



FACSIMILE MESSAGE

To : Company Announcements Platform **Fax No** : (61) 2 9778 0999
Australian Securities Exchange Limited

CC : Mr. David Berg, the Company Secretary **Fax No** : (61) 8 9485 2305
and General Counsel
Mount Gibson Iron Limited

From : Samantha Fung **Fax No** : (852) 2541 9133

Date : 14 January 2009 **Page(s)** : 62 (including this page)

Dear Sirs,

Mount Gibson Iron Limited (ACN: 008 670 817)

Please find enclosed a Form 604 – Notice of change of interests of substantial holder in respect of the interests of APAC Resources Limited in Mount Gibson Iron Limited.

Yours faithfully
For and on behalf of
APAC RESOURCES LIMITED

Samantha Fung
Company Secretary

Form 604

Corporations Act 2001
Section 671B

Notice of change of interests of substantial holder

To Company Name/Scheme Mount Gibson Iron Limited ("Mount Gibson")

ACN/ARSN 008 670 817

1. Details of substantial holder (1)

Name APAC Resources Limited ("APAC") and the entities listed in Attachment A.

ACN/ARSN (if applicable) N/A

There was a change in the interests of the substantial holder on 12/01/2009

The previous notice was given to the company on 06/01/2009

The previous notice was dated 06/01/2009

2. Previous and present voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Fully paid ordinary shares ("Shares")	164,148,144	17.95% (Based on 914,355,821 Shares on issue)	279,877,774	26.03% (Based on 1,075,228,611 Shares on issue)

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
12/01/09	Net Success Investments Limited and APAC	Increased shareholding as a result of taking up all of its rights to subscribe for Shares under the Mount Gibson rights issue Prospectus dated 3 December 2008 ("Rights Issue Subscription")	A\$ 4,545,432	7,575,720 Shares	7,575,720
12/01/09	Fortune Desire Investments Limited and APAC	Rights Issue Subscription	A\$ 15,152,346	25,253,910 Shares	25,253,910
12/01/09	APAC Resources Investments Limited	Subscription for 82,900,000 underwritten Shares pursuant to the Underwriting Agreement dated 20 November 2008, a true copy of which is annexed to this notice and marked "B"	A\$ 49,740,000	82,900,000 Shares	82,900,000

4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities	Person's votes
Net Success Investments Limited and APAC	Sun Hung Kai Investment Services Ltd <Clients A/C> (as nominee)	Net Success Investments Limited	Controller of Shares within the meaning of section 608(1)(b) and (c) of the Corporations Act 2001	4,721,661 Shares	4,721,661
Net Success Investments Limited and APAC	Merrill Lynch (Australia) Nominees Pty Ltd (as nominee)	Net Success Investments Limited	Controller of Shares within the meaning of section 608(1)(b) and (c) of the Corporations Act 2001	40,732,653 Shares	40,732,653
Fortune Desire Investments Limited and APAC	Sun Hung Kai Investment Services Ltd <Client Fortune Desire Invest Ltd A/C> (as nominee)	Fortune Desire Investments Limited	Controller of Shares within the meaning of section 608(1)(b) and (c) of the Corporations Act 2001	103,372,300 Shares	103,372,300
Fortune Desire Investments Limited and APAC	Merrill Lynch (Australia) Nominees Pty Ltd (as nominee)	Fortune Desire Investments Limited	Controller of Shares within the meaning of section 608(1)(b) and (c) of the Corporations Act 2001	48,151,160 Shares	48,151,160
APAC Resources Investments Limited ("APACRIL") and APAC	APAC Resources Investments Limited	APAC Resources Investments Limited	Holder of Shares under section 608(1)(a) of the Corporations Act 2001. APACRIL is a subsidiary of APAC	82,900,000 Shares	82,900,000

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
No changes in association	No changes in association

6. Addresses

The addresses of persons named in this form are as follows:

Name	Address
APAC Resources Limited	32/F, China Online Centre, 333 Lockhart Road, Wanchai, Hong Kong
Net Success Investments Limited	P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands
Fortune Desire Investments Limited	P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands
APAC Resources Investments Limited	P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands

Signature

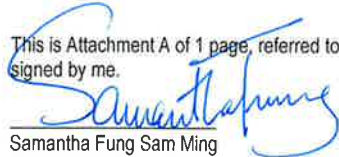
print name Samantha Fung Sam Ming capacity Company Secretary

sign here

date 14 /1 /2009

Attachment A - substantial holders:

This is Attachment A of 1 page, referred to in the Form 604 - Notice of change of interests of substantial holder lodged by APAC Resources Limited dated 14 January 2009 and signed by me.


