

Creditors' Trust Deed

Dated *10 AUGUST* 2010

Midwest Vanadium Pty Ltd ACN 113 874 712 (receivers and managers appointed) (subject to deed of company arrangement) (MVPL)

Darren Gordon Weaver, Andrew John Saker and Martin Bruce Jones
(Trustees)

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Creditors' Trust Deed

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Creditors' Trust Deed

Details

Parties	MVPL, Trustees	
MVPL	Name	Midwest Vanadium Pty Ltd (receivers and managers appointed) (subject to deed of company arrangement)
	ACN	113 874 712
	Address	c/- Korda Mentha Level 11, 37 St Georges Terrace PERTH WA 6000
	Telephone	+61 8 9220 9333
	Fax	+61 8 9220 9399
	Attention	Brian McMaster and Martin Madden
	Address	c/- Ferrier Hodgson Level 26, 108 St Georges Terrace PERTH WA 6000
	Telephone	+61 8 9214 1444
	Fax	+61 8 9214 1400
	Attention	Darren Weaver, Andrew Saker and Martin Jones
Trustees	Name	Darren Weaver, Andrew Saker and Martin Jones
	Address	c/- Ferrier Hodgson Level 26, 108 St Georges Terrace PERTH WA 6000
	Telephone	+61 8 9214 1444
	Fax	+61 8 9214 1400
	Attention	Darren Weaver, Andrew Saker and Martin Jones
Recitals	A	On 18 February 2009, the Administrators were appointed to MVPL.
	B	On 12 February 2010, pursuant to section 439A of the Act, a second meeting of MVPL's creditors was held. At that meeting, the Creditors resolved that MVPL execute a deed of company arrangement.

- C** On 24 February 2010, the Deed Administrators executed the Holding DOCA.
- D** On 20 April 2010, at a reconvened meeting of MVPL's Creditors, the Creditors resolved that MVPL execute the Varied DOCA.
- E** On 12 May 2010, MVPL executed the Varied DOCA.
- F** The Settlor has paid the Settlement Sum to the Trustees to settle the Trust.
- G** MVPL and the Trustees enter into this Deed as contemplated by the Varied DOCA in order to facilitate distribution by the Trustees to the Participating Creditors in their capacity as beneficiaries of the Trust Fund.

Governing law	Western Australia
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Date of deed	See Signing page
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Creditors' Trust Deed

General terms

1 Interpretation

1.1 Definitions

In this Deed unless the subject or context otherwise requires:

Act means the Corporations Act 2001 (Cth).

Administrators means Darren Weaver, Andrew Saker and Martin Jones in their capacity as joint and several administrators of MVPL.

Appointment Date means 18 February 2009, being the date on which the Administrators were appointed voluntary administrators of MVPL pursuant to section 436C of the Act.

Business Day means any day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

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

Commencement Date means the date of the Varied DOCA.

Contribution Sum means the amount of \$800,000.

Court means the Supreme Court of Western Australia or the Western Australian registry of the Federal Court of Australia or any court having jurisdiction to hear and determine matters under the Act and the Trustees Act.

Creditor means any person who would have been entitled to prove in a winding up of MVPL commencing on the Appointment Date.

Deed Administrators means Darren Weaver, Andrew Saker and Martin Jones in their capacity as joint and several deed administrators of MVPL.

Dividend means any amount paid to a Participating Creditor in respect of that creditors' Entitlement.

Entitlement means the admitted Claim of any creditor after adjudication by the Trustees in accordance with clause 5 of this Deed.

Excluded Creditor means a Senior Finance Party, a Mezzanine Finance Party, the Hedging Bank, MRL, WVL or the recipient of an assignment of the Trade Debt under clause 11.2(a) of the Varied DOCA.

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

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

Hedging Bank means Merrill Lynch International Bank Limited.

Holding DOCA means the deed of company arrangement between MVPL and the Administrators dated 24 February 2010.

Intercreditor Agreement means the agreement between, among others, MVPL, WVL, Citibank N.A., London Branch (as security trustee) and Citibank International Limited (as senior agent and mezzanine agent) dated 14 January 2008.

Meeting means the reconvened second meeting of Creditors of MVPL held on 20 April 2010.

Mezzanine Finance Party has the meaning given in the Intercreditor Agreement.

