfers of Notes and distribution of this Offering Circular, see “Subscription and Sale”.

**PROHIBITION OF SALES TO EEA RETAIL INVESTORS** – The Notes are not intended, from 1 January 2018, to be offered, sold or otherwise made available to and, with effect from such date, should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (“**EEA**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (“**MiFID II**”); (ii) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in Directive 2003/71/EC. Consequently no key information document required by Regulation (EU) No 1286/2014 (the “**PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

The relevant Issuer may agree with any Dealer that Notes may be issued in a form not contemplated by the Terms and Conditions of the Notes (the “**Conditions**”) herein, in which event a supplementary Offering Circular, if appropriate, will be made available which will describe the effect of the agreement reached in relation to such Notes.

The Programme is expected to be rated BBB (stable) and Baa2 (stable) by S&P Global Ratings and Moody’s Investors Services Pty Limited, respectively. Tranches of Notes to be issued under the Programme will be rated or unrated. Where a Tranche of Notes is to be rated, such rating will not necessarily be the same as the ratings assigned to the Programme or other Tranches of Notes. Where a Tranche of Notes is rated, the applicable rating(s) will be specified in the relevant Pricing Supplement. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency. Credit ratings are for distribution only to a person (a) who is not a “retail client” within the meaning of section 761G of the Corporations Act 2001 of Australia (the “**Corporations Act**”) and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) who is otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Offering Circular and anyone who receives this Offering Circular must not distribute it to any person who is not entitled to receive it.

Investing in Notes issued under the Programme involves certain risks and may not be suitable for all investors. Investors should have sufficient knowledge and experience in financial and business matters to evaluate the information contained in this Offering Circular and in the applicable Pricing Supplement and the merits and risks of investing in a particular issue of Notes in the context of their financial position and particular circumstances. Investors should also have the financial capacity to bear the risks associated with an investment in Notes. Investors should not purchase the Notes unless they understand and are able to bear the risks associated with the Notes. The principal risk factors that may affect the abilities of the relevant Issuer and the Guarantors to fulfil their respective obligations in respect of the Notes are discussed under the “**Risk Factors**” section herein.

*Arrangers and Dealers*

**ANZ BofA Merrill Lynch**

The date of this Offering Circular is 14 July 2017

Each of the Issuers accepts responsibility for the information contained in this Offering Circular and each of the Guarantors accepts responsibility for the information contained in this Offering Circular relating to itself. To the best of the knowledge of each Issuer, with regard to the information contained in this Offering Circular, and each Guarantor, with regard to the information relating to itself, (and each having taken all reasonable care to ensure that such is the case) the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of such information.

Each Tranche of Notes will be issued on the terms set out herein under “Terms and Conditions of the Notes” as amended and/or supplemented by the Pricing Supplement specific to such Tranche. This Offering Circular must be read and construed together with any amendments or supplements hereto and with any information incorporated by reference herein and, in relation to any Tranche of Notes, must be read and construed together with the relevant Pricing Supplement.

The distribution of this Offering Circular and any Pricing Supplement and the offering, sale and delivery of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required by the Issuers, the Guarantors, the Arrangers and the Dealers to inform themselves about and to observe any such restrictions. None of the Issuers, the Guarantors, the Arrangers or the Dealers represents that this Offering Circular or any Pricing Supplement may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuers, the Guarantors, the Arrangers or the Dealers which would permit a public offering of any Notes or distribution of this Offering Circular or any Pricing Supplement in any jurisdiction where action for such purposes is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and none of this Offering Circular, any Pricing Supplement or any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws, regulations and directives.

If a jurisdiction requires that the offering be made by a licenced broker or dealer and a Dealer or any affiliate of the Dealer is a licenced broker or dealer in that jurisdiction, the offering shall be deemed to be made by the Dealer or such affiliate on behalf of the relevant Issuer in such jurisdiction.

This Offering Circular has not been, and will not be, and no prospectus or other disclosure document in relation to the Programme or the Notes has been or will be lodged with the Australian Securities and Investments Commission (“ASIC”) and this Offering Circular is not, and does not purport to be, a document containing disclosure to investors for the purposes of Part 6D.2 or Part 7.9 of the Corporations Act. It is not intended to be used in connection with any offer for which such disclosure is required and does not contain all the information that would be required by those provisions if they applied. This Offering Circular is not to be provided to any “retail client” as defined in section 761G of the Corporations Act. None of the Issuers or the Guarantors are licensed to provide financial product advice in respect of the Notes or the 2017 Guarantee. Cooling-off rights do not apply to the acquisition of the Notes.

There are restrictions on the offer and sale of the Notes and the circulation of documents relating thereto in certain jurisdictions including, but not limited to, the United States of America, the European Economic Area, the United Kingdom, the Republic of Singapore, Australia, Hong Kong, Japan, Canada and to persons connected therewith or resident therein. The Notes have not been and will not be registered under the Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States and may include Bearer Notes, which are subject to U.S. tax law requirements. Subject to certain exceptions, the Notes may not be offered, sold or, in the case of Bearer Notes, delivered within the United States. The Notes are being offered and sold outside the United States in reliance on Regulation S under the Securities Act. For a description of certain restrictions on offers, sales and transfers of Notes and on the distribution of this Offering Circular, see “Subscription and Sale”.

This Offering Circular is to be read in conjunction with all documents which are deemed to be incorporated herein by reference (see “Documents Incorporated by Reference”). This Offering Circular shall be read and construed on the basis that such documents are incorporated and form part of this Offering Circular.

Admission to the Official List of the SGX-ST and the quotation of any Notes on the SGX-ST is not to be taken as an indication of the merits of the Issuers, the Guarantors, their subsidiaries (if any), their associated companies (if any), the Programme or the Notes. In making an investment decision, investors

must rely on their own examination of the relevant Issuer, the Guarantors and the terms of the offering, including the merits and risks involved. See “Risk Factors” for a discussion of certain factors to be considered in connection with an investment in the Notes.

No person has been authorised by any of the Issuers, the Guarantors, the Arrangers or Dealers to give any information or to make any representation not contained in or not consistent with this Offering Circular or any other document entered into in relation to the Programme and the sale of Notes and, if given or made, such information or representation should not be relied upon as having been authorised by any of the Issuers, the Guarantors, the Arrangers or Dealers.

Neither the delivery of this Offering Circular or any Pricing Supplement nor the offering, sale or delivery of any Note shall, in any circumstances, create any implication that the information contained in this Offering Circular is true subsequent to the date hereof or the date upon which this Offering Circular has been most recently amended or supplemented or that there has been no adverse change, or any event reasonably likely to involve any adverse change, in the prospects or financial or trading position of any of the Issuers or the Guarantors since the date thereof or, if later, the date upon which this Offering Circular has been most recently amended or supplemented or that any other information supplied in connection with the Programme is correct at any time subsequent to the date indicated in the document containing the same.

In connection with the issue of any Notes under this Offering Circular, the Issuers and the Guarantors will, in the event of any significant new factor, material mistake or inaccuracy relating to information included in this Offering Circular which is capable (or would have been capable) of affecting the assessment of any Notes prior to their issue, prepare a supplement to this Offering Circular or publish a new Offering Circular for use in connection with any subsequent issue of Notes.

Neither this Offering Circular nor any Pricing Supplement constitutes an offer or an invitation to subscribe for or purchase any Notes and should not be considered as a recommendation by any of the Issuers, the Guarantors, the Arrangers, the Dealers or any director, officer, employee, agent or affiliate of any such person or any of them that any recipient of this Offering Circular or any Pricing Supplement should subscribe for or purchase any Notes. Each recipient of this Offering Circular or any Pricing Supplement shall be taken to have made its own investigation and appraisal of the condition (financial or otherwise) of the relevant Issuer and each Guarantor.

The maximum aggregate principal amount of Notes outstanding at any one time under the Programme will not exceed U.S.\$1,500,000,000 (and for this purpose, any Notes denominated in another currency shall be translated into U.S.\$ at the date of the agreement to issue such Notes calculated in accordance with the provisions of the Dealer Agreement as defined under “Subscription and Sale”). The maximum aggregate principal amount of Notes which may be outstanding at any one time under the Programme may be increased from time to time, subject to approval of the relevant authorities and/or relevant parties and compliance with the relevant provisions of the Dealer Agreement.

**In connection with the issue of any Tranche of Notes (other than in circumstances where such action would reasonably be expected to affect the price of the Notes traded within Australia or on a financial market, as defined in the Corporations Act, operated within Australia), the Dealer or Dealers (if any) named as the stabilising manager(s) (the “Stabilising Manager(s)”) (or persons acting on behalf of a Stabilising Manager) in the applicable Pricing Supplement may, to the extent permitted by applicable laws, regulations and directives, over-allot the Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilising Manager(s) (or persons acting on behalf of a Stabilising Manager) will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant Tranche of Notes is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the relevant Tranche of Notes and 60 days after the date of the allotment of the relevant Tranche of Notes. Any stabilisation or over-allotment must be conducted by the relevant Stabilising Manager(s) (or any person acting on behalf of the relevant Stabilising Manager) in accordance with all applicable laws, regulations and directives.**

None of the Arrangers or the Dealers have independently verified any of the information contained in this Offering Circular and can give no assurance that this information is accurate, truthful or complete. To the fullest extent permitted by law, neither the Arrangers nor any of the Dealers, nor any director, officer, employee, agent or affiliate of any such persons make any representation, warranty or undertaking, express or implied, or accepts any responsibility, with respect to the accuracy, truthfulness

or completeness of any of the information in this Offering Circular. To the fullest extent permitted by law, neither the Arrangers nor the Dealers, or any director, officer, employee, agent or affiliate of any such persons, accept any responsibility for the contents of this Offering Circular or for any other statement made or purported to be made by any of the Arrangers, the Dealer, or any director, officer, employee, agent or affiliate of any such person or on its behalf in connection with the Issuers, the Guarantors or the issue and offering of the Notes. Each Arranger and each Dealer accordingly disclaims all and any liability whether arising in tort or contract or otherwise (save as referred to above) which it might otherwise have in respect of this Offering Circular or any such statement.

This Offering Circular does not describe all of the risks (including those relating to each investor's particular circumstances) of an investment in Notes of a particular issue. Each potential purchaser of Notes should refer to and consider carefully the relevant Pricing Supplement for each particular issue of Notes, which may describe additional risks associated with such Notes. The risks identified in this Offering Circular and the applicable Pricing Supplement are provided as general information only. Investors should consult their own financial and legal advisers as to the risks arising from an investment in an issue of Notes and should possess the appropriate resources to analyse such investment and the suitability of such investment in their particular circumstances.

Neither this Offering Circular nor any other information provided or incorporated by reference in connection with the Programme are intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation or a statement of opinion (or a report of either of those things) by any of the Issuers, the Guarantors, the Arrangers or the Dealers, or any director, officer, employee, agent or affiliate of any such persons, that any recipient, of this Offering Circular or of any such information should purchase the Notes. Each potential purchaser of Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the relevant Issuer and each Guarantor. Each potential purchaser of Notes should determine for itself the relevance of the information contained in this Offering Circular and its purchase of Notes should be based upon such investigation as it deems necessary. No advice is given in respect of the taxation treatment of investors or purchasers in connection with an investment in any Notes or rights in respect of them. Neither the Arrangers nor the Dealers or any agent or affiliate of any such persons undertake to review the financial condition or affairs of any of the Issuers or any of the Guarantors during the life of the arrangements contemplated by this Offering Circular nor to advise any investor or potential investor in the Notes of any information coming to the attention of any of the Arrangers or the Dealers or any of them.

Each Dealer, its subsidiaries, related bodies corporate, officers, employees and affiliates may have pecuniary or other interests in the Notes and may also have interests pursuant to other arrangements and may receive fees, brokerage and commissions and may act as a principal in dealing in any Note. They may also have investment banking and other relationships with any of the Issuers and the Guarantors or other persons which may conflict with the interests of potential investors and Noteholders. Please refer to "Subscription and Sale" for further important information relating to these activities.

In this Offering Circular, where information has been presented in thousands or millions of units, amounts may have been rounded up or down. Accordingly, totals of columns or rows of numbers in tables may not be equal to the apparent total of the individual items and actual numbers may differ from those contained herein due to rounding.

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## FORWARD LOOKING STATEMENTS

Certain statements under “Risk Factors”, “Description of the IPL Group” and elsewhere in this Offering Circular constitute “*forward-looking statements*”. The words including “*believe*”, “*expect*”, “*plan*”, “*anticipate*”, “*schedule*”, “*estimate*” and similar words or expressions identify forward-looking statements. In addition, all statements other than statements of historical facts included in this Offering Circular, including, but without limitation, those regarding the financial position, business strategy, prospects, capital expenditure and investment plans of Incitec Pivot Limited and its controlled entities (together, the “**IPL Group**”) and the plans and objectives of the IPL Group’s management for its future operations (including development plans and objectives relating to its operations), are forward-looking statements. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results or performance of the IPL Group to differ materially from those expressed or implied by such forward-looking statements. Such forward-looking statements are based on numerous assumptions regarding the IPL Group’s present and future business strategies and the environment in which it will operate in the future. The Issuers and the Guarantors expressly disclaim any obligation or undertaking to release any updates or revisions to any forward-looking statements contained herein to reflect any change in any of the Issuers’ or the Guarantors’ expectations with regard thereto or any change of events, conditions or circumstances, on which any such statements were based. This Offering Circular discloses, under “Risk Factors” and elsewhere, important factors that could cause actual results to differ materially from the Issuers’ or the Guarantors’ expectations. All subsequent written and forward-looking statements attributable to any of the Issuers or the Guarantors or persons acting on behalf of any of the Issuers or the Guarantors are expressly qualified in their entirety by such cautionary statements.

In addition, other factors that could cause actual results to differ materially from those estimated by the forward- looking statements contained in this Offering Circular include, but are not limited to, any of the following factors in relation to Australia, Canada, the United States and other countries which have an impact on an Issuer’s or a Guarantor’s business activities or investments: general economic and political conditions, political or financial instability caused by any factor including any terrorist attacks or any other acts of terrorism worldwide, any anti-terrorist or other attacks by the United States, a United States-led coalition or any other country, monetary and interest rate policies, military armament or social unrest, inflation, deflation, unanticipated turbulence in interest rates, changes in foreign exchange rates, equity prices or other rates or prices, the performance of the financial markets, changes in domestic and foreign laws, regulations and directives and taxes, changes in competition and the pricing environment and regional or general changes in asset valuations.



## CERTAIN TERMS AND REFERENCES

In this Offering Circular, unless otherwise specified, all references to “**Singapore**” are to the Republic of Singapore, all references to “**United States**” or “**U.S.**” are to the United States of America, all references to “**Hong Kong**” are to the Hong Kong Special Administrative Region of the People’s Republic of China and all references to “**United Kingdom**” are to the United Kingdom of Great Britain and Northern Ireland. All references to a financial year are to the year starting on 1 October and ending on 30 September.

All references in this document to “**euro**” refer to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty on the functioning of the European Union, and as defined in Article 2 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro as amended and to “**AUD**” and “**A\$**” refer to Australian dollar. In addition, references to “**sterling**” and “**£**” refer to pounds sterling, references to “**U.S. dollars**”, “**US\$**”, “**U.S.\$**” and “**\$**” refer to United States dollars and references to “**S\$**” refer to Singapore dollars. “**Mt**” refers to metric tonnes.

Rounding adjustments have been made in calculating some of the financial information included in this Offering Circular. As a result, numerical figures shown as totals in some tables may not be exact arithmetic aggregations of the figures that precede them or percentages in some diagrams may not add up to 100 per cent.

The websites referenced in this Offering Circular are intended as guides as to where other public information relating to the Issuers and the Guarantors may be obtained free of charge. Information appearing in such websites does not form part of, and is not incorporated by reference into, this Offering Circular or any relevant Pricing Supplement and none of the Issuers, the Guarantors, the Arrangers or the Dealers accepts any responsibility whatsoever that any such information is accurate and/or up-to-date. Any such information should not form the basis of any investment decision by an investor to purchase or deal in the Notes.

## **INDUSTRY AND MARKET DATA**

Except as otherwise indicated in this Offering Circular, all non-company specific statistics and data contained in or otherwise incorporated by reference in this Offering Circular has been extracted or derived from publicly available information and industry publications. Industry and market data was obtained from a combination of internal company surveys, the good faith estimates of management, and data from various research firms, official sources, or trade associations. While the Issuers and the Guarantors believe that their respective internal surveys, estimates of management and data from research firms, official sources, industry publications or trade associations are reliable, none of the Issuers, the Guarantors, the Arrangers, the Dealers, the Agents or their respective affiliates has verified this data with independent sources. Accordingly, none of the Issuers, the Guarantors, the Arrangers, the Dealers or the Agents makes any representations as to the accuracy or completeness of that data or information. In addition, third party information providers may have obtained information from market participants and such information may not have been independently verified. Accordingly, such information should not be unduly relied upon. The Issuers and the Guarantors confirm that the industry and market data contained in this Offering Circular has been accurately extracted from its source and contains no omissions or misstatements. However, such data and information involves risks and uncertainties and is subject to change based on various factors, including those factors discussed in the “Risk Factors” section herein.

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents published or issued from time to time after the date hereof shall be deemed to be incorporated in, and form part of, this Offering Circular:

- (a) the audited consolidated annual financial statements of the IPL Group for each of the last three financial years (as at the date hereof, for the financial years ended 30 September 2014, 30 September 2015 and 30 September 2016) (together with any audit or review reports prepared in connection therewith);
- (b) the most recently published audited consolidated annual financial statements of the IPL Group and, if published later, the most recently published unaudited consolidated interim financial statements of the IPL Group (in each case, together with any audit or review reports prepared in connection therewith); and
- (c) each supplement or amendment of this Offering Circular issued by the Issuers and the Guarantors from time to time.

Any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Offering Circular to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Offering Circular.

**Any published unaudited interim financial statements of the IPL Group which are, from time to time, deemed to be incorporated by reference in this Offering Circular will not have been audited by the auditors of the IPL Group. Accordingly, there can be no assurance that, had an audit been conducted in respect of such financial statements, the information presented therein would not have been materially different, and investors should not place undue reliance upon them (see “Risk Factors”).**

The Issuers will provide, without charge, to each person to whom a copy of this Offering Circular has been delivered in compliance with the terms hereof, upon the request of such person, a copy of any or all of the documents deemed to be incorporated herein by reference unless such documents have been modified or superseded as specified above. Requests for such documents should be directed to the Issuers at their registered offices as set out at the end of this Offering Circular. In addition, such documents will be available from the specified office in The Bank of New York Mellon, London Branch (the “**Fiscal Agent**”) at One Canada Square, London E14 5AL, England.

## OVERVIEW OF THE PROGRAMME

*The following overview does not purport to be complete and is qualified in its entirety by the remainder of this Offering Circular. Words and expressions defined in “Terms and Conditions of the Notes” below or elsewhere in this Offering Circular have the same meanings in this overview.*

### Issuers

**Incitec Pivot Limited** (incorporated in Australia with Australian company number (“ACN”) 004 080 264)  
**Incitec Pivot Finance LLC** (incorporated in Delaware, U.S.A.)  
**Dyno Nobel Europe Pty Ltd** (incorporated in Australia with ACN 124 372 130)

### Guarantors

The Original Guarantors are:

- **Incitec Pivot Limited** (other than in respect of Notes issued by itself)
- **Incitec Pivot Finance LLC** (other than in respect of Notes issued by itself)
- **Dyno Nobel Europe Pty Ltd** (other than in respect of Notes issued by itself)
- **Incitec Fertilizers Pty Limited** (incorporated in Australia with ACN 103 709 155)
- **TOP Australia Pty Limited** (incorporated in Australia with ACN 007 656 046)
- **Southern Cross Fertilisers Pty Ltd** (incorporated in Australia with ACN 004 936 850)
- **Southern Cross International Pty Ltd** (incorporated in Australia with ACN 124 537 980)
- **Incitec Pivot US Holdings Pty Ltd** (incorporated in Australia with ACN 130 242 036)
- **Incitec Pivot Finance Australia Pty Ltd** (incorporated in Australia with ACN 132 883 848)
- **Dyno Nobel Pty Limited** (incorporated in Australia with ACN 117 733 463)
- **Dyno Nobel Asia Pacific Pty Limited** (incorporated in Australia with ACN 003 269 010)
- **Dyno Nobel Moranbah Pty Ltd** (incorporated in Australia with ACN 115 650 649)
- **Dyno Nobel Moura Pty Limited** (incorporated in Australia with ACN 080 849 761)
- **Incitec Pivot Explosives Holdings Pty Ltd** (incorporated in Australia with ACN 124 351 328)
- **DNX Australia Pty Ltd** (incorporated in Australia with ACN 001 502 423)
- **Dyno Nobel Australia LLC** (incorporated in Delaware, U.S.A.)
- **Dyno Nobel Inc.** (incorporated in Delaware, U.S.A.)
- **Dyno Nobel Holdings USA, Inc.** (incorporated in Delaware, U.S.A.)
- **Dyno Nobel Louisiana Ammonia, LLC** (incorporated in Delaware, U.S.A.)
- **Dyno Nobel Holdings V LLC** (incorporated in Delaware, U.S.A.)
- **Dyno Nobel Canada Inc.** (incorporated in Canada)
- **Incitec Pivot Finance Canada Inc.** (incorporated in Canada)
- **Dyno Nobel Waggaman Inc.** (incorporated in Canada)

The Original Guarantor group is a sub-set of the wider IPL Group, and not all subsidiaries of Incitec Pivot Limited are Guarantors.

Each Guarantor is also a guarantor for the purposes of a Guarantee Deed Poll originally dated 17 September 2008, as amended, supplemented or replaced from time to time (the “**2008 Guarantee Deed Poll**”), pursuant to which each Guarantor guarantees to each beneficiary under the 2008 Guarantee Deed Poll the monies owing to that beneficiary by a borrower or a Guarantor in connection with any document specified by Incitec Pivot Limited as a “Transaction Document”.

Pursuant to the 2017 Guarantee, each Issuer must ensure that each of its subsidiaries that is a “Guarantor” under the 2008 Guarantee Deed Poll is also a “Guarantor” under the 2017 Guarantee.

Under the 2008 Guarantee Deed Poll, Incitec Pivot Limited has agreed that: (a) subsidiaries which generate at least 80 per cent. of the EBITDA (as defined in the 2008 Guarantee Deed Poll) and which hold at least 80 per cent. of the Total Assets (as defined in the 2008 Guarantee Deed Poll) of the IPL Group; (b) any borrower under a Transaction Document; and (c) any wholly owned subsidiary of Incitec Pivot Limited which contributes 10 per cent. or more of the EBITDA or constitutes 10 per cent. or more of the Total Assets (as defined in the 2008 Guarantee Deed Poll) of the IPL Group, will be guarantors for the purposes of the 2008 Guarantee Deed Poll. This obligation can be amended or waived by the beneficiaries under the 2008 Guarantee Deed Poll at the relevant time acting in accordance with the relevant transaction documents to which they are a party (which may provide for decisions by a majority) and may terminate on repayment of all Guaranteed Money (as defined in the 2008 Guarantee Deed Poll).

Noteholders have no control over whether any such amendments or waivers are sought or granted. If the basis on which subsidiaries of each Issuer are required to become guarantors under the 2008 Guarantee Deed Poll changes under the 2008 Guarantee Deed Poll, each Issuer must notify the Fiscal Agent of such change.

A Guarantor, other than Incitec Pivot Limited, may be released at any time from its obligations under the 2017 Guarantee without the consent of Noteholders. Such release will occur automatically upon the delivery to the Fiscal Agent of a notice signed by a director of Incitec Pivot Limited to the effect that (a) that no Event of Default (as defined in Condition 10 (Events of Default)) has occurred and is continuing or would result from the release of such Guarantor and (b) that such Guarantor is not required to be a Guarantor for the purposes of the 2008 Guarantee Deed Poll.

For the form of, and certain risks relating to, the 2017 Guarantee, see “*Description of the 2017 Guarantee*” and “*Risk Factors – Risks related to the 2017 Guarantee*”.

Description

Medium Term Note Programme

2017 Guarantee

The Notes will be unconditionally and irrevocably guaranteed by the Guarantors in accordance with the Conditions and the 2017 Guarantee.

For the form of, and certain risks relating to, the 2017 Guarantee, see “*Description of the 2017 Guarantee*” and “*Risk Factors – Risks related to the 2017 Guarantee*”.

Programme Limit

Up to U.S.\$1,500,000,000 (or the equivalent in other currencies calculated as described in the Dealer Agreement) outstanding at any time. The Issuers and the Guarantors may increase this amount in accordance with the terms of the Dealer Agreement (as defined herein) and subject to obtaining approval or consent of the relevant authorities and/or relevant parties

Arrangers	Australia and New Zealand Banking Group Limited Merrill Lynch (Singapore) Pte. Ltd.
Dealers	Australia and New Zealand Banking Group Limited and Merrill Lynch (Singapore) Pte. Ltd. Pursuant to the Dealer Agreement, the Issuers may from time to time appoint additional dealers either in respect of one or more Tranches or in respect of the whole Programme or terminate the appointment of any dealer under the Programme. References in this Offering Circular to “ <b>Permanent Dealers</b> ” are to the persons listed above as Dealers and to such additional persons that are appointed as dealers in respect of the whole Programme (and whose appointment has not been terminated) and references to “ <b>Dealers</b> ” are to all Permanent Dealers and all persons appointed as a dealer in respect of one or more Tranches.
Fiscal Agent	The Bank of New York Mellon, London Branch
Transfer Agent	The Bank of New York Mellon (Luxembourg) S.A.
Registrar	The Bank of New York Mellon (Luxembourg) S.A.
Currencies	Subject to compliance with all relevant laws, regulations and directives, Notes may be issued in any currency as may be agreed between the relevant Issuer and the relevant Dealer.
Specified Denomination	Notes will be issued in such denominations as may be agreed between the relevant Issuer and the relevant Dealer save that the minimum denomination of each Note will be such as may be allowed or required from time to time by any laws, regulations and directives applicable to the relevant Specified Currency or jurisdiction into which Notes may be offered and, in particular, unless otherwise permitted by then current laws, regulations and directives: <ul style="list-style-type: none"> <li>(i) Notes (including Notes denominated in sterling) which have a maturity of less than one year and in respect of which the issue proceeds are to be accepted by the relevant Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of Section 19 of the Financial Services and Markets Act 2000 (“<b>FSMA</b>”) will have a minimum denomination of £100,000 (or its equivalent in other currencies); and</li> <li>(ii) the minimum specified denomination of each Note to be admitted to trading on a regulated market within the European Economic Area or offered to the public in a Member State of the European Economic Area in circumstances which require the publication of a prospectus under Directive 2003/71/EC (the “<b>Prospectus Directive</b>”) shall be €100,000 (or its equivalent in any other currency as at the date of issue of the relevant Notes).</li> </ul>
Form of Notes	The Notes may be issued in bearer form (“ <b>Bearer Notes</b> ”) or in registered form (“ <b>Registered Notes</b> ”). Each Tranche of Bearer Notes will be represented on issue by a temporary Global Note if (i) definitive Notes are to be made available to Noteholders following the expiry of 40 days after their issue date or (ii) such Notes have an initial maturity of more than one year and are being issued in compliance with the D Rules (as defined in the “Selling Restrictions” below), otherwise such Tranche will be represented by a permanent Global Note. Registered Notes will be represented by Certificates, one Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series. Certificates representing Registered Notes that are registered in the name of a nominee for one or more clearing systems are referred to as “ <b>Global Certificates</b> ”.

Clearing Systems	Euroclear, Clearstream, Luxembourg, and, in relation to any Tranche, such other clearing system as may be agreed between the relevant Issuer, the Fiscal Agent and the relevant Dealer.
Initial Delivery of Notes	<p>On or before the issue date for each Tranche, the Global Note representing Bearer Notes or the Global Certificate representing Registered Notes may be deposited with a common depository for Euroclear and Clearstream, Luxembourg.</p> <p>Global Notes or Global Certificates may also be deposited with any other clearing system or may be delivered outside any clearing system provided that the method of such delivery has been agreed in advance by the relevant Issuer, the Fiscal Agent and the relevant Dealer.</p> <p>Registered Notes that are to be credited to one or more clearing systems on issue will be registered in the name of nominees or a common nominee for such clearing systems.</p>
Maturities	Subject to compliance with all relevant laws, regulations and directives, any maturity as may be agreed between the relevant Issuer and the relevant Dealer.
Method of Issue	The Notes may be distributed by way of direct placement or bought deal or bookrunning basis, and in each case on a syndicated or non-syndicated basis. The Notes will be issued in series (each a “ <b>Series</b> ”) having one or more issue dates and on terms otherwise identical (or identical other than in respect of the first payment of interest, if any), the Notes of each Series being intended to be interchangeable with all other Notes of that Series. Each Series may be issued in tranches (each a “ <b>Tranche</b> ”) on the same or different issue dates. The specific terms of each Tranche of the Notes (which will be completed, where necessary, with the relevant terms and conditions and, save in respect of the issue date, issue price, first payment of interest and nominal amount of the Tranche, will be identical to the terms of other Tranches of the same Series) will be set out in a pricing supplement to this Offering Circular (a “ <b>Pricing Supplement</b> ”).
Issue Price	Notes may be issued at their nominal amount or at a discount or premium to their nominal amount. Partly Paid Notes may be issued, the issue price of which will be payable in two or more instalments.
Fixed Rate Notes	Fixed Rate Notes will bear interest at the fixed rate per annum specified in the applicable Pricing Supplement. Fixed interest will be payable in arrear on such day(s) as may be agreed between the relevant Issuer and the relevant Dealer (as indicated in the applicable Pricing Supplement).
Floating Rate Notes	<p>Floating Rate Notes will bear interest determined separately for each Series as follows:</p> <ul style="list-style-type: none"> <li>(i) on the same basis as the floating rate under a notional interest rate swap transaction in the relevant Specified Currency governed by an agreement incorporating the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc.; or</li> <li>(ii) by reference to LIBOR or EURIBOR (or such other benchmark as may be specified in the relevant Pricing Supplement) as adjusted for any applicable margin.</li> </ul> <p>Interest periods will be specified in the relevant Pricing Supplement.</p>
Variable Rate Notes	Variable Rate Notes may be issued pursuant to the Programme on terms specified in the relevant Pricing Supplement.
Zero Coupon Notes	Zero Coupon Notes may be issued at their nominal amount or at a discount to it and will not bear interest.

Other Notes	Terms applicable to any other type of Note which the relevant Issuer and any relevant Dealer(s) may agree to issue under the Programme will be set out in the relevant Pricing Supplement.
Interest Period and Interest Rates	The length of the interest periods for the Notes and the applicable interest rate or its method of calculation may differ from time to time or be constant for any Series. Notes may have a maximum interest rate, a minimum interest rate, or both. The use of interest accrual periods permits the Notes to bear interest at different rates in the same interest period. All such information will be set out in the relevant Pricing Supplement.
Redemption	The relevant Pricing Supplement will specify the basis for calculating the redemption amounts payable. Unless permitted by then current laws, regulations and directives, Notes (including Notes denominated in sterling) which have a maturity of less than one year and in respect of which the issue proceeds are to be accepted by the relevant Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of Section 19 of the FSMA must have a minimum redemption amount of £100,000 (or its equivalent in other currencies).
Redemption by Instalments	The Pricing Supplement issued in respect of each issue of Notes that are redeemable in two or more instalments will set out the dates on which, and the amounts in which, such Notes may be redeemed.
Optional Redemption	The Pricing Supplement issued in respect of each issue of Notes will state whether such Notes may be redeemed prior to their stated maturity at the option of the relevant Issuer (either in whole or in part) and/or the holders, and if so the terms applicable to such redemption.
Withholding Tax	All payments of principal and interest by or on behalf of the relevant Issuer or, as the case may be, the Guarantors in respect of the Notes, the Receipts and the Coupons shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Australia, Canada or, as the case may be, the United States, or any authority therein or thereof having power to tax, unless such withholding or deduction (i) is required by FATCA (as defined below in “Taxation – Non Australian Taxation – certain material U.S. Federal Income Tax considerations Foreign Account Tax compliance”) or (ii) arises from a recipient’s failure to provide any required certification regarding its tax attributes. In that event, the relevant Issuer or, as the case may be, the relevant Guarantor(s) shall pay such additional amounts as shall result in receipt by the Noteholders, the Receiptholders and the Couponholders of such amount as would have been received by them had no such withholding or deduction been required, subject to certain exceptions as set out in Condition 8 ( <i>Taxation</i> ).
Status of the Notes and the 2017 Guarantee	The Notes and the Receipts and Coupons relating to them will constitute direct, unsubordinated and (subject to Condition 4 ( <i>Negative Pledge</i> )) unsecured obligations of the relevant Issuer and will at all times rank <i>pari passu</i> and without any preference among themselves. The payment obligations of the relevant Issuer under the Notes and the Receipts and Coupons relating to them shall, save for such exceptions as may be provided by applicable legislation, at all times rank at least equally with all other unsecured and unsubordinated indebtedness and monetary obligations of the relevant Issuer, present and future.



	<p>The payment obligations of the relevant Guarantor under the 2017 Guarantee shall, save for such exceptions as may be provided by applicable legislation, at all times rank at least equally with all other unsecured and unsubordinated indebtedness and monetary obligations of the relevant Guarantor, present and future. See also “Description of the 2017 Guarantee”.</p>
Negative Pledge	See Condition 4 ( <i>Negative pledge</i> ).
Events of Default (including Cross Default)	See Condition 10 ( <i>Events of Default</i> ).
Substitution of Issuer	The Issuer of a Series of Notes may be substituted in accordance with, and subject to the satisfaction of certain requirements as set out in, the Conditions. See Condition 16 ( <i>Substitution</i> ).
Ratings	<p>The Programme is expected to be rated BBB (stable) by S&amp;P Global Ratings and Baa2 (stable) by Moody’s Investors Services Pty Limited.</p> <p>Each Tranche of Notes issued under the Programme may be rated or unrated. When a Tranche of Notes is rated, its rating will be specified in the relevant Pricing Supplement and its rating will not necessarily be the same as the rating applicable to the Programme. A rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.</p>
Early Redemption	Except as provided in “Optional Redemption” above, Notes will be redeemable at the option of the relevant Issuer prior to maturity only for tax reasons. See Condition 6 ( <i>Redemption, Purchase and Options</i> ).
Listing	<p>Application has been made to the SGX-ST for permission to deal in and the listing and quotation of any Notes which are agreed at the time of issue thereof to be so listed on the SGX-ST. Such permission will be granted when such Notes have been admitted to the Official List of the SGX-ST. There is no assurance that the application for admission to the Official List of the SGX-ST for the listing of the Notes of any Series will be approved. For so long as any Notes are listed on the SGX-ST and the rules of the SGX-ST so require, such Notes will be traded on the SGX-ST in a minimum board lot size of S\$200,000 (or its equivalent in other currencies).</p> <p>The Programme provides that Notes may be listed or admitted to trading, as the case may be, on such other or further stock exchanges or markets as may be agreed between the relevant Issuer and the relevant Dealer. The relevant Pricing Supplement in respect of the issue of any Notes will specify whether or not such Notes will be listed on the SGX-ST or any other stock exchange. The Issuers may also issue unlisted Notes.</p>
Governing Law of the Notes and the 2017 Guarantee	English law.
Selling Restrictions	<p>The United States, the Public Offer Selling Restriction under the Prospectus Directive (in respect of Notes having a specified denomination of less than €100,000 or its equivalent in any other currency as at the date of issue of the Notes), the United Kingdom, Australia, Canada, Japan, Singapore, Hong Kong and other restrictions as may be required in connection with a particular issue of Notes. See “Subscription and Sale”.</p> <p>The Issuers are Category 2 for the purposes of Regulation S under the Securities Act.</p>

The Notes will be issued in compliance with U.S. Treas. Reg. §1.163-5(c)(2)(i)(D) (or any successor U.S. Treasury Regulation section including, without limitation, regulations issued in accordance with U.S. Internal Revenue Service Notice 2012-20 or otherwise in connection with the U.S. Hiring Incentives to Restore Employment Act of 2010) (the “**D Rules**”) unless (i) the relevant Pricing Supplement states that the Notes are issued in compliance with U.S. Treas. Reg. §1.163-5(c)(2)(i)(C) (or any successor U.S. Treasury Regulation section including, without limitation, regulations issued in accordance with U.S. Internal Revenue Service Notice 2012-20 or otherwise in connection with the U.S. Hiring Incentives to Restore Employment Act of 2010) (the “**C Rules**”) or (ii) the Notes are issued other than in compliance with the D Rules or the C Rules but in circumstances in which the Notes will not constitute “registration required obligations” under the United States Tax Equity and Fiscal Responsibility Act of 1982 (“**TEFRA**”), which circumstances will be referred to in the relevant Pricing Supplement as a transaction to which TEFRA is not applicable.

#### Use of Proceeds

The net proceeds from the issue of each Tranche of Notes will be applied by the relevant Issuer for the IPL Group’s general working capital and other corporate purposes and general financing or refinancing requirements.

## **RISK FACTORS**

*Each Issuer and Guarantor believes that the following considerations may affect its ability to fulfil its obligations under the Notes issued under the Programme and (in the case of the Guarantors) the 2017 Guarantee. All of these considerations are contingencies which may or may not occur and none of the Issuers or the Guarantors is in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, considerations which the Issuers and the Guarantors believe may be material for the purpose of assessing the market risks associated with Notes issued under the Programme are also described below.*

*Each Issuer and Guarantor believes that the considerations described below represent the principal risks inherent in investing in Notes issued under the Programme, but the inability of the Issuers or the Guarantors to pay interest, principal or other amounts on or in connection with any Notes may occur for other reasons which may not be considered significant risks by the Issuers and the Guarantors based on information currently available to them or which they may not currently be able to anticipate and the Issuers and the Guarantors therefore do not represent that the statements below regarding the risks of holding any Notes are exhaustive. Prospective investors should also read the detailed information set out elsewhere in this Offering Circular and reach their own views prior to making any investment decision. Prior to making any decision to invest in the Notes, prospective investors are also advised to seek professional advice and undertake their own investigations on the relevant Issuer, the Guarantors and any other parties or matters connected with the Notes as they may consider necessary.*

### ***Risks related to the Issuers and the Guarantors***

#### ***Changing global economic and business climate***

The current global economic and business climate and any sustained downturn in the North American, South American, Asian, European or Australian economies may adversely impact the IPL Group's overall performance. This may affect demand for industrial explosives, industrial chemicals and fertilisers and related products and services, and profitability in respect of them.

#### ***Commodity price risks***

Pricing for fertilisers, ammonia, ammonium nitrate and certain other industrial chemicals are linked to internationally traded commodities (for example, ammonia, ammonium phosphates and urea); price fluctuations in these products could adversely affect the IPL Group's business. The pricing of internationally traded commodities is based on international benchmarks and is affected by global supply and demand forces. Weaker hard and soft commodity prices (particularly coal, iron ore, gold, corn, wheat, cotton and sugar) could have an adverse impact on the IPL Group's customers and has the potential to impact the customers' demand, impacting volume and market prices.

#### ***External financial risk***

The appreciation or depreciation of the Australian dollar against the U.S. dollar may materially affect the IPL Group's financial performance. A large proportion of the IPL Group's sales are denominated either directly or indirectly in foreign currencies, primarily the U.S. dollar. In addition, the IPL Group also borrows funds in U.S. dollars and the Australian dollar equivalent of these borrowings and the interest payable on them will fluctuate with the exchange rate. Other financial risks that can impact the IPL Group's earnings include the cost and availability of funds to meet its business needs, compliance with terms of financing arrangements and movements in interest rates.

#### ***Industry structure and competition risks***

The IPL Group operates in highly competitive markets with varying competitor dynamics and industry structures. The actions of established or potential competitors could have a negative impact on sales and market share and hence the IPL Group's financial performance. The balance between supply and demand of the products that the IPL Group manufactures and sells can greatly influence prices and plant utilisation. The structural shift in the North American power sector, which has seen a movement away from coal-fired energy production and towards natural gas, has placed increased pressure on existing customers (therefore giving rise to increased cost pressure on inputs to their supply) and has also resulted in reduced demand for their outputs. Reduced demand for steel inputs (in particular iron ore and metallurgical coal) can lead to a decrease in demand for explosives in these industries. The IPL Group's fertiliser operations compete against manufacturers with lower input costs and potentially having regulatory and economic advantages. A competitive market may also lead to the loss of customers which may negatively impact earnings.

#### *Customer risks*

The IPL Group has strong relationships with key customers for the supply of products and services. These relationships are fundamental to the IPL Group's financial performance, on which the loss of key customer(s) may have a negative impact. This is particularly relevant to the explosives sectors where supply contracts tend to be longer term and significant high value customers are represented. Customer(s)' inability to pay their accounts when they fall due, or inability to continue purchasing from the IPL Group due to financial distress, may expose the IPL Group to customer credit risks.

#### *Product quality and/or specification risk*

The IPL Group manufactures or produces product to specific customer and industry specifications and statutory parameters. The IPL Group is exposed to financial and reputational risk if these standards, requirements and limits are not met.

#### *Oversupply of ammonium nitrate in Asia Pacific and Americas*

New ammonium nitrate capacity has recently been or is soon to be introduced in both the Asia Pacific and Americas geographic regions. In both instances, the markets are predominantly domestically supplied and the new capacity may create a supply/demand imbalance.

#### *Production, transportation and storage risks*

The IPL Group's operations are inherently dangerous. The IPL Group operates 15 key manufacturing and assembly sites and is exposed to operational risks associated with the manufacture, transportation and storage of fertilisers, ammonium nitrate, initiating systems, industrial chemicals and industrial explosives products. The IPL Group's manufacturing systems are vulnerable to equipment breakdowns, energy or water disruptions, natural disasters and acts of God, unforeseen human error, sabotage, terrorist attacks and other unforeseen events which may disrupt the IPL Group's operations and materially affect its financial performance. Timely and economic supply of key raw materials represents a potential risk to the IPL Group's ability to supply.

#### *Natural gas supply and price risk*

Natural gas is one of the major inputs required for the production of ammonia and therefore is a critical feedstock for the IPL Group's nitrogen manufacturing operations. Availability and quality of natural gas are both key factors when sourcing supply. Potential disruption of supply also poses a risk. The IPL Group has various natural gas contracts and supply arrangements for its plants. In respect of the Australian fertiliser operations there is a risk that a reliable, committed source of natural gas at economically viable prices may not be available following the expiry of current contractual arrangements. The cost of natural gas impacts the variable cost of production of ammonia and can influence the plants' overall competitive position.

#### *Sulphuric acid cost and supply into Phosphate Hill*

Sulphuric acid is a major raw material required for the production of ammonium phosphates. Approximately 40 per cent. of Phosphate Hill's sulphuric acid needs come from processing metallurgical gas sourced from Glencore's Mt Isa Mines copper smelting facility. Glencore has confirmed that Mt Isa Mines has the necessary environmental authority to operate to 2022. Alternative sources of sulphuric acid are likely to negatively impact the cost of producing ammonium phosphates at the Phosphate Hill facility. The quantum of the impact will depend on the future availability and price of sulphur and/or sulphuric acid and the prevailing A\$/US\$ rate. Sulphuric acid supply into Phosphate Hill may be negatively impacted from a volume and/or price perspective, after the closure of the Mt Isa Mines copper smelter.

#### *Phosphate Rock*

Phosphate rock, used in the manufacture of both ammonium phosphates and single superphosphate fertilisers, is a naturally occurring mineral rock. Phosphate rock is an internationally traded commodity with pricing based on international benchmarks and is affected by global supply and demand forces. Its cost for single superphosphate manufacturing purposes is also impacted by fluctuations in foreign currency exchange rates, particularly the A\$/US\$ rate. Fluctuations in either of these variables can impact the cost of the IPL Group's single superphosphate manufacturing operations, as these operations rely on rock imported from limited foreign supply sources.

### *Labour*

A shortage of skilled labour or loss of key personnel could disrupt the IPL Group's business operations or adversely affect the IPL Group's business and financial performance. The IPL Group's manufacturing plants require skilled operators drawn from a range of disciplines, trades and vocations. The IPL Group has operations in regional and remote locations where it can be difficult to attract and retain critical and diverse talent.

### *Weather and climate change*

Seasonal conditions (particularly rainfall), are a key factor for determining demand and sales of explosives and fertilisers. Any prolonged adverse weather conditions could impact the future profitability and prospects of the IPL Group. Some plants are located in areas that are susceptible to extreme weather events, such as hurricanes, tropical storms and tornadoes.

IPL is exposed to the potential impacts of climate change. The potential impact of this risk to IPL's profitability and operations cannot be sensibly estimated as the extent and timing of climate change impacts cannot be reliably forecast.

IPL has manufacturing facilities across various geographical locations that may be impacted by regulatory changes aimed at reducing the impact of, or otherwise addressing, climate change. Any changed regulations could result in an increase to the cost base or operating cost of these plants and it may not be possible to alter sales prices to offset these cost increases. This includes, but is not restricted to, any regulations relating to reducing carbon emissions. Alternatively, any such regulatory changes may potentially impact the ability of these plants to continue operating as currently operated.

IPL provides products and services to end markets and individual customers and suppliers that may be impacted by changes to weather patterns resulting from climate change. Changes to temperature, the amount of rainfall or the number and/or intensity of storms and other weather events may impact IPL's end markets, primarily mining and agriculture.

Increasing severe weather events may also interrupt IPL's key supply chains which include transportation of raw materials and finished product via road, rail and water.

### *Ramp-up and initial operations of the Waggaman, Louisiana ammonia plant*

While performance testing has been successfully completed and management and operation of the plant has transitioned to the IPL Group, there is a potential risk of the plant not performing to the level expected and/or not maintaining stable operations, particularly in its first year of operation following commissioning.

### *Waggaman, Louisiana ammonia plant offtake and logistics capability risk*

Waggaman, Louisiana ammonia plant has a nameplate production capacity of 800,000mt per annum. With a plant of this size, notwithstanding storage capacity on site, there is a risk that if production is not sold and effectively moved into the market, plant uptime and earnings may be negatively impacted.

### *Compliance, regulatory and legal risk*

Changes in federal or state government legislation, regulations or policies in any of the countries in which the IPL Group operates or in which it has dealings may adversely impact its business, financial condition and operations, or the business, financial condition and operations of the IPL Group's customers and suppliers. This includes changes in domestic or international laws relating to sanctions, import and export quotas, and geopolitical risks relating to countries with which the IPL Group, or its customers and suppliers, engages to buy or sell products and materials. In addition, changes in tax legislation or compliance requirements in the jurisdictions in which the IPL Group, or its customers and suppliers, operates, or changes in the policy or practices of the relevant tax authorities in such jurisdictions, may result in additional compliance costs and/or increased risk of regulatory action, including potential impact on licenses to operate. The IPL Group's business, and that of its customers and suppliers, is subject to environmental laws, regulations and directives that require specific operating licences and impose various requirements and standards. Changes in these laws, regulations and directives (for example, increased regulation of coal fired energy generation in the US and the imposition of carbon trading schemes), failure to abide by the laws, regulations and directives and/or licensing conditions, or changes to licence conditions, may have a detrimental effect on the IPL Group's operations and financial performance, including the need to undertake environmental remediation, financial penalties or ceasing to operate.

The IPL Group is exposed to potential legal and other claims or disputes in the course of its business, including contractual disputes, and property damage and personal injury claims in connection with its operations.

*Loss or exposure of sensitive data*

Sensitive data, relating to the IPL Group, its employees, associates, customers or suppliers may be lost or exposed, resulting in a negative impact on the IPL Group's reputation and/or financial performance.