Samantha Fung Sam Ming
14 January 2009

The substantial holders are the companies and individuals noted in items 3 and 4 and the following subsidiaries of APAC Resources Limited.

CURRENT

Asia Cheer Trading Limited	Park Well International Group Limited
Merchants (Hong Kong) Limited	Ruiyu (Shanghai) Investment Consulting Co., Ltd.
Sino Chance Trading Limited	APAC Resources (Qingdao) Company Limited
Sky Joy Management Limited	
APAC Resources Engineering Limited	
APAC Resources Investments Limited	
APAC Resources Mining Limited	
APAC Resources Strategic Holdings Limited	
First Landmark Limited	
Fortune Desire Investments Limited	
Mount Sun Investment Limited	
Net Success Investments Limited	
Super Grand Investments Limited	
APAC Resources Asia Limited	
APAC Resources Beijing Limited	
APAC Resources China Limited	
APAC Resources Eastern Limited	
APAC Resources Energy Limited	
APAC Resources Enterprises Ltd	
APAC Resources Holdings China Ltd	
APAC Resources Investments China Ltd	
APAC Resources Mining Limited	
APAC Resources Northern Limited	
APAC Resources Shanghai Limited	
APAC Resources Southern Limited	
APAC Resources Trading Limited	
APAC Resources Western Limited	
Hua Loong Textiles Limited	
Shanghai Merchants Holdings Limited	
Ying Wing (H.K.) Limited	
APAC Resources Holding China Limited	
APAC Resources Investment Holding Ltd	

Attachment B - Underwriting Agreement:

This is Attachment B (Underwriting Agreement) of 55 pages, referred to in the Form 604 - Notice of change of interests of substantial holder lodged by APAC Resources Limited dated 14 January 2009 and signed by me.



Samantha Fung Sam Ming
14 January 2009

MALLESONS STEPHEN JAQUES

Underwriting Agreement

Dated 20 November 2008

Mount Gibson Iron Limited (ABN 87 008 670 817) ("Mount Gibson")

APAC Resources Investments Limited (British Virgin Islands company number 1400895) ("Underwriter")

APAC Resources Limited (Bermuda company number EC25496) ("Guarantor")

Mallesons Stephen Jaques
37th Floor Two International Finance Centre
8 Finance Street
Central Hong Kong
T +852 3443 1000
F +852 3443 1299
www.mallesons.com

Underwriting Agreement

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Underwriting Agreement

Details

Parties	Mount Gibson, Underwriter and Guarantor	
Mount Gibson	Name	Mount Gibson Iron Limited
	ABN	87 008 670 817
	Address	First Floor 7 Havelock Street West Perth Western Australia 6005
	Telephone	+61 8 9426 7500
	Fax	+61 8 9485 2305
	Attention	Mr Luke Tonkin, Managing Director
	Underwriter	Name
British Virgin Islands company number		1400895
Address		C/- 32/F, China Online Centre 333 Lockhart Road Wanchai Hong Kong
Telephone		+852 2541 0338
Fax		+852 2541 9133
Attention		Jaime Che
Guarantor		Name
	Bermuda company number	EC25496
	Address	C/- 32/F, China Online Centre 333 Lockhart Road Wanchai Hong Kong
	Telephone	+852 2541 0338
	Fax	+852 2541 9133

Attention Jaime Che

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- | | | |
|-----------------|----------|--|
| Recitals | A | Mount Gibson is an Australian public company listed on the ASX |
| | B | As at the date of this Agreement, Mount Gibson has 804,355,821 Shares on issue which are quoted on the ASX |
| | C | Mount Gibson proposes to raise approximately A\$96.5 million by making a pro-rata renounceable offer of Shares for subscription at the Issue Price to the Shareholders on the terms and conditions contained in the Offer Document on the basis of 1 new Share for every 5 Shares held as at the Record Date |
| | D | Mount Gibson has requested, and the Underwriter has accepted Mount Gibson's request, that the Underwriter underwrite the subscription of the Underwritten Shares on the terms and conditions set out in this Agreement. The Guarantor has agreed to guarantee the performance of the Underwriter's obligations under this Agreement. |

Governing law	Western Australia
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Date of agreement	See Signing page
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Underwriting Agreement

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Accounting Standards means:

- (a) accounting standards as that term is defined in the Corporations Act; and
- (b) to the extent not inconsistent with paragraph (a), generally accepted Australian accounting principles which are consistently applied.