MRL means Mineral Resources Limited ACN 118 549 910.

Participating Creditor means any person with a Claim (including, for the avoidance of doubt, a Trade Creditor) that has been accepted by the Trustees other than an Excluded Creditor.

Priority Claim means the Claim of any person who would be entitled to priority pursuant to sections 556, 560 and 561 of the Act had MVPL been wound up and the date of the winding up been the Appointment Date.

Priority Creditor means any person having a Priority Claim against MVPL.

Regulations means the Corporations Regulations 2001.

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

Senior Finance Party has the meaning given in the Intercreditor Agreement.

Settlement Sum means \$10.00.

Settlor means MVPL.

Trade Creditor means a person or entity which supplied goods and services to MVPL for which MVPL has not rendered payment as set out in Schedule 2 of the Varied DOCA (regardless of whether its Trade Debt was assigned or extinguished under clause 11.2 (a) or clause 11.5 of the Varied DOCA, as applicable).

Trust means the trust established by this Deed.

Trust Fund means the fund contemplated by the Varied DOCA and established under this Deed.

Trustees Act means the Trustees Act 1962 (WA).

Varied DOCA means the deed of company arrangement entered into by MVPL and the Deed Administrators on 12 May 2010.

WVL means Windimurra Vanadium Ltd ACN 009 131 533 (receivers and managers appointed) (subject to deed of company arrangement).

1.2 Interpretation

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

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any one gender include the other gender and vice versa;
- (c) words importing natural persons include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- (d) words “written” and “in writing” includes any means of visible reproduction of words in a tangible and permanently viable form;
- (e) if a word or phrase is defined, other clauses of speech and grammatical forms of that word or phrase have corresponding meanings;
- (f) reference to clauses and schedules are references to clauses and schedules of this Deed;
- (g) references in this Deed to any statutory enactment or law shall be construed as references to that enactment or law as amended or modified or re-enacted from time to time and to the corresponding provisions of any similar enactment or law of any other relevant jurisdiction;
- (h) references in this Deed to sections shall be construed as references to sections of the Act;
- (i) references to (or to any specific provision of) this Deed or to any other agreement or document shall be construed as references to (that provision of) this Deed or that other agreement or document as amended, substituted, novated, supplemented, varied or replaced with the agreement of the relevant parties and in force at any relevant time;
- (j) headings in this Deed are for the purpose of mere convenient reference only and do not form the clause of this Deed or affect its construction or interpretation;
- (k) a reference to “a Form” means a reference, to the applicable form as set out in Schedule 1 of the Regulations, with such modification as the Deed Administrators consider appropriate to adapt the Form to the circumstances for which the Form is to be used under this Deed;
- (l) a term or expression not otherwise defined in this Deed shall have the same meaning, if any, as provided for in the Act;
- (m) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Deed or any clause of it;
- (n) a reference to “\$” or “dollar” is to Australian currency.

1.3 Inconsistency with Act or Regulations

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

1.4 Other inconsistencies

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

1.5 Business Days

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

1.6 Successors and assigns

The obligations and liabilities imposed and rights and benefits conferred on the parties under this Deed shall be binding upon and enure in favour of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns.

2 Declaration of Trust

2.1 Declaration

The Trustees acknowledge and declare that:

- (a) the Settlement Sum;
- (b) the Contribution Sum;
- (c) any GST refund; and
- (d) any income accruing on the assets of the Trust (such income to be applied in the same manner as the principal upon which it accrued),

will be held on trust by the Trustees for the Participating Creditors and (for any surplus remaining in the Trustees' hands after all other proper payments) for MVPL, on the terms in this Deed.

2.2 Name of Trust

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

2.3 Trustee's powers

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

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

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

3 Trust Fund

3.1 Trust Fund

The Trust Fund shall be comprised of the assets set out in clause 2.1.