*Risks due to unforeseen or unexpected events*

The IPL Group's business may be affected by a range of unforeseen or unforeseeable events or events that it may not be reasonable to expect occur and including those that it may not currently be able to anticipate. These include (i) unforeseen events requiring unexpected or unplanned capital expenditure, (ii) force majeure and other catastrophic events including war, terrorism, global or regional health crises and man-made or environmental disasters and other extreme weather events (and it may not be possible to insure against such events under the IPL Group's insurance policies), (iii) a failure to effectively respond to changes in the global business and financial environment or a failure by the IPL Group to effectively implement its stated strategy, (iv) unexpected changes in global financial conditions including higher than anticipated inflation, extreme volatility in interest rates, currencies and currency exchange rates, hedging costs and/or commodity prices and (v) unexpected political events or political events having unexpected outcomes including unforeseen changes in the legal, tax and regulatory environment in which the IPL Group conducts its business. Each of the foregoing may have a material adverse impact on the IPL Group's business, operational performance, prospects, reputation, results of operations and/or financial results with a resulting materially adverse impact on the IPL Group's ability to meet its financial obligations including the Notes (and materially affect their value).

*Non-accounting standards financial measures*

This Offering Circular contains non-Australian Accounting Standards/non-International Financial Reporting Standards financial measures that are not required by, or presented in accordance with Australian Accounting Standards or International Finance Reporting Standards. For example, references to EBITDA and net debt are contained in this Offering Circular to provide additional information about the IPL Group's operating performance, debt service capability and liquidity and profitability. However, EBITDA and net debt are not measures of operating performance, debt service capability and liquidity or profitability under Australian Accounting Standards or International Financial Reporting Standards. The method of calculating these, or equivalent, accounting measures may vary between companies. Accordingly, such measures may not be comparable to similarly titled measures reported by other companies and investors should not place undue reliance upon them.

***Risks related to the 2017 Guarantee***

*Guarantors may be released under the terms of the 2017 Guarantee without Noteholder consent*

A Guarantor, other than Incitec Pivot Limited, may be released at any time from its obligations under the 2017 Guarantee without the consent of Noteholders. Such release will occur automatically upon the delivery to the Fiscal Agent of a notice signed by a director of Incitec Pivot Limited to the effect that (a) no Event of Default has occurred and is continuing or would result from the release of such Guarantor and (b) such Guarantor is not required to be a Guarantor for the purposes of the 2008 Guarantee Deed Poll.

*The criteria for release of Guarantors under the terms of the 2008 Guarantee Deed Poll may be amended without Noteholder consent*

The terms of the 2008 Guarantee Deed Poll, including the terms which govern the criteria for the release of guarantors under that guarantee, may be amended in certain circumstances with the consent of the beneficiaries of that guarantee (which do not include the Noteholders). For example, this may mean that if the requirements to be a guarantor under the current terms of the 2008 Guarantee Deed Poll are amended and, if guarantors are consequently released under the 2008 Guarantee Deed Poll they may also be released under the terms of the 2017 Guarantee.

*There may be a delay in a subsidiary becoming a guarantor under the 2008 Guarantee Deed Poll and becoming a Guarantor under the 2017 Guarantee*

The 2017 Guarantee provides that if a subsidiary of Incitec Pivot Limited becomes a “Guarantor” under the 2008 Guarantee Deed Poll, Incitec Pivot Limited must ensure that such entity becomes a “Guarantor” under the 2017 Guarantee document no later than 30 days following such time. Consequently, there may be a delay in a “Guarantor” under the 2008 Guarantee Deed Poll acceding as a “Guarantor” under the 2017 Guarantee.

### ***Risks related to the structure of a particular issue of Notes***

A wide range of Notes may be issued under the Programme. A number of these Notes may have features which contain particular risks for potential investors. Set out below is a description of the most common of such features.

#### *Notes subject to optional redemption by the relevant Issuer*

An optional redemption feature of Notes is likely to limit their market value. During any period when the relevant Issuer may elect to redeem Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This may also be true prior to any redemption period. The relevant Issuer may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

#### *Partly Paid Notes*

The relevant Issuer may issue Notes where the issue price is payable in more than one instalment. Failure to pay any subsequent instalment could result in an investor losing all of his investment.

#### *Variable Rate Notes with a multiplier or other leverage factor*

Notes with variable interest rates can be volatile investments. If they are structured to include multipliers or other leverage factors, or caps or floors, or any combination of those features or other similar related features, their market values may be even more volatile than those for securities that do not include those features.

#### *Inverse Floating Rate Notes*

Inverse Floating Rate Notes have an interest rate equal to a fixed rate minus a rate based upon a reference rate such as LIBOR. The market values of those Notes are typically more volatile than market values of other conventional floating rate debt securities based on the same reference rate (and with otherwise comparable terms). Inverse Floating Rate Notes are more volatile because an increase in the reference rate not only decreases the interest rate of the Notes, but may also reflect an increase in prevailing interest rates, which further adversely affects the market value of these Notes.

#### *Fixed/Floating Rate Notes*

Fixed/Floating Rate Notes may bear interest at a rate that the relevant Issuer may elect to convert from a fixed rate to a floating rate, or from a floating rate to a fixed rate. The relevant Issuer’s ability to convert the interest rate will affect the secondary market and the market value of such Notes since the relevant Issuer may be expected to convert the rate when it is likely to produce a lower overall cost of borrowing. If the relevant Issuer converts from a fixed rate to a floating rate, the spread on the Fixed/Floating Rate Notes may be less favourable than then prevailing spreads on comparable Floating Rate Notes tied to the same reference rate. In addition, the new floating rate at any time may be lower than the rates on other Notes. If the relevant Issuer converts from a floating rate to a fixed rate, the fixed rate may be lower than then prevailing rates on its Notes.

#### *Notes issued at a substantial discount or premium*

The market values of securities issued at a substantial discount or premium from their principal amount tend to fluctuate more in relation to general changes in interest rates than do prices for conventional interest-bearing securities. Generally, the longer the remaining term of the securities, the greater the price volatility as compared to conventional interest-bearing securities with comparable maturities.

### ***Risks related to Notes generally***

Set out below is a brief description of certain risks relating to the Notes generally.

#### *Insolvency laws*

In the event that an Issuer or a Guarantor becomes insolvent, insolvency proceedings in respect of such Issuer or Guarantor (as applicable) may be governed by Australian, Canadian or United States law. Potential investors should be aware that such insolvency laws differ from each other and are different from the insolvency laws in other jurisdictions. In particular, administration and winding-up procedures may differ significantly across different jurisdictions.

#### *Modification*

The Conditions contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Noteholders, including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

#### *Substitution*

The Issuer of a Series of Notes may be substituted in accordance with, and subject to the satisfaction of certain requirements as set out in, the Conditions. See Condition 16 (*Substitution*).

#### *Change of law*

The Conditions are based on English law in effect as at the date of this Offering Circular. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of this Offering Circular.

#### *Notes where denominations involve integral multiples: definitive Notes*

In relation to any issue of Notes which have denominations consisting of a minimum Specified Denomination plus one or more higher integral multiples of another smaller amount, it is possible that such Notes may be traded in amounts that are not integral multiples of such minimum Specified Denomination. In such a case a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant clearing system at the relevant time may not receive a definitive Note in respect of such holding (should definitive Notes be printed) and would need to purchase a principal amount of Notes such that its holding amounts to a Specified Denomination.

If definitive Notes are issued, holders should be aware that definitive Notes which have a denomination that is not an integral multiple of the minimum Specified Denomination may be illiquid and difficult to trade.

#### ***Singapore tax risk***

The Notes to be issued from time to time under the Programme, during the period from the date of this Offering Circular to 31 December 2018, are intended to be qualifying debt securities for the purposes of the Income Tax Act, Chapter 134 of Singapore, subject to the fulfilment of certain conditions more particularly described in the section “TAXATION – *Singapore Taxation*” herein.

However, there is no assurance that such Notes will continue to enjoy the tax concessions for qualifying debt securities should the relevant tax laws be amended or revoked at any time.

### ***Risks related to the market generally***

Set out below is a brief description of certain market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk.

#### *The secondary market generally*

There is no existing market for any Notes and there can be no assurances that a secondary market for the Notes will develop, or if a secondary market for the Notes does develop, that it will provide the Noteholders with liquidity of investment or that it will continue for the life of the Notes. Therefore, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. This is particularly the case



for Notes that are especially sensitive to interest rate, currency or market risks, are designed for specific investment objectives or strategies or have been structured to meet the investment requirements of limited categories of investors. These types of Notes generally would have a more limited secondary market and more price volatility than conventional debt securities.

The market value of any Notes may fluctuate. Consequently, any sale of Notes by Noteholders in any secondary market which may develop may be at prices that may be higher or lower than the initial offering price depending on many factors, including prevailing interest rates, the relevant Issuer's or the Guarantors' performance and the market for similar securities. No assurance can be given as to the liquidity of, or trading market for, any Notes and an investor in such Notes must be prepared to hold such Notes for an indefinite period of time or until their maturity.

#### *Exchange rate risks and exchange controls*

The relevant Issuer and the Guarantors, as the case may be, will pay principal and interest on the Notes in the Specified Currency. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than the Specified Currency. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Specified Currency or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Specified Currency would decrease (i) the Investor's Currency-equivalent yield on the Notes, (ii) the Investor's Currency-equivalent value of the principal payable on the Notes and (iii) the Investor's Currency-equivalent market value of the Notes.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.

#### *Interest rate risks*

Investment in Fixed Rate Notes involves the risk that subsequent changes in market interest rates may adversely affect the value of the Fixed Rate Notes. Fluctuations in interest rates will affect the Issuers' and the Guarantors' earnings stream through changes in net interest income and economic value of the balance sheet. Adverse impact on earnings and capital resulting from interest rate movements can be caused by differences in the timing of maturity (repricing risk), changing rate and yield curve relationships (basis and yield curve risks) and option risk embedded in certain products.

#### *Inflation risk*

Investors may suffer erosion on the return of their investments due to inflation. Investors would have an anticipated rate of return based on expected inflation rates on the purchase of the Notes. An unexpected increase in inflation could reduce the actual returns.

#### *Credit ratings may not reflect all risks*

It is a condition of the issuance of the Notes under the Programme that the Programme and, if applicable, the Notes to be issued under the Programme, have been assigned a rating by one of more independent credit rating agencies. The ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above, and other factors that may affect the value of the Notes. A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by its assigning rating agency at any time.

#### *Legal risk factors may restrict certain investments*

The investment activities of certain investors are subject to legal investment laws, regulations and directives, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (i) the Notes are legal investments for it, (ii) the Notes can be used as collateral for various types of borrowing and (iii) other restrictions apply to its purchase or pledge of any Notes. Financial institutions should consult their legal advisors or the appropriate regulators to determine the appropriate treatment of Notes under any applicable risk-based capital or similar rules.

*Risks relating to unaudited interim financial statements deemed incorporated by reference*

Any published unaudited interim financial statements of the IPL Group which are, from time to time, deemed to be incorporated by reference in this Offering Circular will not have been audited by the auditors of the IPL Group. Accordingly, there can be no assurance that, had an audit been conducted in respect of such financial statements, the information presented therein would not have been materially different, and investors should not place undue reliance on them.

## TERMS AND CONDITIONS OF THE NOTES

*The following (other than the words in italics) is the text of the terms and conditions that, subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Pricing Supplement, shall be applicable to the Notes in definitive form (if any) issued in exchange for the Global Note(s) or Global Certificate(s) representing each Series. Either (i) the full text of these terms and conditions together with the relevant provisions of the Pricing Supplement or (ii) these terms and conditions as so completed, amended, supplemented or varied, shall be endorsed on such Bearer Notes or on the Certificates relating to such Registered Notes. All capitalised terms that are not defined in these Conditions will have the meanings given to them in the relevant Pricing Supplement. Those definitions will be endorsed on the definitive Notes or Certificates, as the case may be. References in the Conditions to “Notes” are to the Notes of a particular Series only, not to all Notes that may be issued under the U.S.\$1,500,000,000 Euro Medium Term Note Programme (the “**Programme**”) established by the Issuers (as defined below).*

The Notes are issued pursuant to an Agency Agreement (as amended or supplemented from time to time, the “**Agency Agreement**”) dated 14 July 2017 between (1) Incitec Pivot Limited, Incitec Pivot Finance LLC and Dyno Nobel Europe Pty Ltd (each an “**Issuer**” and together, the “**Issuers**”), (2) Incitec Pivot Limited (other than in respect of Notes issued by Incitec Pivot Limited), Incitec Pivot Finance LLC (other than in respect of Notes issued by Incitec Pivot Finance LLC), Dyno Nobel Europe Pty Ltd (other than in respect of Notes issued by Dyno Nobel Europe Pty Ltd), Incitec Fertilizers Pty Limited, TOP Australia Pty Limited, Southern Cross Fertilisers Pty Ltd, Southern Cross International Pty Ltd, Incitec Pivot US Holdings Pty Ltd, Incitec Pivot Finance Australia Pty Ltd, Dyno Nobel Pty Limited, Dyno Nobel Asia Pacific Pty Limited, Dyno Nobel Moranbah Pty Ltd, Dyno Nobel Moura Pty Limited, Incitec Pivot Explosives Holdings Pty Ltd, DNX Australia Pty Ltd, Dyno Nobel Australia LLC, Dyno Nobel Inc., Dyno Nobel Holdings USA, Inc., Dyno Nobel Louisiana Ammonia, LLC, Dyno Nobel Holdings V LLC, Dyno Nobel Canada Inc., Incitec Pivot Finance Canada Inc. and Dyno Nobel Waggaman Inc. (each an “**Original Guarantor**” and together, the “**Original Guarantors**”) and (3) The Bank of New York Mellon, London Branch as fiscal agent and (4) The Bank of New York Mellon (Luxembourg) S.A. as transfer agent and registrar and with the benefit of a Deed of Covenant (as amended or supplemented from time to time, the “**Deed of Covenant**”) dated 14 July 2017 executed by (1) the Issuers and (2) the Guarantors in relation to the Notes. The fiscal agent, the paying agents, the registrar, the transfer agents and the calculation agent(s) for the time being (if any) appointed pursuant to the Agency Agreement are referred to below respectively as the “**Fiscal Agent**”, the “**Paying Agents**” (which expression shall include the Fiscal Agent), the “**Registrar**”, the “**Transfer Agents**” (which expression shall include the Registrar) and the “**Calculation Agent(s)**” (such Fiscal Agent, Paying Agents, Registrar, Transfer Agents and Calculation Agent(s) (if any) being referred together as the “**Agents**”). A reference in these Conditions to “**the Issuer**” or “**the relevant Issuer**” is a reference to the Issuer of a Tranche of Notes as specified in the applicable Pricing Supplement for those Notes.

The payment of all amounts in respect of the Notes payable by the relevant Issuer has been unconditionally and irrevocably guaranteed by the guarantors identified in the applicable Pricing Supplement (the “**Guarantors**”) pursuant to the terms of a deed poll guarantee and indemnity entered into by the Original Guarantors on 14 July 2017 (as amended or supplemented from time to time, the “**2017 Guarantee**”).

The Noteholders (as defined below), the holders of the interest coupons (the “**Coupons**”) relating to interest bearing Notes in bearer form and, where applicable in the case of such Notes, talons for further Coupons (the “**Talons**”) and the holders of the receipts for the payment of instalments of principal (the “**Receipts**”) relating to Notes in bearer form are deemed to have notice of, and have the benefit of, and are bound by, all of the provisions of the Agency Agreement, the Deed of Covenant and the 2017 Guarantee applicable to them.

As used in these terms and conditions (the “**Conditions**”), “**Tranche**” means Notes which are identical in all respects, “**Series**” means a series of Notes comprising one or more Tranches, whether or not issued on the same date, that (except in respect of the first payment of interest and their issue price) have identical terms on issue and are expected to have the same series number and references to the Issuer and the Guarantors shall be to the relevant Issuer and Guarantors of the Notes as specified in the applicable Pricing Supplement.

Copies of the Agency Agreement, the Deed of Covenant and the 2017 Guarantee are available for inspection at the specified offices of each of the Paying Agents, the Registrar and the Transfer Agents.

## 1. Form, Denomination and Title

The Notes are issued in bearer form (“**Bearer Notes**”) or in registered form (“**Registered Notes**”) in each case in the Specified Denomination(s) shown hereon provided that in the case of any Notes which are to be admitted to trading on a regulated market within the European Economic Area or offered to the public in a Member State of the European Economic Area in circumstances which require the publication of a prospectus under the Prospectus Directive (2003/71/EC), the minimum Specified Denomination shall be €100,000 (or its equivalent in any other currency as at the date of issue of the relevant Notes).

*All Registered Notes shall have the same Specified Denomination. Notes which are listed on the Singapore Exchange Securities Trading Limited (“SGX-ST”) will be traded on the SGX-ST in a minimum board lot size of S\$200,000 (or its equivalent in other currencies) or such other amount as may be allowed or required from time to time.*

This Note is a Fixed Rate Note, a Floating Rate Note, a Variable Rate Note, a Zero Coupon Note, an Instalment Note or a Partly Paid Note, a combination of any of the foregoing or any other kind of Note, depending upon the Interest Basis and Redemption/Payment Basis shown hereon.

Bearer Notes are serially numbered and are issued with Coupons (and, where appropriate, a Talon) attached, save in the case of Zero Coupon Notes in which case references to interest (other than in relation to interest due after the Maturity Date), Coupons and Talons in these Conditions are not applicable. Instalment Notes are issued with one or more Receipts attached.

Registered Notes are represented by registered certificates (“**Certificates**”) and, save as provided in Condition 2(c), each Certificate shall represent the entire holding of Registered Notes by the same holder.

Title to the Bearer Notes and the Receipts, Coupons and Talons shall pass by delivery.

Title to the Registered Notes shall pass by registration in the register that the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement (the “**Register**”). Except as ordered by a court of competent jurisdiction or as required by law, the holder (as defined below) of any Note, Receipt, Coupon or Talon shall be deemed to be and may be treated as its absolute owner for all purposes, whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it, any writing on it (or on the Certificate representing it) or its theft or loss (or that of the related Certificate) and no person shall be liable for so treating the holder.

In these Conditions, “**Noteholder**” means the bearer of any Bearer Note and the Receipts relating to it or the person in whose name a Registered Note is registered (as the case may be), “**holder**” (in relation to a Note, Receipt, Coupon or Talon) means the bearer of any Bearer Note, Receipt, Coupon (the bearer of a Coupon, a “**Couponholder**”) or Talon or the person in whose name a Registered Note is registered (as the case may be) and capitalised terms have the meanings given to them hereon, the absence of any such meaning indicating that such term is not applicable to the Notes.

## 2. No Exchange of Notes and Transfers of Registered Notes

- (a) **No Exchange of Notes:** Registered Notes may not be exchanged for Bearer Notes. Bearer Notes of one Specified Denomination may not be exchanged for Bearer Notes of another Specified Denomination. Bearer Notes may not be exchanged for Registered Notes.
- (b) **Transfer of Registered Notes:** One or more Registered Notes may be transferred upon the surrender (at the specified office of the Registrar or any Transfer Agent) of the Certificate representing such Registered Notes to be transferred, together with the form of transfer endorsed on such Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer) duly completed and executed and any other evidence as the Registrar or Transfer Agent may reasonably require. In the case of a transfer of part only of a holding of Registered Notes represented by one Certificate, a new Certificate shall be issued to the transferee in respect of the part transferred and a further new Certificate in respect of the balance of the holding not transferred shall be issued to the transferor. All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning transfers of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer with the

prior written approval of the Registrar and the Noteholders. A copy of the current regulations will be made available by the Registrar to any Noteholder upon request.

- (c) **Exercise of Options or Partial Redemption in Respect of Registered Notes:** In the case of an exercise of an Issuer's or Noteholders' option in respect of, or a partial redemption of, a holding of Registered Notes represented by a single Certificate, a new Certificate shall be issued to the holder to reflect the exercise of such option or in respect of the balance of the holding not redeemed. In the case of a partial exercise of an option resulting in Registered Notes of the same holding having different terms, separate Certificates shall be issued in respect of those Notes of that holding that have the same terms. New Certificates shall only be issued against surrender of the existing Certificates to the Registrar or any Transfer Agent. In the case of a transfer of Registered Notes to a person who is already a holder of Registered Notes, a new Certificate representing the enlarged holding shall only be issued against surrender of the Certificate representing the existing holding.
- (d) **Delivery of New Certificates:** Each new Certificate to be issued pursuant to Conditions 2(b) or (c) shall be available for delivery within five business days of receipt of the form of transfer or Exercise Notice (as defined in Condition 6(e)) or Purchase Notice (as defined in Condition 6(f)) and surrender of the Certificate for exchange. Delivery of the new Certificate(s) shall be made at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom delivery or surrender of such form of transfer, Exercise Notice or Purchase Notice or Certificate shall have been made or, at the option of the holder making such delivery or surrender as aforesaid and as specified in the relevant form of transfer, Exercise Notice or Purchase Notice or otherwise in writing, be mailed by uninsured post at the risk of the holder entitled to the new Certificate to such address as may be so specified, unless such holder requests otherwise and pays in advance to the relevant Transfer Agent or the Registrar (as the case may be) the costs of such other method of delivery and/or such insurance as it may specify. In this Condition 2(d), "**business day**" means a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the relevant Transfer Agent or the Registrar (as the case may be).
- (e) **Transfer Free of Charge:** Transfers of Notes and Certificates on registration, transfer, partial redemption or exercise of an option shall be effected without charge by or on behalf of the Issuer, the Registrar or the Transfer Agents, but upon payment of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Registrar or the relevant Transfer Agent may require).
- (f) **Closed Periods:** No Noteholder may require the transfer of a Registered Note to be registered (i) during the period of 15 days ending on the due date for redemption of, or payment of any Instalment Amount in respect of, that Note, (ii) during the period of 15 days before any date on which Notes may be called for redemption by the Issuer at its option pursuant to Condition 6(d), (iii) after any such Note has been called for redemption or (iv) during the period of seven days ending on (and including) any Record Date (as defined in Condition 7(b)).

### **3. Status of the Notes and the 2017 Guarantee**

#### **3.1 Status of the Notes**

The Notes and the Receipts and Coupons relating to them constitute direct, unsubordinated and (subject to Condition 4) unsecured obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The payment obligations of the Issuer under the Notes and the Receipts and the Coupons relating to them shall, save for such exceptions as may be provided by applicable law and subject to Condition 4, at all times rank at least equally with all other unsecured and unsubordinated indebtedness and monetary obligations of the Issuer, present and future.

#### **3.2 Status of the 2017 Guarantee**

The payment of all sums expressed to be payable by the Issuer under the Notes and the Receipts and Coupons are unconditionally and irrevocably guaranteed by the Guarantors. The payment obligations of each Guarantor under the 2017 Guarantee constitute direct, unsubordinated and (subject to Condition 4) unsecured obligations of each Guarantor and shall, save for such exceptions as may be provided by applicable law and subject to Condition 4, at all times rank at

least equally with all other unsecured and unsubordinated indebtedness and monetary obligations of each Guarantor, present and future.

#### 4. Negative Pledge

So long as any of the Notes remain outstanding, the Issuer will not, and will ensure that each other member of the Programme Group (as defined in Condition 10) will not, unless approved by an Extraordinary Resolution (as defined in the Agency Agreement), create or permit to subsist any Security Interest, other than a Permitted Security Interest, over the whole or any part of its present or future assets or revenues.

For the purposes of this Condition 4:

**"Non-Recourse Financing"** means any indebtedness incurred by a special purpose company or entity ("SPV") (which is not, and is not required to be, a Guarantor):

- (a) for the sole purpose of financing or refinancing all or a substantial part of the cost of acquiring or developing a natural resource or project owned directly by that SPV; and
- (b) in respect of which there is no recourse to any member of the Group (other than the SPV) by any person, or obligation or liability of any member of the Group (other than the SPV) to any person other than:
  - (i) under a guarantee, a guarantee and indemnity and/or a Security Interest granted by a member of the Group which is not a Guarantor over:
    - (A) the shares or units in, or any loans made to, the SPV; and
    - (B) in the case of a featherweight security interest (or equivalent, however named) only, all other assets of the member of the Group,where the terms of that guarantee, guarantee and indemnity or Security Interest (as applicable) exclude (subject to customary exceptions including, but not limited to, fraud, gross negligence and wilful misconduct) all personal liability of the member of the Group and only permit enforcement to the extent of those shares or units or loans, or their proceeds of sale and, in the case of the featherweight security interest (or equivalent, however named) only, the other assets of the member of the Group; or
  - (ii) other obligations or liabilities of a member of the Group in the form of contractual purchase or off-take agreements, technical support arrangements and performance security on usual terms in the ordinary course of the member of the Group's business and which does not amount to a guarantee or indemnity or other assurance against financial loss or an obligation to ensure compliance by another with a financial ratio or other test of financial condition;

**"Non-Recourse Receivables Financing"** means any indebtedness incurred or subsisting under any receivables or factoring agreements, but only to the extent that the indebtedness is not subject to any Security Interest or other right or interest in any assets of the Group other than the receivables (and assets ancillary to those receivables) the subject of those arrangements and excluding, for the avoidance of doubt, any part of such indebtedness for which other recourse may be had to the seller or any other member of the Group personally (other than in the case of customary exceptions including, but not limited to, fraud, gross negligence and wilful misconduct);

**"Non-Recourse Receivables Security Interest"** means any Security Interest over any receivables (or assets ancillary to those receivables) the subject of a Non-Recourse Receivables Financing;

**"Non-Recourse Security Interest"** means a Security interest over an SPV (as defined in the definition of "Non-Recourse Financing") or a Security Interest described in the definition of Non-Recourse Financing for the purpose of a Non-Recourse Financing;

**"Permitted Security Interest"** means:

- (a) any Security Interest arising by operation of law and in the ordinary course of business so long as the debt it secures is paid within 60 days of becoming due or is being contested in good faith and any debt which remains due after final determination or settlement of the contest is paid promptly;

- (b) any mechanic's, workman's or other like lien arising in the ordinary course of business securing an obligation which is not yet due;
- (c) any Security Interest arising in favour of an unpaid seller in respect of goods, plant or equipment sold to the Issuer or a Guarantor in the ordinary course of business until payment of the purchase price for such goods or plant or equipment provided that such payment is made within 270 days;
- (d) any Security Interest created or arising in the ordinary course of business over documents of title, insurance policies or sales contracts in relation to commercial goods to secure the purchase price of those goods;
- (e) bankers' liens or rights of set off arising by operation of law or in the ordinary course of business where there is no default in the obligations owed to the banker;
- (f) to the extent it constitutes a Security Interest, rights to remove products or soil from the land, easements, restrictions or positive covenants and leases and licenses to use or occupy real property;
- (g) any deposit not exceeding A\$10,000,000 (or its equivalent in any other currency or currencies) securing any statutory obligation in the ordinary course of business;
- (h) any right of set-off arising under any contract to which the Issuer or a Guarantor is a party;
- (i) any Non-Recourse Security Interest;
- (j) any Non-Recourse Receivables Security Interest;
- (k) any Security Interest which secures the obligations of one joint venture party to another joint venture party in connection with the relevant joint venture;
- (l) to the extent that any disposal by way of a sale and/or leaseback arrangement or a lease facility constitutes or gives rise to a Security Interest, that Security Interest; and
- (m) any Security Interest in addition to those permitted pursuant to any of the foregoing paragraphs, provided that the aggregate outstanding principal amount secured by all such Security Interests under this paragraph does not exceed 10 per cent. of the total assets of the Group as shown in the most recent annual audited consolidated financial statements of the Issuer or half yearly audited consolidated accounts of the Issuer (whichever is most recent); and

“**Security Interest**” means a mortgage, charge, pledge, lien or other form of encumbrance or security interest, but excluding, for the avoidance of doubt, any security interest under section 12(3) of the Personal Property Securities Act 2009 (Cth) of Australia.

## 5. Interest and other Calculations

- (a) **Interest on Fixed Rate Notes:** Each Fixed Rate Note bears interest on its outstanding nominal amount from and including the Interest Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Interest, such interest being payable in arrear on each Interest Payment Date. The amount of interest payable shall be determined in accordance with Condition 5(h).
- (b) **Interest on Floating Rate Notes and Variable Rate Notes:**
  - (i) *Interest Payment Dates:* Each Floating Rate Note and Variable Rate Note bears interest on its outstanding nominal amount from and including the Interest Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Interest, such interest being payable in arrear on each Interest Payment Date. The amount of interest payable shall be determined in accordance with Condition 5(h). Such Interest Payment Date(s) is/are either shown hereon as Specified Interest Payment Dates or, if no Specified Interest Payment Date(s) is/are shown hereon, Interest Payment Date shall mean each date which falls the number of months or other period shown hereon as the Interest Period after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date provided that the Agreed Yield (as defined in Condition 5(b)(iv)) in respect of any Variable Rate Note for any Interest Period shall be payable on the first day of that Interest Period.

- (ii) *Business Day Convention*: If any date referred to in these Conditions that is specified to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day that is not a Business Day, then, if the Business Day Convention specified is (A) the Floating Rate Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event (x) such date shall be brought forward to the immediately preceding Business Day and (y) each subsequent such date shall be the last Business Day of the month in which such date would have fallen had it not been subject to adjustment, (B) the Following Business Day Convention, such date shall be postponed to the next day that is a Business Day, (C) the Modified Following Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day or (D) the Preceding Business Day Convention, such date shall be brought forward to the immediately preceding Business Day.
- (iii) *Rate of Interest for Floating Rate Notes*: The Rate of Interest in respect of Floating Rate Notes for each Interest Accrual Period shall be determined in the manner specified hereon and the provisions below relating to either ISDA Determination or Screen Rate Determination shall apply, depending upon which, if any, is specified hereon.

(A) ISDA Determination for Floating Rate Notes

Where ISDA Determination is specified hereon as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Accrual Period shall be determined by the Calculation Agent as a rate equal to the relevant ISDA Rate. For the purposes of this sub-paragraph (A), “**ISDA Rate**” for an Interest Accrual Period means a rate equal to the Floating Rate that would be determined by the Calculation Agent under a Swap Transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (x) the Floating Rate Option is as specified hereon;
- (y) the Designated Maturity is a period specified hereon; and
- (z) the relevant Reset Date is the first day of that Interest Accrual Period unless otherwise specified hereon.

For the purposes of this sub-paragraph (A), “**Floating Rate**”, “**Calculation Agent**”, “**Floating Rate Option**”, “**Designated Maturity**”, “**Reset Date**” and “**Swap Transaction**” have the meanings given to those terms in the ISDA Definitions.

(B) Screen Rate Determination for Floating Rate Notes

- (x) Where Screen Rate Determination is specified hereon as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (1) the offered quotation; or
- (2) the arithmetic mean of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at either 11.00 a.m. (London time in the case of LIBOR or Brussels time in the case of EURIBOR) on the Interest Determination Date in question as determined by the Calculation Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean of such offered quotations.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified hereon as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided hereon.



- (y) if the Relevant Screen Page is not available or, if sub-paragraph (x)(1) applies and no such offered quotation appears on the Relevant Screen Page, or, if sub-paragraph (x)(2) applies and fewer than three such offered quotations appear on the Relevant Screen Page, in each case as at the time specified above, subject as provided below, the Calculation Agent shall request, if the Reference Rate is LIBOR, the principal London office of each of the Reference Banks or, if the Reference Rate is EURIBOR, the principal Eurozone office of each of the Reference Banks, to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time), or if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) on the Interest Determination Date in question. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest for such Interest Accrual Period shall be the arithmetic mean of such offered quotations as determined by the Calculation Agent; and
- (z) if paragraph (y) above applies and the Calculation Agent determines that fewer than two Reference Banks are providing offered quotations, subject as provided below, the Rate of Interest shall be the arithmetic mean of the rates per annum (expressed as a percentage) as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks were offered, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) on the relevant Interest Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate by leading banks in, if the Reference Rate is LIBOR, the London inter-bank market or, if the Reference Rate is EURIBOR, the Eurozone inter-bank market, as the case may be, or, if fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time), on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Issuer suitable for such purpose) informs the Calculation Agent it is quoting to leading banks in, if the Reference Rate is LIBOR, the London inter-bank market or, if the Reference Rate is EURIBOR, the Eurozone inter-bank market, as the case may be, provided that, if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin or Maximum or Minimum Rate of Interest is to be applied to the relevant Interest Accrual Period from that which applied to the last preceding Interest Accrual Period, the Margin or Maximum or Minimum Rate of Interest relating to the relevant Interest Accrual Period, in place of the Margin or Maximum or Minimum Rate of Interest relating to that last preceding Interest Accrual Period).

(iv) *Rate of Interest for Variable Rate Notes*

- (A) Each Variable Rate Note bears interest at a variable rate determined in accordance with the provisions of this paragraph (iv). The interest payable in respect of a Variable Rate Note for each Interest Period relating to that Variable Rate Note, which shall be payable on the first day of such Interest Period, is referred to in these Conditions as the “Agreed Yield” and the rate of interest payable in respect of a Variable Rate Note on the last day of an Interest Period relating to that Variable Rate Note is referred to in these Conditions as the “Rate of Interest”.

- (B) The Agreed Yield or, as the case may be, the Rate of Interest payable from time to time in respect of each Variable Rate Note for each Interest Period shall be determined as follows:
- (x) not earlier than 9.00 a.m. (Melbourne time) on the ninth business day nor later than 3.00 p.m. (Melbourne time) on the fifth business day prior to the commencement of each Interest Period, the Issuer and the Relevant Dealer (as defined below) shall endeavour to agree on the following:
    - (1) whether interest in respect of such Variable Rate Note is to be paid on the first day or the last day of such Interest Period;
    - (2) if interest in respect of such Variable Rate Note is agreed between the Issuer and the Relevant Dealer to be paid on the first day of such Interest Period, an Agreed Yield in respect of such Variable Rate Note for such Interest Period (and, in the event of the Issuer and the Relevant Dealer so agreeing on such Agreed Yield, the Rate of Interest for such Variable Rate Note for such Interest Period shall be zero); and
    - (3) if interest in respect of such Variable Rate Note is agreed between the Issuer and the Relevant Dealer to be paid on the last day of such Interest Period, a Rate of Interest in respect of such Variable Rate Note for such Interest period (an “**Agreed Rate**”) and, in the event of the Issuer and the Relevant Dealer so agreeing on an Agreed Rate, such Agreed Rate shall be the Rate of Interest for such Variable Rate Note for such Interest Period; and
  - (y) if the Issuer and the Relevant Dealer do not agree either an Agreed Yield or an Agreed Rate in respect of such Variable Rate Note for such Interest Period by 3.00 p.m. (Melbourne time) on the fifth business day prior to the commencement of the relevant Interest Period, or if there shall be no Relevant Dealer during the period for agreement referred to in (x) above, the Rate of Interest for such Variable Rate Note for such Interest Period shall automatically be the Fall Back Rate (as defined in Condition 5(b)(iv)(D)).
- (C) The Issuer has undertaken to the Fiscal Agent and the Calculation Agent (if any) that it will as soon as possible after the Agreed Yield or, as the case may be, the Agreed Rate in respect of any Variable Rate Note is determined, but not later than 10.30 a.m. (Melbourne time) on the next following business day:
- (x) notify the Fiscal Agent and the Calculation Agent in writing of the Agreed Yield or, as the case may be, the Agreed Rate for such Variable Rate Note for such Interest Period; and
  - (y) cause such Agreed Yield, or as the case may be, the Agreed Rate for such Variable Rate Note to be notified by the Fiscal Agent to the relevant Noteholder at its request.
- (D) For the purposes of paragraph (B) above, the Rate of Interest for each Interest Period for which there is neither an Agreed Yield nor Agreed Rate in respect of any Variable Rate Note or no Relevant Dealer during the period for agreement in respect of the Variable Rate Note shall be the rate (the “**Fall Back Rate**”) determined by reference to a Reference Rate as specified hereon.
- (E) The Fall Back Rate payable from time to time in respect of each Variable Rate Note will be determined by the Calculation Agent in accordance with the provisions of Condition 5(b)(iii)(B), as the case may be, above (*mutatis mutandis*) and references therein to “**Rate of Interest**” shall mean Fall Back Rate.
- (c) **Zero Coupon Notes:** Where a Note, the Interest Basis of which is specified to be Zero Coupon, is repayable prior to the Maturity Date and is not paid when due, the amount due and payable prior to the Maturity Date shall be the Early Redemption Amount of such Note. As from the Maturity Date, the Rate of Interest for any overdue principal of such a Note shall be a rate per annum (expressed as a percentage) equal to the Amortisation Yield (as described in Condition 6(b)(i)).

- (d) **Partly Paid Notes:** In the case of Partly Paid Notes (other than Partly Paid Notes which are Zero Coupon Notes), interest will accrue as aforesaid on the paid-up nominal amount of such Notes and otherwise as specified hereon.
- (e) **Accrual of Interest:** Interest shall cease to accrue on each Note on the due date for redemption unless, upon due presentation, payment is improperly withheld or refused, in which event interest shall continue to accrue (both before and after judgment) at the Rate of Interest in the manner provided in this Condition 5 to the Relevant Date (as defined in Condition 8).
- (f) **Margin, Maximum/Minimum Rates of Interest, Instalment Amounts and Redemption Amounts and Rounding:**
- (i) If any Margin is specified hereon (either (x) generally, or (y) in relation to one or more Interest Accrual Periods), an adjustment shall be made to all Rates of Interest, in the case of (x), or the Rates of Interest for the specified Interest Accrual Periods, in the case of (y), calculated in accordance with Condition 5(b) above by adding (if a positive number) or subtracting the absolute value (if a negative number) of such Margin subject always to the next paragraph.
  - (ii) If any Maximum or Minimum Rate of Interest, Instalment Amount or Redemption Amount is specified hereon, then any Rate of Interest, Instalment Amount or Redemption Amount shall be subject to such maximum or minimum, as the case may be.
  - (iii) For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified), (x) all percentages resulting from such calculations shall be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with halves being rounded up), (y) all figures shall be rounded to seven significant figures (with halves being rounded up) and (z) all currency amounts that fall due and payable shall be rounded to the nearest unit of such currency (with halves being rounded up), save in the case of yen, which shall be rounded down to the nearest yen. For these purposes “unit” means the lowest amount of such currency that is available as legal tender in the country of such currency.
- (g) **Calculations:** The amount of interest payable per Calculation Amount in respect of any Note for any Interest Accrual Period shall be equal to the product of the Rate of Interest, the Calculation Amount specified hereon, and the Day Count Fraction for such Interest Accrual Period, unless an Interest Amount (or a formula for its calculation) is applicable to such Interest Accrual Period, in which case the amount of interest payable per Calculation Amount in respect of such Note for such Interest Accrual Period shall equal such Interest Amount (or be calculated in accordance with such formula). Where any Interest Period comprises two or more Interest Accrual Periods, the amount of interest payable per Calculation Amount in respect of such Interest Period shall be the sum of the Interest Amounts payable in respect of each of those Interest Accrual Periods. In respect of any other period for which interest is required to be calculated, the provisions above shall apply save that the Day Count Fraction shall be for the period for which interest is required to be calculated.
- (h) **Determination and Publication of Rates of Interest, Interest Amounts, Final Redemption Amounts, Early Redemption Amounts, Optional Redemption Amounts and Instalment Amounts:**

The Calculation Agent shall, as soon as practicable on each Interest Determination Date, or such other time on such date as the Calculation Agent may be required to calculate any rate or amount, obtain any quotation or make any determination or calculation, determine such rate and calculate the Interest Amounts for the relevant Interest Accrual Period, calculate the Final Redemption Amount, Early Redemption Amount, Optional Redemption Amount or Instalment Amount, obtain such quotation or make such determination or calculation, as the case may be, and cause the Rate of Interest and the Interest Amounts for each Interest Accrual Period and the relevant Interest Payment Date and, if required to be calculated, the Final Redemption Amount, Early Redemption Amount, Optional Redemption Amount or any Instalment Amount to be notified to the Fiscal Agent, the Issuer, the Guarantors, each of the Paying Agents, the Registrar, the Noteholders, any other Calculation Agent appointed in respect of the Notes that is to make a further calculation upon receipt of such information and,

if the Notes are listed on a stock exchange and the rules of such exchange or other relevant authority so require, such exchange or other relevant authority as soon as possible after their determination but in no event later than (i) the commencement of the relevant Interest Period, if determined prior to such time, in the case of notification to such exchange of a Rate of Interest and Interest Amount, or (ii) in all other cases, the fourth Business Day after such determination. Where any Interest Payment Date or Interest Period Date is subject to adjustment pursuant to Condition 5(b)(ii), the Interest Amounts and the Interest Payment Date so published may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. If the Notes become due and payable under Condition 10, the accrued interest and the Rate of Interest payable in respect of the Notes shall nevertheless continue to be calculated as previously in accordance with this Condition but no publication of the Rate of Interest or the Interest Amount so calculated need be made. The determination of any rate or amount, the obtaining of each quotation and the making of each determination or calculation by the Calculation Agent(s) shall (in the absence of manifest error) be final and binding upon all parties.

- (i) **Definitions:** In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

“**Business Day**” means:

- (i) in the case of a currency other than euro, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments in the principal financial centre for such currency; and/or
- (ii) in the case of euro, a day on which the TARGET System is operating (a “**TARGET Business Day**”); and/or
- (iii) in the case of a currency and/or one or more Business Centres, a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in such currency in the Business Centre(s) or, if no currency is indicated, generally in each of the Business Centres.

“**Day Count Fraction**” means, in respect of the calculation of an amount of interest on any Note for any period of time (from and including the first day of such period to but excluding the last) (whether or not constituting an Interest Period or an Interest Accrual Period, the “**Calculation Period**”):

- (i) if “**Actual/Actual**” or “**Actual/Actual (ISDA)**” is specified hereon, the actual number of days in the Calculation Period divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (ii) if “**Actual/365 (Fixed)**” is specified hereon, the actual number of days in the Calculation Period divided by 365;
- (iii) if “**Actual/360**” is specified hereon, the actual number of days in the Calculation Period divided by 360;
- (iv) if “**30/360**”, “**360/360**” or “**Bond Basis**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\frac{[360 \times (Y2 - Y1)] + [30 \times M2 - M1] + (D2 - D1)}{360}$$

where:

“**Y1**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y2**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M1**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M2**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D1**” is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D1 will be 30; and

“**D2**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D1 is greater than 29, in which case D2 will be 30;

- (v) if “**30E/360**” or “**Eurobond Basis**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\frac{[360 \times (Y2 - Y1)] + [30 \times M2 - M1] + (D2 - D1)}{360}$$

where:

“**Y1**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y2**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M1**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M2**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D1**” is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D1 will be 30; and

“**D2**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31, in which case D2 will be 30;

- (vi) if “**30E/360 (ISDA)**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\frac{[360 \times (Y2 - Y1)] + [30 \times M2 - M1] + (D2 - D1)}{360}$$

where:

“**Y1**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y2**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M1**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M2**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D1**” is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D1 will be 30; and

“**D2**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D2 will be 30; and

- (vii) if “**Actual/Actual (ICMA)**” is specified hereon:

- (a) if the Calculation Period is equal to or shorter than the Determination Period during which it falls, the number of days in the Calculation Period divided by the

product of (x) the number of days in such Determination Period and (y) the number of Determination Periods normally ending in any year; and

- (b) if the Calculation Period is longer than one Determination Period, the sum of:
- (x) the number of days in such Calculation Period falling in the Determination Period in which it begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and
  - (y) the number of days in such Calculation Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year,

where:

“**Determination Period**” means the period from and including a Determination Date in any year to but excluding the next Determination Date;

“**Determination Date**” means the date(s) specified as such hereon or, if none is so specified, the Interest Payment Date(s);

“**Eurozone**” means the region comprised of member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended;

“**Interest Accrual Period**” means the period beginning on and including the Interest Commencement Date and ending on but excluding the first Interest Period Date and each successive period beginning on and including an Interest Period Date and ending on but excluding the next succeeding Interest Period Date;

“**Interest Amount**” means:

- (i) in respect of an Interest Accrual Period, the amount of interest payable per Calculation Amount for that Interest Accrual Period and which, in the case of Fixed Rate Notes, and unless otherwise specified hereon, shall mean the Fixed Coupon Amount or Broken Amount specified hereon as being payable on the Interest Payment Date ending the Interest Period of which such Interest Accrual Period forms part; and
- (ii) in respect of any other period, the amount of interest payable per Calculation Amount for that period;

“**Interest Commencement Date**” means the Issue Date or such other date as may be specified hereon;

“**Interest Determination Date**” means, with respect to a Rate of Interest and Interest Accrual Period, the date specified as such hereon or, if none is so specified, (i) the first day of such Interest Accrual Period if the Specified Currency is Sterling or (ii) the day falling two Business Days in London for the Specified Currency prior to the first day of such Interest Accrual Period if the Specified Currency is neither Sterling nor euro or the day falling two TARGET Business Days prior to the first day of such Interest Accrual Period if the Specified Currency is euro;

“**Interest Period**” means the period beginning on and including the Interest Commencement Date and ending on but excluding the first Interest Payment Date and each successive period beginning on and including an Interest Payment Date and ending on but excluding the next succeeding Interest Payment Date;

“**Interest Period Date**” means each Interest Payment Date unless otherwise specified hereon;

“**ISDA Definitions**” means the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., unless otherwise specified hereon;

“**Rate of Interest**” means the rate of interest payable from time to time in respect of this Note and that is either specified or calculated in accordance with the provisions hereon;

“**Reference Banks**” means, in the case of a determination of LIBOR, the principal London office of four major banks in the London inter-bank market and, in the case of a determination of EURIBOR, the principal Eurozone office of four major banks in the Eurozone inter-bank market, in each case selected by the Calculation Agent or as specified hereon;

“**Reference Rate**” means the rate specified as such hereon;

“**Relevant Screen Page**” means such page, section, caption, column or other part of a particular information service as may be specified hereon;

“**Specified Currency**” means the currency specified as such hereon or, if none is specified, the currency in which the Notes are denominated; and

“**TARGET System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (known as TARGET2) System which was launched on 19 November 2007 or any successor thereto.

- (j) **Calculation Agent:** The Issuer shall procure that there shall at all times be one or more Calculation Agents if provision is made for them hereon and for so long as any Note is outstanding. Where more than one Calculation Agent is appointed in respect of the Notes, references in these Conditions to the Calculation Agent shall be construed as each Calculation Agent performing its respective duties under the Conditions. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to establish the Rate of Interest for an Interest Accrual Period or to calculate any Interest Amount, Instalment Amount, Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, or to comply with any other requirement, the Issuer shall appoint a leading bank or financial institution engaged in the interbank market (or, if appropriate, money, swap or over-the-counter index options market) that is most closely connected with the calculation or determination to be made by the Calculation Agent (acting through its principal London office or any other office actively involved in such market) to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid.

## 6. Redemption, Purchase and Options

### (a) Redemption by Instalments and Final Redemption:

- (i) Unless previously redeemed, purchased and cancelled as provided in this Condition 6, each Note that provides for Instalment Dates and Instalment Amounts shall be partially redeemed on each Instalment Date at the related Instalment Amount specified hereon. The outstanding nominal amount of each such Note shall be reduced by the Instalment Amount (or, if such Instalment Amount is calculated by reference to a proportion of the nominal amount of such Note, such proportion) for all purposes with effect from the related Instalment Date, unless payment of the Instalment Amount is improperly withheld or refused, in which case, such amount shall remain outstanding until the Relevant Date relating to such Instalment Amount.
- (ii) Unless previously redeemed, purchased and cancelled as provided below, each Note shall be finally redeemed on the Maturity Date specified hereon at its Final Redemption Amount (which, unless otherwise provided, is its nominal amount) or, in the case of a Note falling within paragraph (i) above, its final Instalment Amount.

### (b) Early Redemption:

- (i) *Zero Coupon Notes:*
- (A) The Early Redemption Amount payable in respect of any Zero Coupon Note, the Early Redemption Amount of which is not linked to an index and/or a formula, upon redemption of such Note pursuant to Condition 6(c), or upon it becoming due and payable as provided in Condition 10, shall be the Amortised Face Amount (calculated as provided below) of such Note unless otherwise specified hereon.