Affiliate of any person means any other person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person; and "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of a person, whether through the ownership of securities, by contract or agency or otherwise.

Allotment Date means the proposed date of allotment of the Rights Shares (including the Shortfall Shares) specified in the Timetable.

APAC Group means the Underwriter and each Related Body Corporate of the Underwriter.

Application means an application to subscribe for the Rights Shares (including an application to subscribe for Shortfall Shares in accordance with clause 9.2) duly made in accordance with the terms of the Offer accompanied by payment of the Issue Price in respect of each Rights Share for which an application is made.

ASIC means the Australian Securities and Investments Commission.

ASIC Exemption means any necessary exemption or declaration applied for by Mount Gibson from ASIC for the purposes of the Offer and which as at the date of this Agreement has not been granted, or if granted has been granted on conditions which have not been satisfied or fulfilled as at that date.

ASX means Australian Securities Exchange.

ASX Waiver means any necessary waiver applied for by Mount Gibson from ASX for the purposes of the Offer or Official Quotation and which as at the date of this Agreement has not been granted or if granted has been granted on conditions which have not been satisfied or fulfilled as at that date.

Authorisation includes any consent, authorisation, registration, filing, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with any Regulatory Authority.

Authorised Officer means a director or secretary of a party or any other person appointed by a party to act as an Authorised Officer for the purposes of this Agreement.

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

Claim means any allegation, debt, cause of action, liability, claim, proceeding (whether civil or criminal), suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Closing Certificate means a certificate signed by two directors, or one director and one secretary, of Mount Gibson and in each case in the form appearing in Schedule 2.

Closing Date means the closing date specified in the Timetable to close the subscription lists for the Issue.

Completion means the date on which allotment of the last of the Rights Shares occurs in accordance with the Offer and in accordance with this Agreement.

Conditions Precedent means the conditions specified in clause 2.1.

Constitution means the constitution of Mount Gibson lodged with ASX (as approved by Mount Gibson Shareholders at Mount Gibson's annual general meeting on 18 November 2008).

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

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

Costs means any costs, charges or expenses (including legal fees and disbursements).

Despatch Date means the date so specified in the Timetable for the despatch of the Offer Document to Shareholders or such other date as the Underwriter and Mount Gibson agree in writing.

Details means the section of this Agreement headed "Details".

Director means a director of Mount Gibson.

Due Diligence Committee means the committee formed by Mount Gibson in connection with the Offer.

Due Diligence Investigations means the activities referred to in clause 16.1.

Due Diligence Planning Memorandum means the Due Diligence Planning Memorandum in respect of the Issue and Offer in the form adopted by the Due Diligence Committee.

Due Diligence Report means the report of the Due Diligence Committee to the directors of Mount Gibson and each of the Due Diligence Committee Members (including the Underwriter), including all supporting documents and other work papers to which the Underwriter is given access for the purpose of the Due Diligence Investigations.

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

Entitlement Shares means the maximum number of Rights Shares that the Guarantor or any of its subsidiaries or their nominee holders, as Shareholders, are entitled to subscribe for under the Offer.

Escrow Account has the meaning given to it in clause 14.1(a)(i).

Escrow Amount means the 40% Proceeds, the Remaining Proceeds and, for the avoidance of any doubt, any other amounts held in the Escrow Account.

Excluded Shareholders means those Shareholders at 5.00 pm on the Record Date with registered addresses outside Australia, New Zealand or Hong Kong (to whom section 9A(3) of the Corporations Act applies).

Existing FIRB Approval means the approval granted by FIRB on 8 January 2008 allowing the Underwriter to increase its Shareholding in Mount Gibson to 29% and which approval will expire on 8 January 2009.

Existing Options means the options over unissued Shares specified in Schedule 3.