3.2 Trust Deed

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

3.3 Distribution of the Trust Fund

The Trustees will distribute the Trust Fund in the following manner:

- (a) first, in accordance with clause 14.3 of the Varied DOCA, payment to:
 - (i) the Administrators in respect of their fees, costs and expenses incurred in connection with the exercise of their powers and in the performance of their duties, obligations and responsibilities as administrators under the Act;
 - (ii) the Deed Administrators in respect of their fees, costs and expenses incurred in connection with the exercise of their powers and in the performance of their duties, obligations and responsibilities as deed administrators under the Holding DOCA; and
 - (iii) the Deed Administrators in satisfaction of their fees, costs and expenses incurred in the course of administering the Varied DOCA,

and, in accordance with clause 7.1 of this Deed, payment to the Trustees in satisfaction of their fees, costs and expenses incurred in connection with this Deed;

- (b) second, payment to the Priority Creditors;
- (c) third, payment to Participating Creditors for admitted Claims not exceeding \$5,000, up to a total amount of \$150,000, pro rata; and
- (d) fourth, the balance, if any, to the remaining Participating Creditors for admitted claims over \$5,000, pro rata.

3.4 Surplus in the Trust Fund

In the event that there is a surplus or balance in the Trust Fund after the Participating Creditors have received 100 cents in the dollar on their admitted Claims, such surplus or balance shall be paid by the Trustees to MVPL.

3.5 Postponement

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

4 Perpetuity Period

Notwithstanding any other provision in this Deed, each

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

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

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

5 Claims

5.1 Admissibility of Claims

- (a) Upon establishment of the Trust Fund in accordance with the Varied DOCA and this Deed, all Claims (other than those of the Excluded Creditors) shall be converted to and become Claims under this Deed.
- (b) Interest will not accrue or be payable on any admitted Claim.
- (c) The Excluded Creditors may not participate in the Trust Fund.

5.2 Trustee's discretion

The Trustees may, in their absolute discretion:

- (a) admit Claims; and
- (b) pay any admitted Claim in accordance with the provisions of this Deed.

5.3 Application of the Act

- (a) Section 544 and subdivisions A, B, C, D and E of Division 6 of Part 5.6 of the Act apply to Claims under this Deed as if references to the liquidator were references to the Trustees and references to winding-up were references to this Deed and references to the Court were references to Court as defined in this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (b) Regulations 5.6.37, and 5.6.39 to 5.6.72 (inclusive) of the Regulations shall apply to this Deed and to the Trustees as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed and references to the Court were references to Court as defined in this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.

5.4 Abandonment of Claims

A Creditor will have abandoned, and will be taken for all purposes to have abandoned, all Claims and all other entitlements (if any) in the Trust Fund:

- (a) which are not the subject of a proof lodged with the Trustees in the form required by the Trustees prior to the declaration of a Final Dividend; or
- (b) which have been rejected by the Trustees and which are not the subject of any appeal or application to the Court within the time allowed for appeals by Regulation 5.6.54.

5.5 Discharge of Claims

All persons having a Claim (other than the Excluded Creditors) must accept their Entitlements under this Deed in full satisfaction and complete discharge of all claims which they have or claim to have against the Trustees or the Trust Fund and each of them will, if called upon to do so, execute and deliver to the Trustees such forms of release of any such claim as the Trustees require.

5.6 Claims extinguished

On payment of the Final Dividend from the Trust Fund, all Claims against the Trust Fund are extinguished (other than those of the Excluded Creditors) and each Creditor will, if called upon to do so, execute and deliver to the Trustees such forms of release of any Claim as the Trustees require.

5.7 Bar

After distribution of the Final Dividend from the Trust Fund, the Trustees may plead this Deed in bar to any Claim.

6 Meetings of Participating Creditors

The Trustees may at any time convene a meeting of Participating Creditors and except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Deed, regulations 5.6.11 to 5.6.36A of the Regulations apply, with such modifications as are necessary, to meetings of the Participating Creditors as if the references to the liquidator, the liquidator or provisional liquidator, the liquidator, provisional liquidator or chairperson, or a liquidator, provisional liquidator or trustee for debenture holders, as the case may be, were references to the Trustees.

7 Remuneration

7.1 Remuneration of Trustees

(a) The Trustees are to be:

(i) remunerated at the usual rates charged from time by Ferrier Hodgson (which are, at the date of this Deed, the Scheduled Rates) in respect of any work done by the Trustees, and any partner or employee of the Trustees, in connection with:

(A) the calling for and adjudicating upon proofs of Claims;

(B) the distribution of the Trust Fund;

(C) the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Trustees under this Deed; and

(ii) reimbursed from the Trust Fund in respect of all costs, fees and expenses incurred in connection with the foregoing, including any stamp duty payable by them in respect of this Deed.