- (B) Subject to the provisions of sub-paragraph (C) below, the Amortised Face Amount of any such Note shall be the scheduled Final Redemption Amount of such Note on the Maturity Date discounted at a rate per annum (expressed as a percentage) equal to the Amortisation Yield (which, if none is shown hereon, shall be such rate as would produce an Amortised Face Amount equal to the issue price of the Notes if they were discounted back to their issue price on the Issue Date) compounded annually.
- (C) If the Early Redemption Amount payable in respect of any such Note upon its redemption pursuant to Condition 6(c) or upon it becoming due and payable as provided in Condition 10 is not paid when due, the Early Redemption Amount due and payable in respect of such Note shall be the Amortised Face Amount of such Note as defined in sub-paragraph (B) above, except that such sub-paragraph shall have effect as though the date on which the Note becomes due and payable were the Relevant Date. The calculation of the Amortised Face Amount in accordance with this sub-paragraph shall continue to be made (both before and after judgment) until the Relevant Date, unless the Relevant Date falls on or after the Maturity Date, in which case the amount due and payable shall be the scheduled Final Redemption Amount of such Note on the Maturity Date together with any interest that may accrue in accordance with Condition 5(c).

Where such calculation is to be made for a period of less than one year, it shall be made on the basis of the Day Count Fraction shown hereon.

- (ii) *Other Notes:* The Early Redemption Amount payable in respect of any Note (other than Notes described in (i) above), upon redemption of such Note pursuant to Condition 6(c) or upon it becoming due and payable as provided in Condition 10, shall be the Final Redemption Amount unless otherwise specified hereon.
- (c) **Redemption for Taxation Reasons:** The Notes may be redeemed at the option of the Issuer in whole, but not in part, on any Interest Payment Date (if this Note is a Floating Rate Note) or, if so specified thereon, at any time (if this Note is not a Floating Rate Note) on giving not less than 30 nor more than 90 days' notice to the Noteholders (which notice shall be irrevocable), at their Early Redemption Amount (as described in Condition 6(b) above) (together with interest accrued to the date fixed for redemption), if:
- (i) the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8; or
  - (ii) the Guarantors would be unable for reasons outside their control to procure payment by the Issuer and in making payment themselves one or more Guarantors could be required to pay such additional amounts,

in each case, as a result of any change in, or amendment to, or an announced prospective change in or amendment to the laws, regulations or binding judicial decisions, rulings or determinations of a Tax Jurisdiction (as defined in Condition 8) or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws, regulations or judicial decisions, which change or amendment becomes effective on or after the date on which agreement is reached to issue the first Tranche of the Notes, PROVIDED THAT:

- (A) such obligation cannot be avoided by the Issuer or, as the case may be, the relevant guarantors taking reasonable measures available to them; and
- (B) no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer or, as the case may be, the relevant Guarantors would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any notice of redemption pursuant to this Condition 6(c), the Issuer shall deliver to the Fiscal Agent a certificate signed by two Directors of the Issuer or, as the case may be, two Directors of each relevant Guarantor stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or, as the



case may be, the relevant Guarantors have or will become obliged to pay such additional amounts as a result of such change or amendment or prospective change or amendment.

- (d) **Redemption at the Option of the Issuer:** If Call Option is specified hereon, the Issuer may, on giving not less than 30 nor more than 90 days' irrevocable notice to the Noteholders (or such other notice period as may be specified hereon) redeem, all or, if so provided, some, of the Notes on any Optional Redemption Date. Any such redemption of Notes shall be at their Optional Redemption Amount together with interest accrued to the date fixed for redemption. Any such redemption or exercise must relate to Notes of a nominal amount at least equal to the Minimum Redemption Amount to be redeemed specified hereon and no greater than the Maximum Redemption Amount to be redeemed specified hereon.

All Notes in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition.

In the case of a partial redemption the notice to Noteholders shall also contain the certificate numbers of the Bearer Notes, or in the case of Registered Notes shall specify the nominal amount of Registered Notes drawn and the holder(s) of such Registered Notes, to be redeemed, which shall have been drawn in such place and in such manner as may be fair and reasonable in the circumstances, taking account of prevailing market practices, subject to compliance with any applicable laws and stock exchange or other relevant authority requirements.

- (e) **Redemption at the Option of Noteholders:** If Put Option is specified hereon, the Issuer shall, at the option of the holder of any such Note, upon the holder of such Note giving not less than 30 nor more than 90 days' notice (or such other notice period as may be specified hereon) to the Issuer and Incitec Pivot Limited (if not also the Issuer) redeem such Note on the Optional Redemption Date(s) at its Optional Redemption Amount together with interest accrued to the date fixed for redemption.

To exercise such option the holder must deposit (in the case of Bearer Notes) such Note (together with all unmatured Receipts and Coupons and unexchanged Talons) with any Paying Agent or (in the case of Registered Notes) the Certificate representing such Note(s) with the Registrar or any Transfer Agent at its specified office, together with a duly completed option exercise notice ("**Exercise Notice**") in the form obtainable from any Paying Agent, the Registrar or any Transfer Agent (as applicable) within the notice period. No Note or Certificate so deposited and option exercised may be withdrawn (except as provided in the Agency Agreement) without the prior consent of the Issuer.

- (f) **Purchase at the option of holders of Variable Rate Notes:** If VRN Purchase Option is specified hereon, each holder of Variable Rate Notes shall have the option to have all or any of his Variable Rate Notes purchased by the Issuer at their Redemption Amount on any Interest Payment Date and the Issuer will purchase such Variable Rate Notes accordingly. To exercise such option, the holder must deposit (in the case of Bearer Notes) such Variable Rate Notes (together with all unmatured Receipts and Coupons and unexchanged Talons) to be purchased with any Paying Agent or (in the case of Registered Notes) the Certificate representing such Note(s) with the Registrar or any Transfer Agent at its specified office, together with a duly completed option purchase notice ("**Purchase Notice**") in the form obtainable from any Paying Agent, the Registrar or any Transfer Agent (as applicable) within the Noteholders' VRN Purchase Option Period specified hereon. Any Note or Certificate so deposited may not be withdrawn (except as provided in the Agency Agreement) without the prior consent of the Issuer.
- (g) **Clean-up Call:** If a Clean Up Condition subsists, the Issuer may redeem all (but not some) of the Notes before their Maturity Date at the Redemption Amount for the Notes and any interest accrued on them to (but excluding) the redemption date.

The Issuer may only redeem a Note under this Condition 6(g) if:

- (i) the proposed redemption date nominated by the Issuer is a scheduled Interest Payment Date; and

- (ii) the Issuer has given at least 30 days' (and not more than 90 days') prior notice of the redemption to the relevant Noteholders, each Agent and, if listed, the stock or securities exchange or other relevant authority on which the Notes are listed.

In this Condition 6(g), “**Clean Up Condition**” means, in respect of a Series, that, at any time, the aggregate outstanding principal amount of the Notes of that Series that have not been redeemed is less than 10 per cent. of the aggregate outstanding principal amount of all of the Notes issued under that Series.

- (h) **Partly Paid Notes:** Partly Paid Notes will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition and the provisions specified hereon.
- (i) **Purchases:** The Issuer, any Guarantor or any of their respective Subsidiaries (as defined in Condition 10) may at any time purchase Notes (provided that all unmatured Receipts and Coupons and unexchanged Talons relating thereto are attached thereto or surrendered therewith) in the open market or otherwise at any price. Any Notes so purchased may be surrendered for cancellation pursuant to Condition 6(i) below, held or resold by the Issuer, such Guarantor and such Subsidiaries or (in the case of Notes purchased by the Issuer only) reissued by the Issuer.
- (j) **Cancellation:** All Notes purchased by or on behalf of the Issuer, any Guarantor or any of their respective Subsidiaries may be surrendered for cancellation, in the case of Bearer Notes, by surrendering each such Note together with all unmatured Receipts and Coupons and all unexchanged Talons to the Fiscal Agent and, in the case of Registered Notes, by surrendering the Certificate representing such Notes to the Registrar and, in each case, if so surrendered, shall, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with all unmatured Receipts and Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer and the Guarantors in respect of any such Notes shall be discharged.

## 7. Payments and Talons

- (a) **Bearer Notes:** Payments of principal and interest in respect of Bearer Notes shall, subject as mentioned below, be made against presentation and surrender of the relevant Receipts (in the case of payments of Instalment Amounts other than on the due date for redemption and provided that the Receipt is presented for payment together with its relative Note), Notes (in the case of all other payments of principal and, in the case of interest, as specified in Condition 7(f)(vi)) or Coupons (in the case of interest, save as specified in Condition 7(f)(vi)), as the case may be, at the specified office of any Paying Agent outside the United States by a cheque payable in the relevant currency drawn on, or, at the option of the holder, by transfer to an account denominated in such currency with, a Bank.

In this Condition 7(a) and Condition 7(b), “**Bank**” means a bank in the principal financial centre for such currency or, in the case of euro, in a city in which banks have access to the TARGET System.

- (b) **Registered Notes:**
  - (i) Payments of principal (which for the purposes of this Condition 7(b) shall include final Instalment Amounts but not other Instalment Amounts) in respect of Registered Notes shall be made against presentation and surrender of the relevant Certificates at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in paragraph (ii) below.
  - (ii) Interest (which for the purpose of this Condition 7(b) shall include all Instalment Amounts other than final Instalment Amounts) on Registered Notes shall be paid to the person shown on the Register at the close of business on the fifteenth day before the due date for payment thereof (the “**Record Date**”). Payments of interest on each Registered Note shall be made in the relevant currency by cheque drawn on a Bank and mailed to the holder (or to the first-named of joint holders) of such Note at its address appearing in the Register. Upon application by the holder to the specified office of the Registrar or any Transfer Agent before the Record Date, such payment of interest may be made by transfer to an account in the relevant currency maintained by the payee with a Bank.

- (c) **Payments in the United States:** Notwithstanding the foregoing, if any Bearer Notes are denominated in U.S. dollars, payments in respect thereof may be made at the specified office of any Paying Agent in New York City in the same manner as aforesaid if (i) the Issuer and the Guarantors shall have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment of the amounts on the Notes in the manner provided above when due, (ii) payment in full of such amounts at all such offices is illegal or effectively precluded by exchange controls or other similar restrictions on payment or receipt of such amounts and (iii) such payment is then permitted by United States law, without involving, in the opinion of the Issuer and the Guarantors, any adverse tax consequence to the Issuer and the Guarantors.
- (d) **Payments Subject to Fiscal Laws:** All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives in the place of payment, but without prejudice to the provisions of Condition 8. No commission or expenses shall be charged to the Noteholders or Couponholders in respect of such payments.
- (e) **Appointment of Agents:** The Fiscal Agent, the Paying Agents, the Registrar, the Transfer Agents and the Calculation Agent initially appointed by the Issuer and the Guarantors and their respective specified offices are listed below. The Fiscal Agent, the Paying Agents, the Registrar, Transfer Agents and the Calculation Agent(s) act solely as agents of the Issuer and the Guarantors and do not assume any obligation or relationship of agency or trust for or with any Noteholder or Couponholder. The Issuer and the Guarantors reserve the right at any time to vary or terminate the appointment of the Fiscal Agent, any other Paying Agent, the Registrar, any Transfer Agent or the Calculation Agent(s) and to appoint additional or other Paying Agents or Transfer Agents, provided that the Issuer and the Guarantors shall at all times maintain (i) a Fiscal Agent, (ii) a Registrar in relation to Registered Notes, (iii) a Transfer Agent in relation to Registered Notes, (iv) one or more Calculation Agent(s) where the Conditions so require, (v) Paying Agents having specified offices in at least two major European cities and (vi) such other agents as may be required by any other stock exchange on which the Notes may be listed.

In addition, the Issuer and the Guarantors shall forthwith appoint a Paying Agent in New York City in respect of any Bearer Notes denominated in U.S. dollars in the circumstances described in paragraph (c) above.

Notice of any such change or any change of any specified office shall promptly be given to the Noteholders.

- (f) **Unmatured Coupons and Receipts and unexchanged Talons:**
- (i) Upon the due date for redemption of Bearer Notes which comprise Fixed Rate Notes, those Notes should be surrendered for payment together with all unexpired Coupons (if any) relating thereto, failing which an amount equal to the face value of each missing unexpired Coupon (or, in the case of payment not being made in full, that proportion of the amount of such missing unexpired Coupon that the sum of principal so paid bears to the total principal due) shall be deducted from the Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, due for payment. Any amount so deducted shall be paid in the manner mentioned above against surrender of such missing Coupon within a period of 10 years from the Relevant Date for the payment of such principal (whether or not such Coupon has become void pursuant to Condition 9).
- (ii) Upon the due date for redemption of any Bearer Note comprising a Floating Rate Note, unexpired Coupons relating to such Note (whether or not attached) shall become void and no payment shall be made in respect of them.
- (iii) Upon the due date for redemption of any Bearer Note, any unexchanged Talon relating to such Note (whether or not attached) shall become void and no Coupon shall be delivered in respect of such Talon.
- (iv) Upon the due date for redemption of any Bearer Note that is redeemable in instalments, all Receipts relating to such Note having an Instalment Date falling on or after such due date (whether or not attached) shall become void and no payment shall be made in respect of them.

- (v) Where any Bearer Note that provides that the relative unmatured Coupons are to become void upon the due date for redemption of those Notes is presented for redemption without all unmatured Coupons, and where any Bearer Note is presented for redemption without any unexchanged Talon relating to it, redemption shall be made only against the provision of such indemnity as the Issuer may require.
- (vi) If the due date for redemption of any Note is not a due date for payment of interest, interest accrued from the preceding due date for payment of interest or the Interest Commencement Date, as the case may be, shall only be payable against presentation (and surrender if appropriate) of the relevant Bearer Note or Certificate representing it, as the case may be. Interest accrued on a Note that only bears interest after its Maturity Date shall be payable on redemption of such Note against presentation of the relevant Note or Certificate representing it, as the case may be.
- (g) **Talons:** On or after the Interest Payment Date for the final Coupon forming part of a Coupon sheet issued in respect of any Bearer Note, the Talon forming part of such Coupon sheet may be surrendered at the specified office of the Fiscal Agent in exchange for a further Coupon sheet (and if necessary another Talon for a further Coupon sheet) (but excluding any Coupons that may have become void pursuant to Condition 9).
- (h) **Non-Business Days:** If any date for payment in respect of any Note, Receipt or Coupon is not a business day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment. In this paragraph, “**business day**” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in the relevant place of presentation, in such jurisdictions as shall be specified as “**Financial Centres**” hereon and:
  - (i) (in the case of a payment in a currency other than euro) where payment is to be made by transfer to an account maintained with a bank in the relevant currency, on which foreign exchange transactions may be carried on in the relevant currency in the principal financial centre of the country of such currency; or
  - (ii) (in the case of a payment in euro) which is a TARGET Business Day.

## 8. Taxation

All payments of principal and interest by or on behalf of the Issuer and the Guarantors in respect of the Notes, the Receipts and the Coupons shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed, unless such withholding or deduction is required by law. In that event, if the amount withheld or deducted is imposed by a Tax Jurisdiction and provided that the relevant Noteholder, holder of Receipts or Couponholder has delivered to the Issuer any withholding or other certificate that is necessary to enable the Issuer to determine whether withholding or deduction is or may be required, the Issuer or, as the case may be, the Guarantors shall pay such additional amounts as shall result in receipt by the Noteholders, the holders of Receipts and the Couponholders of such amounts as would have been received by them had no such withholding or deduction been required, except that no such additional amounts shall be payable with respect to any Note, Receipt or Coupon:

- (a) **Other connection:** to, or to a third party on behalf of, a holder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note, Receipt or Coupon by reason of his having some connection with any Tax Jurisdiction other than the mere holding of the Note, Receipt or Coupon;
- (b) **Presentation more than 30 days after the Relevant Date:** presented (or in respect of which the Certificate representing it is presented) for payment more than 30 days after the Relevant Date except to the extent that the holder of it would have been entitled to such additional amounts on presenting it for payment on the thirtieth such day;
- (c) **Payment by another Paying Agent:** (except in the case of Registered Notes) presented for payment by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note, Receipt or Coupon to another Paying Agent in a Member State of the European Union; or

- (d) **Notes issued by Australian Issuers:** in the case of Notes issued by Incitec Pivot Limited or Dyno Nobel Europe Pty Ltd:
- (i) to, or to a third party on behalf of, a holder who is an Offshore Associate of the Issuer and not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act 2001 of Australia;
  - (ii) to, or to a third party on behalf of, a holder if such taxes, duties, assessments or governmental charges have been imposed or levied as a result of that holder being party to or participating in a scheme to avoid taxes, being a scheme which the Issuer was neither a party to nor participated in;
  - (iii) to, or to a third party on behalf of, a holder on account of amounts which the Australian Commissioner of Taxation requires the Issuer to withhold under section 255 of the Income Tax Assessment Act 1936 of Australia or section 260-5 of Schedule 1 of the Taxation Administration Act 1953 of Australia; or
  - (iv) to, or to a third party on behalf of an Australian resident holder or a non-resident holder carrying on business in Australia at or through a permanent establishment of the non-resident in Australia, if the holder has not supplied an appropriate tax file number, an Australian business number or other exemption details.

For the avoidance of doubt, no additional amounts will be required to be paid on account of any deduction or withholding pursuant to any requirement of FATCA.

As used in these Conditions:

“**FATCA**” means (i) sections 1471 to 1474 of the Internal Revenue Code of 1986, as amended and superseded, and any associated legislation, regulations or guidance, commonly referred to as the U.S. Foreign Account Tax Compliance Act, the Common Reporting Standard issued by the Organisation for Economic Cooperation and Development, or similar legislation, regulations or guidance enacted in any other jurisdiction which seeks to implement equivalent tax reporting and/or withholding tax regimes or (ii) any intergovernmental agreement, treaty or any other arrangement between the United States or the U.K. and any other jurisdiction (including between any government bodies in each relevant jurisdiction), entered into to facilitate, implement, comply with or supplement such legislation, regulations or guidance;

“**Offshore Associate**” means an associate (as defined in section 128F(9) of the Income Tax Assessment Act 1936 of Australia) of the Issuer that is either:

- (a) a non-resident of Australia which does not acquire the Notes in carrying on a business at or through a permanent establishment in Australia; or
- (b) a resident of Australia that acquires the Notes in carrying on a business at or through a permanent establishment outside Australia;

“**Relevant Date**” in respect of any Note, Receipt or Coupon means the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Noteholders that, upon further presentation of the Note (or relative Certificate), Receipt or Coupon being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation. References in these Conditions to (i) “principal” shall be deemed to include any premium payable in respect of the Notes, all Instalment Amounts, Final Redemption Amounts, Early Redemption Amounts, Optional Redemption Amounts, Amortised Face Amounts and all other amounts in the nature of principal payable pursuant to Condition 6 or any amendment or supplement to it, (ii) “interest” shall be deemed to include all Interest Amounts and all other amounts payable pursuant to Condition 5 or any amendment or supplement to it and (iii) “principal” and/or “interest” shall be deemed to include any additional amounts that may be payable under this Condition; and

“**Tax Jurisdiction**” means (in the case of Incitec Pivot Limited and Dyno Nobel Europe Pty Ltd) Australia, (in the case of Incitec Pivot Finance LLC) the United States and in the case of any other Guarantor, the place of incorporation of such Guarantor or, in each case, any political subdivision

or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to which the Issuer or the Guarantors, as the case may be, becomes subject in respect of payments made by it of principal and interest on the Notes, Receipts and Coupons.

## 9. Prescription

Claims against the Issuer and the Guarantors for payment in respect of the Notes, Receipts and Coupons (which for this purpose shall not include Talons) shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of them.

## 10. Events of Default

If any of the following events (“**Events of Default**”) occurs, the holder of any Note may give written notice to the Issuer, Incitec Pivot Limited (if not also the Issuer) and the Fiscal Agent at its specified office that such Note is immediately repayable, whereupon the Early Redemption Amount of such Note together (if applicable) with accrued interest to the date of payment shall become immediately due and payable:

- (a) **Non-Payment:** default is made in the payment on the due date of interest or principal in respect of any of the Notes unless, if such default is caused by administrative or technical error, such payment is made within two Business Days of its due date; or
- (b) **Breach of Other Obligations:** the Issuer or any Guarantor does not perform or comply with any one or more of its other obligations in the Notes or (in the case of a Guarantor) the 2017 Guarantee which default is incapable of remedy or where the default is capable of remedy is not remedied within 15 Business Days after the Issuer or the relevant Guarantor (as the case may be) first becomes aware of the failure; or
- (c) **Invalid Notes or 2017 Guarantee:** the Notes or the 2017 Guarantee is not (or is claimed by any Guarantor not to be) in full force and effect, or any action, condition or thing required to be taken, fulfilled or done in order to maintain the legality, enforceability and validity of the Notes or the 2017 Guarantee is not taken, fulfilled or done;
- (d) **Cross-Default:** Financial Indebtedness (as defined below) of the Issuer or any other member(s) of the Programme Group in an aggregate amount in excess of A\$25,000,000 (or its equivalent in other currencies):
  - (i) is not paid when due (or within an originally applicable grace period); or
  - (ii) becomes due and payable before its stated maturity or expiry.

It is not an Event of Default under this sub-paragraph d(ii) if the Issuer and/or relevant member(s) of the Programme Group exercise optional rights of prepayment or termination or where the financial indebtedness becomes due and payable in the absence of default as a result of a prepayment event.

- (e) **Enforcement Proceedings:** a distress, attachment, execution or other legal process is levied, enforced or sued out on or against all or the major part of the property of the Issuer or any other member of the Programme Group and is not discharged or stayed within 30 days; or
- (f) **Security Enforced:** any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or any other member of the Programme Group becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, administrator manager or other similar person) against all or the major part of the property of the Issuer or such other member of the Programme Group; or
- (g) **Insolvency:** the Issuer or any other member of the Programme Group is (or is, or could be, deemed by law or a court to be) insolvent or bankrupt or unable to pay its debts, stops, suspends or threatens to stop or suspend payment of all or a material part of (or of a particular type of) its debts, proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of any of such debts or a moratorium is agreed or declared or comes into effect in respect of or affecting all or any part of (or of a particular type of) the debts of the Issuer or any other member of the Programme Group; or

- (h) **Winding-up:** an administrator is appointed, an order is made or an effective resolution passed for the winding-up or dissolution or administration of the Issuer or any other member of the Programme Group, or the Issuer or any other member of the Programme Group shall apply or petition for a winding-up or administration order in respect of itself or ceases or threatens to cease to carry on all or substantially all of its business or operations save for the purposes of reconstruction, reorganisation or amalgamation whilst solvent; or
- (i) **Illegality:** it is or will become unlawful for the Issuer or any Guarantor to perform or comply with any one or more of its obligations under any of the Notes or the 2017 Guarantee; or
- (j) **Analogous Events:** any event occurs that under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in paragraphs (f) to (h) above.

In these Conditions:

“**Calculation Date**” means each 31 March and 30 September;

“**Calculation Period**” means each 12-month period ending on a Calculation Date;

“**EBITDA**” means the profit or loss (after individually material items) of the Group on a consolidated basis (or of a member of the Group on a consolidated or unconsolidated basis, as the context requires) for a Calculation Period, but after adjustment to exclude:

- (a) any deduction or contribution in respect of corporate tax or other taxes on income or gains during that Calculation Period;
- (b) any deduction or contribution in respect of interest expense or interest during that Calculation Period;
- (c) any deduction or contribution in respect of individually material or significant items during that Calculation Period;
- (d) amortisation of any goodwill, any intangible assets and any acquisition costs during that Calculation Period;
- (e) any depreciation on fixed assets of the Group (or a member of the Group, as applicable) during that Calculation Period; and
- (f) to the extent included, the contribution to EBITDA of Non-Recourse Subsidiaries, but taking into account, for the avoidance of doubt, as an expense in calculating EBITDA, any directors’ fees paid during that Calculation Period.

The calculation of EBITDA for a Calculation Period in which:

- (a) a new acquisition takes place, shall include EBITDA of such new acquisition (where applicable) for the portion of such Calculation Period prior to the date of the consummation of such new acquisition; and
- (b) a disposal takes place, shall exclude the EBITDA attributable to such disposal (where applicable) for the portion of such Calculation Period prior to the date of consummation of such disposal;

“**Financial Indebtedness**” means any present or future indebtedness of the Issuer or any other member of the Programme Group (as applicable) for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised under any acceptance credit, or bill acceptance, discount or endorsement facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract (other than any operating lease, irrespective of its treatment under generally accepted accounting principles, standards and practices in Australia (“**GAAP**”)) which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

- (f) any redeemable shares where the holder has the right, or the right in certain conditions, to require redemption;
- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (h) consideration for the acquisition of assets or services payable more than 270 days after acquisition;
- (i) any hedge, swap or derivative transaction (and, when calculating the indebtedness for or in respect of any derivative transaction, only the marked to market value shall be taken into account), other than unrealised gains or losses on net investment hedges;
- (j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (k) the amount of any liability under or in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above,

but, in all cases, excluding any such amount in respect of which the creditor is another member of the Group;

“**Financial Statements**” means a financial report consisting of:

- (a) financial statements;
- (b) any notes to those financial statements; and
- (c) any directors’ declaration about the financial statements and notes,

together with any accompanying (including any directors’ and auditor’s reports) and other documents or information;

“**Group**” means the IPL and its Subsidiaries;

“**IPL**” means Incitec Pivot Limited (ACN 42 004 080 264);

“**Material Subsidiary**” means, at any time, a wholly-owned Subsidiary of IPL that, on a consolidated basis together with its own subsidiaries:

- (a) contributes 10 per cent. or more of the EBITDA of the Group; or
- (b) represents 10 per cent. or more of the Total Assets of the Group,

in each case, as determined on the basis of the most recent Financial Statements for the Group;

“**Non-Recourse Subsidiary**” means any SPV having Non-Recourse Financing;

“**Programme Group**” means the Issuer, the Guarantors and the Material Subsidiaries taken as a whole;

“**SPV**” has the meaning given to it in the definition of “Non-Recourse Financing” Condition 4;

“**Subsidiary**” means any entity whose financial statements at any time are required by law or in accordance with generally accepted accounting principles to be fully consolidated with those of the Issuer or, as the case may be, the relevant Guarantor; and

“**Total Assets**” means, at any time, the consolidated total assets of the Group, as shown in the latest Financial Statements for the Group.

## 11. Meeting of Noteholders and Modifications

- (a) **Meetings of Noteholders:** The Agency Agreement contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions. Such a meeting may be convened by Noteholders holding not less than 10 per cent. in nominal amount of the Notes for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution shall be one or more persons holding or representing a clear majority in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons holding or representing at least 10 per cent. in nominal amount



of the Notes for the time being outstanding, unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to amend the dates of maturity or redemption of the Notes, any Instalment Date or any date for payment of interest or Interest Amounts on the Notes, (ii) to reduce or cancel the nominal amount of, or any Instalment Amount of, or any premium payable on redemption of, the Notes, (iii) to reduce the rate or rates of interest in respect of the Notes or to vary the method or basis of calculating the rate or rates or amount of interest or the basis for calculating any Interest Amount in respect of the Notes, (iv) if a Minimum and/or a Maximum Rate of Interest, Instalment Amount or Redemption Amount is shown hereon, to reduce any such Minimum and/or Maximum, (v) to vary any method of, or basis for, calculating the Final Redemption Amount, the Early Redemption Amount or the Optional Redemption Amount, including the method of calculating the Amortised Face Amount, (vi) to exchange or substitute the Notes, or the conversion of the Notes into, shares, bonds or other obligations or securities of the Issuer or other person which is not expressly permitted under the Conditions, (vii) to vary the currency or currencies of payment or denomination of the Notes, (viii) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution, in which case the necessary quorum shall be one or more persons holding or representing not less than two-thirds in nominal amount of the Notes for the time being outstanding or at any adjourned meeting not less than one-third in nominal amount of the Notes for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed) and on all Couponholders.

The Agency Agreement provides that a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. in nominal amount of the Notes outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders.

*These Conditions may be amended, modified or varied in relation to any Series of Notes by the terms of the relevant Pricing Supplement in relation to such Series.*

- (b) **Modification of Agency Agreement:** The Issuer, the Guarantors and the Fiscal Agent shall only permit any waiver or authorisation of any breach or proposed breach of or any failure to comply with the Agency Agreement, without the consent of the Noteholders, if to do so could not reasonably be expected to be prejudicial to the interests of the Noteholders. The Issuer, the Guarantors and the Fiscal Agent shall only permit any modification of the Agency Agreement without the consent of the Noteholders, if (i) to do so could not reasonably be expected to be prejudicial to the interests of the Noteholders; or (ii) such modification is either of a formal, minor or technical nature or made to cure any ambiguity or correct a manifest or proven error or to comply with mandatory provisions of the law. Any such modification shall be binding on the Noteholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

## **12. Replacement of Notes, Certificates, Receipts, Coupons and Talons**

If a Note, Certificate, Receipt, Coupon or Talon is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Fiscal Agent (in the case of Bearer Notes, Receipts, Coupons or Talons) and of the Registrar (in the case of Certificates) or such other Paying Agent or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer and the Guarantors for the purpose and notice of whose designation is given to Noteholders, in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Note, Certificate, Receipt, Coupon or Talon is subsequently presented for payment or, as the case may be, for exchange for further Coupons, there shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such Notes, Certificates, Receipts, Coupons or further Coupons) and otherwise as the Issuer, the Guarantors, the Fiscal Agent and the Registrar may require. Mutilated or defaced Notes, Certificates, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

### **13. Further Issues**

The Issuer may from time to time without the consent of the Noteholders or Couponholders create and issue further notes having the same terms and conditions as the Notes (so that, for the avoidance of doubt, references in these Conditions to “Issue Date” shall be to the first issue date of the Notes) and so that the same shall be consolidated and form a single series with such Notes, and references in these Conditions to “Notes” shall be construed accordingly.

### **14. Notices**

Notices to the holders of Registered Notes shall be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing. Notices to the holders of Bearer Notes shall be valid if published in a daily newspaper of general circulation (which is expected to be the Wall Street Journal Asia). If any such publication is not practicable, notice shall be validly given if published in another leading daily English language newspaper with general circulation in Asia. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the date of the first publication as provided above.

Couponholders shall be deemed for all purposes to have notice of the contents of any notice given to the holders of Bearer Notes in accordance with this Condition.

### **15. Currency Indemnity**

Any amount received or recovered in a currency other than the currency in which payment under the relevant Note, Coupon or Receipt is due (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the insolvency, winding-up or dissolution of the Issuer or any Guarantor or otherwise) by any Noteholder or Couponholder in respect of any sum expressed to be due to it from the Issuer (or, as the case may be, the Guarantors) shall only constitute a discharge to the Issuer (or, as the case may be, the Guarantors) to the extent of the amount in the currency of payment under the relevant Note, Coupon or Receipt that the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If the amount received or recovered is less than the amount expressed to be due to the recipient under any Note, Coupon or Receipt, the Issuer (failing which, the Guarantors) shall indemnify it against any loss sustained by it as a result. In any event, the Issuer (failing which, the Guarantors) shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Condition, it shall be sufficient for the Noteholder or Couponholder, as the case may be, to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from the Issuer’s (or, as the case may be, the Guarantors’) other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Noteholder or Couponholder and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Note, Coupon or Receipt or any other judgment or order.

### **16. Substitution**

Any corporation into which the Issuer may be merged or converted, or any corporation with which the Issuer may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Issuer shall be a party, or any corporation to which the Issuer shall sell or otherwise transfer all or substantially all of its assets shall, on the date when the merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws, without the consent of the Noteholders, replace and substitute the Issuer as principal debtor in respect of the Notes and any Guarantor may, at any time and without the consent of the Noteholders, replace and be substituted for the existing Issuer or any previously substituted entity as principal debtor in respect of the Notes, the Coupons and the Talons, (each such substituted entity, a “**Substituted Issuer**”), in each case provided that:

#### **(a) Conditions Precedent to Substitution**

- (i) a deed of covenant in or substantially in the form of the Deed of Covenant and such other documents (if any) as may be necessary to give full effect to the substitution (including, but not limited to, a document or documents pursuant to which the

Substituted Issuer agrees to be bound by the terms of the Agency Agreement and the dealer agreement relating to the Issuer's U.S.\$1,500,000,000 Euro Medium Term Note Programme) (together the "**Documents**") shall be executed by the Substituted Issuer and (without limiting the generality of the foregoing) pursuant to which the Substituted Issuer shall undertake in favour of each Noteholder to be bound by these Conditions and the provisions of the Documents as fully as if the Substituted Issuer had been named in the Notes and the Documents as the principal debtor in respect of the Notes in place of the Issuer (or any previous substitute);

- (ii) to the extent the Issuer or any previous substitute is, following its replacement and substitution pursuant to this Condition 16, required to be a Guarantor pursuant to the terms of the 2017 Guarantee, it shall, promptly following such substitution, accede to the 2017 Guarantee in accordance with the terms thereof. For the avoidance of doubt, the terms of the 2017 Guarantee which provide for the release of Guarantors in certain circumstances shall apply notwithstanding this Condition 16;
- (iii) without prejudice to the generality of subparagraph (i) above, where the Substituted Issuer is incorporated, domiciled or resident for taxation purposes in a territory other than Australia or the United States, the Documents shall contain a covenant by the Substituted Issuer and/or such other provisions as may be necessary to ensure that each Noteholder has the benefit of a covenant in terms corresponding to the provisions of Condition 8 (*Taxation*) with the substitution for the references to Australia and the United States of references to the territory or territories in which the Substituted Issuer is incorporated, domiciled and/or resident for taxation purposes;
- (iv) (A) the Substituted Issuer will obtain all necessary governmental and regulatory approvals and consents for such substitution and for the performance by the Substituted Issuer of its obligations under the Documents and that all such approvals and consents will be in full force and effect on the date when the merger, conversion, consolidation, transfer or substitution becomes effective; and (B) the obligations assumed by the Substituted Issuer under the Documents shall constitute legal, valid and binding obligations of the Substituted Issuer in accordance with their respective terms;
- (v) with respect to Notes listed on a stock exchange, if any, such stock exchange having been notified of any such merger, conversion, consolidation, transfer or substitution (in accordance with the applicable notification procedures) and any requirements of such stock exchange in respect of such consolidation, merger or substitution having been complied with;
- (vi) the Substituted Issuer shall have delivered to the Fiscal Agent a certified copy of the certificate of incorporation and the Memorandum and Articles of Association of the Substituted Issuer, such documents to be available for inspection by Noteholders at the specified office of the Fiscal Agent;
- (vii) the Substituted Issuer shall have delivered to the Fiscal Agent a certified copy of all resolutions and other authorisations required to be passed or given, and any evidence of any other action required to be taken, on behalf of the Substituted Issuer: (A) to approve its entry into the Documents; and (B) to authorise appropriate persons to execute the Documents and to take any other action in connection therewith, such documents to be available for inspection by Noteholders at the specified office of the Fiscal Agent;
- (viii) the Issuer shall have delivered to the Fiscal Agent or procured the delivery to the Fiscal Agent of a legal opinion, addressed to the Joint Arrangers on behalf of the Dealers, from a leading firm of the country of the Substituted Issuer's country of incorporation to the effect that the Substituted Issuer is valid and existing in its country of incorporation, has all corporate power and taken all necessary action and obtained all consents and authorisations necessary to ensure that the Documents and its obligations under the Notes are its valid and binding obligations enforceable against it, subject to such obligations being so under English law, such legal opinion to be dated not more than seven days prior to the date of substitution of the Substituted Issuer for the Issuer and to be available for inspection by Noteholders at the specified office of the Fiscal Agent;

- (ix) the Issuer shall have delivered to the Fiscal Agent or procured the delivery to the Fiscal Agent of a legal opinion, addressed to the Joint Arrangers on behalf of the Dealers, from a leading firm of English lawyers to the effect that the Documents constitute legal, valid and binding obligations of the parties thereto under English law, such opinion to be dated not more than seven days prior to the date of substitution of the Substituted Issuer for the Issuer and to be available for inspection by Noteholders at the specified office of the Fiscal Agent;
- (x) the Substituted Issuer shall have appointed the process agent appointed by the Issuer in Condition 17(c) (*Service of Process*) or another person with an office in England as its agent in England to receive service of process on its behalf in relation to any legal action or proceedings arising out of or in connection with the Notes;
- (xi) no Event of Default shall have occurred and be continuing on the date when the substitution takes effect; and
- (xii) the Substituted Issuer shall have satisfied such other conditions precedent as shall be reasonably required by the Joint Arrangers on behalf of the Dealers to effect such replacement and substitution.

**(b) Assumption by Substituted Issuer**

Upon execution of the Documents as referred to in Condition 16(a)(i) above, the Substituted Issuer shall be deemed to be named in the Notes as the principal debtor in place of the Issuer (or of any previous substitute under these provisions) and the Notes shall thereupon be deemed to be amended to give effect to the substitution. The execution of the Documents shall operate to release the Issuer as issuer (or such previous substitute as aforesaid) from all of its obligations as principal debtor in respect of the Notes.

**(c) Deposit of Documents**

The Documents shall be deposited with and held by the Fiscal Agent for so long as any Note remains outstanding and for so long as any claim made against the Substituted Issuer or the Issuer by any Noteholder in relation to the Notes or the Documents shall not have been finally adjudicated, settled or discharged.

**(d) Notice of substitution**

Not less than 15 days after execution of the Documents, the Substituted Issuer shall give notice thereof to the Noteholders in accordance with Condition 14 (Notices).

**17. Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999 except and to the extent (if any) that the Notes expressly provide for such Act to apply to any of their terms

**18. Governing Law and Jurisdiction**

- (a) **Governing Law:** The Notes, the Receipts, the Coupons and the Talons and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law. The 2017 Guarantee is governed by, and shall be construed in accordance with, English law.
- (b) **Jurisdiction:** The Courts of England are to have exclusive jurisdiction to settle any disputes that may arise out of or in connection with any Notes, Receipts, Coupons or Talons (including any dispute relating to any non-contractual obligations arising out of or in connection with any Notes, Receipts, Coupons or Talons) and accordingly any legal action or proceedings arising out of or in connection with any Notes, Receipts, Coupons or Talons (including any dispute relating to any non-contractual obligations arising out of or in connection with any Notes, Receipts, Coupons or Talons) (“**Proceedings**”) may be brought in such courts. The Issuer and each Guarantor irrevocably submits to the exclusive jurisdiction of the courts of England and waives any objection to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the holders of the Notes, Receipts, Coupons and Talons and shall not affect the right of any of them to take Proceedings in any other court of competent jurisdiction

nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

- (c) **Service of Process:** The Issuer and each Guarantor irrevocably appoints Law Debenture Corporate Services Limited of Fifth Floor, 100 Wood Street, London EC2V 7EX, England as its agent in England to receive, for it and on its behalf, service of process in any Proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not, it is forwarded to and received by the Issuer or, as the case may be, the relevant Guarantor). If for any reason such process agent ceases to be able to act as such or no longer has an address in London, the Issuer and each Guarantor irrevocably agrees to appoint a substitute process agent and shall immediately notify Noteholders of such appointment in accordance with Condition 14. Nothing shall affect the right to serve process in any manner permitted by law.

## SUMMARY OF PROVISIONS RELATING TO THE NOTES WHILE IN GLOBAL FORM

### 1. Initial Issue of Notes

Global Notes and Global Certificates may be delivered on or prior to the original issue date of the Tranche to a common depository for Euroclear and Clearstream, Luxembourg (the “**Common Depository**”).

Upon the initial deposit of a Global Note with a Common Depository or registration of Registered Notes in the name of any nominee for Euroclear and Clearstream, Luxembourg (as the case may be) and delivery of the relative Global Certificate to the Common Depository, Euroclear or Clearstream, Luxembourg (as the case may be) will credit each subscriber with a nominal amount of Notes equal to the nominal amount thereof for which it has subscribed and paid.

Notes that are initially deposited with the Common Depository may also be credited to the accounts of subscribers with (if indicated in the relevant Pricing Supplement) other clearing systems (“**Alternative Clearing System**”) through direct or indirect accounts with Euroclear and Clearstream, Luxembourg held by such Alternative Clearing System. Conversely, Notes that are initially deposited with any Alternative Clearing System may similarly be credited to the accounts of subscribers with Euroclear, Clearstream, Luxembourg or other clearing systems.

### 2. Relationship of Accountholders with Clearing Systems

Each of the persons shown in the records of Euroclear, Clearstream, Luxembourg or any Alternative Clearing System as the holder of a Note represented by a Global Note or a Global Certificate must look solely to Euroclear, Clearstream, Luxembourg or any such Alternative Clearing System (as the case may be) for his share of each payment made by the relevant Issuer (or, as the case may be, the Guarantors) to the bearer of such Global Note or the holder of the underlying Registered Notes, as the case may be, and in relation to all other rights arising under the Global Notes or Global Certificates, subject to and in accordance with the respective rules and procedures of Euroclear, Clearstream, Luxembourg or such Alternative Clearing System (as the case may be). Such persons shall have no claim directly against the relevant Issuer (or, as the case may be, the Guarantors) in respect of payments due on the Notes for so long as the Notes are represented by such Global Note or Global Certificate and such obligations of the relevant Issuer (or, as the case may be, the Guarantors) will be discharged by payment to the bearer of such Global Note or the holder of the underlying Registered Notes, as the case may be, in respect of each amount so paid.

### 3. Exchange

#### 3.1 Temporary Global Notes

Each temporary Global Note will be exchangeable, free of charge to the holder, on or after its Exchange Date:

- (i) if the relevant Pricing Supplement indicates that such Global Note is issued in compliance with the C Rules or in a transaction to which TEFRA is not applicable (as to which, see “Overview of the Programme — Selling Restrictions”), in whole, but not in part, for the Definitive Notes defined and described below; and
- (ii) otherwise, in whole or in part upon certification as to non-U.S. beneficial ownership in the form set out in the Agency Agreement for interests in a permanent Global Note or, if so provided in the relevant Pricing Supplement, for Definitive Notes.

The holder of a temporary Global Note will not be entitled to collect any payment of interest, principal or other amount due on or after the Exchange Date unless, upon due certification as to non-U.S. beneficial ownership in the form set out in the Agency Agreement, exchange of the temporary Global Note for an interest in a permanent Global Note or for Definitive Notes is improperly withheld or refused.

#### 3.2 Permanent Global Notes

Each permanent Global Note will be exchangeable, free of charge to the holder, on or after its Exchange Date in whole but not, except as provided under paragraph 3.4 below, in part for Definitive Notes: (i) if the permanent Global Note is held on behalf of Euroclear or Clearstream, Luxembourg or an Alternative Clearing System and any such clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to

cease business or in fact does so; or (ii) if principal in respect of any Notes is not paid when due, by the holder giving notice to the Fiscal Agent of its election for such exchange or; (iii) if the relevant Issuer or a Guarantor, as the case may be, has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the permanent Global Note in definitive form.

In the event that a Global Note is exchanged for Definitive Notes, such Definitive Notes shall be issued in Specified Denomination(s) only. A Noteholder who holds a principal amount of less than the minimum Specified Denomination will not receive a Definitive Note in respect of such holding and would need to purchase a principal amount of Notes such that it holds an amount equal to one or more Specified Denominations.

### **3.3 Global Certificates**

If the Pricing Supplement states that the Notes are to be represented by a Global Certificate on issue, the following will apply in respect of transfers of Notes held in Euroclear or Clearstream, Luxembourg or an Alternative Clearing System. These provisions will not prevent the trading of interests in the Notes within a clearing system whilst they are held on behalf of such clearing system, but will limit the circumstances in which the Notes may be withdrawn from the relevant clearing system.

Transfers of the holding of Notes represented by any Global Certificate pursuant to Condition 2(b) may only be made:

- (i) if the relevant clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so; or
- (ii) if principal in respect of any Notes is not paid when due; or
- (iii) if the relevant Issuer or a Guarantor, as the case may be, has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Global Certificate in definitive form,

provided that, in the case of the first transfer of part of a holding pursuant to paragraph 3.3(i) or 3.3(ii) above, the Noteholder has given the Registrar not less than 30 days' notice at its specified office of the Noteholder's intention to effect such transfer.

### **3.4 Partial Exchange of Permanent Global Notes**

For so long as a permanent Global Note is held on behalf of a clearing system and the rules of that clearing system permit, such permanent Global Note will be exchangeable in part on one or more occasions for Definitive Notes (i) if principal in respect of any Notes is not paid when due or (ii) with the consent, or request, of the relevant Issuer or (iii) if so provided in, and in accordance with, the Conditions (which will be set out in the relevant Pricing Supplement) relating to Partly Paid Notes.

### **3.5 Delivery of Notes**

On or after any Exchange Date (as defined in paragraph 3.6 below) the holder of a Global Note may surrender such Global Note or, in the case of a partial exchange, present it for endorsement to or to the order of the Fiscal Agent. In exchange for any Global Note, or the part thereof to be exchanged, the relevant Issuer will (i) in the case of a temporary Global Note exchangeable for a permanent Global Note, deliver, or procure the delivery of, a permanent Global Note in an aggregate nominal amount equal to that of the whole or that part of a temporary Global Note that is being exchanged or, in the case of a subsequent exchange, endorse, or procure the endorsement of, a permanent Global Note to reflect such exchange or (ii) in the case of a Global Note exchangeable for Definitive Notes, deliver, or procure the delivery of, an equal aggregate nominal amount of duly executed and authenticated Definitive Notes. In this Offering Circular, "**Definitive Notes**" means, in relation to any Global Note, the definitive Bearer Notes for which such Global Note may be exchanged (if appropriate, having attached to them all Coupons and Receipts in respect of interest or Instalment Amounts that have not already been paid on the Global Note and a Talon). Definitive Notes will be security printed in accordance with any applicable legal and stock exchange requirements in or substantially in the form set out in the Schedules to the Agency Agreement. On exchange in full of each permanent Global Note, the relevant Issuer will, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant Definitive Notes.

### **3.6 Exchange Date**

“**Exchange Date**” means, in relation to a temporary Global Note, the day falling after the expiry of 40 days after its issue date and, in relation to a permanent Global Note, a day falling not less than 60 days, or in the case of failure to pay principal in respect of any Notes when due 30 days, after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Fiscal Agent is located and in the city in which the relevant clearing system is located.

## **4. Amendment to Conditions**

The temporary Global Notes, permanent Global Notes and Global Certificates contain provisions that apply to the Notes that they represent, some of which modify the effect of the Conditions set out in this Offering Circular. The following is a summary of certain of those provisions:

### **4.1 Payments**

No payment falling due after the Exchange Date will be made on any Global Note unless exchange for an interest in a permanent Global Note or for Definitive Notes is improperly withheld or refused. Payments on any temporary Global Note issued in compliance with the D Rules before the Exchange Date will only be made against presentation of certification as to non-U.S. beneficial ownership in the form set out in the Agency Agreement. All payments in respect of Notes represented by a Global Note will be made against presentation for endorsement and, if no further payment falls to be made in respect of the Notes, surrender of that Global Note to or to the order of the Fiscal Agent or such other Paying Agent as shall have been notified to the Noteholders for such purpose. A record of each payment so made will be endorsed on each Global Note, which endorsement will be prima facie evidence that such payment has been made in respect of the Notes. Condition 8(c) will apply to the Definitive Notes only.

For the purpose of any payment made in respect of a Global Note, the relevant place of presentation shall be disregarded in the definition of “business day” set out in Condition 7(h).

All payments in respect of Notes represented by a Global Certificate will be made to, or to the order of, the person whose name is entered on the Register at the close of business on the Clearing System Business Day immediately prior to the date for payment, where “**Clearing System Business Day**” means Monday to Friday inclusive except 25 December and 1 January.

### **4.2 Prescription**

Claims against the relevant Issuer in respect of Notes that are represented by a permanent Global Note will become void unless it is presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date (as defined in Condition 8).