Financial Statements means each of the:

- (a) audited balance sheet of Mount Gibson and consolidated balance sheet of Mount Gibson as at the Last Balance Date;
- (b) audited profit and loss statement of Mount Gibson and consolidated profit and loss statement of Mount Gibson for the year ending on the Last Balance Date; and
- (c) audited statement of cash flows of Mount Gibson and consolidated statement of cash flows of Mount Gibson for the year ending on the Last Balance Date.

FIRB means the Australian Foreign Investment Review Board.

Group means Mount Gibson and its Subsidiaries.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth) of Australia and any other Act or regulation relating to the imposition or administration of GST.

Heads of Agreement means the 'Heads of Agreement in relation to offtake agreement and underwritten rights issue' dated 2 November 2008 between the Guarantor and Mount Gibson.

Indemnified Parties means the Underwriter, and each of its Affiliates, directors, officers, employees, agents, advisers and Related Bodies Corporate.

A person is **Insolvent** if:

- (a) it is (or states it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or it has had a Controller appointed to its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this Agreement); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) above happens in connection with that person under the law of any jurisdiction.

Issue means the issue of the Rights Shares made pursuant to the Offer.

Issue Period means the period from the date of this Agreement up to and including Completion.

Issue Price means A\$0.60 per Rights Share.

Land Access Issue means the issue of up to a total of 2,000,000 Shares to the traditional owners of land the subject of mining tenements held by the Company (or its subsidiaries) as compensation under land access agreements to be negotiated by the Company and the relevant traditional owners.

Last Accounts means:

- (a) each of the Financial Statements;

- (b) applicable notes to each of the Financial Statements required by the Accounting Standards;
- (c) any other information necessary to give a true and fair view of the financial position and performance of Mount Gibson and its consolidated entities; and
- (d) a directors' declaration regarding the Financial Statements (taken together) containing the information and opinions required by the Corporations Act.

Last Balance Date means 30 June 2008.

Listing Rules means the Listing Rules from time to time of ASX as varied by any exemptions or waivers that may be granted to Mount Gibson in respect of the Issue.

Lodgement Date means the date of announcement of the Offer and lodgement of the Offer Document with ASIC and ASX so specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Long Term Offtake Agreement means the long term offtake agreements, as identified in the Heads of Agreement, one to be entered into by the Guarantor (or a nominee of the Guarantor) and Mount Gibson Mining Limited and the other to be entered into by the Guarantor (or a nominee of the Guarantor) and Koolan Iron Ore Pty Ltd.

Losses means all Claims, demands, damages, losses, Costs, expenses and liabilities.

Material Adverse Effect, in relation to an event or circumstance, means that the event or circumstance materially and adversely affects the assets, liabilities, financial position or performance, profits, losses or prospects of Mount Gibson or any Subsidiary (insofar as the position in relation to that Subsidiary affects the overall position of Mount Gibson), including any adverse change in the assets, liabilities, financial position or performance, profits, losses or prospects of Mount Gibson from those respectively disclosed in the Last Accounts or in the Offer Document (as the case may be) and excluding any effect resulting from:

- (a) any matter disclosed by Mount Gibson on ASX following the date of the Last Accounts or otherwise disclosed in the Offer Document;
- (b) any default by a Mount Gibson customer under a Previous Offtake Agreement, or where a Mount Gibson customer is currently in default under an offtake agreement, any further default by that customer; and
- (c) any legal action taken by Mount Gibson or its subsidiaries or a Mount Gibson customer in relation to a default by a Mount Gibson customer under a Previous Offtake Agreement.

Mount Gibson's Banking Syndicate means a syndicate of banks providing financial accommodation to the Mount Gibson group with HSBC Bank Australia Limited as facility agent for the syndicate.

Mount Gibson Shareholder Meeting means the meeting of Mount Gibson shareholders to be convened for the purposes of, amongst other things, seeking approval for the Long Term Offtake Agreement and the underwriting the subject of this Agreement.

Offer means a pro rata renounceable offer to the Shareholders to subscribe for the Rights Shares at the Issue Price on the basis of 1 Rights Share for every 5 Shares of which the Shareholder is the registered holder as at 5.00 pm on the Record Date.

Offer Document means the prospectus containing the Offer to Shareholders including the application form to subscribe for the Rights Shares and including (unless the context otherwise requires) any supplementary or replacement document, each in a form acceptable to the Underwriter (not acting unreasonably).