(b) The Trustees' remuneration and reimbursement in accordance with this clause must be paid from the Trust Fund, from time to time in arrears at the said rates.

8 Indemnity

8.1 Indemnity

Subject to the Varied DOCA and the Act, the Deed Administrators and the Trustees are entitled to be indemnified out of the Trust Fund for:

- (a) their remuneration, costs, fees and expenses payable pursuant to the Varied DOCA and this Deed;
- (b) all actions, suits, proceedings, accounts, claims and demands arising out of or relating to the Varied DOCA or this Deed which may be commenced, incurred by or made on the Deed Administrators or the Trustees by any person and against all costs, charges and expenses incurred by the Deed Administrators or the Trustees in respect of them,

provided that the Deed Administrators and the Trustees shall not be entitled to an indemnity in respect of any liabilities or demands to the extent that the indemnification contravenes the Act or the Trustees Act or if the Deed Administrators or the Trustees, or any partner, employee, authorised agent or delegate of the Deed Administrators or the Trustees, have acted dishonestly, negligently, in breach of fiduciary duty or in breach of trust.

8.2 Continuing indemnity

This indemnity takes effect on and from the Commencement Date and will be without limitation as to time and will operate notwithstanding the removal of the Deed Administrators (or either of them) or the Trustees (or either of them) and the appointment of new deed administrators or new trustees or the termination of the Varied DOCA or this Trust for any reason whatsoever.

8.3 Indemnity not to be affected or prejudiced

The indemnity under clause 8.1 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Deed Administrators or the Trustees and will extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Deed Administrators or the Trustees, the approval and execution of this Deed or the Varied DOCA or otherwise; or
- (b) affect or prejudice all or any rights that the Deed Administrators and the Trustees may have against MVPL or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Deed Administrators or the Trustees of or incidental to the exercise or performance of any of the powers of authorities conferred on the Deed Administrators or the Trustees by the Varied DOCA or by this Deed or otherwise.

9 Liability

9.1 Exclusion of liability

The Trustees are not liable for any loss, damages, costs or expenses that may result to the Trust Fund or any person in the absence of wilful default, fraud, gross negligence or breach of trust.

9.2 Reliance on advice

Where the Trustees act in reliance upon the advice of any solicitor instructed on behalf of the Trust in relation to the interpretation of the provisions of this Deed or any document or statute or any matter concerning the administration of the Trust, the Trustees are not liable to any person in respect of any act done or omitted to be done by the Trustees in accordance with the advice.

10 Trustees' Resignation

The Trustees (or either of them) may resign at any time by giving not less than twenty eight (28) days prior written notice to MVPL in which event the Trustees shall:

- (a) convene a meeting of Participating Creditors in accordance with clause 6 of this Deed for the purpose of nominating a replacement trustee;
- (b) shall assign to a replacement trustee nominated by the Participating Creditors the Trustees' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause above.

11 Trustees Not Obligated to Take Action

The Trustees will not be obliged to take any action under this Deed until such time as there are sufficient funds in hand to pay their remuneration, costs, fees and expenses.

12 Termination

12.1 Termination of the Trust

This Trust will terminate and the Trustees will resign as soon as reasonably practicable:

- (a) after distribution of the Final Dividend from the Trust Fund; or
- (b) the expiry of the perpetuity period referred to in clause 4,

whichever occurs first.

12.2 Meeting of Participating Creditors

The Trustees must convene a meeting of Participating Creditors to consider a resolution to vary this Deed or terminate the Trust if:

- (a) at any time prior to the termination of the Trust, the Trustees determine that it is no longer practicable or desirable to continue to implement or carry out this Deed; or
- (b) the Court so orders.

12.3 Termination of the Trust by Court order and Participating Creditors' resolution

This Trust will terminate if:

- (a) a Court so orders; or
- (b) the Participating Creditors pass a resolution terminating this Trust at a meeting duly convened pursuant to clause 12.2.

12.4 Report to Participating Creditors

Upon a meeting being convened pursuant to clause 12.2, the Trustees must send each Participating Creditor prior to the meeting a report as to the state of affairs of the Trust accompanied by such financial statements as the Trustees think fit. The report must include:

- (a) a statement explaining the circumstances which have caused the Trustees to convene the meeting pursuant to clause 12.2; and
- (b) a statement that this Trust will be terminated if the Participating Creditors so resolve.