### **4.3 Meetings**

The holder of a permanent Global Note or of the Notes represented by a Global Certificate shall (unless such permanent Global Note or Global Certificate represents only one Note) be treated as being two persons for the purposes of any quorum requirements of a meeting of Noteholders and, at any such meeting, the holder of a permanent Global Note shall be treated as having one vote in respect of each integral currency unit of the Specified Currency of the Notes. (All holders of Registered Notes are entitled to one vote in respect of each integral currency unit of the Specified Currency of the Notes comprising such Noteholder’s holding, whether or not represented by a Global Certificate.)

### **4.4 Cancellation**

Cancellation of any Note represented by a permanent Global Note that is required by the Conditions to be cancelled (other than upon its redemption) will be effected by reduction in the nominal amount of the relevant permanent Global Note.

### **4.5 Purchase**

Notes represented by a permanent Global Note may only be purchased by the relevant Issuer or any of its Subsidiaries (as defined in the Conditions) if they are purchased together with the rights to receive all future payments of interest and Instalment Amounts (if any) thereon.



#### **4.6 Issuer's Options**

Any option of the Issuer provided for in the Conditions of any Notes while such Notes are represented by a permanent Global Note shall be exercised by the relevant Issuer giving notice to the Noteholders within the time limits set out in and containing the information required by the Conditions, except that the notice shall not be required to contain the serial numbers of Notes drawn in the case of a partial exercise of an option and accordingly no drawing of Notes shall be required. In the event that any option of the relevant Issuer is exercised in respect of some but not all of the Notes of any Series, the rights of accountholders with a clearing system in respect of the Notes will be governed by the standard procedures of Euroclear, Clearstream, Luxembourg or any other clearing system (as the case may be).

#### **4.7 Noteholders' Options**

Any option of the Noteholders provided for in the Conditions of any Notes while such Notes are represented by a permanent Global Note may be exercised by the holder of the permanent Global Note giving notice to the Fiscal Agent within the time limits relating to the deposit of Notes with a Paying Agent set out in the Conditions substantially in the form of the notice available from any Paying Agent, except that the notice shall not be required to contain the serial numbers of the Notes in respect of which the option has been exercised, and stating the nominal amount of Notes in respect of which the option is exercised and at the same time presenting the permanent Global Note to the Fiscal Agent, or to a Paying Agent acting on behalf of the Fiscal Agent, for notation.

#### **4.8 Events of Default**

Each Global Note provides that the holder may cause such Global Note, or a portion of it, to become due and repayable in the circumstances described in Condition 10 by stating in the notice to the Fiscal Agent the nominal amount of such Global Note that is becoming due and repayable. If principal in respect of any Note is not paid when due, the holder of a Global Note or Registered Notes represented by a Global Certificate may elect for direct enforcement rights against the relevant Issuer under the terms of a Deed of Covenant executed as a deed by the such Issuer to come into effect in relation to the whole or a part of such Global Note or one or more Registered Notes in favour of the persons entitled to such part of such Global Note or such Registered Notes, as the case may be, as accountholders with a clearing system. Following any such acquisition of direct rights, the Global Note or, as the case may be, the Global Certificate and the corresponding entry in the register kept by the Registrar will become void as to the specified portion or Registered Notes, as the case may be. However, no such election may be made in respect of Notes represented by a Global Certificate unless the transfer of the whole or a part of the holding of Notes represented by that Global Certificate shall have been improperly withheld or refused.

#### **4.9 Notices**

So long as any Notes are represented by a Global Note or Global Certificate and such Global Note or Global Certificate is held on behalf of a clearing system, notices to the holders of Notes of that Series may be given by delivery of the relevant notice to that clearing system for communication by it to entitled accountholders in substitution for publication as required by the Conditions or by delivery of the relevant notice to the holder of the Global Note.

#### **5. Partly Paid Notes**

The provisions relating to Partly Paid Notes are not set out in this Offering Circular, but will be contained in the relevant Pricing Supplement and thereby in the Global Notes. While any instalments of the subscription moneys due from the holder of Partly Paid Notes are overdue, no interest in a Global Note representing such Partly Paid Notes may be exchanged for an interest in a permanent Global Note or for Definitive Notes (as the case may be). If any Noteholder fails to pay any instalment due on any Partly Paid Notes within the time specified, the relevant Issuer may forfeit such Partly Paid Notes and shall have no further obligation to their holder in respect of them.

## DESCRIPTION OF THE 2017 GUARANTEE

### *The 2017 Guarantee*

The payments of all amounts due in respect of the Notes will be unconditionally and irrevocably guaranteed by the Guarantors which include Incitec Pivot Limited (other than in respect of Notes issued by itself) and, initially, certain of its subsidiaries as more fully described below. The Original Guarantor group is a sub-set of the wider IPL Group and not all subsidiaries of Incitec Pivot Limited give the 2017 Guarantee in respect of the Notes.

The Original Guarantors are:

- Incitec Pivot Limited (other than in respect of Notes issued by itself)
- Incitec Pivot Finance LLC (other than in respect of Notes issued by itself)
- Dyno Nobel Europe Pty Ltd (other than in respect of Notes issued by itself)
- Incitec Fertilizers Pty Limited (incorporated in Australia)
- TOP Australia Pty Limited (incorporated in Australia)
- Southern Cross Fertilisers Pty Ltd (incorporated in Australia)
- Southern Cross International Pty Ltd (incorporated in Australia)
- Incitec Pivot US Holdings Pty Ltd (incorporated in Australia)
- Incitec Pivot Finance Australia Pty Ltd (incorporated in Australia)
- Dyno Nobel Pty Limited (incorporated in Australia)
- Dyno Nobel Asia Pacific Pty Limited (incorporated in Australia)
- Dyno Nobel Moranbah Pty Ltd (incorporated in Australia)
- Dyno Nobel Moura Pty Limited (incorporated in Australia)
- Incitec Pivot Explosives Holdings Pty Ltd (incorporated in Australia)
- DNX Australia Pty Ltd (incorporated in Australia)
- Dyno Nobel Australia LLC (incorporated in Delaware, U.S.A.)
- Dyno Nobel Inc. (incorporated in Delaware, U.S.A.)
- Dyno Nobel Holdings USA, Inc. (incorporated in Delaware, U.S.A.)
- Dyno Nobel Louisiana Ammonia, LLC (incorporated in Delaware, U.S.A.)
- Dyno Nobel Holdings V LLC (incorporated in Delaware, U.S.A.)
- Dyno Nobel Canada Inc. (incorporated in Canada)
- Incitec Pivot Finance Canada Inc. (incorporated in Canada)
- Dyno Nobel Waggaman Inc. (incorporated in Canada)

Under the terms of the 2017 Guarantee, and in respect of each Note, each Guarantor irrevocably and unconditionally and jointly and severally, and notwithstanding the release of any other Guarantor or any other person under the terms of any compromise or arrangement with any creditors of any Issuer or any subsidiary of each Guarantor, guarantees to each Noteholder the due and punctual payment in accordance with the Conditions of the principal of and premium (if any) and interest on that Note and of any other amounts payable by the relevant Issuer in respect of the Note or under the Conditions.

### *Existing Guarantees under the 2008 Guarantee Deed Poll*

Each Guarantor is also a guarantor for the purposes of the 2008 Guarantee Deed Poll, pursuant to which each Guarantor guarantees to each beneficiary under the 2008 Guarantee Deed Poll the monies owing to that beneficiary by a borrower or a Guarantor in connection with any document specified by Incitec Pivot Limited as a “Transaction Document” for the purposes of the 2008 Guarantee Deed Poll in a Guarantee Certificate (as defined in the 2008 Guarantee Deed Poll).

Pursuant to the 2017 Guarantee, each Issuer must ensure that each of its subsidiaries that is a “Guarantor” under the 2008 Guarantee Deed Poll is also a “Guarantor” under the 2017 Guarantee.

Under the 2008 Guarantee Deed Poll, Incitec Pivot Limited has agreed that: (a) subsidiaries (for purposes of the 2008 Guarantee Deed Poll) which generate at least 80 per cent. of the EBITDA and which hold at least 80 per cent. of the Total Assets (as defined in the 2008 Guarantee Deed Poll) of the IPL Group; (b) any borrower under a Transaction Document; and (c) any wholly owned subsidiary of Incitec Pivot Limited which contributes 10 per cent. or more of the EBITDA or constitutes 10 per cent. of more of the Total Assets of the IPL Group, will be guarantors for the purposes of the 2008 Guarantee Deed Poll. If a subsidiary or asset was acquired or disposed of during the calculation period, EBITDA is adjusted to include or exclude, as applicable, the EBITDA of that asset or company prior to the date of the acquisition or disposal, as applicable, for that period. This obligation can be amended or waived by the beneficiaries under the 2008 Guarantee Deed Poll at the relevant time acting in accordance with the

relevant transaction documents to which they are a party (which may provide for decisions by a majority) and may terminate on repayment of all Guaranteed Money (as defined in the 2008 Guarantee Deed Poll).

Noteholders have no control over whether any such amendments or waivers are sought or granted. If the basis on which subsidiaries of each Issuer are required to become guarantors under the 2008 Guarantee Deed Poll changes under the 2008 Guarantee Deed Poll, each Issuer must notify the Fiscal Agent of such change.

***Release of Guarantors***

A Guarantor, other than Incitec Pivot Limited, may be released at any time from its obligations under the 2017 Guarantee without the consent of Noteholders. Such release will occur automatically upon the delivery to the Fiscal Agent of a notice signed by a director of each Issuer to the effect that (a) no Event of Default has occurred and is continuing or would result from the release of such Guarantor and (b) such Guarantor is not required to be a Guarantor for the purposes of the 2008 Guarantee Deed Poll.

***New Guarantors***

If, at any time, a subsidiary of an Issuer becomes a “Guarantor” under the 2008 Guarantee Deed Poll, each Issuer must ensure that such subsidiary becomes a “Guarantor” under the 2017 Guarantee no later than 30 days following such time.

***Form of the 2017 Guarantee***

*[Intentionally left blank]*

# Deed Poll Guarantee and Indemnity

Dated 2017

Incitec Pivot Limited (ACN 004 080 264)

Incitec Pivot Finance LLC (Registered Number 4526409)

Dyno Nobel Europe Pty Ltd (ACN 124 372 130) (each an “**Issuer**”)

Each person listed in schedule 1 (each an “**Original Guarantor**”)

**King & Wood Mallesons**

Level 50

Bourke Place

600 Bourke Street

Melbourne VIC 3000

Australia

T +61 3 9643 4000

F +61 3 9643 5999

DX 101 Melbourne

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# Deed Poll Guarantee and Indemnity

## Details

<b>Parties</b>	<b>Issuers and Original Guarantors</b>	
<b>Issuer</b>	<b>Name</b>	<b>Incitec Pivot Limited</b>
	ACN	004 080 264
	Place of incorporation	Australia
	Address	Level 8 28 Freshwater Place Southbank VIC 3006 Australia
	Fax	+61 3 8695 4417
	Email	uri.gordon@incitecpivot.com.au
	Attention	General Manager – Treasury
	<b>Name</b>	<b>Incitec Pivot Finance LLC</b>
	Registration number	4526409
	Place of incorporation	United States of America – State of Delaware
	Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006 Australia
	Fax	+61 3 8695 4417
	Email	uri.gordon@incitecpivot.com.au
	Attention	General Manager – Treasury

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Name	<b>Dyno Nobel Europe Pty Ltd</b>
ACN	124 372 130
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006 Australia
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager – Treasury

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<b>Original Guarantors</b>	Each person listed in schedule 1
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# Deed Poll Guarantee and Indemnity

## General terms

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### 1 Interpretation

#### 1.1 Incorporation of other defined terms

Terms which are defined (or given a particular meaning) in the Conditions have the same meaning when used in this document unless the same term is also defined in this document, in which case the definition in this document prevails.

#### 1.2 Definitions

The following definitions apply in this document:

**Accession Letter** means a letter substantially in the form of schedule 2;

**Additional Guarantor** means each person who becomes an Additional Guarantor under clause 5.2 (“Additional Guarantors”);

**Conditions** means, in respect of a Note, the terms and conditions applicable to that Note as set out in the Offering Circular, as supplemented, amended, modified or replaced by the Pricing Supplement applicable to that Note and references to a particular numbered Condition shall be construed accordingly;

**Deed of Covenant** means the deed of covenant dated on or about the date of this document and executed by the Issuers in relation to the Notes;

**Details** means the section of this document with heading “Details”;

**Direct Rights** has the meaning given to that term in the Deed of Covenant;

**Guarantee Deed Poll** means the document titled “IPL Guarantee Deed Poll” originally dated 17 September 2008 made by Incitec Pivot Limited (ACN 004 080 264) and each “Original Guarantor” (as defined therein). The form of the “Guarantee Deed Poll” as at the date of this document (as most recently amended and restated on 30 October 2015) is set out in the Annexure to this document;

**Guarantor** means:

- (a) an Original Guarantor; or
- (b) an Additional Guarantor,

and which has not ceased to be a “Guarantor” under clause 5.3 (“Release of Guarantors”);

**IPL** means Incitec Pivot Limited (ACN 004 080 264);

**Issuer** means:

- (a) each entity described in the Details as an “Issuer”; or
- (b) each person from time to time who is appointed as an Issuer under the Programme,

and which has not ceased to be an “Issuer” under the Programme;

**Noteholders** includes Couponholders and the holders of Receipts and, for the avoidance of doubt, each Relevant Account Holder that has acquired Direct Rights against the relevant Issuer pursuant to the terms of the Deed of Covenant; and

**Offering Circular** means:

- (a) the Offering Circular dated on or about the date of this document or the then latest offering circular which replaces that document; or
- (b) such other offering circular or offering document referred to in a Pricing Supplement,

in each case prepared by, or on behalf of, and approved in writing by, each Issuer in connection with the issue of Notes and all documents incorporated by reference in it, including a Pricing Supplement and any other amendments or supplements to it.

### 1.3 References to certain general terms

Unless the contrary intention appears, a reference in this document to:

- (a) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (c) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (d) anything (including an amount) is a reference to the whole and each part of it;
- (e) a document (including this document) includes any supplement to, or variation or replacement of, it;
- (f) “**law**” means common law, principles of equity, and laws made by parliament (and laws made by parliament include federal or state laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (g) a “**directive**” includes a treaty, official directive, request, regulation, guideline or policy (whether or not having the force of law) with which responsible participants in the relevant market generally comply;
- (h) the “**Corporations Act**” is to the Corporations Act 2001 of Australia;
- (i) if a notice must be given within a certain period of days, the day on which the notice is given, and the day on which the relevant event to which such notice relates is to happen, are not to be counted in calculating that period;
- (j) the word “**person**” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (k) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

- (l) a “**party**” is a reference to an Issuer or a Guarantor; and
- (m) the words “**including**”, “**for example**” or “**such as**” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

#### **1.4 Number**

The singular includes the plural and vice versa.

#### **1.5 Headings**

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

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## **2 Cross guarantee**

Each Guarantor acknowledges that each Issuer is a Guarantor (other than in respect of Notes issued by itself). Accordingly, each of the guarantee in clause 3.1 (“Obligations guaranteed”) and the indemnity in clause 3.2 (“Result of non-payment by Issuer”) is a separate guarantee and indemnity respectively in relation to each Issuer as if that Issuer were:

- (a) the only “Issuer”; and
- (b) not a “Guarantor”.

---

## **3 Guarantee**

### **3.1 Obligations guaranteed**

In respect of each Note, each Guarantor hereby irrevocably and unconditionally and jointly and severally, and notwithstanding the release of any other Guarantor or any other person under the terms of any compromise or arrangement with any creditors of any Issuer or any subsidiary of each Guarantor, guarantees to each Noteholder the due and punctual payment in accordance with the Conditions of the principal of and premium (if any) and interest on that Note and of any other amounts payable by the relevant Issuer in respect of the Note or under the Conditions or the Deed of Covenant (including, without limitation, amounts payable under clause 8.2(b) (“Withholding tax”) of this document).

### **3.2 Result of non-payment by Issuer**

If an Issuer of a Note defaults in the due and punctual payment of any such principal, premium, interest or other amounts owed to a Noteholder, a Guarantor must, on demand, pay that money to, or as directed by, that Noteholder to the intent that the Noteholder shall receive the same amounts in respect of principal, premium, interest or such other amount as they would have received had such payments been made by the relevant Issuer.

### **3.3 Enforcement**

Each Noteholder:

- (a) may determine from time to time whether or not it will enforce this Guarantee which it may do without making any demand of or taking any proceedings against any Issuer and may from time to time make any arrangement or compromise with each Guarantor in relation to this Guarantee which the Noteholder may consider expedient; and
- (b) may, but is not obligated to, at any time, at its discretion and without notice, take such proceedings and/or other steps as it may think fit

against or in relation to a Guarantor to enforce its obligations under this document.

### **3.4 Obligations absolute and unconditional**

Each Guarantor hereby agrees that:

- (a) its obligations under this document:
  - (i) are principal obligations, and not ancillary or collateral to any other right or obligation;
  - (ii) constitute direct, unconditional, unsubordinated and unsecured obligations of such Guarantor; and
  - (iii) (save for certain obligations required to be preferred by law) rank at least equally with all of its unsecured and unsubordinated obligations from time to time outstanding;
- (b) it shall be fully liable irrespective of the validity, regularity, legality or enforceability against each Issuer of, or of any defence or counterclaim whatsoever available to each Issuer in relation to, such Issuer's obligations under this document or the Conditions, whether or not:
  - (i) any action has been taken to enforce the same or any judgment obtained against any Issuer;
  - (ii) any of the other provisions of this document or the Conditions have been modified;
  - (iii) any time, indulgence, waiver, authorisation or consent has been granted to any Issuer by or on behalf of the relevant Noteholders;
  - (iv) there have been any dealings or transactions between any Issuer, any of the relevant Noteholders;
  - (v) any Issuer has been dissolved, liquidated, merged, consolidated, bankrupted or has changed its status, functions, control or ownership;
  - (vi) any Issuer has been prevented from making payment by foreign exchange provisions applicable at its place of registration or incorporation; or
  - (vii) any other circumstances have occurred which might otherwise constitute a legal or equitable discharge of or defence to a Guarantor; and
- (c) this Guarantee shall not be discharged nor shall the liability of any Guarantor under this document be affected by any act, thing or omission or means whatsoever whereby its liability would not have been discharged if it had been the principal debtor.

### **3.5 Continuing guarantee**

Each Guarantor covenants that this Guarantee:

- (a) is a continuing guarantee;
- (b) is a principal and independent obligation of each Guarantor and is not ancillary, collateral or limited by reference to any other obligation;

- (c) extends to the ultimate balance of all sums payable and obligations owed by each Issuer under this document regardless of any intermediate payment in whole or in part;
- (d) shall not be discharged except by complete performance of the obligations in this document;
- (e) is additional to, and not instead of or prejudiced by, any security or other guarantee or indemnity at any time existing in favour of any person, whether from any Guarantor or otherwise; and
- (f) shall remain in force until all moneys payable by each Issuer under or pursuant to this document and the Notes of such Series and the Receipts and Coupons appertaining thereto shall have been paid.

### **3.6 Suspension of rights**

If any moneys shall become payable by any Guarantor under this Guarantee, each Guarantor shall not, so long as the same remain unpaid, without the prior written consent of the relevant Noteholder:

- (a) in respect of any amounts paid by it under this Guarantee, claim, exercise or attempt to exercise any rights of subrogation or contribution or, without limitation, any other right, counterclaim or defence or remedy which may accrue to it in respect of or as a result of any such payment; and
- (b) in respect of any other moneys for the time being due to the relevant Guarantor by the relevant Issuer, claim payment thereof, exercise or attempt to exercise any other right,

(including in either case claiming the benefit of any guarantee, indemnity, security or right of set-off or, on the liquidation of any Issuer, proving, claiming or exercising voting rights or otherwise claiming or receiving the benefit of any distribution, dividend or payment arising out of such liquidation, in competition with the relevant Noteholder).

### **3.7 Dissolution, winding-up or bankruptcy of an Issuer**

- (a) Each Guarantor waives diligence, presentment, demand of payment, filing of claims with a court in the event of dissolution, liquidation, merger or bankruptcy of each Issuer, any right to require a proceeding first against each Issuer, protest or notice with respect to this document or the indebtedness evidenced thereby and all demands whatsoever.
- (b) If, notwithstanding anything in clause 3.6 ("Suspension of rights"), upon the bankruptcy, insolvency or liquidation of an Issuer, any payment or distribution of assets of the relevant Issuer of any kind or character, whether in cash, property or securities, shall be received by any Guarantor before payment in full of all amounts payable under this document shall have been made to the relevant Noteholder, such payment or distribution shall be received by such Guarantor on trust to pay the same over immediately to the relevant Noteholder.

---

## **4 Indemnity**

### **4.1 Indemnity**

Each Guarantor must unconditionally, severally and jointly with each other Guarantor, indemnify each Noteholder against, and must pay each Noteholder on demand the amount of, any loss that Noteholder may suffer because:

- (a) the obligation to pay the principal of and premium (if any) and interest on the Notes and of any other amounts payable by the relevant Issuer to that Noteholder in accordance with the Deed of Covenant is unenforceable; or
- (b) the principal of and premium (if any) and interest on the Notes and of any other amounts payable by the relevant Issuer in respect of that Noteholder is not recoverable from the relevant Issuer or is repaid or restored after it has been recovered, including the amount of any principal of and premium (if any) and interest on the Notes and of any other amounts payable by the relevant Issuer (or any money which, if recoverable, would have formed part of such money) that is not or may not be recoverable.

#### **4.2 General application of indemnities**

The indemnities given by each Guarantor in this clause 4 apply to any money that is not recoverable or to any money that is not owing:

- (a) because of any legal limitation, disability or incapacity of or affecting an Issuer or any other person;
- (b) because any transaction was void, illegal, voidable or unenforceable; or
- (c) because of any other fact or circumstance, whether or not any of the relevant matters or facts were or ought to have been within the relevant Guarantor's knowledge.

#### **4.3 Liability as Guarantor and indemnifier**

Any reference in this document to the obligations or liabilities of a Guarantor will be construed as a reference to its obligations or liabilities, whether as a guarantor or indemnifier or both under this document. The use of the expression "Guarantor" in this document in relation to a party is not to be construed as diminishing that party's obligations as an indemnifier under this document.

## **5 Guarantor group**

### **5.1 Group members required to be Guarantors**

- (a) Subject to clause 5.1(b), IPL must ensure that each Subsidiary of IPL that is a "Guarantor" under the Guarantee Deed Poll is also a "Guarantor" under this document.
- (b) If, at any time, a Subsidiary of IPL becomes a "Guarantor" under the Guarantee Deed Poll, IPL must ensure that such Subsidiary becomes a "Guarantor" under this document no later than 30 days following such time.

### **5.2 Additional Guarantors**

A Subsidiary of IPL shall become an Additional Guarantor if:

- (a) it delivers to the Fiscal Agent and IPL a duly completed and executed Accession Letter; and
- (b) the Fiscal Agent has received all of the documents and other evidence listed in schedule 3 in relation to that Subsidiary, each in form and substance satisfactory to the Fiscal Agent.

### **5.3 Release of Guarantors**

- (a) Other than in the case of IPL, a Guarantor may be released from its obligations under this document if the requirements set out in clause 5.3(b) are satisfied.
- (b) In order for a Guarantor (other than IPL) to be released, IPL must give a notice which must:
  - (i) be signed by a director of IPL; and
  - (ii) contain a certification by IPL that:
    - (A) no Event of Default has occurred and is continuing or would result from the release of the Guarantor; and
    - (B) the provisions of clause 5.1 ("Group members required to be Guarantors") will continue to be complied with notwithstanding the relevant Subsidiary of IPL ceasing to be a Guarantor; and
  - (iii) be delivered to the Fiscal Agent.
- (c) On and from the date the notice described in clause 5.3(b) has been delivered to the Fiscal Agent, the Subsidiary of IPL specified in such notice shall cease to be a "Guarantor" and shall be released from its obligations under this document without the need for the execution or delivery of any other document by any person.
- (d) IPL may not be released from its obligations under this document in accordance with this clause 5.3.

### **5.4 Changes to guarantor test in the Guarantee Deed Poll**

If the basis on which Subsidiaries of IPL are required to become guarantors under clause 16.2 ("Guarantor Group") of the Guarantee Deed Poll changes under the Guarantee Deed Poll, IPL must:

- (a) promptly give the Fiscal Agent notice and details of the amendment; and
- (b) confirm to the Fiscal Agent that it has complied with clause 5.1 ("Group members required to be Guarantors") at the time of the amendment and is complying with clause 5.1 ("Group members required to be Guarantors") on the date of the notice under clause 5.4(a).

---

## **6 Fiscal Agent to hold and distribute this document**

### **6.1 Directions to hold this document**

Each Noteholder is taken to have irrevocably:

- (a) instructed each Issuer that this document is to be delivered to and held by the Fiscal Agent; and
- (b) appointed and authorised the Fiscal Agent to hold this document in London (or such other United Kingdom city as each Issuer and the Fiscal Agent may agree) on its behalf.

### **6.2 Copies of this document to Noteholders**

Within 14 days of an Issuer or the Fiscal Agent receiving a written request from a Noteholder, to do so, the relevant Issuer must provide (or the relevant Issuer

must ensure that the Fiscal Agent provides) to that Noteholder a certified copy of this document held in accordance with clause 6.1 (“Directions to hold this document”) if the Noteholder requires such copy in connection with any legal proceeding, claim or action brought by the Noteholder in relation to its rights under this document.

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## **7 Status and ranking**

### **7.1 Status**

The obligations of each Guarantor under this document constitute direct, unconditional, unsubordinated and unsecured obligations of that Guarantor.

### **7.2 Ranking**

Each Guarantor’s obligations under this document will rank *pari passu* and will rank at least equally with all other present and future direct, unconditional, unsubordinated and unsecured obligations of that Guarantor, except for obligations mandatorily preferred by law.

---

## **8 Payments**

### **8.1 No set-off, counterclaim or deductions**

All payments by a Guarantor under this document must be made in full without set-off or counterclaim, and without any withholding or deduction in respect of Taxes, unless prohibited by law.

### **8.2 Withholding tax**

If a Guarantor is required by law to deduct or withhold an amount from a payment by the Guarantor under this document, then:

- (a) the Guarantor agrees to deduct or withhold the amount (and any further amounts it is required to deduct or withhold from any additional amount due under clause 8.2(b)) and pay that amount to the relevant authority in accordance with applicable law; and
- (b) if, by deducting or withholding the relevant amount the Guarantor would pay less than it is otherwise required to pay under this document, the Guarantor agrees to pay an additional amount so that, after making the deduction or withholding and further deductions or withholdings applicable to additional amounts payable under this clause, the Noteholder receives (at the time the payment is due) the amount it would have received pursuant to this document.

---

## **9 Notices**

### **9.1 How to give a notice to an Issuer or a Guarantor**

- (a) A notice or other communication to an Issuer or a Guarantor must be:
  - (i) in writing, signed by or on behalf of the person giving it;
  - (ii) addressed to the Issuer or the Guarantor (as applicable); and
  - (iii) delivered and taken to be received, sent by either:
    - (A) prepaid post (by airmail, if the sender is overseas), to the Issuer or the Guarantor at:

Address: Level 8  
28 Freshwater Place



Southbank Victoria 3006  
Australia

Attention: General Manager – Treasury

or

(B) fax, to the Issuer or the Guarantor at:

Fax number: +61 3 8695 4417

Attention: General Manager – Treasury

or

(C) email, to the Issuer or the Guarantor at:

Email: uri.gordon@incitecpivot.com.au

Attention: General Manager – Treasury

or, if the Issuer or the Guarantor notifies the sender of another postal address, fax number or email address, the last address, fax number or email address notified to it.

- (b) A notice or other communication under clause 9.1(a) is taken to be received:
- (i) if sent by prepaid post, on the earlier of actual receipt and five days after posting (or seven days after posting if sent from one country to another);
  - (ii) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; and
  - (iii) if sent by email:
    - (A) when the sender receives an automated message confirming delivery; or
    - (B) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,
- whichever happens first.
- (c) Despite clauses 9.1(a) and 9.1(b), if communications are received or taken to be received under clause 9.1(b) after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day and take effect from that time unless a later time is specified.

## 9.2 How to give a notice to Noteholders

- (a) Each Issuer may give a notice or other communication to the holders of Registered Notes and the holders of Bearer Notes in the manner set out in Condition 14 (“Notices”) (as supplemented by the provisions of any applicable global note or global certificate).

- (b) Couponholders shall be deemed for all purposes to have notice of the contents of any notice given to the holders of Bearer Notes in accordance with Condition 14 (“Notices”) (as supplemented by the provisions of any applicable global note or global certificate).

### **9.3 How to give a notice to the Fiscal Agent**

Each Issuer may give a notice or other communication to the Fiscal Agent in accordance with the relevant notice provisions of the Agency Agreement (as if references in those provisions to the Agency Agreement (however described) were references to this document).

### **9.4 When effective**

Notices and other communications take effect from the time they are taken to be received unless a later time is specified in them.

---

## **10 Governing law**

### **10.1 Governing law**

This document and any non-contractual obligations arising out of or in connection with this document are governed by, and shall be construed in accordance with, English law.

### **10.2 Submission to jurisdiction**

- (a) The Courts of England are to have exclusive jurisdiction to settle any disputes that may arise out of or in connection with this document (including any dispute relating to any non-contractual obligations arising out of or in connection with this document) and accordingly any legal action or proceedings arising out of or in connection with this document (including any dispute relating to any non-contractual obligations arising out of or in connection with this document) (“**Proceedings**”) may be brought in such courts.
- (b) Each Issuer and each Guarantor irrevocably submits to the exclusive jurisdiction of the courts of England and waives any objection to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the Noteholders and shall not affect the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

### **10.3 Serving documents**

Without preventing any other method of service, any document in any action may be served on each Issuer or each Guarantor by being delivered or left at the Issuer’s or the Guarantor’s (as applicable) registered office.

### **10.4 Service of process**

- (a) Each Issuer and each Guarantor irrevocably appoints Law Debenture Corporate Services Limited of Fifth Floor, 100 Wood Street, London EC2V 7EX, England as its agent in England to receive, for it and on its behalf, service of process in any Proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not, it is forwarded to and received by the relevant Issuer or, as the case may be, the relevant Guarantor).

- (b) If for any reason such process agent ceases to be able to act as such or no longer has an address in London, each Issuer and each Guarantor irrevocably agrees to appoint a substitute process agent and shall immediately notify Noteholders of such appointment in accordance with clause 9.2. Nothing shall affect the right to serve process in any manner permitted by law.

## **10.5 Trial by jury**

Each Guarantor which is a “US person” under section 7701(a)(30) of the U.S. internal revenue code hereby irrevocably and unconditionally waives, to the extent permitted by applicable law, any rights it may have to a trial by jury in any legal action or proceeding directly or indirectly arising out of or relating to this document and for any counterclaim therein.

---

## **11 General**

### **11.1 Contracts (Rights of Third Parties) Act 1999**

A person who is not a Noteholder from time to time under this document has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this document, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

### **11.2 Deed poll**

This document takes effect as a deed poll for the benefit of the Noteholders from time to time (whether or not they exist on the date this document is executed).

### **11.3 Marshalling**

A Noteholder is under no obligation to marshal in favour of a Guarantor any security now or in the future held by that Noteholder or any funds or assets that that Noteholder may be entitled to receive or have a claim upon.

### **11.4 Counterparts**

This document may consist of a number of copies, each signed by one or more parties to the document. If so, the signed copies are treated as making up the one document.

# Deed Poll Guarantee and Indemnity

## Schedule 1 - Original Guarantors

DNX Australia Pty Ltd (ACN 001 502 423)

Dyno Nobel Europe Pty Ltd (ACN 124 372 130)

Dyno Nobel Pty Limited (ACN 117 733 463)

Dyno Nobel Asia Pacific Pty Limited (ACN 003 269 010)

Dyno Nobel Moranbah Pty Ltd (ACN 115 650 649)

Dyno Nobel Moura Pty Limited (ACN 080 849 761)

Incitec Fertilizers Limited (ACN 103 709 155)

Incitec Pivot Explosives Holdings Pty Ltd (ACN 124 351 328)

Incitec Pivot Limited (ACN 004 080 264)

Incitec Pivot US Holdings Pty Ltd (ACN 130 242 036)

Incitec Pivot Finance Australia Pty Ltd (ACN 132 883 848)

Southern Cross Fertilisers Pty Ltd (ACN 004 936 850)

Southern Cross International Pty Ltd (ACN 124 537 980)

TOP Australia Pty Limited (ACN 007 656 046)

Incitec Pivot Finance LLC (Registration number 4526409)

Dyno Nobel Australia LLC

Dyno Nobel Holdings USA, Inc.

Dyno Nobel Holdings V LLC

Dyno Nobel Inc.

Dyno Nobel Louisiana Ammonia, LLC

Dyno Nobel Canada Inc.

Dyno Nobel Waggaman Inc.

Incitec Pivot Finance Canada Inc.

# Deed Poll Guarantee and Indemnity

## Schedule 2 - Accession Letter

To: **[Fiscal Agent]** as [Fiscal Agent]

From: **[Subsidiary]**

Copy to: [Incitec Pivot Limited]

Dated:

Dear Sirs

### Deed Poll Guarantee and Indemnity dated *[Date]* (“Deed Poll Guarantee”)

1. We refer to the Deed Poll Guarantee. Terms used in the Deed Poll Guarantee have the same meaning in this Accession Letter.
2. By this deed poll, **[Subsidiary]** agrees to become an Additional Guarantor and to be bound by the terms of the Deed Poll Guarantee as an Additional Guarantor pursuant to clause 5.2 of the Deed Poll Guarantee.
3. **[Subsidiary]** is a company duly incorporated under the laws of **[name of relevant jurisdiction]**.
4. **[Subsidiary's]** notice details are as follows:  
  
Address:  
  
Email:  
  
Attention:
5. This letter is governed by, and shall be construed in accordance with, English law.

[This Accession Letter is executed as a deed poll.]

# Deed Poll Guarantee and Indemnity

## Schedule 3 - Conditions precedent for Additional Guarantors

### 1. Corporate documents

- (a) A certified copy of the constitutional documents (if any) of the relevant Subsidiary.
- (b) A certified copy of an extract of a resolution of the board of directors of the relevant Subsidiary:
  - (i) approving the terms of, and the transactions contemplated by, the Accession Letter and resolving that it execute the Accession Letter;
  - (ii) to the effect that it is in the best interests of the Subsidiary or, where contemplated in the constitution of that Subsidiary, the holding company of the Subsidiary to execute the Accession Letter; and
  - (iii) authorising a specified person or persons, on its behalf, as authorised officers to sign and despatch all documents and notices to be signed and despatched by it under or in connection with the Accession Letter and this document.
- (c) If the Accession Letter is executed by the relevant Subsidiary under power of attorney, a certified copy of the power of attorney for the execution of the Accession Letter.

### 2. Legal opinion(s)

- (d) A legal opinion of the legal advisers to the relevant Subsidiary at the relevant time in Australia to the effect that the Subsidiary is bound by the Accession Letter and that its obligations under the Accession Letter are enforceable against it.
- (e) If the relevant Subsidiary is incorporated in a jurisdiction other than Australia, a legal opinion of the legal advisers to the Subsidiary at the relevant time in that jurisdiction to the effect that the Subsidiary has authorised its execution of the Accession Letter.

### 3. Documents

The Accession Letter to which the relevant Subsidiary is a party, duly executed.

# Deed Poll Guarantee and Indemnity

## Signing page

DATED: 2017

### ISSUERS

**EXECUTED by INCITEC PIVOT LIMITED** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company secretary\*  
\*delete whichever is not applicable

.....  
Name of director/company secretary\* (block letters)  
\*delete whichever is not applicable

**EXECUTED by DYNNOBEL EUROPE PTY LTD** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company secretary\*  
\*delete whichever is not applicable

.....  
Name of director/company secretary\* (block letters)  
\*delete whichever is not applicable

### INCITEC PIVOT FINANCE LLC, a Delaware limited liability company

By: \_\_\_\_\_

Name:  
Title: Authorized Signatory

# Deed Poll Guarantee and Indemnity

## ORIGINAL GUARANTORS

**EXECUTED** by **INCITEC PIVOT LIMITED** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company secretary\*  
\*delete whichever is not applicable

.....  
Name of director/company secretary\* (block letters)  
\*delete whichever is not applicable

**EXECUTED** by **DYNO NOBEL EUROPE PTY LTD** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company secretary\*  
\*delete whichever is not applicable

.....  
Name of director/company secretary\* (block letters)  
\*delete whichever is not applicable

**SIGNED, SEALED AND DELIVERED** by  
as attorney for **INCITEC FERTILIZERS PTY LIMITED** under power of attorney dated  
in the presence of:

.....  
Signature of witness

.....  
Name of witness (block letters)

.....  
By executing this document the attorney states that the attorney has received no notice of revocation of the power of attorney



# Deed Poll Guarantee and Indemnity

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **TOP AUSTRALIA PTY** )  
**LIMITED** under power of attorney dated )  
in the presence of: )  
 )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **SOUTHERN CROSS** )  
**FERTILISERS PTY LTD** under power )  
of attorney dated )  
in the presence of: )  
 )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **SOUTHERN CROSS** )  
**INTERNATIONAL PTY LTD** under )  
power of attorney dated )  
in the presence of: )  
 )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

# Deed Poll Guarantee and Indemnity

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **INCITEC PIVOT US** )  
**HOLDINGS PTY LTD** under power of )  
attorney dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **INCITEC PIVOT** )  
**FINANCE AUSTRALIA PTY LTD** )  
under power of attorney dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **DYNO NOBEL PTY** )  
**LIMITED** under power of attorney dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

# Deed Poll Guarantee and Indemnity

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **DYNO NOBEL ASIA** )  
**PACIFIC PTY LIMITED** under power of )  
attorney dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **DYNO NOBEL** )  
**MORANBAH PTY LTD** under power of )  
attorney dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )

as attorney for **DYNO NOBEL MOURA** )  
**PTY LIMITED** under power of attorney )  
dated )  
in the presence of: )

..... )  
Signature of witness )

..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

# Deed Poll Guarantee and Indemnity

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **DNX AUSTRALIA PTY** )  
**LTD** under power of attorney dated )  
in the presence of: )  
 )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **INCITEC PIVOT** )  
**EXPLOSIVES HOLDINGS PTY LTD** )  
under power of attorney dated )  
in the presence of: )  
 )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
By executing this document the  
attorney states that the attorney has  
received no notice of revocation of the  
power of attorney

# Deed Poll Guarantee and Indemnity

**INCITEC PIVOT FINANCE LLC, a Delaware limited liability company**

By: \_\_\_\_\_

Name:

Title: Authorized Signatory

**DYNO NOBEL AUSTRALIA LLC, a Delaware limited liability company**

By: \_\_\_\_\_

Name:

Title: Authorised Signatory

**DYNO NOBEL INC., a Delaware corporation**

By: \_\_\_\_\_

Name:

Title: Authorised Signatory

**DYNO NOBEL LOUISIANA AMMONIA, LLC, a Delaware limited liability company**

By: \_\_\_\_\_

Name:

Title: Authorised Signatory

**DYNO NOBEL HOLDINGS USA, INC., a Delaware corporation**

By: \_\_\_\_\_

Name:

Title: Authorised Signatory

**DYNO NOBEL HOLDINGS V LLC, a Delaware limited liability company**

By: \_\_\_\_\_

Name:

Title: Authorised Signatory

# Deed Poll Guarantee and Indemnity

) **DYNO NOBEL CANADA INC.**  
)  
)  
)  
)  
) Per: .....  
)  
) Name: .....  
)  
) Title: .....  
)  
) I/We have authority to bind the corporation

) **INCITEC PIVOT FINANCE CANADA INC.**  
)  
)  
)  
)  
) Per: .....  
)  
) Name: .....  
)  
) Title: .....  
)  
) I/We have authority to bind the corporation

) **DYNO NOBEL WAGGAMAN INC.**  
)  
)  
)  
)  
) Per: .....  
)  
) Name: .....  
)  
) Title: .....  
)  
) I/We have authority to bind the corporation

# Deed Poll Guarantee and Indemnity

## Annexure - Guarantee Deed Poll

# Amended and restated IPL Guarantee Deed Poll

Originally dated 17 September 2008, as amended and restated on 9  
October 2013 and as further amended and restated on

30 October 2015

Incitec Pivot Limited ABN 42 004 080 264 ("**Company**")  
Each party listed in schedule 1 under the heading "Part 1 – Original  
Guarantors" ("**Original Guarantor**")

**King & Wood Mallesons**  
Level 50  
Bourke Place  
600 Bourke Street  
Melbourne Vic 3000  
Australia  
T +61 3 9643 4000  
F +61 3 9643 5999  
DX 101 Melbourne  
[www.kwm.com](http://www.kwm.com)



# Amended and restated IPL Guarantee Deed Poll Contents

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# Amended and restated IPL Guarantee Deed Poll Details

<b>Parties</b>	<b>Company and Original Guarantors</b>	
<b>Company</b>	<b>Name</b>	<b>Incitec Pivot Limited</b>
	ABN	42 004 080 264
	Address	Level 8 28 Freshwater Place Southbank VIC 3006
	Fax	+61 3 8695 4417
	Email	uri.gordon@incitecpivot.com.au
	Attention	General Manager - Treasury
<b>Original Guarantors</b>	The entities listed in schedule 1 under the heading "Part 1 – Original Guarantors"	
<b>in favour of:</b>		
<b>Beneficiary</b>	Each party:	
	(a)	in whose favour the Company issues a Guarantee Certificate on or after the original date of this deed poll; or
	(b)	who becomes a New Lender where the relevant Existing Lender or any predecessor to such Existing Lender was issued a Guarantee Certificate by the Company.
<b>Recitals</b>	<b>A</b>	Each Beneficiary has, on or after the original date of this deed poll, made or has agreed to make available financial accommodation to a member of the Group.
	<b>B</b>	Each Guarantor has agreed to grant a guarantee and indemnity in favour of each Beneficiary on the terms of this deed poll.
<b>Original date of deed poll</b>	17 September 2008	

# Amended and restated IPL Guarantee Deed Poll

## General terms

---

### 1 Interpretation

#### 1.1 Definitions

These meanings apply unless the contrary intention appears:

**Accession Deed Poll** means a deed poll substantially in the form of schedule 2 under which a wholly owned Subsidiary of the Company becomes an Additional Guarantor.

**Accountable Taxes** means, with respect to a Beneficiary, any Taxes other than those which would not be required to be deducted by a Guarantor if that Beneficiary provided that Guarantor with any of its name, address, registration number or similar details or any relevant tax exemption or similar details. Notwithstanding the foregoing, the term "Accountable Taxes" shall include, with respect to a Beneficiary, all Taxes that pursuant to the Transaction Documents applicable to that Beneficiary, would have been required to be reimbursed or grossed-up for the benefit of that Beneficiary if the applicable Guarantor were a borrower (however defined) under such Transaction Documents.

**Additional Guarantor** means a wholly owned Subsidiary of the Company which becomes an Additional Guarantor in accordance with clause 16 ("Additional Guarantors"). As at the Amendment Time, the "Additional Guarantors" are the entities listed in schedule 1 under the heading "Part 2 – Additional Guarantors as at the Amendment Time".

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Amendment Time** has the meaning given to "Effective Time" in the Amendment Deed (2015).

**Amendment Deed (2013)** means the deed entitled "Amendment and Restatement Deed - IPL Guarantee Deed Poll" dated 7 October 2013 between the Company (on behalf of itself and each other Guarantor at the time) and each Beneficiary.

**Amendment Deed (2015)** means the deed entitled "Amendment and Restatement Deed - IPL Guarantee Deed Poll" dated on or about 30 October 2015 between the Company (on behalf of itself and each other Guarantor) and each Beneficiary (or a Representative on behalf of such Beneficiary).

**Authorised Officer** means:

- (a) in the case of a Beneficiary, a director or secretary, or an officer or employee whose title contains the word "executive", "associate", "counsel", "director", "chief", "head", "president", "vice president" or "manager" or a person performing the functions of any of them, or any other person from time to time nominated by the Beneficiary as an

Authorised Officer for the purposes of this deed poll by notice to the Company; and

- (b) in the case of a Guarantor, a director or secretary or any other person from time to time appointed by that Guarantor as an Authorised Officer for the purposes of this deed poll by notice to each Beneficiary accompanied by certified copies of signatures of all new persons so appointed (and in respect of which each Beneficiary has not received notice of revocation of the appointment).

**Beneficiary** means the person or persons so described in the Details and includes their successors and permitted substitutes and assigns and, for the avoidance of doubt, does not include any person who has ceased to be a "Beneficiary" in accordance with clause 8.2 ("Ceasing to be a Beneficiary").

**Business Day** means, in respect of a Guarantor and a Beneficiary:

- (a) for the purposes of clause 15 ("Notices and other communications"), a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in the city where the notice or other communication is received; and
- (b) for all other purposes, a day (not being a Saturday, Sunday or public holiday) on which banks are open for business in Melbourne, Sydney and each other city (if any) noted in the Guarantee Certificate issued in favour of that Beneficiary.

**Calculation Date** means each 31 March and 30 September and any other date as required under clause 16.2(b) ("Guarantor Group"), with the first Calculation Date being 30 September 2008.

**Calculation Period** means each 12-month period ending on a Calculation Date.

**Commodity Exchange Act** means the United States Commodity Exchange Act (7 U.S.C. § 1 et seq.) and any successor statute, and any rule, regulation or order promulgated thereunder, in each case as amended from time to time.

**Costs** includes costs, charges and expenses, including those incurred in connection with advisers.

**Debtor** means any Guarantor and any borrower (however defined) under a Transaction Document.

**Default Rate** means, with respect to a Beneficiary, the default rate or overdue rate specified in the relevant Transaction Document applicable to that Beneficiary.

**Details** means the section of this deed poll headed "Details".

**EBITDA** means the profit or loss (after individually material items) of the Group on a consolidated basis (or of a member of the Group on a consolidated or unconsolidated basis, as the context requires) for a Calculation Period, but after adjustment to exclude:

- (a) any deduction or contribution in respect of corporate Tax or other Taxes on income or gains during that Calculation Period;
- (b) any deduction or contribution in respect of Interest Expense or interest during that Calculation Period;
- (c) any deduction or contribution in respect of individually material or significant items during that Calculation Period;

- (d) amortisation of any goodwill, any intangible assets and any acquisition costs during that Calculation Period;
- (e) any depreciation on fixed assets of the Group (or a member of the Group, as applicable) during that Calculation Period; and
- (f) to the extent included, the contribution to EBITDA of Non Recourse Subsidiaries,

but taking into account, for the avoidance of doubt, as an expense in calculating EBITDA, any directors' fees paid during that Calculation Period.

The calculation of EBITDA for a Calculation Period in which:

- (a) a New Acquisition takes place, shall include EBITDA of such New Acquisition (where applicable) for the portion of such Calculation Period prior to the date of the consummation of such New Acquisition; and
- (b) a disposal takes place, shall exclude the EBITDA attributable to such disposal (where applicable) for the portion of such Calculation Period prior to the date of consummation of such disposal.

**Equity Interest** means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or non-voting, in, or interests in the income or profits of, a person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing, provided that, prior to the conversion thereof, debt securities convertible into Equity Interests do not constitute Equity Interests.

**Excluded Swap Obligation** means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee under clause 2.2 ("Guarantee") or indemnity under clause 2.4 ("Indemnity") by such Guarantor of or in respect of such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the United States Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee or indemnity of such Guarantor becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee is or becomes illegal.

**Existing Lender** has the meaning given to it in clause 14.1 ("Permitted novation or assignment").

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised under any acceptance credit, or bill acceptance, discount or endorsement facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract (other than any operating lease, irrespective of its treatment under Australian Accounting Standards Board Accounting Standards) which would, in accordance with GAAP, be treated as a finance or capital lease;

- (e) receivables sold or discounted;
- (f) any redeemable shares where the holder has the right, or the right in certain conditions, to require redemption;
- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (h) consideration for the acquisition of assets or services payable more than 180 days after acquisition;
- (i) any hedge, swap or derivative transaction (and, when calculating the indebtedness for or in respect of any derivative transaction, only the marked to market value shall be taken into account), other than unrealised gains or losses on net investment hedges;
- (j) any counter-indemnity, reimbursement or similar obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (k) the amount of any liability under or in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

For purposes of this deed poll (including this definition), the term "indebtedness" shall be deemed to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent.

**Financial Statements** means a financial report consisting of:

- (a) financial statements;
- (b) any notes to those financial statements; and
- (c) any directors' declaration about the financial statements and notes,

together with any accompanying (including any directors' and auditor's reports) and other documents or information.

**GAAP** means generally accepted accounting principles, standards and practices in Australia.

**Governmental Agency** means any government or any governmental, semi-governmental, intergovernmental, supranational or judicial entity, body, agency, department or regulatory, self-regulatory or other authority or organisation. It also includes any self-regulatory organisation established under statute or any stock exchange.

**Group** means the Company and its Subsidiaries.

**Guarantee Certificate** means a certificate substantially in the form of schedule 4 issued by the Company to a person.

**Guaranteed Money** means, with respect to a Beneficiary, all amounts, debts and monetary liabilities of the Debtors:

at any time;

for any reason or circumstance in connection with each Transaction Document applicable to that Beneficiary (including transactions in connection with them);



whether at law or otherwise;

and whether or not of a type within the contemplation of the parties at the original date of this deed poll, including all amounts, debts and liabilities that:

- (a) are payable, are owing but not currently payable, are contingently owing, or remain unpaid, by the relevant Debtor to the Beneficiary;
- (b) the Beneficiary has advanced or paid on the relevant Debtor's behalf or at the relevant Debtor's express or implied request; or
- (c) the Beneficiary is liable to pay by reason of any act or omission on the relevant Debtor's part.

This definition applies:

- (i) irrespective of the capacity in which the relevant Debtor, a Guarantor or the Beneficiary became entitled to, or liable in respect of, the amount concerned;
- (ii) whether the relevant Debtor, a Guarantor or the Beneficiary is liable as principal debtor, as surety or otherwise;
- (iii) whether the relevant Debtor or a Guarantor is liable alone, or together with another person;
- (iv) even if the relevant Debtor or a Guarantor owes an amount or obligation to the Beneficiary because it was assigned to the Beneficiary, whether or not:
  - (A) the assignment was before, at the same time as, or after the original date of this deed poll; or
  - (B) the relevant Debtor or that Guarantor consented to or was aware of the assignment; or
- (v) even if this deed poll was assigned to the Beneficiary, whether or not the relevant Debtor or a Guarantor consented to or was aware of the assignment.

**Guarantor** means an Original Guarantor or an Additional Guarantor, in either case unless it has ceased to be a Guarantor in accordance with clause 17 ("Release of Guarantors"). If there are more than one, "Guarantor" means each of them individually and every two or more of them jointly and severally.

**Holding Company** means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

**Insolvency Event** has, with respect to a Beneficiary, the meaning given to it in the relevant Transaction Document applicable to that Beneficiary. The terms **Insolvent** and **Insolvency** have equivalent meanings.

**Interest Expense** means, for any Calculation Period ending on any Calculation Date, without double-counting:

- (a) all interest and amounts in the nature of interest or of similar effect to interest payable (including amounts other than principal payable under each relevant Transaction Document) by any member of the Group for that Calculation Period ending on that Calculation Date with respect to any liability described in paragraph (a) of the definition of "Net Debt",

including (but only to the extent to which such amount relates to a liability described in paragraph (a) of the definition of "Net Debt"):

- (i) any dividend or distribution payable on any marketable security;
- (ii) any interest expense portion of rentals in respect of capital or finance lease obligations; and
- (iii) all line, facility, letter of credit, guarantee, unused line or commitment fee and similar fees and all fees and other amounts of a regular or recurring nature payable in relation to any such liability, but excluding establishment, arrangement and other fees payable once only on the initial provision of financial accommodation;

adjusted for:

- (b) any amount received or paid by any member of the Group for that Calculation Period ending on that Calculation Date with respect to the interest component of:
  - (i) any net investment hedges entered into by that member of the Group; and
  - (ii) any hedges entered into by that member of the Group to hedge the liabilities described in paragraph (a) of the definition of "Net Debt" of any member of the Group; and
- (c) (to the extent such amount is not reflected in paragraph (b) of this definition) the net amount of any difference payments by or to any member of the Group under any interest rate derivatives transaction;

less:

- (d) all interest and amounts in the nature of interest or of similar effect to interest received by any member of the Group for that Calculation Period ending on that Calculation Date with respect to any amount described in paragraph (b) of the definition of "Net Debt"; and
- (e) (to the extent such amount is included in paragraph (a) of this definition) non-cash items otherwise required to be included in accordance with the Australian equivalents to IFRS, AASB 137 - Provisions, Contingent Liabilities and Contingent Assets and AASB 119 – Employee Benefits,

but not including any amounts incurred on transactions between members of the Group or in respect of any Non Recourse Financing. To the extent relevant, "Interest Expense" is to be calculated on an accrual basis (as contemplated in Australian Accounting Standards Board Accounting Standards).

**Material Subsidiary** means, at any time, a wholly-owned Subsidiary of the Company that, on a consolidated basis together with its own subsidiaries:

- (a) contributes 10% or more of the EBITDA of the Group; or
- (b) represents 10% or more of the Total Assets of the Group,

in each case, as determined on the basis of the most recent Financial Statements for the Group.

**Net Debt** means, without double-counting, as at a Calculation Date:

- (a) the aggregate amount of all interest-bearing liabilities of the Group (other than any Non Recourse Financing, any Subordinated Debt, any liabilities owed to another member of the Group or any liabilities under any operating lease irrespective of its treatment under Australian Accounting Standards Board Accounting Standards) as at that Calculation Date, taking into account the fair value of the derivative instruments in place economically hedging the Group's interest-bearing liabilities as at that Calculation Date;

less:

- (b) the aggregate amount of unrestricted and unencumbered available cash and cash equivalents of the Group (excluding cash and cash equivalents of Non Recourse Subsidiaries) as at that Calculation Date, taking into account the fair value of the derivative instruments in place in respect of such cash and cash equivalents as at that Calculation Date,

in each case, as determined on a consolidated basis in accordance with the Group's Financial Statements prepared with respect to that Calculation Date.

**New Acquisition** means the acquisition, development or redevelopment of an asset or company.

**New Lender** has the meaning given to it in clause 14.1 ("Permitted novation or assignment").

**Non Recourse Financing** means any Financial Indebtedness incurred by an SPV (which is not, and is not required to be, a Guarantor):

- (a) for the sole purpose of financing or refinancing all or a substantial part of the cost of acquiring or developing a natural resource or project owned directly by that SPV; and
- (b) in respect of which there is no recourse to any member of the Group (other than that SPV) by any person, or any obligation or liability of any member of the Group (other than the SPV) to any person, other than:
  - (i) under a guarantee, a guarantee and indemnity and/or a Security Interest granted by the SPV Shareholder of that SPV (which SPV Shareholder is not, and is not required to be, a Guarantor) over:
    - (A) the shares or units in the SPV owned directly by that SPV Shareholder, or any loans made to that SPV by that SPV Shareholder; and
    - (B) in the case of a featherweight security interest (or equivalent, however named) only, all other assets of that SPV Shareholder,

where the terms of that guarantee, guarantee and indemnity or Security Interest (as applicable) exclude (subject to customary exceptions, including, but not limited to, fraud, gross negligence and wilful misconduct) all personal liability of that SPV Shareholder and only permit enforcement to the extent of those shares or units or loans, or their proceeds of sale and, in the case of the featherweight security interest (or equivalent, however named) only, the other assets of the member of that SPV Shareholder; or

- (ii) other obligations or liabilities of a member of the Group permitted under the Transaction Documents in the form of contractual

purchase or offtake agreements, technical support arrangements and performance security on usual terms in the ordinary course of the business of that member of the Group and which do not amount to a guarantee, an indemnity or any other assurance against financial loss or an obligation to ensure compliance by another with a financial ratio or other test of financial condition.

**Non Recourse Subsidiary** means any SPV having Non Recourse Financing.

**Outgoing Representative** has the meaning given to it in clause 14.4 ("Replacement of Representative").

**PPSA** means the Personal Property Securities Act 2009 (Cwlth).

**Qualified ECP Guarantor** means, in respect of any Swap Obligation, each Guarantor that has total assets exceeding US\$10,000,000 at the time the guarantee granted by such entity pursuant to this deed poll becomes effective with respect to such Swap Obligation or such Guarantor constitutes an "eligible contract participant" under the Commodity Exchange Act and can cause another person to qualify as an "eligible contract participant" at such time by guaranteeing or entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

**Related Entity** has the meaning it has in the Corporations Act.

**Release of Guarantor Deed Poll** means a deed poll substantially in the form of schedule 3 under which a Guarantor ceases to be a Guarantor and is released from its obligations under this deed poll.

**Relevant Country** means, in relation to a Guarantor, any country, or political sub-division of one or more countries, or any federation or association of countries in which a Guarantor is either incorporated or is resident or domiciled for any tax purpose or in which a Guarantor carries on business or owns or leases property or from which, or through which, any payment under this deed poll is made.

**Representative** means, in the case of a Beneficiary and the Transaction Documents applicable to that Beneficiary, if the Guarantee Certificate applicable to that Beneficiary and those Transaction Documents specifies that a "Representative" applies to that Beneficiary in respect of those Transaction Documents, such person specified as "Representative" in that Guarantee Certificate.

A Representative only applies to each Beneficiary and in respect of the Transaction Documents described in the Guarantee Certificate under which that Representative is specified.

**Security Interest** means:

- (a) any security interest under sections 12(1) or 12(2) of the PPSA or a mortgage, charge, pledge, lien or other security interest securing any obligation of any person;
- (b) any title retention arrangement;
- (c) any right, interest, agreement, notice or arrangement which has the effect of giving another person a preference, priority or advantage over creditors, including any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts or not repayable in certain circumstances;

- (d) any third party right or interest or any right arising as a consequence of the enforcement of a judgment; or
- (e) any other agreement, notice or arrangement having a similar effect,

or any agreement or arrangement to create any of them or allow them to exist, but excluding, for the avoidance of doubt, any security interest under section 12(3) of the PPSA.

**SPV** means any Subsidiary of the Company that is a special purpose company or special purpose entity formed for the purpose of acquiring or developing a natural resource or a project, provided that such Subsidiary does not own any material assets other than such natural resource or project and assets relating thereto or to its existence.

**SPV Shareholder** means any Subsidiary of the Company that is a special purpose company or special purpose entity formed for the purpose of being a direct parent company of any SPV, provided that such Subsidiary does not own any material assets other than Equity Interests in, and Financial Indebtedness or other obligations of, such SPV and assets relating to its existence.

**Subordinated Debt** means Financial Indebtedness of a Guarantor which is subordinated in right of payment to all Guaranteed Money of each Beneficiary on terms reasonably satisfactory to that Beneficiary (or on terms which satisfy the requirements for "subordinated debt" (if any) in the applicable Transaction Document).

**Subsidiary** of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act, but as if "body corporate" included any entity; or
- (b) is part of the consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares, or would be if the first entity was required to prepare consolidated financial statements.

**Substitute Representative** has the meaning given to it in clause 14.4 ("Replacement of Representative").

**Swap Obligation** means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

**Taxes** means taxes, levies, imposts, charges and duties imposed by any authority (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the Beneficiary.

**Total Assets** means, at any time, the consolidated total assets of the Group, as shown in the latest Financial Statements for the Group.

**Transaction Documents** means, in respect of a Beneficiary and any Guarantee Certificate issued in favour of that Beneficiary:

- (a) this deed poll;
- (b) any Accession Deed Poll;
- (c) the Amendment Deed (2013);

- (d) the Amendment Deed (2015);
- (e) the relevant Guarantee Certificate; and
- (f) each document described to be a "Transaction Document" in the relevant Guarantee Certificate.

**Undertaking Subsidiary** means each of:

- (a) Incitec Pivot Finance Canada, Inc., a Canadian corporation;
- (b) Dyno Nobel Waggaman Inc., a Canadian corporation;
- (c) Southern Cross International Pty Ltd (ACN 124 537 980); and
- (d) any other Subsidiary of the Company which is agreed to be an "Undertaking Subsidiary" by the Company and each Beneficiary in respect of whom the U.S. Investment Company Act of 1940 applies for the purposes of this deed poll,

but, in the case of each such Subsidiary, only if and for so long as it constitutes an "investment company" as defined in, or is subject to regulation under, the U.S. Investment Company Act of 1940, as amended.

## 1.2 References to certain general terms

Unless the contrary intention appears, in this deed poll:

- (a) a reference to a group of persons, other than the Beneficiaries, is a reference to any two or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (c) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (d) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (e) a reference to a document (including this deed poll) includes any variation or replacement of it;
- (f) the word "law" includes common law, principles of equity, and laws made by parliament or an equivalent Governmental Agency of any jurisdiction (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (g) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (h) a reference to Australian dollars, A\$ or \$ is a reference to the lawful currency of Australia;

- (i) a reference to US Dollars, US\$ or USD is a reference to the lawful currency of the United States of America;
- (j) the word "person" includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (k) the term "wholly-owned", when used in reference to a subsidiary of any person, means that all the Equity Interests in such subsidiary (other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other persons under applicable law) are owned, beneficially and of record, by such person, another wholly-owned subsidiary of such person or any combination thereof;
- (l) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (m) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (n) a reference to the Corporations Act is a reference to the Corporations Act 2001 (Cwlth); and
- (o) a reference to a "Transaction Document applicable to a Beneficiary" (or similar expressions) is taken to be a reference to:
  - (i) a document listed in paragraphs (a) to (d) (inclusive) of the definition of "Transaction Documents";
  - (ii) a Guarantee Certificate issued to that Beneficiary; and
  - (iii) a Transaction Document specified in that Guarantee Certificate.

If, at any time, a person is a Beneficiary as a result of more than one Guarantee Certificates, such Beneficiary's rights with respect to the Transaction Documents described in one Guarantee Certificate do not affect the Beneficiary's rights with respect to the Transaction Documents described in any other Guarantee Certificate.

### 1.3 Number

The singular includes the plural and vice versa.

### 1.4 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed poll.

### 1.5 Cross guarantee

The guarantee and indemnity in this deed poll takes effect as a cross-guarantee and cross-indemnity when one or more of the Debtors are the same as one or more of the Guarantors. In those circumstances it is a separate guarantee and indemnity in relation to the Debtor as if that person were:

- (a) the only person included in the definition of "Debtor"; and
- (b) excluded from the definition of "Guarantor".

## 1.6 Benefit

Each Guarantor enters into this deed poll for the benefit severally of each present and future Beneficiary from time to time. Unless a Transaction Document applicable to a Beneficiary provides otherwise:

- (a) each Beneficiary may severally enforce its rights under this deed poll, without the need to join to such action any other Beneficiary or otherwise obtain consent of any other Beneficiary; and
- (b) nothing done or omitted to be done by any Beneficiary under or in relation to this deed poll will affect the rights of the other Beneficiaries.

## 1.7 Representatives

Notwithstanding any other provision of this deed poll, if a Guarantee Certificate issued in favour of a Beneficiary and specifying one or more Transaction Documents applicable to that Beneficiary specifies that a Representative applies to that Beneficiary in respect of each such Transaction Document, then:

- (a) the Company is taken to have issued the Guarantee Certificate to the Beneficiary if it is issued to the applicable Representative;
- (b) any right, power or discretion exercisable by that Beneficiary under this deed poll is exercisable by the applicable Representative (and, if the Representative exercises such right, power or discretion, each Guarantor is entitled to assume that the applicable Representative had the requisite power and authority to exercise it);
- (c) without limiting clause 1.7(b), a deed of release contemplated in clause 8.2 ("Ceasing to be a Beneficiary") is taken to be effective with respect to that Beneficiary if signed by the applicable Representative on behalf of that Beneficiary;
- (d) any notice, communication or other document (including, without limitation, any Accession Deed Poll, any Release of Guarantor Deed Poll and any Guarantee Certificate) which the Company or a Guarantor is obliged to, or wishes to, deliver to the Beneficiary in connection with this deed poll is taken to have been delivered to, and taken to be received by, the Beneficiary if it is delivered to, and taken to be received by, the applicable Representative;
- (e) any reference to a right held by, or an amount received by, the Beneficiary includes a right held by, or an amount received by, the applicable Representative on behalf of that Beneficiary; and
- (f) any other provision of this deed poll which is expressed to apply to the Beneficiary also applies to the applicable Representative on behalf of that Beneficiary.

Any direction, consent, instruction or other action given under this deed poll by a Representative with respect to a Beneficiary is binding on that Beneficiary as if such direction, consent, instruction or other action had been given by that Beneficiary directly.

## 1.8 Excluded Swap Obligations

Notwithstanding anything to the contrary in this deed poll, no guarantee under clause 2.2 ("Guarantee") or indemnity under clause 2.4 ("Indemnity") by any Guarantor shall apply to any Excluded Swap Obligations of such Guarantor.



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## 2 Guarantee and indemnity

### 2.1 Consideration

Each Guarantor acknowledges that each Beneficiary is acting in reliance on that Guarantor incurring obligations and giving rights under this deed poll.

### 2.2 Guarantee

Subject to clause 2.3 ("Parallel Undertaking"), each Guarantor unconditionally and irrevocably guarantees, jointly with the other Guarantors and severally, payment to each Beneficiary of its Guaranteed Money. If the relevant Debtor does not pay that Guaranteed Money on time and in accordance with the Transaction Documents applicable to that Beneficiary, then each Guarantor agrees to pay that Guaranteed Money to that Beneficiary immediately on demand from that Beneficiary. A demand may be made at any time and from time to time and whether or not that Beneficiary has made demand on the relevant Debtor.

### 2.3 Parallel Undertaking

If and for so long as any of the Undertaking Subsidiaries would be prohibited under the U.S. Investment Company Act of 1940, as amended, from providing a guarantee under clause 2.2 ("Guarantee") in respect of any amount, debt or liability (a "**Liability**") or providing an indemnity under clause 2.4 ("Indemnity") in respect of a Liability, for so long as such Undertaking Subsidiary is so prohibited it will not provide such guarantee under clause 2.2 ("Guarantee") in respect of that Liability or such indemnity under clause 2.4 ("Indemnity") in respect of that Liability, but will instead, jointly with each other Undertaking Subsidiary and severally, irrevocably undertake to the Company and each of the other Guarantors that it will, to the maximum extent permitted by applicable law, upon demand from the Company or any of the other Guarantors either:

- (a) make loans or advances to the Company or any of the other Guarantors or
- (b) subscribe for equity in the Company or any of the other Guarantors,

in either case, in an amount sufficient such that the Company or such other Guarantor will not default in the performance of its obligations under this deed poll, including its obligations to pay any amount payable by it under this deed poll; provided that the amount of such loans or advances or subscription price of such equity will not exceed the aggregate amount of the Guaranteed Money then outstanding under this deed poll.

Each Guarantor that would otherwise default in the performance of its obligations under this deed poll, including its obligations to pay any amount payable by it under this deed poll, shall promptly make a demand on each Undertaking Subsidiary and will take all necessary action to ensure that such demands are promptly satisfied in full. It is understood that no Beneficiary will have a direct claim against any Undertaking Subsidiary to cause such Undertaking Subsidiary to perform under this clause 2.3, but that each Beneficiary shall retain all claims against the Company and each other Guarantor for failure to make any demand under this clause 2.3.

If at any time an Undertaking Subsidiary is no longer prohibited by the U.S. Investment Company Act of 1940 from providing a guarantee under clause 2.2 ("Guarantee") in respect of a Liability and an indemnity under clause 2.4 ("Indemnity") in respect of a Liability, that Undertaking Subsidiary shall automatically, and without the requirement of any further action by any person, be deemed to have provided a guarantee under clause 2.2 ("Guarantee") and an

indemnity under clause 2.4 ("Indemnity") to the full extent set forth therein in respect of that Liability.

## **2.4 Indemnity**

Subject to clause 2.3 ("Parallel Undertaking"), each Guarantor indemnifies, jointly with the other Guarantors and severally, each Beneficiary against any liability or loss arising, and any Costs it suffers or incurs:

- (a) if the relevant Debtor does not, or is unable to, pay that Beneficiary's Guaranteed Money in accordance with the Transaction Documents applicable to that Beneficiary; or
- (b) if an obligation the relevant Debtor would otherwise have to pay that Beneficiary's Guaranteed Money is found to be illegal, void, voidable or unenforceable. The amount of loss recovered under this subparagraph shall be equal to the amount which the Beneficiary would otherwise have been entitled to recover; or
- (c) if an obligation a Guarantor would otherwise have under clause 2.2 ("Guarantee") is found to be illegal, void, voidable or unenforceable. The amount of loss recovered under this subparagraph shall be equal to the amount which the Beneficiary would otherwise have been entitled to recover; or
- (d) if that Beneficiary is obliged, or agrees, to pay an amount to a trustee in bankruptcy or liquidator (of an Insolvent person) in connection with a payment by a Guarantor or the relevant Debtor. (For example, the Beneficiary may have to, or may agree to, pay interest on the amount); or
- (e) if a Guarantor defaults under this deed poll; or
- (f) in connection with any person exercising, or not exercising, rights under this deed poll.

Each Guarantor agrees to pay amounts due to a Beneficiary under this indemnity immediately on demand from that Beneficiary.

## **2.5 Independent obligation**

Each of clauses 2.2 ("Guarantee"), 2.3 ("Parallel Undertaking") and 2.4 ("Indemnity") is a separate and independent obligation. Neither is limited by reference to the other.

## **2.6 Acknowledgement**

Each Guarantor acknowledges that it is responsible for making itself aware of the financial position of each other Guarantor and any other person who guarantees payment of the Guaranteed Money.

## **2.7 Keepwell**

- (a) Each Qualified ECP Guarantor, jointly with the other Qualified ECP Guarantors and severally, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Guarantor that would otherwise not be an "eligible contract participant" as defined in the Commodity Exchange Act to honour all of its obligations under this deed poll in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this clause 2.7 for the maximum amount of such liability that can be incurred without rendering its obligations under this clause 2.7, or

otherwise under this deed poll, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount).

- (b) The obligations of each Qualified ECP Guarantor under this clause 2.7 shall remain in full force and effect until such Qualified ECP Guarantor has ceased to be a Guarantor in accordance with clause 17 ("Release of Guarantors").
- (c) Each Qualified ECP Guarantor intends that this clause 2.7 constitute, and this clause 2.7 shall be deemed to constitute, a "keepwell, support or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

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## **3 Extent of guarantee and indemnity**

### **3.1 Nature of guarantee**

With respect to a Beneficiary, each of the guarantee in clause 2.2 ("Guarantee"), the parallel undertaking in clause 2.3 ("Parallel Undertaking") and the indemnity in clause 2.4 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing which but for this provision might have that effect and extends to all of that Beneficiary's Guaranteed Money. Each Guarantor waives any right it has of first requiring that Beneficiary to commence proceedings or enforce any other right against the relevant Debtor or any other person before claiming from a Guarantor under this deed poll. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

### **3.2 Variations and replacements**

Each Guarantor acknowledges that the Transaction Documents may be varied or replaced from time to time.

Each Guarantor confirms that a Beneficiary's Guaranteed Money includes any amount payable under any Transaction Document applicable to that Beneficiary, as varied, amended, supplemented, renewed or replaced from time to time. Each Guarantor confirms that this applies regardless of:

- (a) how the Transaction Document is varied, amended, supplemented, renewed or replaced; and
- (b) the reasons for the variation, amendment, supplement, renewal or replacement; and
- (c) whether the Guaranteed Money decreases or increases or the Transaction Document is otherwise more onerous as a result of the variation, amendment, supplement, renewal or replacement.

This clause does not limit clause 5 ("Rights of each Beneficiary are protected").

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## **4 Reinstatement of rights**

If any payment to or any discharge given by a Beneficiary (whether in respect of the obligations of a Guarantor or any Security Interest for those obligations or otherwise) is avoided or reduced (including as a result of Insolvency, breach of fiduciary or statutory duties or any similar event):

- (a) the liability of each Guarantor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) that Beneficiary shall be entitled to recover the value or amount of that Security Interest or payment from each Guarantor, as if the payment, discharge, avoidance or reduction had not occurred together with any associated Costs; and
- (c) each Guarantor shall do anything (including signing any document) to reinstate any Security Interest (including this deed poll) held by that Beneficiary from a Guarantor immediately before the payment, discharge, avoidance or reduction.

Each Guarantor's obligations under this clause are continuing obligations independent of that Guarantor's other obligations under this deed poll and continue after this deed poll ends.

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## 5 Rights of each Beneficiary are protected

Rights given to each Beneficiary under this deed poll, and each Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
  - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the Guaranteed Money is expressed to be owing (such as by adding, replacing or changing the purpose of a facility, increasing a facility limit or extending the term of a facility, including in connection with a restructuring or refinancing of the Guaranteed Money);
  - (ii) releasing the relevant Debtor or giving the relevant Debtor a concession (such as more time to pay);
  - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the relevant Debtor's obligations (including under clause 17 ("Release of Guarantors"));
  - (iv) releasing, losing the benefit of, or not obtaining any Security Interest or negotiable instrument;
  - (v) by which a person becomes a Guarantor after the original date of this deed poll (including under clause 16 ("Additional Guarantors"));
  - (vi) by which the obligations of any person who guarantees any of the relevant Debtor's obligations (including under this deed poll) may not be enforceable;
  - (vii) by which any person who was intended to guarantee any of the relevant Debtor's obligations does not do so, or does not do so effectively;
  - (viii) by which a person who is a co-surety or co-indemnifier for payment of the Guaranteed Money is discharged under an agreement or by operation of law; or

- (ix) by which any Security Interest which could be registered is not registered;
- (b) a person dealing in any way with a Security Interest, guarantee, indemnity, judgment or negotiable instrument;
- (c) an Insolvency Event with respect to any person, including a Guarantor or the relevant Debtor;
- (d) changes in the membership, name or business of any person;
- (e) the relevant Debtor opening an account with them;
- (f) acquiescence or delay by a Beneficiary, a Representative or any other person; or
- (g) an assignment of rights in connection with the Guaranteed Money.

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## **6 No merger**

This deed poll does not merge with or adversely affect, and is not adversely affected by, any of the following with respect to a Beneficiary:

- (a) any other guarantee, indemnity, or Security Interest, or other right or remedy to which that Beneficiary is entitled; or
- (b) a judgment which that Beneficiary obtains against a Guarantor, the relevant Debtor or any other person in connection with the Guaranteed Money.

Each Beneficiary may still exercise its rights under this deed poll as well as under the judgment, Security Interest or right or remedy.

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## **7 Guarantor's rights**

### **7.1 Guarantor's rights are suspended**

As long as there is any Guaranteed Money (or any other amounts secured by any Security Interest that secures amounts including the Guaranteed Money) with respect to a Beneficiary, no Guarantor may, without that Beneficiary's consent:

- (a) reduce its liability with respect to that Beneficiary under this deed poll by claiming that it or the relevant Debtor or any other person has a right of set-off or counterclaim against that Beneficiary; or
- (b) exercise any legal right (including a right of subrogation) to claim to be entitled to the benefit of another guarantee, indemnity, or Security Interest that secures amounts including that Guaranteed Money or any other amount payable under this deed poll to that Beneficiary (for example, a Guarantor may not try to enforce or require the enforcement of any Security Interest that the Beneficiary has taken that secures amounts including its Guaranteed Money); or
- (c) claim an amount from the relevant Debtor, or another guarantor of that Guaranteed Money (including a person who has signed this deed poll as a "Guarantor"), under a right of indemnity or contribution; or

- (d) claim an amount in the Insolvency of the relevant Debtor or of another guarantor of that Guaranteed Money (including a person who has signed this deed poll as a "Guarantor").

This clause continues after this deed poll ends.

## **7.2 Guarantor's right of proof limited**

Each Guarantor agrees not to exercise a right of proof after an event occurs relating to the Insolvency of a Debtor or another guarantor of the Guaranteed Money (including a person who has signed this deed poll as a "Guarantor").

## **7.3 Appropriations**

Until all amounts which may be or become payable by each Guarantor to a Beneficiary under or in connection with the Transaction Documents applicable to that Beneficiary have been irrevocably paid in full, that Beneficiary may refrain from applying or enforcing any other moneys, Security Interest or rights held or received by that Beneficiary in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same.

## **7.4 No set-off against assignees**

If a Beneficiary assigns or otherwise deals with its rights under the Transaction Documents applicable to it, no Guarantor shall claim against any assignee (or any other person who has an interest in this deed poll) any right of set-off or counterclaim or any other right a Guarantor has against that Beneficiary.

## **7.5 Mexican Guarantors**

If a Guarantor is incorporated and validly existing under the laws of Mexico (or the United Mexican States), such Guarantor hereby waives the benefits of order, excussio and division afforded to it by Articles 2814, 2815, 2817, 2818, 2820, 2821, 2822, 2823, 2827, 2836 and 2840 of the Civil Code for the Federal District of Mexico and the corresponding articles under the Civil Codes for the various states of the United Mexican States.

## **7.6 Other foreign Guarantors**

If a Guarantor is incorporated or validly existing in any jurisdiction or under the laws of a place other than Australia, the United States of America, Canada or Mexico (or any state or territory within any of them), that Guarantor must (if customary in the relevant jurisdiction and recommended by that Guarantor's legal adviser in that jurisdiction or reasonably requested by any Beneficiary) include in its Accession Deed Poll any waivers, agreements or acknowledgements as are required or customary to ensure or facilitate the enforceability of this deed poll or collectability of any amounts against that Guarantor hereunder.

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# **8 Beneficiaries**

## **8.1 Becoming a Beneficiary**

Each Guarantor (other than the Company):

- (a) irrevocably appoints the Company as its attorney for the purpose of extending the benefit of this deed poll to any person by delivering to that person a duly signed, sealed and delivered Guarantee Certificate on behalf of itself and that Guarantor;

- (b) agrees that it will be deemed to have ratified and confirmed anything done by the Company pursuant to the power of attorney in this clause 8.1; and
- (c) agrees that, on delivery of a Guarantee Certificate executed by the Company on behalf of Company and each Guarantor, the person to whom the Guarantee Certificate is addressed will become a Beneficiary, will have all the rights of a Beneficiary under this deed poll and will be taken to have agreed to all of the terms of this deed poll.

## 8.2 Ceasing to be a Beneficiary

- (a) A Beneficiary ceases to be a "Beneficiary" for the purposes of this deed poll with respect to Transaction Documents applicable to that Beneficiary only if:
  - (i) it signs a deed of release in favour of each Guarantor and delivers it to the Company in respect of those Transaction Documents; or
  - (ii) there is no Guaranteed Money with respect to that Beneficiary and those Transaction Documents and that Beneficiary's commitment to make financial accommodation available under those Transaction Documents has been fully terminated or cancelled.
- (b) If a Beneficiary ceases to be a "Beneficiary" for the purposes of this deed poll with respect to Transaction Documents applicable to that Beneficiary in accordance with clause 8.2(a), the Guarantee Certificate which the Company has issued to that Beneficiary with respect to those Transaction Documents is taken to be cancelled and to no longer remain outstanding with respect to that Beneficiary and those Transaction Documents only. If a Guarantee Certificate has been issued to more than one Beneficiary, the release of one Beneficiary does not affect the rights or obligations of, or the effectiveness of the Guarantee Certificate with respect to, any other Beneficiary.

## 8.3 Subsequent Beneficiaries

Each Guarantor agrees that any person may become a Beneficiary:

- (a) by assignment, transfer or novation; or
- (b) in the case of a Representative only, by being replaced,

as set forth in clause 14 ("Assignments, transfers, novations and sharing by Beneficiary").

## 8.4 Replacement of Guarantee Certificates

If, at any time:

- (a) the Company issues a Guarantee Certificate to a person with respect to a Transaction Document ("**Initial Guarantee Certificate**");
- (b) the Company subsequently issues a further Guarantee Certificate to the same person with respect to the same Transaction Document ("**Replacement Guarantee Certificate**"); and
- (c) the Beneficiary confirms that the form of Replacement Guarantee Certificate is acceptable to it,

then, for all purposes under this deed poll, the Initial Guarantee Certificate is taken to have been cancelled to the extent to which it relates to the relevant Beneficiary and the relevant Transaction Document only.

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## 9 Payments

### 9.1 Manner of payment

Each Guarantor agrees to make payments under this deed poll:

- (a) in full without set-off or counterclaim and without any deduction in respect of Taxes unless prohibited by law; and
- (b) if the payment relates to the Guaranteed Money, in the currency in which the payment is due, and otherwise in Australian dollars in immediately available funds.

### 9.2 Currency of payment

Each Guarantor waives any right it has in any jurisdiction to pay an amount other than in the currency in which it is due. However, if a Beneficiary receives an amount in a currency other than that in which it is due:

- (a) it may convert the amount received into the due currency (even though it may be necessary to convert through a third currency to do so) on the day and at such rates (including spot rate, same day value rate or value tomorrow rate) as it reasonably considers appropriate. It may deduct its usual Costs in connection with the conversion; and
- (b) a Guarantor satisfies its obligation to pay in the due currency only to the extent of the amount of the due currency obtained from the conversion after deducting the Costs of the conversion.

### 9.3 Currency indemnity

- (a) If any sum due from a Guarantor under this deed poll (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against a Guarantor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

each Guarantor shall as an independent obligation, within 5 Business Days of demand, indemnify the Beneficiary to whom that Sum is due against any Cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Guarantor waives any right it may have in any jurisdiction to pay any amount under the Transaction Documents in a currency or currency unit other than that in which it is expressed to be payable.
- (c) Payment of an amount in a currency other than the due currency does not discharge that amount except to the extent of the amount of the due



currency actually obtained when the recipient converts the amount received into the due currency.

#### **9.4 Certificate of Beneficiary**

- (a) A certificate signed by any Authorised Officer of a Beneficiary stating:
- (i) the amount of its Guaranteed Money or any other amount in connection with this deed poll due and payable to it; or
  - (ii) the amount of its Guaranteed Money or any other amount in connection with this deed poll, in either case whether currently due and payable or not,

is prima facie evidence (in the absence of manifest error) of that amount at the date stated on the certificate or, failing that, as at the date of the certificate.

- (b) A certificate signed by any Authorised Officer of a Beneficiary stating the opinion or determination of the Beneficiary as to anything in connection with this deed poll is prima facie evidence of that opinion or determination at the date stated on the certificate or failing that as at the date of that certificate.

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## **10 Interest**

### **10.1 Obligation to pay interest**

Each Guarantor agrees to pay interest on:

- (a) any part of the Guaranteed Money which is due for payment but which is not otherwise incurring interest; and
- (b) any amount under this deed poll (other than under clause 2.2 ("Guarantee")) which is not paid on the due date for payment.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of:

- (i) with respect to amounts denominated in US Dollars, 360 days;
- (ii) with respect to amounts denominated in A\$, 365 days; and
- (iii) with respect to amounts denominated in any other currency, the number of days in accordance with the relevant market practice.

The rate of interest applying to each daily balance is the Default Rate applicable to the relevant Beneficiary.

Each Guarantor agrees to pay interest under this clause to a Beneficiary on demand from that Beneficiary.

### **10.2 Compounding**

Interest payable under clause 10.1 ("Obligation to pay interest") to a Beneficiary which is not paid when due for payment may be added to the overdue amount by that Beneficiary at intervals which that Beneficiary determines from time to time or, if no determination is made, every 30 days. Interest is payable on the

increased overdue amount at the Default Rate in the manner set out in clause 10.1 ("Obligation to pay interest").

### 10.3 Interest following judgment

If a liability becomes merged in a judgment, each Guarantor agrees to pay interest on the amount of that liability as an independent obligation. This interest:

- (a) accrues daily from (and including) the date the liability becomes due for payment both before and after the judgment up to (but excluding) the date the liability is paid; and
- (b) is calculated at the judgment rate or the Default Rate (whichever is higher).

Each Guarantor agrees to pay interest under this clause on demand from the relevant Beneficiary.

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## 11 Withholding tax

- (a) Subject to clause 11(b), if a law requires a Guarantor to deduct an amount in respect of Taxes from a payment under any Transaction Document such that a Beneficiary would not actually receive on the due date the full amount provided for under that Transaction Document, then:
  - (i) that Guarantor agrees to deduct the amount for the Taxes (and any further deduction applicable to any further payment due under clause 11(a)(iii)); and
  - (ii) that Guarantor agrees to pay the amount deducted to the relevant authority in accordance with applicable law and give the original receipts to that Beneficiary; and
  - (iii) if the amount deducted is in respect of Accountable Taxes, the amount payable by that Guarantor shall be increased so that, after making the deduction and further deductions applicable to additional amounts payable under this clause, that Beneficiary receives (at the time the payment is due) the amount it would have received if no deductions had been required and that Guarantor agrees to make that increased payment to the Beneficiary.
- (b) If:
  - (i) a Transaction Document with respect to a Beneficiary does not require the relevant Debtor under that Transaction Document to increase any amount payable by it following an amount being deducted in respect of a particular Accountable Tax ("**Exempt Tax**"); and
  - (ii) a Guarantor is required to, and does, deduct from any payment of Guaranteed Money made by it to that Beneficiary with respect to that Transaction Document an amount as a result of that Exempt Tax and pays such amount to the relevant authority in accordance with applicable law,

the amount payable by a Guarantor to that Beneficiary is not required to be increased.

Each Guarantor that is not a party to a Transaction Document with respect to a Beneficiary hereby acknowledges the provisions of that Transaction Document and agrees to be bound by such provisions with the same force and effect, and to the same extent, as if such Guarantor were a party to that Transaction Document.

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## **12 Costs and indemnities**

### **12.1 What the Guarantors agree to pay**

Each Guarantor agrees to pay or reimburse each Beneficiary on demand for:

- (a) that Beneficiary's Costs in enforcing or preserving rights under this deed poll; and
- (b) Taxes and fees (including registration fees) and fines and penalties in respect of fees paid in connection with this deed poll or a payment or receipt or any other transaction contemplated by this deed poll. However, a Guarantor need not pay a fine or penalty in connection with Taxes or fees to the extent that it has placed that Beneficiary in sufficient cleared funds for that Beneficiary to be able to pay the Taxes or fees by the due date.

### **12.2 Indemnity**

Each Guarantor indemnifies each Beneficiary against any liability or loss arising from, and any Costs incurred in connection with, the payment, omission to make payment or delay in making payment of an amount referred to in clause 12.1 ("What the Guarantors agree to pay"). Each Guarantor agrees to pay amounts due under this indemnity to a Beneficiary on demand from that Beneficiary.

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## **13 Application of payments**

### **13.1 Application of money**

Each Beneficiary may apply money paid by the relevant Debtor or that Debtor's estate, or a Guarantor or otherwise towards satisfaction of that Beneficiary's Guaranteed Money and other money payable to that Beneficiary under this deed poll in the manner it sees fit.

### **13.2 Order of payment**

A Beneficiary may use money received under this deed poll towards paying any part of that Beneficiary's Guaranteed Money that Beneficiary chooses. This applies even if that part only falls due after that Beneficiary gives a notice of demand.

### **13.3 Suspense account**

A Beneficiary may place in an interest bearing suspense account any payment it receives from a Guarantor (and any net interest on that payment after tax) for as long as it thinks prudent and need not apply the payment or net interest towards satisfying its Guaranteed Money or other money payable under this deed poll to it.

### **13.4 Remaining money**

Each Beneficiary agrees to pay any money remaining after the Guaranteed Money owed to it is fully and finally paid either to a Guarantor (which that Beneficiary may do by paying it into an account in that Guarantor's name) or to

another person nominated by that Guarantor. In doing so, it does not incur any liability to any Guarantor. The Beneficiary does not pay any Guarantor interest on any money remaining after its Guaranteed Money is paid.

### 13.5 Credit from date of receipt

Each Guarantor is only credited with having paid money to a Beneficiary from the date the Beneficiary actually receives it.

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## 14 Assignments, transfers, novations and sharing by Beneficiary

### 14.1 Permitted novation or assignment

On the date a Beneficiary ("**Existing Lender**") transfers by novation its rights and obligations under a Transaction Document applicable to that Existing Lender to another entity ("**New Lender**") or assigns or otherwise transfers its rights under a Transaction Document to a New Lender, in each case in accordance with the terms of the Transaction Document:

- (a) to the extent of the transfer:
  - (i) each Guarantor and the Existing Lender are each released from further obligations towards one another under this deed poll and their respective rights against one another shall be cancelled; and
  - (ii) the New Lender automatically becomes a Beneficiary for the purposes of this deed poll without the need to take any action;
- (b) to the extent of the assignment or transfer, the New Lender automatically becomes a Beneficiary for the purposes of this deed poll without the need to take any action; and
- (c) upon request in writing by the New Lender, the Company agrees to deliver to that New Lender a duly signed, sealed and delivered Guarantee Certificate on behalf of each Guarantor.

### 14.2 Other assignments and novations

Except as set out in clause 14.1 ("Permitted novation or assignment"), the rights and benefits of a Beneficiary (other than a Representative) under this deed poll are not capable of assignment without the prior written consent of the Company.

### 14.3 Sharing by Beneficiaries

Each Guarantor acknowledges and agrees to be bound by any term in a Transaction Document applicable to a Beneficiary where such Transaction Document requires that Beneficiary to share a payment made to it with any other Beneficiary applicable to that Transaction Document.

### 14.4 Replacement of Representative

If a Representative is replaced ("**Outgoing Representative**") with another person ("**Substitute Representative**") in accordance with the terms of the Transaction Documents applicable to that Representative, the Substitute Representative is taken automatically to have replaced the Outgoing Representative for the purposes of this deed poll without the need for the Company or any Guarantor to take any action.

## **14.5 Other assignments and novations by Representative**

Except as set out in clause 14.4 ("Replacement of Representative"), the rights and benefits of a Representative under this deed poll are not capable of assignment without the prior written consent of the Company.

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## **15 Notices and other communications**

### **15.1 Form - all communications**

Unless expressly stated otherwise in this deed poll, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed poll must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and marked for the attention of the person identified in the Details, the relevant Guarantee Certificate or, if the recipient has notified otherwise, then marked for attention in the way last notified.

### **15.2 Form - communications sent by email**

Communications sent by email need not be marked for attention in the way stated in clause 15.1 ("Form - all communications"). However, the email must state the first and last name of the sender.

Communications sent by email are taken to be signed by the named sender.

### **15.3 Delivery**

Communications must be:

- (a) left at the address set out or referred to in the Details or the relevant Guarantee Certificate or the relevant Transaction Document, as the case may be; or
- (b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details or the relevant Guarantee Certificate or the relevant Transaction Document, as the case may be; or
- (c) sent by fax to the fax number set out or referred to in the Details or the relevant Guarantee Certificate or the relevant Transaction Document, as the case may be; or
- (d) sent by email to the address set out or referred to in the Details or the relevant Guarantee Certificate or the relevant Transaction Document, as the case may be; or
- (e) personally delivered in the presence of a certifying public officer (i.e. public or commercial notary) at the address set out or referred to in the Details or the relevant Guarantee Certificate or the relevant Transaction Document, as the case may be.

However, if the intended recipient has notified a changed address or fax number, then communications must be to that address or number.

### **15.4 When effective**

Communications take effect from the time they are received or taken to be received under clause 15.5 ("When taken to be received") (whichever happens first) unless a later time is specified.

## 15.5 When taken to be received

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another); or
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
  - (i) when the sender receives an automated message confirming delivery; or
  - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,whichever happens first; or
- (d) if personally delivered in the presence of a certifying public officer (i.e. public or commercial notary), on the date on which it is so delivered.

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## 16 Additional Guarantors

### 16.1 Accession of Additional Guarantors

- (a) The Company may procure at any time that any of its wholly owned Subsidiaries become an Additional Guarantor. That Subsidiary becomes an Additional Guarantor if it:
  - (i) duly executes, seals and delivers to each Beneficiary an Accession Deed Poll;
  - (ii) where applicable, duly stamps the Accession Deed Poll;
  - (iii) where applicable, gives to each Beneficiary all duly completed forms, notices and other documents required to register or file with the appropriate Governmental Agency the Accession Deed Poll or otherwise required to be delivered in connection with that Accession Deed Poll pursuant to the Transaction Documents applicable to that Beneficiary; and
  - (iv) gives to each Beneficiary an opinion or opinions from the legal advisers of the Additional Guarantor opining that the Accession Deed Poll is legal, binding and enforceable against that Additional Guarantor in accordance with its terms and that the payment obligations of the Additional Guarantor under this deed poll rank at least *pari passu*, without preference or priority, to all other unsecured and unsubordinated indebtedness of such Additional Guarantor (subject to customary bankruptcy and other general exceptions) and contains such other opinions as may be required pursuant to the Transaction Documents applicable to that Beneficiary.
- (b) The relevant wholly owned Subsidiary becomes an "Additional Guarantor" with effect on and from the date specified in the Accession Deed Poll and is bound by the terms of this deed poll.

## 16.2 Guarantor Group

- (a) Subject to the provisions of this clause 16.2, the Company agrees to ensure that:
- (i) members of the Group which generate at least 80% of the EBITDA of the Group and which hold at least 80% of the Total Assets of the Group are Guarantors;
  - (ii) if:
    - (A) there is more than one borrower (however described) under a Transaction Document; and
    - (B) each such borrower is a wholly owned Subsidiary of the Company,each such borrower is a Guarantor; and
  - (iii) each Material Subsidiary is a Guarantor,
- and agrees to ensure that all such wholly owned Subsidiaries promptly accede and become bound as Guarantors under clause 16.1 ("Accession of Additional Guarantors"). For the avoidance of doubt, this clause 16.2(a) applies to any Subsidiary required to become a Guarantor as a result of clause 16.2(b).
- (b) The Company must ensure that the test set out in clause 16.2(a) is measured within 30 days of a New Acquisition to determine whether any Additional Guarantors are required for the Company to satisfy that test. If it is not possible within 30 days to determine the EBITDA and/or Total Assets (as applicable) of the Group, the Company agrees to estimate (using reasonable assumptions) the EBITDA and/or Total Assets (as applicable) of the Group for the purposes of compliance with clause 16.2(a) and must ensure that the EBITDA and/or Total Assets (as applicable) of the Group are determined as soon as possible for the purpose of compliance with clause 16.2(a).
- (c) If it is unlawful for a member of the Group to become a Guarantor or if becoming a Guarantor would result in personal liability for a member of the Group's directors or other management, that member of the Group need not become a Guarantor and the Company does not breach its obligations under clause 16.2(a). However, subject to clause 16.2(d), the Company must, as soon as practicable, take (and must ensure that each relevant member of the Group takes), any steps available to it to avoid any such unlawfulness or personal liability (including by complying with any procedure under any law such as under section 208(1)(a) or section 260B of the Corporations Act or by agreeing to a limit on the amount guaranteed).
- (d) If the approval of the shareholders of the Company at a general meeting is required for a member of the Group to become a Guarantor, the Company must ensure that the relevant member of the Group becomes a Guarantor no later than:
- (i) in the case of a member or members (as appropriate) of the Group which is/are acquired as part of an acquisition which has the effect of increasing the Group's EBITDA or Total Assets by at least 10%, the earlier of:

- (A) the day which is 120 days after the date on which the member of the Group was required to become a Guarantor under clause 16.2(a); and
  - (B) 30 days after the Company's next annual general meeting; or
  - (ii) otherwise, 30 days after the Company's next annual general meeting.
- (e) If the Company cannot comply with the test in clause 16.2(a) following the Calculation Date described in clause 16.2(b) for a reason described in clause 16.2(c), the Company must ensure that any member or members (as appropriate) of the Group:
- (i) which is not a Guarantor;
  - (ii) which generates at least 5% of the EBITDA of the Group or which holds at least 5% of the Total Assets of the Group;
  - (iii) which is incorporated or formed in Australia, the United States of America or any other jurisdiction in which an existing Guarantor is incorporated or formed; and
  - (iv) in respect of whom clause 16.2(c) does not apply,
- promptly becomes a Guarantor in accordance with clause 16.1 ("Accession of Additional Guarantors").
- (f) Nothing in this clause 16.2 shall modify any obligation of the Company set forth in any Transaction Document to cause any Subsidiary of the Company to accede and become bound as a Guarantor under clause 16.1 ("Accession of Additional Guarantors"), it being acknowledged and agreed that the obligations set forth in this clause 16.2 and any such other obligations are cumulative and are not exclusive.