12.5 Previous operation of this deed preserved

The termination or avoidance, in whole or in part, of this Trust does not affect the efficacy of any act done prior to the termination or avoidance.

12.6 Variation of Deed

This Deed may be varied with the consent of the Trustees by resolution passed at a meeting of Participating Creditors but only if the variation is not materially different from the proposed variation set out in the notice of that meeting.

13 General

13.1 Invalidity/severance

If any provision of this Deed is invalid for any reason whatsoever, it will be deemed to have been deleted which will not affect the validity or operation of the remainder of this Deed.

13.2 Further assurances

Each of the parties to this Deed will do, execute, provide, acknowledge and deliver all further acts, deeds, assignments, charges, guarantees, covenants, assurances, documents and things reasonably required to most expeditiously fulfil the purposes and intentions of this Deed.

13.3 Notices

(a) Address of Notice

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

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

(b) Notice by Post

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

(c) Notice by Facsimile

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

(d) Signing of Notice

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

13.4 Waivers

A failure to exercise or a delay in exercising any rights, power or remedy of a party under this Deed will not operate or be construed to operate as a waiver of that right, power or remedy, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

13.5 Counterparts

This Deed may be executed in any number of counterparts and all those counterparts taken together constitute one and the same instrument.

13.6 Jurisdiction

This Deed shall be governed by and construed in accordance with the laws from time to time being enforced in the State of Western Australia and the parties hereby irrevocably submit to the jurisdiction of the Court including any Courts having appellant jurisdiction there from.

13.7 Stamp duty

Any stamp duty assessed on this Deed is to be paid out of the Trust Fund.

13.8 GST

- (a) Words used in this clause 13.8 which have a defined meaning in the GST law have the same meaning as in the GST law unless the context otherwise indicates.
- (b) Unless expressly included, the consideration for any supply under or in connection with the Varied DOCA is exclusive of GST.
- (c) To the extent that any supply made by MVPL under or in connection with the Varied DOCA is a taxable supply, the consideration for that supply is increased by an amount determined by MVPL, not exceeding the amount of that consideration (or its market value) multiplied by the rate at which GST is imposed in respect of the supply (**Additional Amount**).
- (d) The Additional Amount must be paid to MVPL by the Trustees within 14 days of it being determined that the supply is a taxable supply.
- (e) MVPL must issue a Tax Invoice to the Trustees with respect to the supply to which clause 13.8(c) applies no later than 7 days following payment of the GST inclusive consideration determined under that clause.

EXECUTED as a deed

Creditors' Trust Deed

Schedule 1 - Schedule of Hourly Rates - Ferrier Hodgson


	AUD \$
Partner	540
Director	460
Senior Manager	390
Manager	325
Supervisor	285
Senior 1	255
Senior 2	230
Intermediate 1	185
Intermediate 2	155
Senior Secretary	150
Junior/Filing	130

Creditors' Trust Deed

Signing page

DATED: 10 AUGUST 2010


EXECUTED by MIDWEST)
VANADIUM PTY LTD ACN 113)
874 712 (RECEIVERS AND)
MANAGERS APPOINTED))
(SUBJECT TO DEED OF)
COMPANY ARRANGEMENT) by)
Darren Gordon Weaver in his capacity)
as joint and several Deed)
Administrator and witnessed by:)


.....)
Signature of witness)
Name: Edmund Ho)



.....)
Signature of Darren Gordon Weaver


SIGNED, SEALED AND)
DELIVERED by DARREN)
GORDON WEAVER in the presence)
of:)


.....)
Signature of witness)
Name: Edmund Ho)



.....)
Signature of Darren Gordon Weaver

SIGNED, SEALED AND)
DELIVERED by ANDREW JOHN)
SAKER in the presence of:)


.....)
Signature of witness)
Name: Edmund Ho)



.....)
Signature of Andrew John Saker

**SIGNED, SEALED AND
DELIVERED** by **MARTIN BRUCE
JONES** in the presence of:

)
)
)
)
)
)
)


.....

Signature of witness
Name: *Edmund Ho*


.....

Signature of Martin Bruce Jones