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## 17 Release of Guarantors

### 17.1 Assignment

No Guarantor may assign any of its rights or transfer any of its rights or obligations under this deed poll, or allow any interest in them to arise or be varied.

### 17.2 Release of Guarantors

The Company may release any Guarantor (other than the Company) from this deed poll without having to obtain the consent of any Beneficiary if:

- (a) after the release of that Guarantor, the covenants in clause 16.2 ("Guarantor Group") will not be breached;
- (b) no default (however defined in any Transaction Document) or review event (however defined in any Transaction Document) has occurred and is continuing or would result therefrom; and
- (c) the Company has sent each Beneficiary a Release of Guarantor Deed Poll in respect of that Guarantor at least 5 Business Days prior to the date that Guarantor is to be released from this deed poll.



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## **18 General**

### **18.1 Prompt performance**

If this deed poll specifies when a Guarantor agrees to perform an obligation, that Guarantor agrees to perform it by the time specified. Each Guarantor agrees to perform all other obligations promptly.

### **18.2 Consents and waivers**

Each Guarantor agrees to comply with all conditions in any consent or waiver a Beneficiary gives in connection with this deed poll.

### **18.3 Set-off**

Each Beneficiary may set off any amount owing by the Beneficiary to a Guarantor (whether or not due for payment) against any amount due for payment by that Guarantor to the Beneficiary under this deed poll.

The Beneficiary may do anything necessary to effect any set-off under this clause (including varying the date for payment of any amount owing by the Beneficiary to a Guarantor and making currency exchanges). This clause applies despite any other agreement between that Guarantor and the Beneficiary.

### **18.4 Discretion in exercising rights**

Each Beneficiary may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed poll expressly states otherwise.

### **18.5 Partial exercising of rights**

If a Beneficiary does not exercise a right or remedy fully or at a given time, the Beneficiary may still exercise it later.

### **18.6 No liability for loss**

A Beneficiary is not liable for loss, liability or Cost caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy under or in connection with a Transaction Document.

### **18.7 Conflict of interest**

A Beneficiary's rights and remedies under this deed poll may be exercised even if this involves a conflict of duty or the Beneficiary has a personal interest in their exercise.

### **18.8 Remedies cumulative**

A Beneficiary's rights and remedies under this deed poll are in addition to other rights and remedies given by law independently of this deed poll.

### **18.9 Indemnities**

The indemnities in this deed poll are continuing obligations, independent of each Guarantor's other obligations under this deed poll. It is not necessary for a Beneficiary to incur expense or make payment before enforcing a right of indemnity under this deed poll.

### **18.10 Inconsistent law**

To the extent permitted by law, this deed poll prevails to the extent it is inconsistent with any law.

### **18.11 Supervening legislation**

Any present or future legislation which operates to vary the obligations of a Guarantor in connection with this deed poll with the result that a Beneficiary's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

### **18.12 Time of the essence**

Time is of the essence in this deed poll in respect of an obligation of each Guarantor to pay money.

### **18.13 Variation and waiver**

(a) Unless this deed poll expressly states otherwise, a provision of this deed poll, or right created under it, may not be waived except in writing signed by:

- (i) if there is no Representative applicable to a Beneficiary, that Beneficiary; and
- (ii) if there is a Representative applicable to a Beneficiary, that Beneficiary or the Representative (acting on the instructions of that Beneficiary or otherwise pursuant to its authority under the applicable Transaction Documents),

granting the waiver.

(b) Unless this deed poll expressly states otherwise, a provision of this deed poll may not be varied except in writing signed by:

- (i) the Company;
- (ii) if there is no Representative applicable to a Beneficiary, that Beneficiary; and
- (iii) if there is a Representative applicable to a Beneficiary, that Beneficiary or the Representative (acting on the instructions of that Beneficiary or otherwise pursuant to its authority under the applicable Transaction Documents),

although nothing in this clause prevents:

- (iv) the Company procuring any of its Subsidiaries to become a Guarantor in accordance with clause 16.1 ("Accession of Additional Guarantors");
- (v) a Guarantor being released from this deed poll in accordance with clause 17 ("Release of Guarantors"); or
- (vi) a Guarantor extending the benefit of this deed poll to any person in accordance with clause 8.1 ("Becoming a Beneficiary").

#### **18.14 The Company authorised to act**

Each Guarantor, other than the Company, grants an irrevocable power of attorney in favour of, and instructs, the Company to:

- (a) agree with any other party to amend, supplement or otherwise vary this deed poll; and
- (b) do any matter, act or thing under or in connection with, for the purposes of, or as contemplated by, this deed poll, including, without limitation, to sign, despatch and receive a document (including, without limitation, a Guarantee Certificate) or a notice, give or obtain any consent, approval or waiver and take any other action that the Company considers necessary or desirable,

for and on its behalf.

#### **18.15 Guarantor to perform**

Where the Company has agreed to procure or ensure that a Guarantor complies with any undertaking or covenant in a Transaction Document, that Guarantor undertakes and agrees to comply with each such undertaking or covenant.

#### **18.16 Confidentiality**

Any Beneficiary may only disclose:

- (a) to any person to (or through) whom that Beneficiary assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this deed poll;
- (b) to any person with (or through) whom that Beneficiary enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments may be made by reference to, this deed poll or any Guarantor;
- (c) to any person with (or through) whom that Beneficiary enters into (or may potentially enter into) any derivative or securitisation transaction relating to a Guarantor or any of its Affiliates;
- (d) to any person in connection with an exercise of rights under this deed poll;
- (e) to its Affiliates, officers, employees, agents and attorneys, legal and other advisers and auditors;
- (f) any publicly available information;
- (g) to rating agencies, any stock exchange, regulators or any court of competent jurisdiction to the extent required by them;
- (h) to any person to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation (except that this paragraph does not permit a Beneficiary to disclose any information under section 275(4) of the PPSA unless section 275(7) of the PPSA applies); or
- (i) if applicable, to that Beneficiary's Representative with respect to the relevant Transaction Documents,

any information about any Guarantor, the Group and the Transaction Documents applicable to that Beneficiary as that Beneficiary considers appropriate if, in relation to clauses 18.16(a), 18.16(b) and 18.16(e), the person to whom the information is to be given has been made aware of the terms of this clause 18.16; provided that, notwithstanding the foregoing, each Beneficiary may also disclose any such information as and to the extent it is permitted under the Transaction Documents applicable to that Beneficiary.

Any Beneficiary may also disclose the terms of this deed poll and the name of each of the Guarantors to any investor or potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Beneficiary's rights or obligations under the Transaction Documents applicable to that Beneficiary.

#### **18.17 Code of Banking Practice**

The parties agree that the Code of Banking Practice does not apply to this deed poll and the transactions in connection with it.

#### **18.18 Counterparts**

This deed poll may consist of a number of copies, each signed by one or more parties to the deed poll. If so, the signed copies are treated as making up the one document.

#### **18.19 Governing law**

This deed poll is governed by the law in force in Victoria, Australia. Each Guarantor and each Beneficiary submit to the non-exclusive jurisdiction of the courts of that place.

#### **18.20 Service of Process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Guarantor (other than a Guarantor incorporated in Australia):
  - (i) irrevocably appoints the Company as its agent for service of process in relation to any proceedings under or in connection with this deed poll; and
  - (ii) agrees that failure by the process agent to notify the relevant Guarantor of the process will not invalidate the proceedings concerned.
- (b) The Company accepts its appointment as process agent under this clause 18.20.
- (c) Each party expressly agrees and consents to the provisions of this clause 18.20.

#### **18.21 Serving documents**

Without preventing any other method of service, any document in a court action may be served on a party being delivered to or left at that party's address for service of notices under clause 15.3 ("Delivery").

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## 19 New York provisions

The parties agree and acknowledge that the provisions of this clause 19 are an agreement among, and are solely for the benefit of, the Guarantors and those Beneficiaries (and their Representatives) in respect of which any Transaction Document is governed by the laws of the State of New York.

### 19.1 Submission to New York jurisdiction

- (a) Each Guarantor irrevocably and unconditionally submits, for itself and its property, to the jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this deed poll, or for recognition or enforcement of any judgment.
- (b) Each Guarantor irrevocably and unconditionally agrees that all claims arising out of or relating to this deed poll or any relevant Transaction Document brought by it or any of its Affiliates shall be brought, and may be heard and determined, exclusively in such New York State or, to the extent permitted by law, in such Federal court.
- (c) Each Guarantor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Nothing in this deed poll shall affect any right that any relevant Beneficiary may otherwise have to bring any action or proceeding relating to this deed poll or any relevant Transaction Document against a Guarantor or any of its properties in the courts of any jurisdiction.

### 19.2 No objection to New York jurisdiction

- (a) Each Guarantor irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this deed poll or any other relevant Transaction Document in any court referred to in clause 19.1 ("Submission to New York jurisdiction") above.
- (b) Each Guarantor irrevocably waives, to the fullest extent permitted by law, the defence of an inconvenient forum to the maintenance of such action or proceeding in any court referred to in clause 19.1 ("Submission to New York jurisdiction") above.

### 19.3 Service of process

- (a) Each Guarantor irrevocably consents to service of process in the manner provided for notices in the relevant Transaction Document applicable to the relevant Beneficiary, with all notices to any Guarantor other than the Company permitted to be given to it in the care of the Company as provided for notices to the Company in the relevant Transaction Document.
- (b) Each Guarantor incorporated or formed outside the United States of America irrevocably designates, appoints and empowers the relevant agent for service of process specified in the relevant Transaction Document applicable to the relevant Beneficiary to receive, accept and forward for and on its behalf service of any and all legal process, summons, notices and documents that may be served in any action or

proceeding arising out of or relating to this deed poll or any other relevant Transaction Document.

- (c) Such service may be made by mailing a copy of such process to the relevant Guarantor in the care of the agent for service of process specified in the relevant Transaction Document applicable to the relevant Beneficiary at its address set forth in the relevant Transaction Document from time to time.
- (d) Service of process upon the agent for service of process specified in the relevant Transaction Document applicable to the relevant Beneficiary shall be deemed, in every respect, effective service of process upon the relevant Guarantor.

Nothing in this deed poll or any other Transaction Document will affect the right of any relevant Beneficiary to serve process in any other manner permitted by law.

#### **19.4 No immunity**

In the event a Guarantor or any of its assets has or hereafter acquires, in any jurisdiction in which judicial proceedings may at any time be commenced with respect to this deed poll or any other Transaction Document, any immunity from jurisdiction, legal proceedings, attachment (whether before or after judgment), execution, judgment or setoff, the relevant Guarantor hereby irrevocably agrees not to claim and hereby irrevocably and unconditionally waives such immunity.

#### **19.5 Waiver of jury trial**

EACH GUARANTOR IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS DEED POLL, ANY OTHER TRANSACTION DOCUMENT OR THE TRANSACTIONS CONTEMPLATED UNDER THIS DEED POLL (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH GUARANTOR AND EACH RELEVANT BENEFICIARY EACH (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT THE RELEVANT BENEFICIARIES HAVE BEEN INDUCED TO ENTER INTO THIS DEED POLL AND THE OTHER RELEVANT TRANSACTION DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS CLAUSE.

**EXECUTED** as a deed poll

# Amended and restated IPL Guarantee Deed Poll

## Schedule 1 - Guarantors

### Part 1 – Original Guarantors

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Name	<b>Incitec Pivot Limited</b>
ACN	004 080 264
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Incitec Pivot Finance LLC</b>
Registration number	4526409
Place of incorporation	United States of America - State of Delaware
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Incitec Fertilizers Limited</b>
ACN	103 709 155
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>TOP Australia Ltd.</b>
ACN	007 656 046
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Southern Cross Fertilisers Pty Ltd</b>
ACN	004 936 850
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Southern Cross International Pty Ltd</b>
ACN	124 537 980
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury



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Name	<b>Incitec Pivot US Holdings Pty Ltd</b>
ACN	130 242 036
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Incitec Pivot Finance Australia Pty Ltd</b>
ACN	132 883 848
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

## Part 2 – Additional Guarantors as at the Amendment Time

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Name	<b>Dyno Nobel Pty Limited</b>
ACN	117 733 463
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Asia Pacific Pty Limited</b>
ACN	003 269 010
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Moranbah Pty Ltd</b>
ACN	115 650 649
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Moura Pty Limited</b>
ACN	080 849 761
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Incitec Pivot Explosives Holdings Pty Ltd</b>
ACN	124 351 328
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>DNX Australia Pty Ltd</b>
ACN	001 502 423
Place of incorporation	Australia
Address	Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name **Dyno Nobel Europe Pty Ltd**

ACN 124 372 130

Place of incorporation Australia

Address Level 8  
28 Freshwater Place  
Southbank VIC 3006

Fax +61 3 8695 4417

Email uri.gordon@incitecpivot.com.au

Attention General Manager - Treasury

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Name **Dyno Nobel Australia LLC**

Place of incorporation United States of America - State of Delaware

Address c/- Incitec Pivot Limited  
Level 8  
28 Freshwater Place  
Southbank VIC 3006

Fax +61 3 8695 4417

Email uri.gordon@incitecpivot.com.au

Attention General Manager - Treasury

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Name **Dyno Nobel Inc.**

Place of incorporation United States of America - State of Delaware

Address c/- Incitec Pivot Limited  
Level 8  
28 Freshwater Place  
Southbank VIC 3006

Fax +61 3 8695 4417

Email uri.gordon@incitecpivot.com.au

Attention General Manager - Treasury

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Name **Dyno Nobel Holdings USA, Inc.**

Place of incorporation United States of America - State of Delaware

Address c/- Incitec Pivot Limited  
Level 8  
28 Freshwater Place  
Southbank VIC 3006

Fax +61 3 8695 4417

Email uri.gordon@incitecpivot.com.au

Attention General Manager - Treasury

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Name	<b>Dyno Nobel Louisiana Ammonia LLC</b>
Place of incorporation	United States of America - State of Delaware
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Holdings V LLC</b>
Place of incorporation	United States of America - State of Delaware
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Canada Inc.</b>
Place of incorporation	Canada
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Incitec Pivot Finance Canada Inc.</b>
Place of incorporation	Canada
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

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Name	<b>Dyno Nobel Waggaman Inc.</b>
Place of incorporation	Canada
Address	c/- Incitec Pivot Limited Level 8 28 Freshwater Place Southbank VIC 3006
Fax	+61 3 8695 4417
Email	uri.gordon@incitecpivot.com.au
Attention	General Manager - Treasury

# Amended and restated IPL Guarantee Deed Poll

## Schedule 2 - Form of Accession Deed Poll

### Accession Deed Poll

<b>Additional Guarantor</b>	Name	#insert full name#
	ABN/ACN/ARBN /registration number	#insert#
	Address	#insert#
	Fax	#fax number#
	Email	#insert#
	Attention	#insert#
<b>Company</b>	Name	<b>Incitec Pivot Limited</b>
	ABN	42 004 080 264
	Address	Level 8 28 Freshwater Place Southbank VIC 3006
	Fax	+61 3 8695 4417
	Email	uri.gordon@incitecpivot.com.au
	Attention	General Manager - Treasury
<b>Guarantee Deed Poll</b>	IPL Guarantee Deed Poll originally dated 17 September 2008, as amended and restated on 9 October 2013 and as further amended and restated on [            ], granted by Incitec Pivot Limited and certain Subsidiaries of Incitec Pivot Limited in favour of each Beneficiary (as defined therein).	
<b>Governing law of this deed poll</b>	The same as the Guarantee Deed Poll.	

**BY THIS DEED POLL** the Additional Guarantor, for the benefit of each Beneficiary under the Guarantee Deed Poll:

- (a) irrevocably agrees that from the date of this deed poll it is a Guarantor;
- (b) irrevocably agrees to comply with and be bound by all current and future obligations of a Guarantor under the Guarantee Deed Poll and that no Guarantee Certificate needs to be issued or countersigned for this to take effect;

- (c) acknowledges having read a copy of the Guarantee Deed Poll before signing this deed poll;
- (d) without limiting the general application of paragraphs (a) to (c) (inclusive) of this deed poll, irrevocably, for consideration received, appoints as its attorney the Company on the same terms, and for the same purposes, as contained in clauses 8.1 ("Becoming a Beneficiary") and 18.14 ("The Company authorised to act") of the Guarantee Deed Poll; and
- (e) acknowledges receiving valuable consideration for this deed poll.

As at the date of this deed poll, the Company makes all the representations and warranties (for and on behalf of itself and the Additional Guarantor) under each Transaction Document in favour of any Beneficiary to whom that Transaction Document applies.

The "Interpretation" clause of the Guarantee Deed Poll described above applies to this deed poll as if it was fully set out in this deed poll.

This deed poll may consist of a number of copies, each signed by one or more parties to the deed poll. If so, the signed copies are treated as making up the one document.

**DATED** [                    ]

**EXECUTED** as a deed poll

**EXECUTED** by **INCITEC PIVOT** )  
**LIMITED** in accordance with section )  
127(1) of the Corporations Act 2001 )  
(Cwlth) by authority of its directors: )

..... )  
Signature of director )

..... )  
Name of director (block letters) )

..... )  
Signature of director/company secretary\* )  
\*delete whichever is not applicable

..... )  
Name of director/company secretary\* )  
(block letters) )  
\*delete whichever is not applicable

**[Insert execution clause for Additional Guarantor]**



# Amended and restated IPL Guarantee Deed Poll

## Schedule 3 - Form of Release of Guarantor Deed Poll

### Release of Guarantor Deed Poll

<b>Retiring Guarantor</b>	Name	<b>#insert full name#</b>
	ABN/ACN/ARBN /registration number	<b>#insert#</b>
	Address	<b>#insert#</b>
	Fax	<b>#fax number#</b>
	Email	<b>#insert#</b>
	Attention	<b>#insert#</b>
<b>Company</b>	Name	<b>Incitec Pivot Limited</b>
	ABN	42 004 080 264
	Address	Level 8 28 Freshwater Place Southbank VIC 3006
	Fax	+61 3 8695 4417
	Email	uri.gordon@incitecpivot.com.au
	Attention	General Manager - Treasury
<b>in favour of</b>	Each Beneficiary (as defined in the Guarantee Deed Poll)	
<b>Guarantee Deed Poll</b>	IPL Guarantee Deed Poll originally dated 17 September 2008, as amended and restated on 9 October 2013 and as further amended and restated on [                    ], granted by Incitec Pivot Limited and certain Subsidiaries of Incitec Pivot Limited (including the Retiring Guarantor) in favour of each Beneficiary (as defined therein).	
<b>Effective Date</b>	<b>[insert date that release is to take effect]</b>	
<b>Governing law of this deed poll</b>	The same as the Guarantee Deed Poll.	

On and from the Effective Date, in accordance with clause 17 ("Release of Guarantors") of the Guarantee Deed Poll, the Company releases the Retiring Guarantor from all liability under the Guarantee Deed Poll.

The Retiring Guarantor acknowledges and consents to the release and agrees that, on and from the Effective Date, it is not a Guarantor for the purposes of the Guarantee Deed Poll.

In accordance with clause 17 ("Release of Guarantors") of the Guarantee Deed Poll, the Company confirms that:

- (a) after the release of that Guarantor, the covenants in clause 16.2 ("Guarantor Group") of the Guarantee Deed Poll will not be breached;
- (b) no default (however defined in any relevant Transaction Document) or review event (however defined in any relevant Transaction Document) has occurred and is continuing or would result herefrom; and
- (c) the Effective Date is at least 5 Business Days after the date on which this deed poll will be sent to each Beneficiary.

Nothing in this deed poll affects:

- (i) the obligations of the Retiring Guarantor other than under the Guarantee Deed Poll; or
- (ii) the rights and obligations of any other person.

The "Interpretation" clause of the Guarantee Deed Poll described above applies to this deed poll as if it was fully set out in this deed poll.

This deed poll may consist of a number of copies, each signed by one or more parties to the deed poll. If so, the signed copies are treated as making up the one document.

**DATED** [                    ]

**EXECUTED** as a deed poll

**EXECUTED** by **INCITEC PIVOT LIMITED** in accordance with section 127(1) of the Corporations Act 2001 (Cwlth) by authority of its directors:

.....  
Signature of director

.....  
Name of director (block letters)

.....  
Signature of director/company secretary\*  
\*delete whichever is not applicable

.....  
Name of director/company secretary\*  
(block letters)  
\*delete whichever is not applicable

**[Insert execution clause for Retiring Guarantor]**

# Amended and restated IPL Guarantee Deed Poll

## Schedule 4 - Form of Guarantee Certificate

To: *[insert name(s), ABN(s) and address(es) of Beneficiary(ies)]* ([each a] "Beneficiary")

Dated: *[insert date]*

### IPL Guarantee Deed Poll - Guarantee Certificate

Incitec Pivot Limited ("Authorising Guarantor") is a party to a guarantee deed poll entitled 'IPL Guarantee Deed Poll' originally dated 17 September 2008, as amended and restated on 9 October 2013 and as further amended and restated on *[insert date]*, between Incitec Pivot Limited, each other party listed in schedule 1 of that deed poll (each an Original Guarantor) and each party who has executed an Accession Deed Poll to become an Additional Guarantor on or after the date of that deed poll (in either case, other than any party who has executed a Release of Guarantor Deed Poll to cease to be a Guarantor) ("Guarantee Deed Poll").

This is a Guarantee Certificate for the purposes of the Guarantee Deed Poll.

#### 1 Interpretation

Unless otherwise defined in this Guarantee Certificate, a term defined in the Guarantee Deed Poll has the same meaning when used in this Guarantee Certificate.

#### 2 Benefit of Guarantee Deed Poll

On behalf of all of the Guarantors, the Authorising Guarantor confirms that with effect on and from the date of this Guarantee Certificate:

- (a) the benefit of the Guarantee Deed Poll will be extended to *[the/each]* Beneficiary; and
- (b) each reference in the Guarantee Deed Poll to "Beneficiary" includes a reference to *[the/each]* Beneficiary.

#### 3 Details of Business Day

Any city (other than Melbourne and Sydney) for the purposes of the definition of Business Day: *[insert]*

#### 4 Representative

[For the purposes of *[each/the]* Beneficiary and the Guarantee Deed Poll (to the extent applicable to the Transaction Documents specified in this Guarantee Certificate), the Representative is *[insert]*.][For the purposes each Beneficiary and the Guarantee Deed Poll (to the extent applicable to the Transaction Documents specified in this Guarantee Certificate), there is no Representative. *[Insert appropriate sentence.]*



# Amended and restated IPL Guarantee Deed Poll Signing page

**ORIGINALLY DATED: 17 September 2008**

**EXECUTED** as a deed poll

### **USE OF PROCEEDS**

The net proceeds from the issue of each Tranche of Notes will be applied by the relevant Issuer for the IPL Group's general working capital and other corporate purposes and general financing or refinancing requirements.

## SUMMARY SELECTED FINANCIAL INFORMATION

The summary financial information presented in this section should be read in conjunction with, and is qualified in its entirety by reference to, (i) the audited consolidated financial statements of the IPL Group and the accompanying notes for the relevant financial years and (ii) the reviewed consolidated financial statements of the IPL Group and the accompanying notes (which have been reviewed by the auditors of the IPL Group) for the relevant six-month periods.

All amounts are expressed in Australian dollars unless otherwise stated.

<b>Income Statement</b>	<b>Year ended 30 September</b>			<b>Half Year Ended 31 March</b>		
	<b>2016</b> A\$ millions <i>(audited)</i>	<b>2015</b> A\$ millions <i>(audited)</i>	<b>2014</b> A\$ millions <i>(audited)</i>	<b>1H 2017</b> A\$ millions <i>(reviewed)</i>	<b>1H 2016</b> A\$ millions <i>(reviewed)</i>	<b>1H 2015</b> A\$ millions <i>(reviewed)</i>
Revenue	3,353.7	3,643.3	3,352.0	1,535.7	1,524.0	1,594.9
EBITDA ex IMIs <sup>(1)</sup>	672.6	825.6	742.7	373.3	322.6	337.3
EBIT ex IMIs <sup>(2)</sup>	428.1	576.5	519.4	242.8	197.3	215.6
<b>NPAT ex IMIs<sup>(3)</sup></b>	<b>295.2</b>	<b>398.6</b>	<b>356.3</b>	<b>152.1</b>	<b>137.1</b>	<b>146.4</b>
IMIs after tax	(167.1)	–	(109.2)	–	(105.6)	–
<b>NPAT</b>	<b>128.1</b>	<b>398.6</b>	<b>247.1</b>	<b>152.1</b>	<b>31.5</b>	<b>146.4</b>

(1) EBITDA ex IMIs = Earnings before interest, tax, depreciation and amortisation, excluding individually material items (“IMIs”).

(2) EBIT ex IMIs = Earnings before interest and tax, excluding IMIs.

(3) NPAT ex IMIs = Net profit after tax attributable to shareholders excluding IMIs.

<b>Balance Sheet</b>	<b>31-Mar 17</b> <b>A\$ millions</b> <b>(reviewed)</b>	<b>30-Sep 16</b> <b>A\$ millions</b> <b>(audited)</b>	<b>31-Mar 16</b> <b>A\$ millions</b> <b>(reviewed)</b>	<b>30-Sep 15</b> <b>A\$ millions</b> <b>(audited)</b>
<b>Current assets</b>				
Cash and cash equivalents	90.1	427.1	83.0	606.3
Trade and other receivables	315.1	256.1	352.5	288.8
Inventories	496.8	405.7	534.6	401.3
Other assets	85.1	39.3	61.4	38.4
Other financial assets	9.5	9.2	3.6	9.1
Current tax assets	13.2	4.5	–	–
<b>Total current assets</b>	<b>1,009.8</b>	<b>1,141.9</b>	<b>1,035.1</b>	<b>1,343.9</b>
<b>Non-current assets</b>				
Trade and other receivables	25.5	20.7	20.7	21.2
Other assets	36.4	62.8	64.9	63.2
Other financial assets	33.4	37.2	31.5	36.0
Equity accounted investments	320.5	318.0	314.2	323.6
Property, plant and equipment	3,889.1	3,892.7	3,815.6	4,003.6
Intangible assets	3,158.2	3,170.4	3,169.4	3,346.3
Deferred tax assets	21.7	23.2	24.2	58.5
<b>Total non-current assets</b>	<b>7,484.8</b>	<b>7,525.0</b>	<b>7,440.5</b>	<b>7,852.4</b>
<b>Total assets</b>	<b>8,494.6</b>	<b>8,666.9</b>	<b>8,475.6</b>	<b>9,196.3</b>
<b>Current liabilities</b>				
Trade and other payables	715.4	939.5	742.9	888.5
Interest bearing liabilities	17.7	11.1	17.7	747.1
Other financial liabilities	19.0	5.2	108.5	129.1
Provisions	81.1	114.4	94.6	86.9
Current tax liabilities	–	–	11.1	44.6
<b>Total current liabilities</b>	<b>833.2</b>	<b>1,070.2</b>	<b>974.8</b>	<b>1,896.2</b>
<b>Non-current liabilities</b>				
Trade and other payables	3.9	7.3	5.5	4.6
Interest bearing liabilities	2,263.2	2,278.3	2,269.6	1,806.6
Other financial liabilities	42.8	96.9	75.2	77.8
Provisions	97.3	88.1	89.1	93.3
Deferred tax liabilities	497.9	442.6	420.7	543.4
Retirement benefit obligation	53.1	99.0	82.3	86.2
<b>Total non-current liabilities</b>	<b>2,958.2</b>	<b>3,012.2</b>	<b>2,942.4</b>	<b>2,611.9</b>
<b>Total liabilities</b>	<b>3,791.4</b>	<b>4,082.4</b>	<b>3,917.2</b>	<b>4,508.1</b>
<b>Net assets</b>	<b>4,703.2</b>	<b>4,584.5</b>	<b>4,558.4</b>	<b>4,688.2</b>
<b>Equity</b>				
Issued capital	3,436.8	3,436.8	3,436.8	3,430.9
Reserves	(160.4)	(187.3)	(197.8)	(156.7)
Retained earnings	1,421.4	1,330.7	1,316.0	1,411.0
Non-controlling interest	5.4	4.3	3.4	3.0
<b>Total equity</b>	<b>4,703.2</b>	<b>4,584.5</b>	<b>4,558.4</b>	<b>4,688.2</b>



## DESCRIPTION OF THE IPL GROUP

In this section, references to “**IPL**” and the “**IPL Group**” should all be read as meaning Incitec Pivot Limited and its controlled entities taken as a whole, except where the context requires otherwise.

IPL’s financial year ends on 30 September. Unless stated differently, the following applies:

- “**year**” or a “**financial year**” means the year ended 30 September; and
- “**2016**” means financial year 2016 and similarly for other financial years.

All amounts are expressed in Australian dollars unless otherwise stated.

The percentages of contribution from various sectors of the IPL Group’s business set out in this section are approximate and have not been audited by the auditors of the IPL Group. Accordingly, potential investors in the Notes are advised not to place undue reliance on such percentages.

### Overview

IPL is a global diversified industrial chemicals company with operations that leverage manufacturing excellence through a common nitrogen core. IPL’s annual revenues were A\$3.353 billion for the financial year ended 30 September 2016. Its market capitalisation as of 31 March 2017 was A\$6.343 billion, ranking IPL in the top 100 companies listed on the Australian Securities Exchange (operated by ASX Limited (ABN 98 008 624 691))<sup>1</sup>. IPL is rated BBB (stable) by S&P Global Ratings and Baa2 (stable) by Moody’s Investors Services Pty Limited.

IPL has operations primarily in Australia and North America where it enjoys strong market positions through its globally recognised Dyno Nobel and Incitec Pivot Fertilisers (“**IPF**”) brands. Dyno Nobel is the second largest industrial explosives distributor in Australia and North America by volume and IPF is Australia’s largest domestic manufacturer and supplier of fertilisers by volume.

IPL has a proven track record of building and constructing manufacturing plants. IPL’s ammonia plant in Waggaman, Louisiana, for example, is a world scale ammonia plant and is in the first quartile of the cost curve on a US delivered basis. Commissioned in October 2016, the plant achieved 83 per cent. uptime in 1H 2017 when calculated against an 800,000 mt per annum nameplate capacity. The plant’s production is fully committed, with long term offtake agreements (of 10 and 25 years) and internally to Dyno Nobel.

IPL has equity interests in a number of joint ventures, including in a manufacturer of ammonium nitrate in Australia, Queensland Nitrates Pty Ltd (ABN 63 079 889 268), and manufacturers of initiating systems, Sasol Dyno Nobel (Pty) Ltd and DetNet South Africa (Pty) Ltd (“**DetNet**”), both in South Africa.

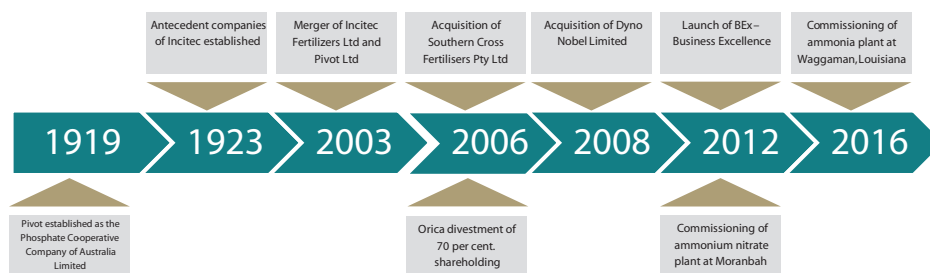
Incitec Pivot Finance LLC (a company incorporated and domiciled in the US State of Delaware) and Dyno Nobel Europe Pty Ltd (a company incorporated and domiciled in Australia) are wholly owned subsidiaries of IPL. These entities are corporate funding vehicles within the IPL Group. The only activities undertaken by these entities are the incurrence of external finance debt, the funding and investing of that debt to other members of the IPL Group and activities incidental to the foregoing.

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<sup>1</sup> As at 31 March 2017, IPL is a member of the S&P/ASX 100 Index, which comprises the 100 largest index-eligible stocks listed on the ASX by float-adjusted market capitalisation.

## History

The following timeline illustrates the key historical milestones since IPL's inception.



## Strategy

As a global diversified industrial chemicals company, IPL's strategy is to leverage core nitrogen and high explosive manufacturing competencies by aligning to major market dislocations (for example, US energy revolution and industrialisation and urbanisation of Asia). It does so through an upstream/downstream model that leverages a common nitrogen manufacturing core.

The immediate focus for IPL is firmly on optimising existing manufacturing assets, improving productivity and executing strategies to maximise returns.

In the medium term, IPL's growth is linked to the United States through its 800,000 mt per annum ammonia plant in Waggaman, Louisiana. Construction of the plant was completed in September 2016 and IPL assumed management of the plant on 19 October 2016, which completed IPL's evolution from an Australian fertiliser co-operative to a global industrial chemicals company.

Underpinning IPL's strategy is its commitment to Zero Harm, which reflects the primacy of safety within the organisation.

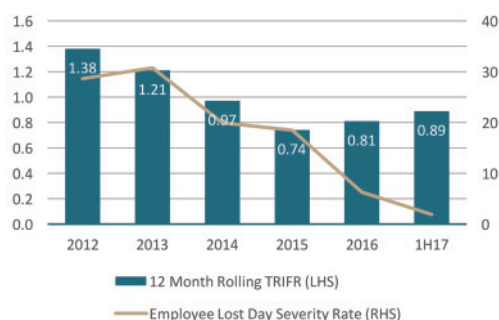
## Zero Harm

IPL prioritises its "Zero Harm for Everyone, Everywhere" company value above all others. It does so through a fully integrated Health, Safety and Environment ("HSE") system that provides the foundation for effective identification and management of HSE risks. Central to IPL's HSE system are the '4Ps':

- Passionate Leadership;
- People;
- Procedures; and
- Plant.

In 2012, IPL adopted a five year IPL Group HSE goal of achieving world class safety performance. Among other measures, this included reducing Total Recordable Injury Frequency Rate ("TRIFR")<sup>2</sup> to less than 1.0 by 2016. As of 31 March 2017, IPL achieved a 12-month rolling TRIFR of 0.89<sup>3</sup> representing a 36 per cent. decline since 2012. As demonstrated in the following chart, Employee Lost Day Severity Rate<sup>4</sup> also declined significantly over the same period.

**TRIFR and Employee Lost Day Severity Rate (12-month rolling)**



<sup>2</sup> TRIFR calculated as the number of recordable injuries per 200,000 hours worked; includes contractors.

<sup>3</sup> Subject to finalisation of the classification of any pending incidents.

<sup>4</sup> Employee Lost Day Severity Rate calculated as the number of employee lost workdays per 200,000 hours worked represented in days; does not include contractors.

The 2016 result and the safe completion of the Waggaman, Louisiana ammonia plant are important milestones toward achieving IPL's vision of "Zero Harm for Everyone, Everywhere". Notwithstanding progress to date, IPL will continue to focus on further improvement of its safety performance. The next five year IPL safety strategy (2017-2021) will continue to focus on health, safety and environment risk management, fatal risk control and reduction, process safety management, behavioural safety and the health and wellbeing of our people.

IPL's HSE system works in tandem with the Business Excellence ("BEx") continuous and focussed improvement system described below.

## **Competitive Strengths**

### *Balanced through diversification*

IPL has broad geographic and economic exposure to the world's two largest economies, the US and China. Furthermore, IPL's end-market exposure is diversified into: explosives, driven by global mining and US Quarry & Construction ("Q&C"), driven by US infrastructure spend; industrial chemicals, driven by agricultural and industrial demand; and fertilisers, driven by global food demand.

### *Core nitrogen manufacturing capability*

The common nitrogen core remains the foundation of IPL's operations, giving scale and engineering and operational competency in nitrogen manufacturing. Proximity to markets and access to economic feedstock at sites such as Waggaman, Louisiana; Cheyenne, Wyoming and Moranbah, Queensland, give IPL cost-competitive positions that complement core manufacturing competencies and proprietary knowledge in advanced products such as initiating systems.

### *Strong market positions*

IPL has strong market positions in the industries in which it operates. Dyno Nobel is the second largest industrial explosives distributor in Australia and North America by volume and IPF is Australia's largest domestic manufacturer and supplier of fertilisers by volume.

### *Financial flexibility*

IPL has prudent capital management and financial policies with regard to its balance sheet structure and liquidity. IPL maintains diversity of funding sources and keeps sufficient liquidity in cash and undrawn facilities. As at 30 September 2016, IPL had A\$804 million of undrawn debt facilities. IPL has two long-term issuer investment grade credit ratings of BBB (stable) by S&P Global Ratings and Baa2 (stable) by Moody's Investors Services Pty Limited.

### *Strong focus on continuous operating efficiency improvements through BEx*

IPL's focus on business transformation and operating efficiency improvements has underpinned continuous improvement in productivity and cost efficiencies. As at 31 March 2017, IPL's BEx program had delivered net productivity benefits of A\$242m since its launch in 2012<sup>5</sup>.

### *Experienced board and management team*

IPL's board of directors collectively possess an effective mix of skills and attributes, with significant commercial, business, operational and financial skills and experience in a diverse range of industries and geographies. The members of the management team have considerable experience in the industrial explosives and fertiliser industries.

## **Group Overview**

IPL is a global diversified industrial chemicals company that manufactures and distributes industrial explosives, industrial chemicals and fertilisers. It has operations primarily in Australia and in North America. In Australia it operates under the globally recognised Dyno Nobel and IPF brands, and in North America it operates under the Dyno Nobel brand. IPL's customer profile is diversified across these regions and end markets, with no customer accounting for more than 10 per cent. of the IPL Group's revenues in 2016.

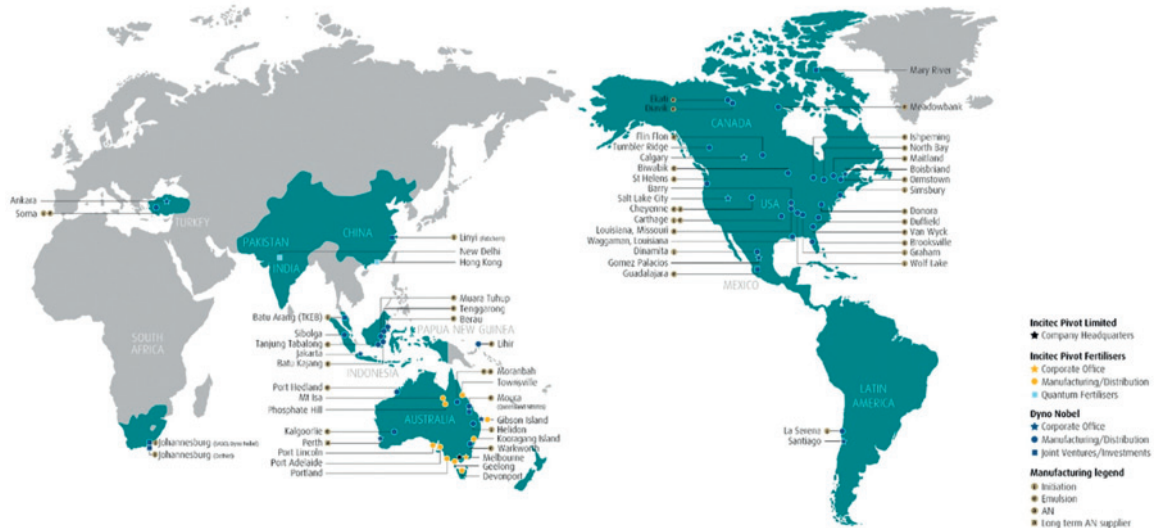
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<sup>5</sup> After cost inflation of ~A\$45m per annum.

IPL's geographic diversification gives the company direct exposure to the world's two largest economies;

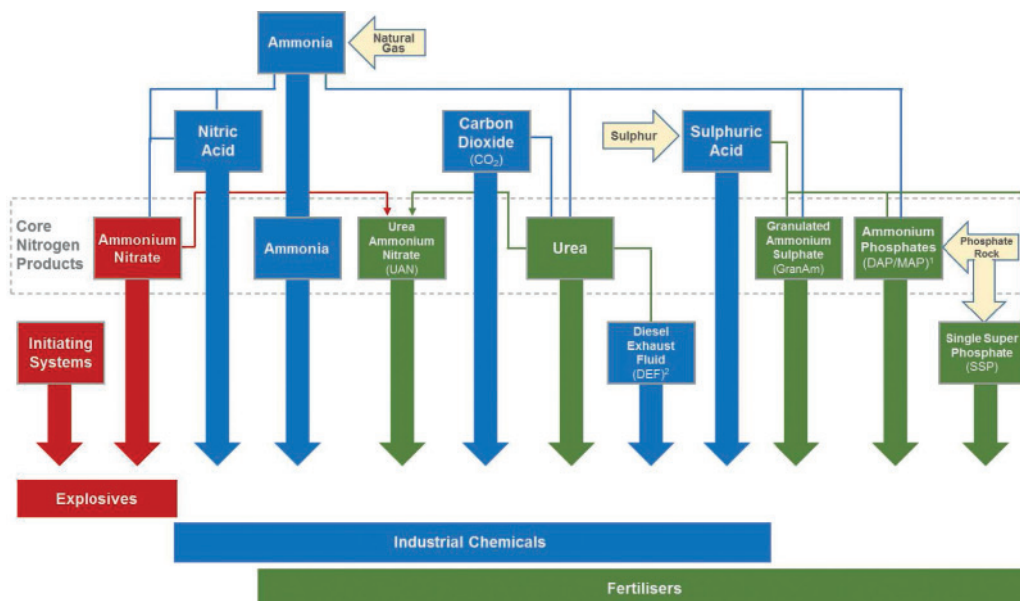
- US: Via North American explosives, industrial chemicals and fertilisers
- China: Via Asia Pacific explosives (metallurgical coal, iron ore) and fertilisers

### IPL's Global Operations



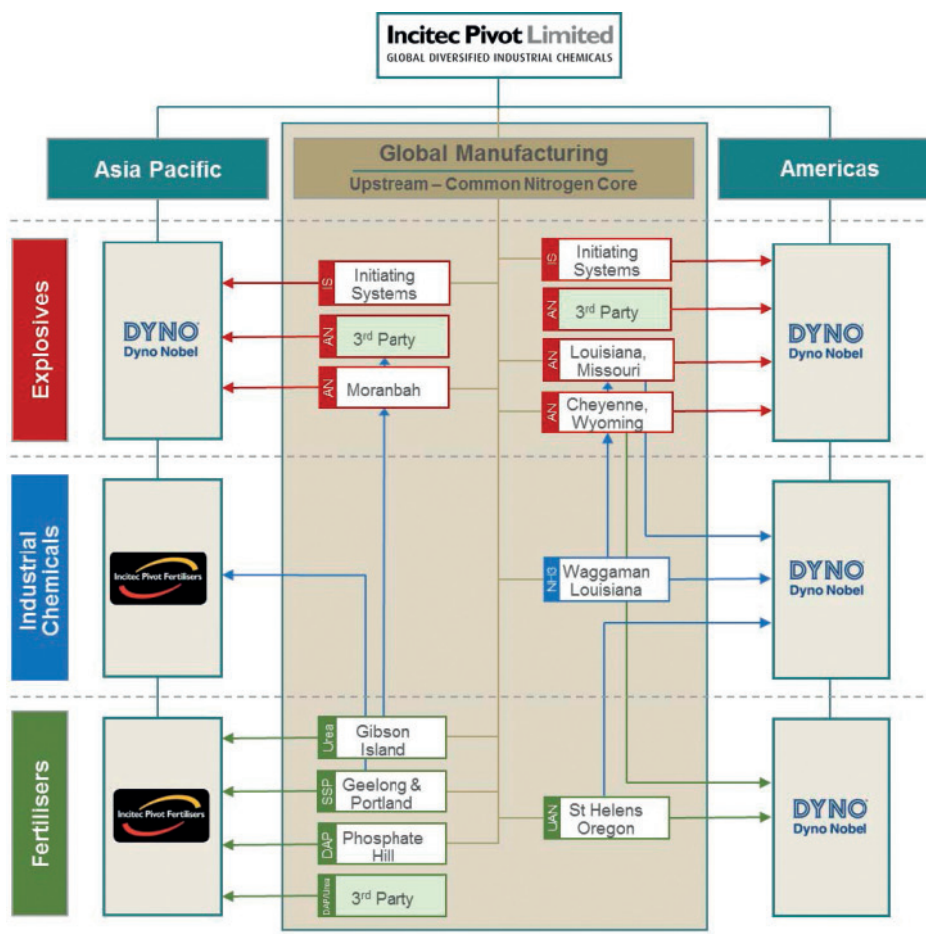
IPL is managed through an upstream/downstream model that leverages a common nitrogen manufacturing core. Upstream operations represent the manufacturing organisation and capability, while downstream operations represent the market facing components of the businesses, through which products are marketed and sold.

The common nitrogen core remains the foundation of IPL's operations, giving scale and engineering and operational competency in nitrogen manufacturing. Together with IPL's BEx operating system, this enables the upstream operations to effectively focus on improving the output, reliability and safety of its plants. Engineering synergies are achieved through a globally run manufacturing organisation, which manufactures the following nitrogen-based products.



- 1 Initiating Systems are the blasting components that provide the initial energy required to detonate an explosive. They includes boosters, detonators and control systems.
- 2 UAN : Urea ammonium nitrate
- 3 DEF : Diesel exhaust fluid is an aqueous urea solution made with urea and deionized water. It is used as a consumable in selective catalytic reduction in order to lower nitrogen oxides concentration in diesel exhaust emissions from diesel engines.
- 4 Ammonium Phosphates include diammonium phosphate (DAP): (NH<sub>4</sub>)<sub>2</sub>HPO<sub>4</sub> and monoammonium phosphate (MAP): (NH<sub>4</sub>)H<sub>2</sub>PO<sub>4</sub>

## IPL's Common Nitrogen Manufacturing Core



Downstream operations market and sell the output of fully integrated upstream global manufacturing assets and third party sourced products. Market-facing activity is conducted through IPL's two internationally recognised brands.



### Dyno Nobel Americas

**# 2 industrial explosives distributor in North America by volume**

- Explosives
- Industrial Chemicals
- Fertilisers

### Dyno Nobel Asia Pacific

**# 2 industrial explosives distributor in Australia by volume**

- Explosives
- Industrial Chemicals



### Incitec Pivot Fertilisers

**# 1 manufacturer and supplier of fertilisers in Australia by volume**

- Fertilisers
- Industrial Chemicals

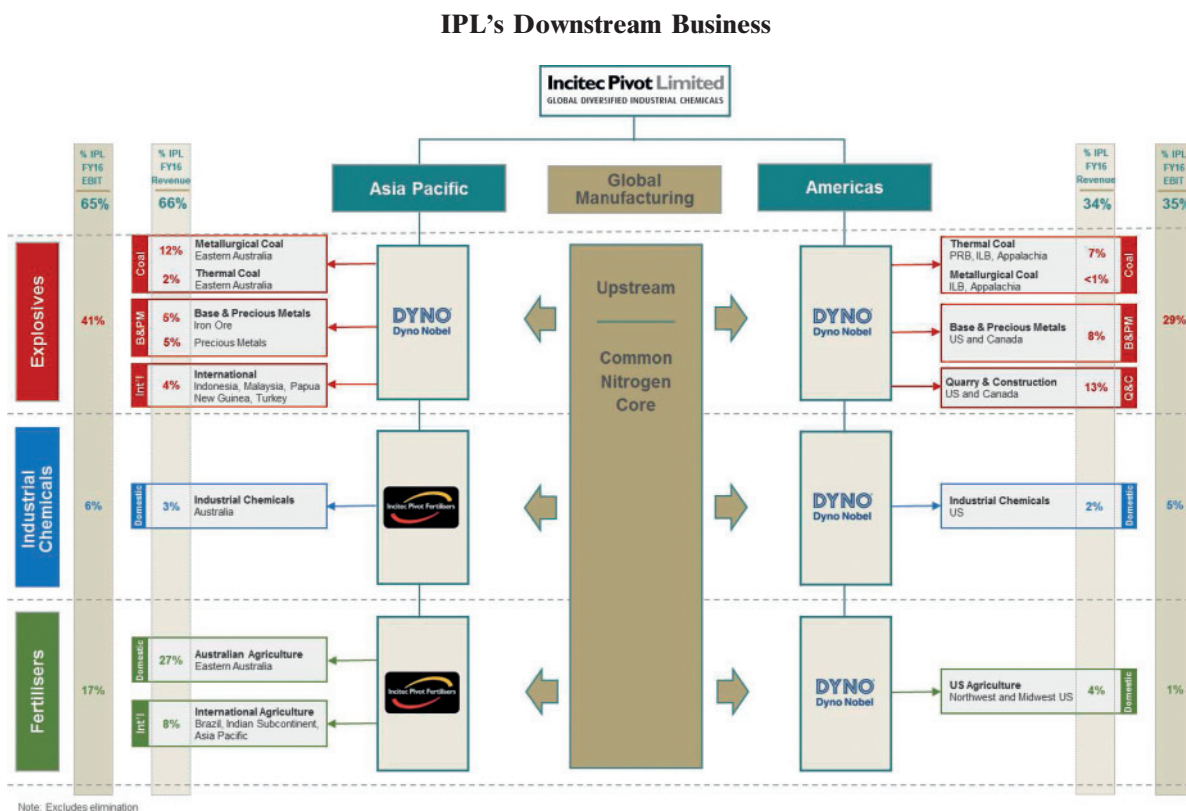
In 2016 IPL restructured its operations into two downstream businesses, comprising:

- Asia Pacific; and
- Americas.

Both businesses serve three downstream sectors, consisting of:

- *Explosives;*
- *Industrial Chemicals; and*
- *Fertilisers.*

Taken together, IPL's operations are substantially diversified. As at 2016, no customer contributed greater than 10 per cent. of the IPL Group's revenue. The percentage contribution from each sector, as well as its primary products and markets, are set out in the diagram below.



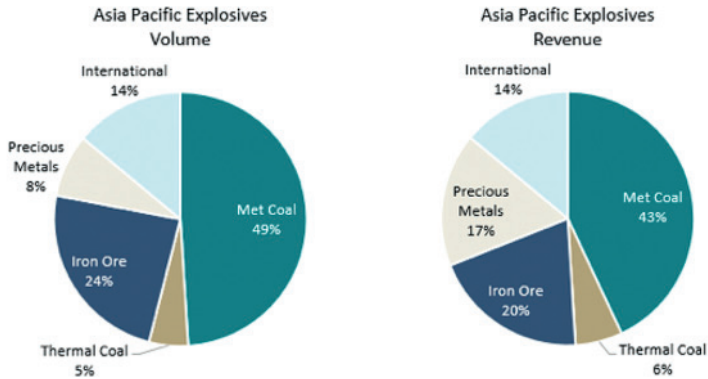
Through Dyno Nobel, IPL participates in all stages in the explosives value chain, providing ammonium nitrate based industrial explosives, initiating systems and services to the Coal and Base & Precious Metals sectors in Australia, and internationally to a number of countries including Indonesia, Papua New Guinea and Turkey through its subsidiaries and joint ventures. Ammonium nitrate is often sold in conjunction with proprietary initiating systems and services.

Dyno Nobel is the second largest industrial explosives distributor in Australia by volume, which in turn is the world’s third largest industrial explosives market. In Australia, Dyno Nobel primarily supplies its products to metallurgical coal mines in the east and to iron ore mines in the west.

In Australia, Dyno Nobel manufactures ammonium nitrate at its Moranbah, Queensland ammonium nitrate plant. The plant was commissioned in early 2012 and produced a record 344,700 mt of ammonium nitrate in 2016. It is located in the Bowen Basin, which is a world-class metallurgical (“met”) coal region, supplying Asia with high quality met coal. Proximity and access to economic gas via a long term contract make Moranbah’s ammonium nitrate among the region’s most cost efficient. Dyno Nobel also sources and delivers third party ammonium nitrate in Western Australia under long term contracts with large companies.

Initiating systems are manufactured in Australia at Dyno Nobel’s Helidon, Queensland facility and are also sourced from IPL facilities in the Americas and from DetNet.

The following diagrams show volume and revenue contribution by sector in 2016.



- 54 per cent. of Asia Pacific ammonium nitrate volume sold was supplied to the Coal sector in Australia’s east in 2016, the majority of which was supplied to metallurgical coal mines in Queensland’s Bowen Basin. In aggregate, sales to the Coal sector comprised 49 per cent. of Asia Pacific explosives revenue.
- 32 per cent. of Asia Pacific ammonium nitrate volume sold was supplied to the Base & Precious Metals sector in Australia in 2016. In aggregate, 24 per cent. of explosives volume sold was supplied to iron ore mines primarily in Western Australia, with the remainder supplied to hard rock and underground mines. Sales to the Base & Precious Metals sector comprised 37 per cent. of Asia Pacific explosives revenue.
- 14 per cent. of Asia Pacific ammonium nitrate volume was sold internationally including in Indonesia, Malaysia, Papua New Guinea and Turkey. In these regions, Dyno Nobel sources ammonium nitrate from third parties, manufactures proprietary emulsion explosives, and combines them with proprietary initiating systems and services. International sales comprised 14 per cent. of Asia Pacific explosives revenue.

*Industrial Chemicals*

The Asia Pacific business manufactures and distributes industrial chemicals under the Incitec Pivot brand in eastern Australia. Products include ammonia, carbon dioxide (“CO2”), DEF, fluorosilicic acid and industrial urea. These products are primarily manufactured at the Gibson Island, Queensland plant.

## Fertilisers

IPF is Australia's largest domestic manufacturer and supplier of fertilisers by volume, despatching 1.8 million mt of fertilisers in the 2016 financial year to the domestic market. IPF has approximately a 50 per cent. market share in Eastern Australia, Australia's largest fertiliser market. IPF produces nitrogen and phosphate fertilisers for application in Australia's grain, cotton, fruit, pasture, dairy, sugar, sorghum and horticulture industries in New South Wales, Victoria, Queensland, South Australia and Tasmania. Fertiliser is distributed to farmers and through a network of more than 200 dealers and agents.

### IPF Distribution Network



Internationally, IPF sells to major offshore agricultural markets in the Asia Pacific region, the Indian subcontinent and Brazil. It also procures fertilisers from overseas manufacturers to meet domestic seasonal peaks. Much of this activity is conducted through Quantum Fertilisers Limited, a Hong Kong based subsidiary.

IPF manufactures the following fertilisers at four locations:

- Phosphate Hill (Queensland): diammonium phosphate (“**DAP**”) and monoammonium phosphate (“**MAP**”);
- Gibson Island (Queensland): ammonia (“**Big N**”), granulated ammonium sulphate (“**GranAm**”) and urea; and
- Geelong and Portland (Victoria): single superphosphate (“**SSP**”).

Phosphate Hill is situated on a high quality resource of phosphate rock. Approximately 40 per cent. of the sulphuric acid required for the production of ammonium phosphates is supplied from IPL's Mt Isa sulphuric acid plant, which converts metallurgical gas produced by Glencore's Mount Isa copper smelter into sulphuric acid. The plant's core ammonia production is backed-to-gas, with production costs set to benefit from recent gas and other supply contracts reducing Phosphate Hill's production cost as these benefits are realised.

- Walloons Coal Seam Gas Company Pty Ltd contract to reduce gas costs by approximately A\$20m per year from 1 January 2017<sup>6</sup>
- Power and Water Corporation (“**PWC**”) contract to further reduce gas costs by approximately A\$35m per year from 2019<sup>7</sup>
- Completed/progressing contracts to further reduce costs by approximately A\$10m per year from 2017.

6 Gas supply agreement with Walloons Coal Seam Gas Company Pty Ltd, a Shell-owned OGC business, announced on 31 March 2016; as compared to costs at time of announcement.

7 Gas supply agreement with PWC a Northern Territory Government owned corporation, announced on 17 November 2015; as compared to costs at time of announcement.



## Americas

The Americas business comprises three downstream sectors, consisting of:

- Explosives;
- Industrial Chemicals; and
- Fertilisers.

As with the Asia Pacific business, downstream operations market and sell the output of fully integrated upstream Global Manufacturing assets and third party sourced products.

### Explosives

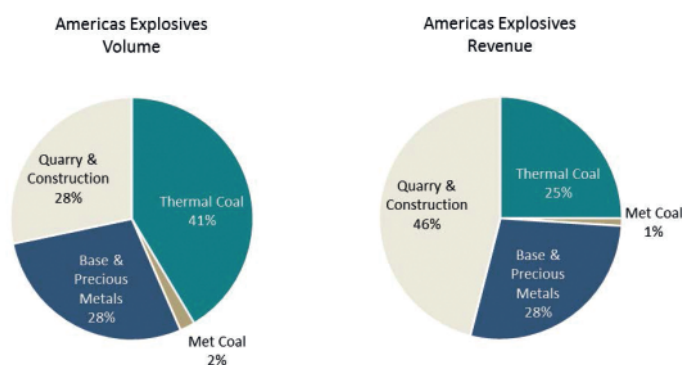
Through Dyno Nobel, IPL provides ammonium nitrate based explosives, initiating systems and services to the Coal, Base & Precious metals and Q&C sectors primarily in the US, Canada and Mexico. As in the Asia Pacific business, ammonium nitrate is often sold in conjunction with higher margin proprietary initiating systems and services.

Dyno Nobel is the second largest industrial explosives distributor in North America by volume. It distributes industrial explosives through a number of distribution channels, including its joint venture distributors which handle a wide range of products and services sourced from Dyno Nobel and other manufacturers. Dyno Nobel supplies manufactured and third party ammonium nitrate to the Coal sector in the Powder River Basin, Illinois Basin and Appalachia, and to the Base & Precious Metals sector in the US midwest, US west and Canada. It also provides ammonium nitrate to the Q&C sector in the southern US, northeast US and Canada.

In North America, Dyno Nobel manufactures ammonium nitrate at its Cheyenne, Wyoming and Louisiana, Missouri plants. The Cheyenne, Wyoming plant is a key asset adjacent to the Powder River Basin, North America's most cost efficient thermal coal mining region. The Louisiana, Missouri plant has a competitive logistic footprint from which to support central and western explosives markets.

Initiating systems are manufactured at Dyno Nobel's facilities in Connecticut, Kentucky, Illinois, Missouri, Chile and Mexico, and are also sourced from DetNet.

The following diagrams show volume and revenue contribution by sector in 2016.



- 43 per cent. of Americas ammonium nitrate volume sold was supplied to the coal sector in 2016, the majority of which was supplied to thermal coal mines in the Powder River Basin. In aggregate, sales to the coal sector comprised 26 per cent. of Americas explosives revenue.
- 28 per cent. of Americas ammonium nitrate volume sold was supplied to the Base & Precious Metals sector in 2016, the majority of which was supplied to iron ore mines in the US midwest and west. Sales to the Base & Precious Metals sector comprised 28 per cent. of Americas explosives revenue.
- 28 per cent. of Americas ammonium nitrate volume sold was supplied to the Q&C sector in 2016. Dyno Nobel has a strong position in this sector. Sales to Q&C comprised 46 per cent. of Americas explosives revenue and generally benefit from a favourable mix of high grade explosives and proprietary initiating systems and services. The Q&C segment has expanded rapidly over the past three years underpinned by non-government growth. Potentially, Dyno Nobel's Q&C market may benefit from any increase in government infrastructure spending, such as on roads, energy infrastructure, bridges and airports.

### *Industrial Chemicals*

The Americas business manufactures and distributes industrial chemicals under the Dyno Nobel brand in the US. It is a major North American producer (expected to contribute ~3.4 per cent. of 2017 ammonia consumption).<sup>8</sup> These products include ammonia, ammonium nitrate solution, CO<sub>2</sub>, DEF and nitric acid, and are produced at the Waggaman, Louisiana; Louisiana, Missouri; Cheyenne, Wyoming; and St Helens, Oregon plants.

#### *Waggaman, Louisiana Ammonia Plant*

Dyno Nobel's Waggaman, Louisiana ammonia plant is IPL's primary industrial chemicals asset. It was commissioned in October 2016, and construction was completed at a cost below the US\$850m budget set when the project was announced in 2013. Waggaman, Louisiana is a world scale ammonia plant, with an annual name plate capacity of 800,000 mt. It is in the first quartile of the cost curve on a US delivered basis and is well positioned so that offtake can be transported via pipeline, rail, truck and/or barge. Production is fully committed under long term offtake agreements with Trammo Inc and Cornerstone Chemical Company (with terms of 10 and 25 years respectively) and supply internally to Dyno Nobel. The plant produced 297,000 mt of ammonia in 1H 2017, resulting in 83 per cent. uptime when calculated against an 800,000 mt per annum nameplate capacity. It is expected to operate at an average of 80 per cent. uptime in 2017 as it ramps up to full annual production rates. The ramp up of production at Waggaman is expected to contribute revenue to this segment in 2017, and to further balance IPL's earnings globally.

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<sup>8</sup> Sources: CRU as of March 2017; IPL; North America comprises US and Canada; in calendar years.

### Louisiana – Illustrative Production Metrics

**Name plate production capacity:** 800,000mt of ammonia

**Expected 2017 production uptime:** 80 per cent. as plant ramps up to full production, including a “pit stop” to remedy outstanding punch-list items in H2 2017

**Natural gas requirement:** ~32mmbtu per mt

**Natural gas pricing index:** Henry Hub

**Natural gas delivery fee:** ~US\$0.15 per mmbtu

**Gas hedging:** Weighted average Floor and Cap of US\$3.13 to US\$4.50/mmbtu<sup>1</sup>:

- 2017: ~15.1 per cent.
- 2018: ~5.9 per cent.
- 2019: ~0.4 per cent.

**Fixed conversion cost:** ~US\$47.00/mt based on name plate production

**Offtake arrangements:** ~1/3 to Trammo via pipeline, rail, truck and barge

- ~10 year contract
- Primarily for US agriculture and industrial chemicals
- ~1/3 to Cornerstone via onsite pipeline
- ~25 year contract
- Primarily for specialty chemical applications
- ~1/3 transferred internally to Dyno Nobel
- Louisiana, Missouri plant through pipeline
- Cheyenne, Wyoming plant through 3rd party swap arrangements

In aggregate, product transferred at slight (~5 per cent.) discount to Tampa CFR

**Asset value:** Sum of total cash spend and capitalised interest as at 31 March 2017

- Cash spend: US\$804.9m spent. Including the remaining spend, the aggregate project spend will be <US\$820m
- Capitalised interest: of ~US\$86.2m

**Tax depreciation:** Accelerated depreciation over 6 years as estimated below<sup>2</sup>:

- 2016: ~4 per cent.
- 2017: ~29 per cent.
- 2018: ~20 per cent.
- 2019: ~16 per cent.
- 2020: ~16 per cent.
- 2021: ~14 per cent.

**Accounting depreciation:** Average asset life estimated of ~35 years

**Annual sustenance capex in first three years:** ~US\$10m

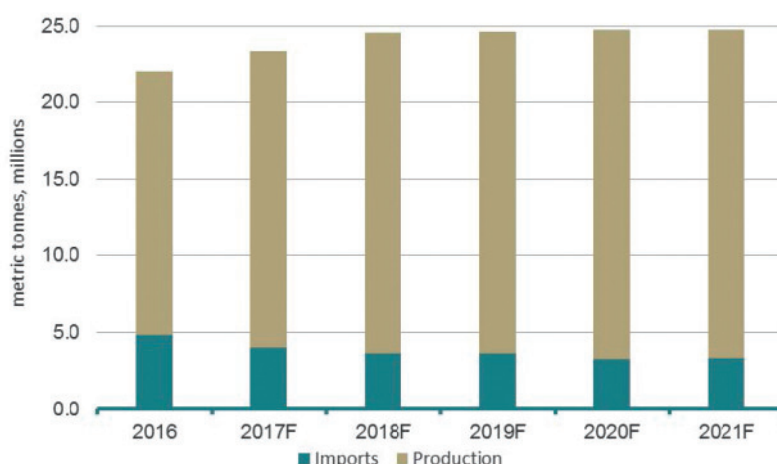
<sup>1</sup> Percent of expected natural gas requirement per financial year based on nameplate capacity

<sup>2</sup> Estimated financial year US federal and state tax based on current asset allocation; subject to change

North America comprises 13 per cent. of global ammonia consumption, with 22 million mt consumed in 2016 and an expected growth to 25 million mt in 2021. North America is expected to remain a net importer of 3.3 million mt in 2021, despite 4.2 million mt of expected new capacity increasing net production to 21.4 million mt.<sup>9</sup>

<sup>9</sup> Sources: CRU as of March 2017; IPL; North America comprises US and Canada; in calendar years

## North America Ammonia Industry Profile<sup>10</sup>



### Fertilisers

Dyno Nobel manufactures and distributes nitrogen-based fertilisers in the United States at two locations:

- St Helens, Oregon: Urea and UAN; and
- Cheyenne, Wyoming: Urea and UAN.

### Sensitivities

IPL's earnings are influenced by movements in global fertiliser prices, commodity prices and foreign exchange. Investors should be cognisant of these factors.

The following table provides sensitivities to key earning drivers as they relate to the 2016 financial year.

#### Full Year EBIT Sensitivities

##### Asia Pacific

Urea (FOB Middle East) <sup>1</sup>	+/- US\$10/mt = +/- A\$4.7m
DAP (FOB Tampa) <sup>2</sup>	+/- US\$10/mt = +/- A\$13.8m
FX transactional (DAP/urea) <sup>3</sup>	+/- US\$0.01 = +/- A\$8.0m

##### Americas

Urea (FOB NOLA) <sup>4</sup>	+/- US\$10/mt = +/- US\$1.7m
FX earnings translation <sup>5</sup>	+/- US\$0.01 = +/- A\$2.2m

#### Full Year Indicative Waggaman, Louisiana EBIT Sensitivities<sup>6</sup>

##### Americas

Ammonia Tampa CFR	+/- US\$10/mt = +/- US\$6.1m
Henry Hub Natural Gas	+/- US\$0.10/mmbtu = +/- US\$2.0m
FX earnings translation	EBIT will be US\$-denominated and subject to translation movements

<sup>1</sup> 347,000mt urea equivalent (Gibson Island actual sales) at 2016 realised exchange rate of A\$/US\$ 0.7393.

<sup>2</sup> 1,017,300mt DAP (Phosphate Hill actual sales) and realised exchange rate of A\$/US\$ 0.7393.

<sup>3</sup> DAP and urea volumes and prices based on footnotes 1 & 2 above (excludes impact of hedging).

<sup>4</sup> 165,000mt urea equivalent (St Helens nameplate).

<sup>5</sup> Based on actual FY16 Americas EBIT of US\$118.2m and an average exchange rate of A\$/US\$ 0.7359.

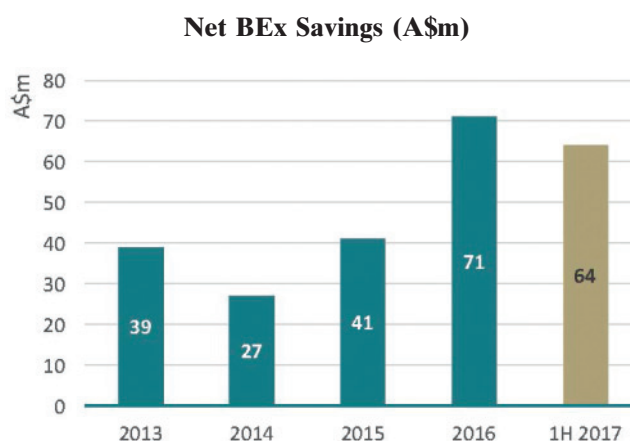
<sup>6</sup> 640,000 mt ammonia (80 per cent. WALA nameplate capacity).

Due to variability of global fertiliser prices, commodities prices and foreign exchange movements, IPL does not provide profit guidance, and investors should reach their own views having regard to the potential impact of these factors on IPL's performance as indicated by the sensitivities. IPL publishes updated sensitivities annually.

<sup>10</sup> Sources: CRU as of March 2017; IPL; North America comprises US and Canada; in calendar years

## BEx

BEx is IPL's globally integrated continuous and focussed improvement system. At its core, BEx applies lean principles to reduce waste and generate sustainable gains in safety, productivity, quality and customer outcomes. The program aims to drive sustainable and ongoing business efficiency and productivity through an empowered and engaged workforce, which is strongly aligned with IPL's corporate values. Using BEx methodology and practices, such as change management, focussed improvement and visual management, operating efficiencies in overhead, procurement, supply chain and manufacturing productivity across IPL have been identified and progressed. Since the program's launch in 2012 BEx has delivered net productivity benefits of A\$242m.<sup>11</sup>



## Capital Management and Debt Facilities and Maturity Profile

IPL is committed to prudent capital management, including through the diversification of funding sources, maintaining investment grade credit ratings where possible, and having adequate liquidity and risk management activities, which are managed in line with policies approved by the board of directors from time to time. As at the date of this Offering Circular, IPL has the following debt ratings for long-term unsubordinated unsecured obligations:

- S&P Global Ratings: BBB (stable)
- Moody's Investors Services Pty Limited: Baa2 (stable)

IPL's outstanding corporate borrowings as at 30 September 2016 are set out below.

### IPL Group

A\$m	Maturity (CY)	Facility Amount	Drawn Amount	Undrawn Amount
Syndicated Term Loan A	2018	568	400	168
Syndicated Term Loan B	2018	725	614	111
Medium Term Notes	2019	200	200	0
144A/Regulation S Notes	2019	1,049	1,049	0
Syndicated Revolver	2020	525	0	525
<b>Total Debt</b>		<b>3,067</b>	<b>2,263</b>	<b>804</b>
Fair Value and Other Adjustments			16	
Loans to Joint Ventures and Associates			11	
Cash and Cash Equivalents			(427)	
Fair Value of Hedges			(469)	
<b>Net Debt<sup>12</sup></b>			<b>1,394</b>	
EBITDA ex IMIs			673	
<b>Net Debt/EBITDA ex IMIs</b>			<b>2.1x</b>	

<sup>11</sup> As at 31 March 2017. After cost inflation of ~A\$45m per annum.

<sup>12</sup> Net Debt aggregates interest bearing liabilities plus the fair value of derivative instruments in place economically to hedge the IPL Group's interest bearing liabilities, less available cash and cash equivalents

Note: Please refer to IPL's audited consolidated annual financial statements for the financial year ended 30 September 2016 for further information on IPL's corporate borrowings, in particular to Note 8 to those financial statements.

## Capital Allocation

IPL's capital allocation process is centralised and overseen by the Group Corporate Finance and Strategy & Business Development functions. Capital is invested on a prioritised basis and all submissions are assessed against IPL's risk, HSE, financial, strategic and corporate governance criteria. Capital is broadly categorised into major growth capital, minor growth capital and sustenance capital.

IPL's cash sustenance capital expenditure in 2016 was A\$190.5m, which included turnaround activity at the Mt Isa and Gibson Island plants as well as turnaround activity at the St Helens, Oregon plant.

In the period following the commissioning of the Waggaman, Louisiana ammonia plant, capital expenditure is expected to relate primarily to sustenance.

## Dividend Policy

In the 2016 financial year total dividends paid were 8.7 cents per share (2016 interim dividend 4.1 cents per share; 2016 final dividend 4.6 cents per share). This represents approximately a 50 per cent. payout ratio of NPAT ex IMIs. In May 2017, the Directors of IPL determined to pay an unfranked interim dividend of 4.5 cents per share payable in July 2017. Again, this represents approximately a 50 per cent. payout ratio of NPAT ex IMIs. IPL has a dividend payout ratio policy of 30 per cent. to 60 per cent. of NPAT ex IMIs<sup>13</sup>.

From time to time the IPL Group operates a dividend reinvestment plan which allows eligible shareholders to elect to invest dividends in ordinary shares of Incitec Pivot Limited and have in the past underwritten its dividend to the extent not taken up by shareholders under the dividend reinvestment plan. In May 2017, the Directors of IPL determined to suspend the Dividend Reinvestment Plan until further notice.

## Sustainability

IPL's commitment to sustainability is driven by its values and is core to the way IPL operates.

As at 30 September 2016, IPL is a member of a number of leading Environmental, Sustainability and Governance indices, including;

- Dow Jones Sustainability Index ("DJSI")
- FTSE4Good Index
- ECPI Indices

The DJSI is a widely recognised reference point in the growing field of sustainability investing due to the robustness of the assessment process. Since 2010 IPL has been included in the DJSI and its performance is benchmarked against its peers in the global Chemicals sector. The annual results are represented in the table below.

### Dow Jones Sustainability Index

<b>IPL Group Score out of 100</b>							
<b>Dimension</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Economic	61	61	59	70	65	67	74
Environmental	51	50	51	59	60	51	60
Social	37	45	63	68	67	63	65
<b>Total for IPL</b>	<b>49</b>	<b>51</b>	<b>58</b>	<b>66</b>	<b>64</b>	<b>60</b>	<b>67</b>
Chemicals sector average	55	57	55	52	55	58	56

<sup>13</sup> Net profit after tax (before individually material items)

**Environmental Management**

The operations of the IPL Group are subject to environmental regulation under the jurisdiction of the countries in which those operations are conducted. The IPL Group operates under a Global Health, Safety and Environmental Management System which sets out guidelines on the IPL Group's approach to environmental management, including a requirement for sites to undertake an environmental site assessment.

In certain jurisdictions, IPL holds licences for some of its operations and activities from the relevant environmental regulator. IPL measures its compliance with such licences and reports statutory non-compliances as required. From time to time, members of the IPL Group may be subject to regulatory actions and penalties. As of the date of this Offering Circular, there are no regulatory actions pending or known by the IPL Group to be contemplated that may in the future have or have had, in the 12 months preceding the date of this Offering Circular, a material effect on the business, condition (financial or otherwise), prospects or results of the IPL Group.

**Employees**

As at 31 March 2017, the IPL Group has approximately 2,100 employees in Asia Pacific and 2,300 in the Americas.

**Insurance**

IPL carries insurance against insurable events which have the potential to cause damage to its assets (including associated loss of earnings and costs of repair) and certain legal liabilities it may incur to third parties. With advice from professional insurance brokers, insurances are placed with insurers rated A- or better by the rating agencies AM Best and Standard & Poor's, for the policy limits of indemnity that IPL considers reflect both its specific potential exposures and prudent industry practice. Such insurances are generally subject to industry standard policy exclusions and other terms and conditions.

**Legal, Regulatory and Administrative Proceedings**

Members of the IPL Group from time to time are subject to a number of legal claims and legal, regulatory and administrative proceedings arising in connection with the ordinary course of business. As of the date of this Offering Circular, there are no legal, regulatory or administrative proceedings pending or known to be contemplated that may in the future have or have had, in the 12 months preceding the date of this Offering Circular, a material effect on the business, condition (financial or otherwise), prospects or results of the IPL Group.

## MANAGEMENT

### Directors

<i>Name</i>	<i>Position</i>	<i>Initial appointment</i>
<b>Paul Brasher</b> BEC(Hons), FCA	Non-executive Chairman Chairman of the Nominations Committee	29 September 2010
<b>Joseph Breunig</b> MBA, BSc Chem Eng	Non-executive director Member of the Health, Safety, Environment and Community Committee	5 June 2017
<b>Kathryn Fagg</b> FTSE, BE(Hons), MCom(Hons), Hon.DBus(UNSW)	Non-executive director Chairman of the Remuneration Committee Member of the Health, Safety, Environment and Community Committee	15 April 2014
<b>Gregory Hayes</b> MAppFin, GradDipACC, BA, ACA	Non-executive director Chairman of the Audit and Risk Management Committee	1 October 2014
<b>Brian Kruger</b> BEc, CPA	Non-executive director Member of the Audit and Risk Management Committee Member of the Remuneration Committee	5 June 2017
<b>Rebecca McGrath</b> BTP(Hons), MAsc, FAICD	Non-executive director Chairman of the Health, Safety, Environment and Community Committee Member of the Audit and Risk Management Committee Member of the Nominations Committee	15 September 2011
<b>Graham Smorgon AM</b> B.Juris, LLB	Non-executive director Member of the Nominations Committee Member of the Remuneration Committee	19 December 2008
<b>James Fazzino</b> BEc(Hons) Adjunct Professor, La Trobe Business School	Managing Director & CEO Member of the Health, Safety, Environment and Community Committee	18 July 2005

Information about the directors of Incitec Pivot Limited is updated periodically via <http://www.incitecpivot.com.au/about-us/about-incitec-pivot-limited/board-of-directors>.

On 24 February 2017, IPL announced that there will be a transition to a new Managing Director & CEO. James Fazzino will remain with IPL for a period of up to 12 months, while the company is undergoing a process of identifying and appointing a successor, and will then be stepping down as Managing Director & CEO and a member of the IPL Board.

### Senior Executives

<i>Name</i>	<i>Position</i>
<b>James Fazzino</b> BEc (Hons), Adjunct Professor, La Trobe Business School	Managing Director & Chief Executive Officer
<b>Frank Micallef</b> BBus, MAcc, FCPA, FFTA, FAICD	Chief Financial Officer
<b>Simon Atkinson</b> BBus, CA	President, Dyno Nobel Asia Pacific & President Incitec Pivot Fertilisers
<b>Nick Stratford</b> B.Ec, CA	President, Dyno Nobel Americas
<b>Leah Balter</b> B Eng UNSW (Hons), MBA, MAICD	President, Strategy & Business Development
<b>Alan Grace</b> BSc (Hons) Chem Eng	President Global Manufacturing
<b>Elizabeth Hunter</b> BBus, MBA	Chief Human Resources Officer & Shared Services

Information about the senior executives of Incitec Pivot Limited is updated periodically via <http://www.incitecpivot.com.au/about-us/about-incitec-pivot-limited/executive-team>.



## TAXATION

The description below is of a general nature and is only a summary of the law and practice currently applicable in Australia or other applicable jurisdictions. Prospective investors should consult their own professional advisers on the relevant taxation considerations applicable to the acquisition, holding and disposal of the Notes.

For the purposes of the description below, references to the Notes include interests or rights in the Notes held in Euroclear or Clearstream, Luxembourg or any other clearing system

### Australian Taxation

#### 1. Introduction

The following is a summary of the Australian withholding tax treatment under the Income Tax Assessment Acts of 1936 and 1997 of Australia (together, “**Australian Tax Act**”) and the Taxation Administration Act 1953 of Australia, at the date of this Offering Circular, of payments of interest (as defined in the Australian Tax Act) by either Incitec Pivot Limited or Dyno Nobel Europe Pty Ltd (each an “**Australian Issuer**”) on the Notes and certain other Australian tax matters including with respect to payments under the 2017 Guarantee and payments of interest by Incitec Pivot Finance LLC.

A term used below but not otherwise defined has the meaning given to it in the Conditions.

This summary applies to Noteholders that are:

- (a) residents of Australia for tax purposes that do not hold their Notes, and do not derive any payments under the Notes, in carrying on a business at or through a permanent establishment outside of Australia, and non-residents of Australia for tax purposes that hold their Notes, and derive all payments under the Notes, in carrying on a business at or through a permanent establishment in Australia (“**Australian Holders**”); and
- (b) non-residents of Australia for tax purposes that do not hold their Notes, and do not derive any payments under the Notes, in carrying on a business at or through a permanent establishment in Australia, and residents of Australia for tax purposes that hold their Notes, and derive all payments under the Notes, in carrying on a business at or through a permanent establishment outside of Australia (“**Non-Australian Holders**”).

The summary is not exhaustive and, in particular, does not deal with the position of certain classes of Noteholders (including, without limitation, dealers in securities, custodians or other third parties who hold Notes on behalf of any person).

Prospective Noteholders of the Notes should also be aware that particular terms of issue of any Series of Notes may affect the tax treatment of that Series of Notes. Information regarding taxes in respect of Notes may also be set out in the relevant Pricing Supplement.

This summary is not intended to be, nor should it be construed as, legal or tax advice to any particular holder of the Note. Each holder should seek professional tax advice in relation to their particular circumstances.

#### 2. Australian Interest Withholding Tax

The Australian Tax Act characterises securities as either “debt interests” (for all entities) or “equity interests” (for companies), including for the purposes of Australian interest withholding tax imposed under Division 11A of Part III of the Australian Tax Act (“**Australian IWT**”) and dividend withholding tax. For Australian IWT purposes, “interest” is defined to include amounts in the nature of, or in substitution for, interest and certain other amounts. The Australian Issuers intend to issue Notes which are to be characterised as “debt interests” for the purposes of the tests contained in Division 974 and the returns paid on the Notes are to be “interest” for the purpose of section 128F of the Australian Tax Act.

##### *Australian Holders*

Payments of interest in respect of the Notes to Australian Holders will not be subject to Australian IWT.

##### *Non-Australian Holders*

Australian IWT is payable at a rate of 10 per cent. of the gross amount of interest paid by the Issuer to a Non-Australian Holder, unless an exemption is available.

(a) Section 128F exemption from Australian IWT

An exemption from Australian IWT is available in respect of interest paid on the Notes if the requirements of section 128F of the Australian Tax Act are satisfied.

Unless otherwise specified in any relevant Pricing Supplement (or another relevant supplement to this Offering Circular), the Australian Issuers intend to issue the Notes in a manner which will satisfy the requirements of section 128F of the Australian Tax Act.

In broad terms, the requirements are as follows:

- (i) the relevant Australian Issuer is a resident of Australia and a company (as defined in section 128F(9) of the Australian Tax Act) when it issues the Notes and when interest is paid;
- (ii) the Notes are issued in a manner which satisfies the “public offer” test in section 128F of the Australian Tax Act.

In relation to the Notes, there are five principal methods of satisfying the public offer test, the purpose of which is to ensure that lenders in capital markets are aware that the Issuer is offering the Notes for issue. In summary, the five methods are:

- offers to 10 or more unrelated persons carrying on a business of providing finance, or investing or dealing in securities, in the course of operating in financial markets;
  - offers to 100 or more investors of a certain type;
  - offers of listed Notes;
  - offers via publicly available information sources; or
  - offers to a dealer, manager or underwriter who offers to sell the Notes within 30 days by one of the preceding methods;
- (iii) the relevant Australian Issuer does not know, or have reasonable grounds to suspect, at the time of issue, that the Notes (or interests in the Notes) were being, or would later be, acquired, directly or indirectly, by an “associate” of the Issuer, except as permitted by section 128F(5) of the Australian Tax Act; and
  - (iv) at the time of the payment of interest, the relevant Australian Issuer does not know, or have reasonable grounds to suspect, that the payee is an “associate” of the Issuer, except as permitted by section 128F(6) of the Australian Tax Act.

(b) Exemptions under certain double tax conventions

The Australian government has signed new or amended double tax conventions (“**New Treaties**”) with a number of countries (each a “**Specified Country**”). The New Treaties apply to interest derived by a resident of a Specified Country.

Broadly, the New Treaties effectively prevent IWT applying to interest derived by:

- governments of the Specified Countries and certain governmental authorities and agencies in a Specified Country; and
- a “financial institution” resident in a Specified Country which is unrelated to and dealing wholly independently with the Issuer. The term “financial institution” refers to either a bank or any other enterprise which substantially derives its profits by carrying on a business of raising and providing finance. However, interest paid under a back to back loan or an economically equivalent arrangement will not qualify for this exemption.

The Australian Federal Treasury maintains a listing of Australia’s double tax conventions which provides details of country, status, withholding tax rate limits and Australian domestic implementation. This listing is available to the public on the Federal Treasury’s Department website.

*Payments under the 2017 Guarantee*

It is unclear whether or not any payment by a Guarantor incorporated or resident in Australia or otherwise carrying on business at or through a permanent establishment of itself in Australia (an “**Australian Guarantor**”) under the 2017 Guarantee on account of interest owing by any Issuer in respect of the Notes would be subject to Australian IWT. There are good arguments that such payments (other

than interest paid on an overdue amount) do not constitute “interest” for Australian withholding tax purposes, and, if so, would not be subject to Australian IWT.

The Australian Taxation Office has published a Taxation Determination stating that payments by a guarantor in respect of debentures are entitled to the benefit of the exemption contained in section 128F of the Australian Tax Act if payments of interest in respect of those debentures by an Australian Issuer are exempt from Australian IWT under section 128F. However, there is some doubt as to whether the reasoning adopted in the Taxation Determination is strictly correct.

If such payments are characterised as “interest” for Australian withholding tax purposes, Australian IWT at the rate of 10 per cent. will be payable on payments of interest (as defined in section 128B(1AB) of the Australian Tax Act) by the Guarantor to a Non-Australian Holder, unless an exemption is available.

(c) Payment of additional amounts

As set out in more detail in the Conditions for the Notes, and unless expressly provided to the contrary in the relevant Pricing Supplement (or another relevant supplement to this Offering Circular), if an Australian Issuer is at any time required by law to withhold or deduct an amount in respect of any Australian withholding taxes imposed or levied by the Commonwealth of Australia in respect of the Notes, the relevant Australian Issuer must, subject to certain exceptions, pay such additional amounts as may be necessary in order to ensure that each Noteholder is entitled to receive (at the time the payment is due) the amount it would have received if no withholdings or deductions had been required to be made. If the relevant Australian Issuer is compelled by law in relation to any Notes to withhold or deduct an amount in respect of any withholding taxes, the relevant Australian Issuer will have the option to redeem those Notes in accordance with the Conditions.

### 3. Other Tax Matters

Under Australian laws as presently in effect:

- *Incitec Pivot Finance LLC* – provided that Incitec Pivot Finance LLC continues to be a non-resident of Australia and does not issue Notes in the course of carrying on business at or through a permanent establishment in Australia, payments of interest in respect of those Notes would not be subject to Australian IWT;
- *non-Australian Guarantors* – any payments made by a Guarantor which is not an Australian Guarantor would not be subject to Australian IWT;
- *death duties* – no Notes will be subject to death, estate or succession duties imposed by Australia, or by any political subdivision or authority therein having power to tax, if held at the time of death;
- *stamp duty and other taxes* – no ad valorem stamp, issue, registration or similar taxes are payable in Australia on the issue, transfer or redemption of any Notes;
- *TFN withholding* – withholding tax is imposed (see below in relation to the rate of withholding tax) on the payment of interest on certain registered securities unless the relevant payee has quoted an Australian tax file number (“TFN”), (in certain circumstances) an Australian Business Number (“ABN”) or proof of some other exception (as appropriate). Assuming the requirements of section 128F of the Australian Tax Act are satisfied with respect to the Notes, then such withholding should not apply to payments to a Non-Australian Holder that is a non-resident of Australia for Australian tax purposes. The rate of withholding tax is 49 per cent. for the 2016-17 income year. The rate of withholding tax will be 47% for the 2017-18 and 2018-19 income years. In the 2017 Australian Federal Budget, the Government announced that it proposed to increase the Medicare Levy by 0.5% from 1 July 2019. If this announcement is enacted in the manner as proposed, a withholding rate of 47.5% is expected to apply for the 2019-20 income years and income years thereafter;
- *additional withholdings from certain payments to non-residents* – the Governor-General may make regulations requiring withholding from certain payments to non-residents of Australia (other than payments of interest and other amounts which are already subject to the current IWT rules or specifically exempt from those rules). Regulations may only be made if the responsible Minister is satisfied the specified payments are of a kind that could reasonably relate to assessable income of foreign residents. The possible application of any future regulations to the proceeds of any sale of the Notes will need to be monitored;

- *garnishee directions by the Commissioner of Taxation* – the Commissioner may give a direction requiring the Issuers to deduct from any payment to a holder of the Notes any amount in respect of Australian tax payable by the holder. If an Australian Issuer is served with such a direction, then that Issuer will comply with that direction and make any deduction required by that direction;
- *supply withholding tax* – payments in respect of the Notes can be made free and clear of any “supply withholding tax”; and
- *goods and services tax (“GST”)* – neither the issue nor receipt of the Notes will give rise to a liability for GST in Australia on the basis that the supply of Notes will comprise either an input taxed financial supply or (in the case of an offshore subscriber) a GST-free supply or is otherwise outside the scope of the GST law. Furthermore, neither the payment of principal or interest by the Issuer, nor the disposal of the Notes, would give rise to any GST liability in Australia.

### **Non-Australian Taxation**

#### **Payments under the 2017 Guarantee by a Canadian Guarantor (Canadian Withholding Tax)**

Whether or not any payment by a Guarantor resident in Canada for purposes of the Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.)(Canada) (the “**Canadian Tax Act**”) or otherwise carrying on business at or through a permanent establishment in Canada (a “**Canadian Guarantor**”) under the 2017 Guarantee on account of interest owing by any Issuer in respect of the Notes would be subject to Canadian withholding tax depends upon the nature of the payment.

If such payment is characterized as “interest” for Canadian withholding tax purposes, Canadian withholding tax at the rate of 25 per cent. may be applicable thereto pursuant to section 212(1)(b) of the Canadian Tax Act, unless an exemption or reduction of withholding rate is available under any applicable tax treaty or otherwise.

In general, unless interest is “participating debt interest” (as defined in the Canadian Tax Act), or is paid or payable to a person with whom the payer is not dealing at “arm’s length” (for purposes of the Canadian Tax Act), or in respect of a debt or other obligation to pay an amount to a person with whom the payer is not dealing at arm’s length, there is no withholding tax on interest paid by a Canadian resident to a non-resident of Canada.

#### **Proposed Financial Transaction Tax (“FTT”)**

On 14 February 2013, the European Commission published a proposal for a Directive for a common FTT in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the “**Participating Member States**”). However, Estonia has since stated that it will not participate. The proposed FTT has very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances.

Under current proposals the FTT could apply in certain circumstances to persons both within and outside of the Participating Member States. Generally, it would apply to certain dealings in the Notes where at least one party is a financial institution, and at least one party is established in a Participating Member State. A financial institution may be, or be deemed to be, “established” in a Participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a Participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a Participating Member State.

The FTT proposal remains subject to negotiation between the Participating Member States and is the subject of legal challenge. It may therefore be altered prior to any implementation, and the timing of which remains unclear. Additional EU Member States may decide to participate. Prospective holders of the Notes are advised to seek their own professional advice in relation to the FTT.

#### **Certain Material U.S. Federal Income Tax Considerations**

The following is a summary of certain material U.S. federal income tax consequences to a non-U.S. holder (as defined below) relating to the purchase, ownership, and disposition of the Notes. This discussion is based upon current provisions of the Code, Treasury regulations promulgated thereunder, rulings, pronouncements, judicial decisions, administrative interpretations of the Internal Revenue Service (the “**IRS**”), and model intergovernmental agreements for purposes of FATCA (as defined below), in each case as in effect and publicly available on the date hereof, all of which are subject to change and differing interpretation, possibly on a retroactive basis, at any time by legislative, judicial, or

administrative action. We cannot assure you that the IRS will not challenge the conclusions stated below or that a court will not find in the IRS's favor. No ruling from the IRS has been (or will be) sought on any of the matters discussed herein. The discussion set forth below is limited to holders who are the initial purchasers of the Notes for cash at their "issue price" (i.e., the first price at which a substantial amount of the Notes are sold to the public for cash other than to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers). The Notes may be issued at a price that results in original issue discount for U.S. federal income tax purposes.

The following discussion does not purport to be a complete analysis of all the potential U.S. federal income tax effects relating to the purchase, ownership, and disposition of the Notes. Without limiting the generality of the foregoing, this discussion does not address the effect of any rules applicable to U.S. holders (as defined below), non-U.S. holders who hold the Notes in connection with a U.S. trade or business, or any person that is subject to special treatment under the U.S. federal income tax laws, including, without limitation: traders and dealers in securities or currencies; insurance companies; financial institutions, banks, and thrifts; regulated investment companies, real estate investment trusts, controlled foreign corporations, passive foreign investment companies, and holders of interests in such entities; tax-exempt entities; U.S. expatriates; persons who hold Notes as part of a straddle, hedge, conversion transaction, or other risk reduction or integrated investment transaction; persons subject to the alternative minimum tax; holders of securities that elect to use a mark-to-market method of accounting for their securities holdings; individual retirement accounts, qualified pension plans, other retirement plans, and tax-deferred accounts; and pass-through entities, including partnerships, and beneficial owners of interests in such pass-through entities. Finally, this discussion does not address the effect of any: U.S. state or local tax laws, U.S. federal tax laws other than U.S. federal income tax laws, non-U.S. tax laws, or tax treaties.

#### *U.S. Holders; Non-U.S. Holders*

For purposes of this discussion, the term "**U.S. holder**" means a beneficial owner of a Note that is for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States, including an alien individual who is a lawful permanent resident of the United States or who meets the "substantial presence" test under Section 7701(b) of the Code;
- a corporation or other entity taxable for U.S. federal income tax purposes as a corporation created or organized in or under the laws of the United States, any state thereof, or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or if a valid election is in effect under applicable Treasury regulations to treat the trust as a U.S. person.

The term "**non-U.S. Holder**" means a beneficial owner of a Note that is not a U.S. holder.

#### *Taxation of Interest Paid by a U.S. Issuer*

Incitec Pivot Finance LLC is a limited liability company organized in Delaware and treated as disregarded from its sole owner, which is a corporation organized in Delaware. Dyno Nobel Europe Pty Ltd is a private limited company organized in Australia that has, for U.S. federal income tax purposes, elected to be treated as disregarded from its sole owner, an entity that is treated as a U.S. corporation. Thus, both Incitec Pivot Finance LLC and Dyno Nobel Europe Pty Ltd (for so long as Dyno Nobel Europe Pty Ltd is a disregarded entity for U.S. federal income tax purposes, the sole owner of which, is itself a U.S. corporation) are treated for purposes of this disclosure as U.S. issuers of the Notes. Accordingly, each of Incitec Pivot Finance LLC and Dyno Nobel Europe Pty Ltd is referred to herein as a "**U.S. Issuer**."

Subject to the summaries regarding backup withholding and FATCA (as defined below) below, interest paid, or in the case of any original issue discount, deemed paid, in respect of a Note issued by a U.S. Issuer to any non-U.S. holder generally will not be subject to U.S. federal income or withholding tax provided the interest is not effectively connected with such non-U.S. holder's U.S. trade or business, the non-U.S. holder provides to us or the person otherwise responsible for withholding U.S. federal income

tax from payments on such Notes an appropriate certification of such non-U.S. holder's foreign status, and such non-U.S. holder is not:

- an actual or constructive owner of 10 per cent. or more of the total combined voting power of all of the voting stock of a U.S. Issuer;
- a controlled foreign corporation related, actually or constructively, to a U.S. Issuer through stock ownership; or
- a bank described in Section 881(c)(3)(A) of the Code that acquired the Notes in the ordinary course of its trade or business.

In order to satisfy the certification requirement, the non-U.S. holder or its agent must generally provide a properly completed IRS Form W-8BEN or Form W-8BEN-E (or appropriate substitute or successor form) to a U.S. Issuer or its paying agent. When a security clearing organization, bank, financial institution, or other agent holds the Notes in the ordinary course of its trade or business on behalf of a non-U.S. holder, the non-U.S. holder may be required to provide appropriate documentation to such agent. Special rules may apply to certain non-U.S. holders and, in certain circumstances, a non-U.S. holder may be required to provide additional information to the U.S. Issuer or its paying agent.

If a non-U.S. holder does not qualify for an exemption from U.S. taxation in accordance with the rules described above, interest paid will be subject to withholding tax at the rate of 30 per cent. at the time the interest is paid by a U.S. Issuer, unless the non-U.S. holder provides us or our paying agent, as applicable, with a properly executed IRS Form W-8BEN or Form W-8BEN-E (or successor form) claiming an exemption from or reduction in withholding due to the benefit of an applicable U.S. income tax treaty, or IRS Form W-8ECI (or successor form) stating that interest paid on the Note is not subject to withholding tax because it is effectively connected with the non-U.S. holder's U.S. trade or business.

#### *Taxation of Interest Paid by Incitec Pivot Limited*

Interest paid, or in the case of any original issue discount, deemed paid, in respect of Notes issued by Incitec Pivot Limited to a non-U.S. holder should not be subject to U.S. federal withholding tax.

#### *Sale, Exchange, or Retirement of a Note*

Subject to the summaries regarding backup withholding and FATCA below, any gain realized by a non-U.S. holder on the sale, exchange, redemption, retirement, or other taxable disposition of a Note, regardless of the identity of the Issuer of such Note, generally will not be subject to U.S. federal income tax, unless:

- such gain is U.S.-sourced and is effectively connected with the conduct by such non-U.S. holder of a trade or business within the United States and, if an applicable income tax treaty so provides, is attributable to a United States "permanent establishment"; or
- the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the disposition and certain other conditions are satisfied.

Proceeds from the disposition of a Note that are attributable to accrued but unpaid interest generally will be subject to, or exempt from, tax to the same extent as described above with respect to interest paid on a Note.

#### *Foreign Account Tax Compliance*

For purposes of this discussion, "FATCA" means one or more of the following, as the context requires: (1) sections 1471 to 1474 of the Internal Revenue Code of 1986, as amended and superseded (the "Code"), and any associated legislation, regulations or guidance, commonly referred to as the U.S. Foreign Account Tax Compliance Act, the Common Reporting Standard issued by the Organisation for Economic Cooperation and Development, or similar legislation, regulations or guidance enacted in any other jurisdiction which seeks to implement equivalent tax reporting and/or withholding tax regimes; (2) any intergovernmental agreement, treaty or any other arrangement between the United States or the U.K. and any other jurisdiction (including between any government bodies in each relevant jurisdiction), entered into to facilitate, implement, comply with or supplement the legislation, regulations or guidance described in clause (1); and (3) any legislation, regulations or guidance implemented to give effect to the matters outlined in the preceding clauses.

Under the U.S. legislation referred to in clause (1) above, a 30 per cent. withholding tax may apply to any “withholdable payment” made to a Noteholder unless the payor collects certain information regarding such Noteholder. The term “withholdable payment” includes any payment of interest (even if the interest is otherwise exempt from U.S. withholding rules, and including deemed payments of original issue discount) and, after December 31, 2018, the gross proceeds of a disposition of a debt instrument, in each case with respect to any U.S. investment, including the Notes issued by a U.S. Issuer. Noteholders will be required to provide identifying information to any such U.S. Issuer in order to classify such Noteholder for purposes of FATCA and other U.S. withholding requirements.

**U.S. federal income tax law is complex and prospective investors are advised to consult their own tax advisers as to the application of U.S. federal income tax law to the Notes. Future guidance and changes in law may affect the application of U.S. federal income tax law to the Notes. Prospective investors should consult their tax advisers on how these rules may apply to the relevant Issuer, the Guarantors and to payments such investors may receive in connection with the Notes.**

## SINGAPORE TAXATION

The statements below regarding Singapore taxation are general in nature and based on certain aspects of the tax laws of Singapore and administrative guidelines and circulars issued by the Monetary Authority of Singapore (“MAS”) in force as at the date of this Offering Circular and are subject to any changes in such laws, administrative guidelines or circulars, or in the interpretation of those laws, guidelines or circulars, occurring after such date, which changes could be made on a retrospective basis. These laws, guidelines and circulars are also subject to various interpretations and the relevant tax authorities or the courts could later disagree with the explanations or conclusions set out below. Neither these statements nor any other statements in this Offering Circular are intended or are to be regarded as advice on the tax position of any holder of the Notes or any person acquiring, selling or otherwise dealing with the Notes or on any tax implications arising from the acquisition, sale or other dealings in respect of the Notes. The statements made herein do not purport to be a comprehensive or exhaustive description of all of the tax considerations that may be relevant to a decision to purchase, own or dispose of the Notes and do not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in securities or financial institutions in Singapore which have been granted the relevant Financial Sector Incentive(s)) may be subject to special rules or tax rates. Prospective holders of the Notes are advised to consult their own professional tax advisers as to the Singapore or other tax consequences of the acquisition, ownership or disposition of the Notes including, in particular, the effect of any foreign, state or local tax laws to which they are subject. It is emphasised that none of the Issuers, the Guarantors and the Arrangers and any other persons involved in the Programme accepts responsibility for any tax effects or liabilities resulting from the subscription for, or purchase, holding or disposal of the Notes.

### 1. Interest and Other Payments

Subject to the following paragraphs, under Section 12(6) of the Income Tax Act, Chapter 134 of Singapore (“ITA”), the following payments are deemed to be derived from Singapore:

- (a) any interest, commission, fee or any other payment in connection with any loan or indebtedness or with any arrangement, management, guarantee, or service relating to any loan or indebtedness which is (i) borne, directly or indirectly, by a person resident in Singapore or a permanent establishment in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore or any immovable property situated outside Singapore) or (ii) deductible against any income accruing in or derived from Singapore; or
- (b) any income derived from loans where the funds provided by such loans are brought into or used in Singapore.

Such payments, where made to a person not known to the paying party to be a resident in Singapore for tax purposes, are generally subject to withholding tax in Singapore. The rate at which tax is to be withheld for such payments (other than those subject to the 15 per cent. final withholding tax described below) to non-resident persons (other than non-resident individuals) is currently 17 per cent. The applicable rate for non-resident individuals is currently 22 per cent. However, if the payment is derived by a person not resident in Singapore otherwise than from any trade, business, profession or vocation carried on or exercised by such person in Singapore and is not effectively connected with any permanent establishment in Singapore of that person, the payment is subject to a final withholding tax of 15 per cent. The rate of 15 per cent. may be reduced by applicable tax treaties.

However, certain Singapore-sourced investment income derived by individuals from financial instruments is exempt from tax, including:

- (i) interest from debt securities derived on or after 1 January 2004;
- (ii) discount income (not including discount income arising from secondary trading) from debt securities derived on or after 17 February 2006; and
- (iii) prepayment fee, redemption premium and break cost from debt securities derived on or after 15 February 2007,

except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession.

In addition, as the Programme as a whole is jointly arranged by Australia and New Zealand Banking Group Limited, Singapore Branch and Merrill Lynch (Singapore) Pte. Ltd., each of which is a Financial Sector Incentive (Bond Market) Company, Financial Sector Incentive (Standard Tier) Company or Financial Sector Incentive (Capital Market) Company (as defined in the ITA) at such time, any tranche of the Notes (the “**Relevant Notes**”) issued as debt securities under the Programme during the period from the date of this Offering Circular to 31 December 2018 would be qualifying debt securities (“**QDS**”) for the purposes of the ITA, to which the following treatment shall apply:

- (A) subject to certain prescribed conditions having been fulfilled (including the furnishing by the relevant Issuer, or such other person as the MAS may direct, to the MAS of a return on debt securities for the Relevant Notes in the prescribed format within such period as the MAS may specify and such other particulars in connection with the Relevant Notes as the MAS may require, and the inclusion by the relevant Issuer in all offering documents relating to the Relevant Notes of a statement to the effect that where interest, discount income, prepayment fee, redemption premium or break cost from the Relevant Notes is derived by a person who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore, the tax exemption for QDS shall not apply if the non-resident person acquires the Relevant Notes using the funds and profits of such person’s operations through the Singapore permanent establishment), interest, discount income (not including discount income arising from secondary trading), prepayment fee, redemption premium and break cost (collectively, the “**Qualifying Income**”) from the Relevant Notes paid by the relevant Issuer and derived by a holder who is not resident in Singapore and who (I) does not have any permanent establishment in Singapore or (II) carries on any operation in Singapore through a permanent establishment in Singapore but the funds used by that person to acquire the Relevant Notes are not obtained from such person’s operation through a permanent establishment in Singapore, are exempt from Singapore tax;
- (B) subject to certain conditions having been fulfilled (including the furnishing by the relevant Issuer, or such other person as the MAS may direct, to the MAS of a return on debt securities for the Relevant Notes in the prescribed format within such period as the MAS may specify and such other particulars in connection with the Relevant Notes as the MAS may require), Qualifying Income from the Relevant Notes paid by the relevant Issuer and derived by any company or body of persons (as defined in the ITA) in Singapore is subject to income tax at a concessionary rate of 10.0 per cent. (except for holders of the relevant Financial Sector Incentive(s) who may be taxed at different rates); and
- (C) subject to:
  - (I) the relevant Issuer including in all offering documents relating to the Relevant Notes a statement to the effect that any person whose interest, discount income, prepayment fee, redemption premium or break cost derived from the Relevant Notes is not exempt from tax shall include such income in a return of income made under the ITA; and
  - (II) the furnishing by the relevant Issuer, or such other person as the MAS may direct, to the MAS of a return on debt securities for the Relevant Notes in the prescribed format within such period as the MAS may specify and such other particulars in connection with the Relevant Notes as the MAS may require,

payments of Qualifying Income derived from the Relevant Notes are not subject to withholding of tax (if any) by the relevant Issuer.



Notwithstanding the foregoing:

- (1) if during the primary launch of any tranche of Relevant Notes, the Relevant Notes of such tranche are issued to fewer than four persons and 50 per cent. or more of the issue of such Relevant Notes is beneficially held or funded, directly or indirectly, by related parties of the relevant Issuer, such Relevant Notes would not qualify as QDS; and
- (2) even though a particular tranche of Relevant Notes are QDS, if, at any time during the tenure of such tranche of Relevant Notes, 50 per cent. or more of such Relevant Notes which are outstanding at any time during the life of their issue is beneficially held or funded, directly or indirectly, by any related party(ies) of the relevant Issuer, Qualifying Income derived from such Relevant Notes held by:
  - (a) any related party of the relevant Issuer; or
  - (b) any other person where the funds used by such person to acquire such Relevant Notes are obtained, directly or indirectly, from any related party of the relevant Issuer,shall not be eligible for the tax exemption or concessionary rate of tax described above.

The terms “break cost”, “prepayment fee” and “redemption premium” are defined in the ITA as follows:

“break cost” means, in relation to debt securities and QDS, any fee payable by the issuer of the securities on the early redemption of the securities, the amount of which is determined by any loss or liability incurred by the holder of the securities in connection with such redemption;

“prepayment fee” means, in relation to debt securities and QDS, any fee payable by the issuer of the securities on the early redemption of the securities, the amount of which is determined by the terms of the issuance of the securities; and

“redemption premium” means, in relation to debt securities and QDS, any premium payable by the issuer of the securities on the redemption of the securities upon their maturity.

References to “break cost”, “prepayment fee” and “redemption premium” in this Singapore tax disclosure have the same meaning as defined in the ITA.

The term “related party”, in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that person, or where he and that other person, directly or indirectly, are under the control of a common person.

Where interest, discount income, prepayment fee, redemption premium or break cost (i.e. the Qualifying Income) is derived from the Relevant Notes by any person who is not resident in Singapore and who carries on any operations in Singapore through a permanent establishment in Singapore, the tax exemption available for QDS under the ITA (as mentioned above) shall not apply if such person acquires the Relevant Notes using the funds and profits of such person’s operations through a permanent establishment in Singapore. Any person whose interest, discount income, prepayment fee, redemption premium or break cost (i.e. the Qualifying Income) derived from the Relevant Notes is not exempt from tax is required to include such income in a return of income made under the ITA.

Under the Qualifying Debt Securities Plus Scheme (“**QDS Plus Scheme**”), subject to certain conditions having been fulfilled (including the furnishing by the issuer, or such other person as the MAS may direct, to the MAS of a return on debt securities in respect of the QDS in the prescribed format within such period as the MAS may specify and such other particulars in connection with the QDS as the MAS may require), income tax exemption is granted on Qualifying Income derived by any investor from QDS (excluding Singapore Government Securities) which:-

- (a) are issued during the period from 16 February 2008 to 31 December 2018;
- (b) have an original maturity of not less than 10 years;
- (c) cannot have their tenure shortened to less than 10 years from the date of their issue, except where:
  - (i) the shortening of the tenure is a result of any early termination pursuant to certain specified early termination clauses which the issuer included in any offering document for such QDS; and

- (ii) the QDS do not contain any call, put, conversion, exchange or similar option that can be triggered at specified dates or at specified prices which have been priced into the value of the QDS at the time of their issue; and

(d) cannot be re-opened with a resulting tenure of less than 10 years to the original maturity date.

However, even if a particular tranche of the Relevant Notes are QDS which qualify under the QDS Plus Scheme, if, at any time during the tenure of such tranche of Relevant Notes, 50 per cent. or more of such Relevant Notes which are outstanding at any time during the life of their issue is beneficially held or funded, directly or indirectly, by any related party(ies) of the relevant Issuer, Qualifying Income from such Relevant Notes derived by:

(aa) any related party of the relevant Issuer; or

(bb) any other person where the funds used by such person to acquire such Relevant Notes are obtained, directly or indirectly, from any related party of the relevant Issuer,

shall not be eligible for the tax exemption under the QDS Plus Scheme as described above.

## **2. Capital Gains**

Any gains considered to be in the nature of capital made from the sale of the Notes will not be taxable in Singapore. However, any gains derived by any person from the sale of the Notes which are gains from any trade, business, profession or vocation carried on by that person, if accruing in or derived from Singapore, may be taxable as such gains are considered revenue in nature.

Holders of the Notes who apply or who are required to apply Singapore Financial Reporting Standard 39 (“**FRS 39**”) may, for Singapore income tax purposes, be required to recognise gains or losses (not being gains or losses in the nature of capital) on the Notes, irrespective of disposal, in accordance with FRS 39.

Please see the sub-section below on “Adoption of FRS 39 Treatment for Singapore Income Tax Purposes”.

## **3. Adoption of FRS 39 Treatment for Singapore Income Tax Purposes**

The Inland Revenue Authority of Singapore has issued a circular entitled “Income Tax Implications Arising from the Adoption of FRS 39 – Financial Instruments: Recognition and Measurement” (the “**FRS 39 Circular**”). The ITA has since been amended to give effect to the FRS 39 Circular.

The FRS 39 Circular generally applies, subject to certain “opt-out” provisions, to taxpayers who are required to comply with FRS 39 for financial reporting purposes.

Holders of the Notes who may be subject to the tax treatment under the FRS 39 Circular should consult their own accounting and tax advisers regarding the Singapore income tax consequences of their acquisition, holding or disposal of the Notes.

## **4. Estate Duty**

Singapore estate duty has been abolished with respect to all deaths occurring on or after 15 February 2008.

## SUBSCRIPTION AND SALE

### Summary of Dealer Agreement in respect of Notes

Subject to the terms and on the conditions contained in a dealer agreement (the “**Dealer Agreement**”) between the Issuers, the Guarantors, the Arrangers and the Permanent Dealers, the Notes will be offered on a continuous basis by the Issuers to the Permanent Dealers. However, each Issuer has reserved the right to sell Notes directly on its own behalf to Dealers that are not Permanent Dealers. The Notes may be resold at prevailing market prices, or at prices related thereto, at the time of such resale, as determined by the relevant Dealer. The Notes may also be sold by the Issuers through the Dealers, acting as agents of the relevant Issuer. The Dealer Agreement also provides for Notes to be issued in syndicated Tranches that are underwritten by two or more Dealers.

The relevant Issuer (failing which, the Guarantors) will pay each relevant Dealer a commission as agreed between them in respect of Notes subscribed by it. The Issuers (failing which, the Guarantors) have agreed to reimburse the Arrangers and Dealers for certain of their expenses incurred in connection with the establishment of the Programme and Dealers for certain of their activities in connection with the Programme. The commissions in respect of an issue of Notes on a syndicated basis will be stated in the relevant Pricing Supplement.

Each Issuer (failing which, the Guarantors) has agreed to indemnify the Arrangers and Dealers against certain liabilities in connection with the offer and sale of the Notes. The Dealer Agreement entitles Dealers to terminate any agreement that they make to subscribe Notes in certain circumstances prior to payment for such Notes being made to the relevant Issuer.

The Dealers and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financing and brokerage activities (“**Banking Services or Transactions**”). The Dealers and their respective affiliates may have, from time to time, performed, and may in the future perform, various Banking Services or Transactions with the Issuers and the Guarantors for which they have received, or will receive, fees and expenses.

In connection with any offering of Notes, the relevant Dealers and/or their respective affiliates may place orders, receive allocations and purchase Notes for their own account (without a view to distributing such Notes). Such entities may hold or sell such Notes or purchase further Notes for their own account in the secondary market or deal in any other securities of the relevant Issuer or the Guarantors, and therefore, they may offer or sell the Notes or other securities otherwise than in connection with the offering. Accordingly, references herein to the Notes being “offered” should be read as including any offering of Notes to the relevant Dealer and/or their respective affiliates for their own account. Such entities are not expected to disclose such transactions or the extent of any such investment, otherwise than in accordance with any legal or regulatory obligation to do so. The Issuers, the Guarantors and any relevant Dealers are under no obligation to disclose the extent of the distribution of any Notes amongst individual investors.

In the ordinary course of their various business activities, the Dealers and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of the Issuers, the Guarantors or their respective affiliates. Certain of the Dealers or their affiliates that have a lending relationship with the Issuers and/or the Guarantors routinely hedge their credit exposure to the Issuers and/or the Guarantors consistent with their customary risk management policies. Typically, such Dealers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes issued under the Programme. Such investment and securities activities may involve securities and instruments of the Issuers and/or the Guarantors, including Notes and could adversely affect the trading prices of Notes. The Dealers and their affiliates may also make investment recommendations and/or publish or express independent research views (positive or negative) in respect of Notes or other financial instruments of the Issuers or the Guarantors, and may hold, or recommend to their clients that they acquire, long and/or short positions in Notes or such other financial instruments.

### Selling Restrictions

*For the purposes of these selling restrictions, references to the Notes include interests or rights in the Notes held in Euroclear or Clearstream, Luxembourg or any other clearing system.*

## ***Australia***

Each Dealer will acknowledge and agree at the time it becomes a Dealer in relation to the Programme and each issue of Notes that this Offering Circular has not, and no other prospectus, disclosure document, offering material or advertisement in relation to the Programme or the Notes has, been lodged with ASX Limited or ASIC or any other Government agency.

Each Dealer will at the time it becomes a Dealer represent and agree that, unless the relevant Pricing Supplement otherwise provides, it, in connection with the distribution of Notes:

- (a) has not offered or invited applications, and will not offer or invite applications, for the issue, sale or purchase of the Notes within, to or from Australia (including an offer or invitation which is received by a person in Australia); and
- (b) has not distributed or published, and will not distribute or publish, this Offering Circular or any other prospectus, disclosure document, offering material or advertisement relating to the Notes in Australia,

unless:

- (i) the minimum aggregate consideration payable by each offeree or invitee is at least A\$500,000 (or its equivalent in other currencies, in either case, disregarding moneys lent by the offerer or its associates) or the offer or invitation otherwise does not require disclosure to investors in accordance with Part 6D.2 or 7.9 of the Corporations Act 2001 of Australia;
- (ii) such action complies with all applicable laws, regulations and directives in Australia;
- (iii) such action does not require any document to be lodged with ASIC; and
- (iv) the offer or invitation is not made to a person who is a “retail client” within the meaning of section 761G of the Corporations Act 2001 of Australia.

## ***United States***

The Notes have not been and will not be registered under the Securities Act or any other applicable U.S. state securities laws and, accordingly, may not be offered, sold, pledged, delivered or otherwise transferred within the United States or to, or for the account or benefit of, U.S. persons, except in certain transactions exempt from the registration requirements of the Securities Act. Each Dealer will represent and agree at the time it becomes a Dealer in relation to the Programme and each issue of Notes that it will not offer or sell any Notes within the United States or to, or for the account or benefit of, U.S. persons, except as permitted by the Dealer Agreement. Each Dealer will represent and agree at the time it becomes a Dealer in relation to the Programme and each issue of Notes that it will send to each dealer to which it sells any Notes until 40 days after the completion of the distribution of any identifiable tranche of Notes a confirmation or other notice setting forth the restrictions on offers and sales of the Notes. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

The Bearer Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations. The relevant Pricing Supplement will identify whether TEFRA C rules or TEFRA D rules apply or whether TEFRA is not applicable. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and regulations promulgated thereunder.

The Notes are being offered and sold outside the United States in reliance on Regulation S.

In addition, until 40 days after the completion of the distribution of any identifiable tranche of Notes, an offer or sale of Notes within the United States by any dealer (whether or not participating in the offering of such tranche of Notes) may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than in accordance with an available exemption from registration under the Securities Act.

This Offering Circular has been prepared by the Issuers and the Guarantors for use in connection with the offer and sale of the Notes outside the United States. The relevant Issuer, the Guarantors and the Dealers reserve the right to reject any offer to purchase the Notes, in whole or in part, for any reason. This Offering Circular does not constitute an offer to any person in the United States or to, or for the account or benefit of, a U.S. person. Distribution of this Offering Circular by any non-U.S. person outside the United States to any U.S. person or to any other person within the United States, is unauthorised and

any disclosure without the prior written consent of the Issuers of any of its contents to any such U.S. person or other person within the United States, is prohibited.

### ***Public Offer Selling Restriction under the Prospectus Directive***

From 1 January 2018, each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by this Offering Circular as completed by the or Pricing Supplement in relation thereto to any retail investor in the European Economic Area. For the purposes of this provision:

- (a) the expression “retail investor” means a person who is one (or more) of the following:
  - (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, “**MiFID II**”); or
  - (ii) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in Directive 2003/71/EC (as amended, the “**Prospectus Directive**”); and
- (b) the expression “**offer**” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes.

Prior to 1 January 2018, in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), each Dealer has represented and agreed, and each future Dealer will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Notes which are the subject of the offering contemplated by this Offering Circular as completed by the Pricing Supplement in relation thereto to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

1. at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
2. at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the relevant Issuer for any such offer; or
3. at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of Notes referred to in (a) to (c) above shall require the relevant Issuer or any Dealer to publish an offering circular pursuant to Article 3 of the Prospectus Directive or supplement an offering circular pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an “**offer of Notes to the public**” in relation to any Notes in any Relevant Member State means the communication of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression “**Prospectus Directive**” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in each Relevant Member State and the expression “**2010 PD Amending Directive**” means Directive 2010/73/EU.

### ***United Kingdom***

Each Dealer has represented and agreed, and each future Dealer will be required to represent and agree, that:

- (i) in relation to any Notes which have a maturity of less than one year, (a) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (b) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their

businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the relevant Issuer;

- (ii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not apply to the relevant Issuer or the Guarantors; and
- (iii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

### ***Singapore***

Each Dealer has acknowledged, and each future Dealer will be required to acknowledge, that this Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Dealer has represented and agreed, and each future Dealer will be required to represent and agree, that it has not offered or sold any Notes or caused any Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell any Notes or cause any Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Offering Circular or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of any Notes, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”)) pursuant to Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

This Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of any Notes may not be circulated or distributed, nor may any Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (i) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (ii) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law;
- (d) as specified in Section 276(7) of the SFA; or
- (e) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

### ***Hong Kong***

In relation to each Tranche of Notes issued by an Issuer, each Dealer has represented and agreed, and each future Dealer will be required to represent and agree, that (i) it has not offered or sold and will not offer or sell in Hong Kong, by means of any document, any Notes except other than (a) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance; and (ii) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance.

### ***Japan***

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended, the “**Financial Instruments and Exchange Act**”). Accordingly, each Dealer has represented and agreed, and each future Dealer will be required to represent and agree, that it has not, directly or indirectly, offered or sold and will not, directly or indirectly, offer or sell any Notes in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan) or to others for re-offering or re-sale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and other relevant laws, regulations and directives of Japan.

### ***Canada***

The Notes will not be offered for sale or sold, directly or indirectly, to any resident of any Province or Territory of Canada (for purposes of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) (Canada), as amended) under an exemption from the prospectus and registration requirement or otherwise in accordance with applicable securities laws of a Province or Territory of Canada. No securities regulatory authority or regulator in Canada has assessed the merits of the Notes or reviewed this Offering Circular.

### ***General***

These selling restrictions may be supplemented or modified by the agreement of the relevant Issuer and any Dealers following a change in a relevant law, regulation or directive. Any such modification will be set out in the Pricing Supplement issued in respect of the issue of Notes to which it relates or in a supplement to this Offering Circular.

No representation is made that any action has been or will be taken in any jurisdiction that would permit a public offering of any of the Notes, or possession or distribution of this Offering Circular, any other offering material or any Pricing Supplement, in any country or jurisdiction where action for that purpose is required.

In connection with its distribution of the Notes, each Dealer has agreed, and each future Dealer will be required to agree, that it shall, to the best of its knowledge, comply with all relevant laws, regulations and directives in each jurisdiction in which it purchases, offers, sells or delivers Notes or has in its possession or distributes this Offering Circular, any other offering material or any Pricing Supplement. Other persons into whose hands this Offering Circular or any Pricing Supplement comes are required by the relevant Issuer and the Dealers to comply with all applicable laws and regulations in each country or jurisdiction in or from which they purchase, offer, sell or deliver Notes or possess, distribute or publish this Offering Circular or any Pricing Supplement or any related offering material.

The Dealer Agreement provides that the Dealers shall not be bound by any of the restrictions relating to any specific jurisdiction (set out above) to the extent that such restrictions shall, as a result of change(s) in official interpretation, in applicable laws and regulations, no longer be applicable but without prejudice to the obligations of the Dealers described in this section.

## FORM OF PRICING SUPPLEMENT

Pricing Supplement dated [date]

**[Incitec Pivot Limited]/[Incitec Pivot Finance LLC]/[Dyno Nobel Europe Pty Ltd]**

**Issue of [Aggregate Nominal Amount of Tranche][Title of Notes]**

**under the U.S.\$1,500,000,000 Euro Medium Term Note Programme**

**initially guaranteed by Incitec Pivot Limited (other than in respect of Notes issued by itself)  
and by certain of its subsidiaries**

This document constitutes the Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated [date] [and the supplemental [Offering Circular] dated [date]]. This Pricing Supplement contains the final terms of the Notes and must be read in conjunction with such Offering Circular [as so supplemented].

Where interest, discount income, prepayment fee, redemption premium or break cost is derived from any of the Notes by any person who is not resident in Singapore and who carries on any operations in Singapore through a permanent establishment in Singapore, the tax exemption available for qualifying debt securities (subject to certain conditions) under the Income Tax Act, Chapter 134 of Singapore (“ITA”), shall not apply if such person acquires such Notes using the funds and profits of such person’s operations through a permanent establishment in Singapore. Any person whose interest, discount income, prepayment fee, redemption premium or break cost derived from the Notes is not exempt from tax (including for the reasons described above) shall include such income in a return of income made under the ITA.

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under an Offering Circular with an earlier date.]*

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions (the “**Conditions**”) set forth in the Offering Circular dated [date]. This Pricing Supplement contains the final terms of the Notes and must be read in conjunction with the Offering Circular dated [current date] [and the supplemental Offering Circular dated [date]], save in respect of the Conditions which are extracted from the Offering Circular dated [date] and are attached hereto.]

*[Include whichever of the following apply or specify as “Not Applicable” (N/A). Note that the numbering should remain as set out below, even if “Not Applicable” is indicated for individual paragraphs or sub-paragraphs. Italics denote directions for completing the Pricing Supplement.]*

1. (i) Issuer: [Incitec Pivot Limited]/[Incitec Pivot Finance LLC]/[Dyno Nobel Europe Pty Ltd]
- (ii) Guarantors: [Incitec Pivot Limited]/[Incitec Pivot Finance LLC]/[Dyno Nobel Europe Pty Ltd]  
[Incitec Fertilizers Pty Limited  
TOP Australia Pty Limited  
Southern Cross Fertilisers Pty Ltd  
Southern Cross International Pty Ltd  
Incitec Pivot US Holdings Pty Ltd  
Incitec Pivot Finance Australia Pty Ltd  
Dyno Nobel Pty Limited  
Dyno Nobel Asia Pacific Pty Limited  
Dyno Nobel Moranbah Pty Ltd  
Dyno Nobel Moura Pty Limited  
Incitec Pivot Explosives Holdings Pty Ltd  
DNX Australia Pty Ltd  
Dyno Nobel Australia LLC  
Dyno Nobel Inc.  
Dyno Nobel Holdings USA, Inc.  
Dyno Nobel Louisiana Ammonia, LLC  
Dyno Nobel Holdings V LLC



Dyno Nobel Canada Inc.  
Incitec Pivot Finance Canada Inc.  
Dyno Nobel Waggaman Inc.]

2. (i) Series Number: [ ]  
(ii) Tranche Number: [ ]  
(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible). [ ]
3. Specified Currency or Currencies: [ ]
4. Aggregate Nominal Amount:  
(i) Series: [ ]  
(ii) Tranche: [ ]
5. (i) Issue Price: [ ] per cent. of the Aggregate Nominal Amount [plus accrued interest from [insert date] (*in the case of fungible issues only, if applicable*)]  
(ii) [Net Proceeds: [ ] (*Required only for listed issues*)]
6. (i) Specified Denominations: [ ]  
*Notes [(including Notes denominated in Sterling) in respect of which the issue proceeds are to be accepted by the issuer in the United Kingdom or whose issue otherwise constitutes contravention of S19 FSMA and] which have a maturity of less than one year must have a minimum redemption value of £100,000 (or its equivalent in other currencies). If the specified denomination is expressed to be €100,000 or its equivalent and multiples of a lower principal amount (for examples €1,000), insert the following:  
“€100,000 and integral multiples of [€1,000] in excess thereof up to and including [€199,000]. No notes in definitive form will be issued with a denomination above [€199,000]”.*
- (ii) Calculation Amount: [ ]
7. (i) Issue Date: [ ]  
(ii) Interest Commencement Date: [Specify/Issue date/Not Applicable]
8. Tenure: [Specify]
9. Maturity Date: [*specify date or (for Floating Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year/None*]
10. Interest Basis: [[ ] per cent. Fixed Rate] [from [ ] to [ ]]  
[[specify reference rate] +/- [ ] per cent. Floating Rate] [from [ ] to [ ]] [Zero Coupon]  
[Other (*specify*)]
11. [Redemption/Payment Basis: [Redemption at par]  
[Partly Paid]  
[Instalment]  
[Other (*specify*)]

12. Change of Interest or Redemption/Payment Basis: [Specify details of any provision for convertibility of Notes into another interest or redemption/payment basis]
13. Put/Call Options: [Investor Put]  
[Issuer Call]  
[(further particulars specified below)]
14. Status of the Notes: Senior
15. Listing and admission to trading: [[ ] (specify)/None]
16. Method of distribution: [Syndicated/Non-syndicated]

**PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE**

17. Fixed Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate[(s)] of Interest: [ ] per cent. per annum [payable [annually/semi-annually/quarterly/monthly] in arrear]
- (ii) Interest Payment Date(s): [ ] in each year [adjusted in accordance with  
*[specify Business Day Convention and any applicable Business Center(s) for the definition of "Relevant Business Day"]/[not adjusted]*]
- (iii) Fixed Coupon Amount[(s)]: [ ] per Calculation Amount
- (iv) Broken Amount(s): [ ] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [ ]
- (v) Day Count Fraction: [30/360/Actual/Actual(ICMA/ISDA)/other]
- (vi) [Determination Dates: [ ] in each year *(insert regular interest payment dates, ignoring issue date or maturity date in the case of a long or short first or last coupon. N.B. only relevant where Day Count Fraction is Actual/Actual (ICMA))*]
- (vii) Other terms relating to the method of calculating interest for Fixed Rate Notes: [Not Applicable/give details]
18. Floating Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Interest Period(s): [ ]
- (ii) Specified Interest Payment Dates: [ ]
- (iii) Interest Period Date: [ ]  
*(Not applicable unless different from Interest Payment Date)*
- (iv) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other *(give details)*]
- (v) Business Centre(s): [ ]
- (vi) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination/ISDA Determination/ other *(give details)*]

- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Fiscal Agent): [ ]
- (viii) Screen Rate Determination:
- Reference Rate: [ ]
  - Interest Determination Date(s): [ ]
  - Relevant Screen Page: [ ]
- (ix) ISDA Determination
- Floating Rate Option: [ ]
  - Designated Maturity: [ ]
  - Reset Date: [ ]
- (x) Margin(s): [+/-][ ] per cent. per annum
- (xi) Minimum Rate of Interest: [ ] per cent. per annum
- (xii) Maximum Rate of Interest: [ ] per cent. per annum
- (xiii) Day Count Fraction: [ ]
- (xiv) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [ ]
19. Variable Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Interest Period: [ ]
- (ii) Specified Interest Payment Dates: [ ]
- (iii) Interest Period Date: [ ]
- (Not applicable unless different from Interest Payment Date)*
- (iv) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other *(give details)*]
- (v) Business Centre(s): [ ]
- (vi) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination/ISDA Determination/other *(give details)*]
- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Fiscal Agent): [ ]
- (viii) Screen Rate Determination:
- Reference Rate: [ ]
  - Interest Determination Date(s): [ ]
  - Relevant Screen Page: [ ]
- (ix) ISDA Determination:
- Floating Rate Option: [ ]

- Designated Maturity: [ ]
  - Reset Date: [ ]
  - (x) Margin(s): [+/-][ ] per cent. per annum
  - (xi) Minimum Rate of Interest: [ ] per cent. per annum
  - (xii) Maximum Rate of Interest: [ ] per cent. per annum
  - (xiii) Day Count Fraction: [ ]
  - (xiv) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating the Fall Back Rate on Variable Rate Notes, if different from those set out in the Conditions: [ ]
20. Zero Coupon Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Amortisation Yield: [ ] per cent. per annum
  - (ii) Any other formula/basis of determining amount payable: [ ]

#### **PROVISIONS RELATING TO REDEMPTION**

21. Call Option: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
  - (ii) Optional Redemption Amount(s) of each Note per Calculation Amount and specified denomination method, if any, of calculation of such amount(s) [ ]
  - (iii) If redeemable in part:
    - Minimum Redemption Amount: [ ] per Calculation Amount
    - Maximum Redemption Amount: [ ] per Calculation Amount
  - (iv) Notice period: [ ]
22. Put Option: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
  - (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Calculation Amount
  - (iii) Notice period: [ ]
23. VRN Purchase Option: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- Purchase Option Period: [Specify maximum and minimum number of days for notice period]
24. Early Redemption Amount: [ ] per Calculation Amount

25. Early Redemption Amount(s) per Calculation [ ]  
 Amount payable on redemption for taxation reasons or on event of default and/or the method of calculating the same (if required or if different from that set out in the Conditions):

**GENERAL PROVISIONS APPLICABLE TO THE NOTES**

26. Form of Notes: **Bearer Notes**  
 [Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes in the limited circumstances specified in the Permanent Global Note]  
 [Temporary Global Note exchangeable for Definitive Notes on [ ] days' notice]  
 [Permanent Global Note exchangeable for Definitive Notes in the limited circumstances specified in the permanent Global Note]  
 [Definitive Notes]  
*(N.B. The exchange upon notice/at any time options should not be expressed to be applicable if the Specified Denomination of the Notes in paragraph 6 includes language substantially to the following effect: "€100,000 and integral multiples of €1,000 in excess thereof up to and including €199,000."*  
*Furthermore, such Specified Denomination construction is not permitted in relation to any issue of Notes which is to be represented on issue by a Temporary Global Note exchangeable for Definitive Notes.)*
- Registered Notes:**  
 [Global Certificate ([Currency] [ ] nominal amount) registered in the name of a nominee for a common depository for Euroclear and Clearstream, Luxembourg]
27. Financial Centre(s) or other special provisions relating to Payment Dates: [Not Applicable/give details. Note that this paragraph relates to the date and place of payment, and not interest period end dates, to which sub-paragraphs 17(ii), 18(iii) and 19(iii) relate]
28. Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): [Yes/No. If yes, give details]
29. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details]

30. Details relating to Instalment Notes: amount of each instalment (“**Instalment Amount**”), date on which each payment is to be made (“**Instalment Date**”): [Not Applicable/*give details*]
31. Redenomination, renominatisation and reconventioning provisions: [Not Applicable/The provisions [annexed to this Pricing Supplement] apply]
32. Consolidation provisions: [Not Applicable/The provisions [annexed to this Pricing Supplement] apply]
33. Other terms or special conditions: [Not Applicable/*give details*]
34. Ratings: [Not Applicable/*give details*]
35. Use of proceeds (if different from that as specified in the offering circular): [Not Applicable/*give details*]

#### **DISTRIBUTION**

36. (i) If syndicated, names of Managers: [Not Applicable/*give name*]  
(ii) Stabilising Manager (if any): [Not Applicable/*give name*]
37. If non-syndicated, name of Dealer: [Not Applicable/*give name*]
38. U.S. Selling Restrictions: [Reg. S Compliance Category [1/2]; TEFRA D/TEFRA C/TEFRA not applicable]
39. Additional selling restrictions: [Not Applicable/*give name*]

#### **OPERATIONAL INFORMATION**

40. ISIN Code: [ ]
41. Common Code: [ ]
42. CUSIP: [ ]
43. Any clearing system(s) other than Euroclear Bank SA/NV and Clearstream Banking S.A. and the relevant identification number(s): [Not Applicable/*give name(s) and number(s)*]
44. Delivery: Delivery [against/free of] payment
45. Additional Paying Agent(s) (if any): [ ]

#### **GENERAL**

46. Governing Law: English

#### **[PURPOSE OF PRICING SUPPLEMENT**

This Pricing Supplement comprises the final terms required for issue and admission to trading on the Singapore Exchange Securities Trading Limited of the Notes described herein pursuant to the U.S.\$1,500,000,000 Euro Medium Term Note Programme of [Incitec Pivot Limited]/[Incitec Pivot Finance LLC]/[Dyno Nobel Europe Pty Ltd].]

**[PROHIBITION OF SALES TO EEA RETAIL INVESTORS** – The Notes are not intended, from 1 January 2018, to be offered, sold or otherwise made available to and, with effect from such date, should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (“**EEA**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (“**MIFID II**”); (ii) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in Directive 2003/71/EC. Consequently no key information document required by Regulation (EU) No 1286/2014 (the “**PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.]

**RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in this Pricing Supplement.

Signed on behalf of

**[INCITEC PIVOT LIMITED]/[INCITEC PIVOT FINANCE LLC]/  
[DYNO NOBEL EUROPE PTY LTD]**

By:.....

*Duly authorised*

## CLEARING AND SETTLEMENT

The following is a summary of the rules and procedures of Euroclear and Clearstream, Luxembourg currently in effect, as they relate to clearing and settlement of transactions involving the Notes. The rules and procedures of these systems are subject to change at any time.

### **The Clearing Systems**

#### ***Euroclear and Clearstream, Luxembourg***

Euroclear and Clearstream, Luxembourg each holds securities for participating organisations and facilitates the clearance and settlement of securities transactions between their respective participants through electronic book-entry changes in accounts of such participants. Euroclear and Clearstream, Luxembourg provide to their respective participants, among other things, services for safekeeping, administration, clearance and settlement of internationally-traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg participants are financial institutions throughout the world, including underwriters, securities brokers and dealers, banks, trust companies, clearing corporations and certain other organisations. Indirect access to Euroclear and Clearstream, Luxembourg is also available to others, such as banks, brokers, dealers and trust companies which clear through or maintain a custodial relationship with a Euroclear or Clearstream, Luxembourg participant, either directly or indirectly.

Distributions of principal with respect to book-entry interests in the Notes held through Euroclear or Clearstream, Luxembourg will be credited, to the extent received by the Paying Agent, to the cash accounts of Euroclear or Clearstream, Luxembourg participants in accordance with the relevant system's rules and procedures.

Each of the persons shown in the records of Euroclear, Clearstream, Luxembourg or an Alternative Clearing System as the holder of a Note represented by a Global Note or a Global Certificate must look solely to Euroclear, Clearstream, Luxembourg or any such Alternative Clearing System (as the case may be) for his share of each payment made by the relevant Issuer (or, as the case may be, the Guarantors) to the bearer of such Global Note or the holder of the underlying Registered Notes, as the case may be, and in relation to all other rights arising under the Global Notes or Global Certificates, subject to and in accordance with the respective rules and procedures of Euroclear, Clearstream, Luxembourg, or such Alternative Clearing System (as the case may be). Such persons shall have no claim directly against the relevant Issuer (or, as the case may be, the Guarantors) in respect of payments due on the Notes for so long as the Notes are represented by such Global Note or Global Certificate and such obligations of the relevant Issuer (or, as the case may be, the Guarantors) will be discharged by payment to the bearer of such Global Note or the holder of the underlying Registered Notes, as the case may be, in respect of each amount so paid.

Beneficial ownership in Notes will be held through financial institutions as direct and indirect participants in Euroclear and Clearstream, Luxembourg.

The aggregate holdings of book-entry interests in the Notes in Euroclear and Clearstream, Luxembourg will be reflected in the book-entry accounts of each such institution. Euroclear and Clearstream, Luxembourg, as the case may be, and every other intermediate holder in the chain to the beneficial owner of book-entry interests in the Notes, will be responsible for establishing and maintaining accounts for their participants and customers having interests in the book-entry interest in the Notes. The Paying Agent will be responsible for ensuring that payments received by it from the relevant Issuer (or, as the case may be, the Guarantors) for holders of interests in the Notes holding through Euroclear and Clearstream, Luxembourg are credited to Euroclear or Clearstream, Luxembourg, as the case may be.

The Issuers (or, as the case may be, the Guarantors) will not impose any fees in respect of the Notes, however, holders of book entry interests in the Notes may incur fees normally payable in respect of the maintenance and operation of accounts in Euroclear and Clearstream, Luxembourg.



## **Book-Entry Ownership**

### ***Bearer Notes***

The Issuers have made applications to Euroclear and Clearstream, Luxembourg for acceptance in their respective book-entry systems in respect of any Series of Bearer Notes. In respect of Bearer Notes, a temporary Global Note and/or a permanent Global Note will be deposited with a common depository for Euroclear and Clearstream, Luxembourg. Transfers of interests in a temporary Global Note or a permanent Global Note will be made in accordance with the normal market debt securities operating procedures of Euroclear and Clearstream, Luxembourg. Each Global Note will have an International Securities Identification Number (“**ISIN**”) and a Common Code.

### ***Registered Notes***

The Issuers have made applications to Euroclear and Clearstream, Luxembourg for acceptance in their respective book-entry systems in respect of the Notes to be represented by a Global Certificate, each such Global Certificate will have an ISIN and a Common Code. Investors in Notes of such Series may hold their interests in a Global Certificate only through Euroclear or Clearstream, Luxembourg.

## GENERAL INFORMATION

- (1) Application has been made to the SGX-ST for permission to deal in and the listing and quotation of any Notes which are agreed at the time of issue thereof to be so listed on the SGX-ST. Such permission will be granted when such Notes have been admitted to the Official List of the SGX-ST. There is no assurance that the application for admission to the Official List of the SGX-ST for the listing of the Notes of any Series will be approved. The SGX-ST assumes no responsibility for the correctness of any of the statements made, opinions expressed or reports contained herein or the contents of this document. Admission to the Official List of the SGX-ST and quotation of any Notes on the SGX-ST is not to be taken as an indication of the merits of the Issuers, the Guarantors, their subsidiaries (if any), their associated companies (if any), the Programme or the Notes. For so long as the Notes are listed on the SGX-ST and the rules of the SGX-ST so require, the Notes will trade on the SGX-ST in a minimum board lot size of S\$200,000 or its equivalent in other currencies. For so long as any Notes are listed on the SGX-ST and the rules of the SGX-ST so require, the relevant Issuer shall appoint and maintain a paying agent in Singapore where such Notes (or Certificates in respect thereof) may be presented or surrendered for payment or redemption, in the event that any of the Global Notes or Global Certificates representing such Notes is exchanged for definitive Notes or definitive Certificates (as the case may be). In addition, in the event that any of the Global Notes or Global Certificates representing such Notes is exchanged for definitive Notes or definitive Certificates (as the case may be), an announcement of such exchange shall be made by or on behalf of the relevant Issuer through the SGX-ST and such announcement will include all material information with respect to the delivery of the definitive Notes or definitive Certificates, including details of the paying agent in Singapore.
- (2) Each Issuer has obtained all necessary consents, approvals and authorisations in connection with the establishment of the Programme. Each Guarantor has obtained all necessary consents, approvals and authorisations in connection with the giving of the 2017 Guarantee.
- (3) Except as disclosed in this Offering Circular, there has been no significant change in the financial or trading position of any of the Issuers, any of the Guarantors or the IPL Group since 30 September 2016 and no material adverse change in the prospects of any of the IPL Group since 30 September 2016.
- (4) Except as disclosed in this Offering Circular, none of the Issuers, the Guarantors or any of their respective Subsidiaries is nor has been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which any Issuer or any Guarantor is aware) during the 12 months preceding the date of this Offering Circular which may have or has had in the recent past material effects on the financial position or profitability of the IPL Group.
- (5) Each Bearer Note having a maturity of more than one year, Receipt, Coupon and Talon will bear the following legend: “Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code”.
- (6) Notes have been accepted for clearance through the Euroclear and Clearstream, Luxembourg systems (which are the entities in charge of keeping the records). The Common Code, the International Securities Identification Number (ISIN) and (where applicable) the identification number for any other relevant clearing system for each Series of Notes will be set out in the relevant Pricing Supplement.
- (7) As at 14 July 2017, there were no material contracts entered into other than in the ordinary course of each Issuer’s and each Guarantor’s respective business, which could result in any member of the IPL Group being under an obligation or entitlement that is material to the relevant Issuer’s or, as the case may be, the relevant Guarantor’s ability to meet its obligations to noteholders in respect of the Notes being issued.
- (8) The issue price and the amount of the relevant Notes will be determined, before filing of the relevant Pricing Supplement of each Tranche, based on the prevailing market conditions. None of the Issuers or Guarantors intends to provide any post-issuance information in relation to any issues of Notes.

- (9) For so long as Notes may be issued pursuant to this Offering Circular, the following documents will be available, during usual business hours on any weekday (Saturdays and public holidays excepted), for inspection at the office of the Fiscal Agent or the registered offices of the Issuers:
- (a) the Agency Agreement (which includes the form of the Global Notes, the definitive Bearer Notes, the Certificates, the Coupons, the Receipts and the Talons);
  - (b) the Deed of Covenant;
  - (c) the 2017 Guarantee;
  - (d) the 2008 Guarantee Deed Poll;
  - (e) the constitutional documents of each Issuer and each Guarantor;
  - (f) the latest published annual report and audited accounts of the IPL Group;
  - (g) each Pricing Supplement (save that Pricing Supplement relating to an unlisted Series of Notes will only be available for inspection by a holder of such Note and such holder must produce evidence satisfactory to the relevant Issuer and the relevant Paying Agent as to its holding of Notes and identity);
  - (h) a copy of this Offering Circular together with any supplemental offering circular or further offering circular; and
  - (i) each of the documents which are deemed to be incorporated herein by reference (see “*Documents Incorporated by Reference*”).
- (10) Deloitte Touche Tohmatsu of 550 Bourke Street, Melbourne, VIC 3000, Australia have audited, and rendered unqualified audit reports on, the financial statements of the IPL Group for the three financial years ended 30 September 2014, 2015 and 2016.

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