Official Quotation means the grant by ASX of "quotation" (as that term is used in the Listing Rules) of all of the Rights and/or all of the Rights Shares (as the context requires) on ASX.

Official Quotation Application Date means the date by which Mount Gibson must apply to ASX for Official Quotation of all of the Rights and all of the Rights Shares so specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Official Quotation Approval means the approval in writing of ASX to Official Quotation of all of the Rights and/or all of the Rights Shares (as the context requires), which is unconditional in the case of the Rights and which may only be conditional in the case of the Rights Shares to customary pre-quotation conditions.

Official Quotation Approval Date means the date by which Mount Gibson must have received from ASX Official Quotation Approval in respect of the Rights Shares so specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Offtake Agreements means each of the Short Term Offtake Agreement and the Long Term Offtake Agreement.

Opening Date means the opening date for the Issue specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Performance Rights means the performance rights granted to management of the Company as set out in Schedule 4 to this agreement.

Placement means the subscription for 110,000,000 Shares by Shougang Concord International Enterprises Company Limited at an issue price of A\$0.60 per Share, scheduled to occur as soon as practicable after the Mount Gibson Shareholder Meeting (assuming that the shareholder approvals and the FIRB approvals sought are granted).

Previous Offtake Agreement means any offtake agreement entered into by Mount Gibson prior to the date of the Heads of Agreement.

Price in relation to a supply means the amount of any payment in connection with the supply and the GST-exclusive market value of any non-monetary consideration.

Public Information means public and other media statements made by, or on behalf of, Mount Gibson in relation to the affairs of Mount Gibson, the Offer or the Issue.

Recipient means the recipient of a supply for the purposes of the GST Law.

Record Date means the date specified in the Timetable as the record date or such other date as the Underwriter agrees in writing.

Regulatory Authority includes:

- (a) ASX, the Australian Competition and Consumer Commission, ASIC, or FIRB;
- (b) the Australian Takeovers Panel;
- (c) a government or governmental, semi-governmental or judicial entity or authority;
- (d) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (e) any regulatory organisation established under statute.

Related Body Corporate has the meaning given to it in the Corporations Act.

Relevant Limitation has the meaning given to it in clause 12.9.

Remaining Proceeds has the meaning given to it in clause 14.1(b)(i).

Rights means the rights of Shareholders to subscribe for Rights Shares pursuant to the Offer.

Rights Issue Documentation means:

- (a) all announcements made to ASX referring to the Offer including the Appendix 3B; and
- (b) the Offer Document,

and, for the avoidance of doubt, excluding the Offtake Agreements and the notice of meeting and explanatory memorandum in relation to the Mount Gibson Shareholder Meeting.

Rights Shares means up to 160,871,164 Shares and any additional Shares arising out of the Land Access Issue or the conversion of the Existing Options or Performance Rights, the subject of the Offer.

Rights Trading End Date means the date trading ends in Rights so specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Rights Trading Start Date means the date trading commences in Rights so specified in the Timetable or such other date as the Underwriter and Mount Gibson agree in writing.

Securities Act means the U.S. Securities Act of 1933, as amended.

Shares means fully paid ordinary shares in the capital of Mount Gibson.

Shareholders means all persons registered as holders of Shares as at 5.00 pm on the Record Date after adjusting the share register of Mount Gibson in respect of transfer and transmissions of Shares in Mount Gibson made or lodged prior to that date and time, who are not Excluded Shareholders.

Shortfall Notice Deadline Date means the day specified in the Timetable as the date by which Mount Gibson must give the Underwriter written notice of the Shortfall Shares accompanied by a Closing Certificate in accordance with clause 9.1.

Shortfall Settlement Date means the day specified in the Timetable as the date by which the Underwriter must lodge Applications for Shortfall Shares or such other date as the Underwriter and Mount Gibson agree in writing.

Shortfall Shares means the total number of Rights Shares less the Entitlement Shares less the number of Rights Shares for which Valid Applications have been received by 5.00 pm on the Shortfall Settlement Date in accordance with the terms of this Agreement (excluding the Entitlement Shares), capped at the number of Underwritten Shares.

Short Term Offtake Agreement means the short term offtake agreement, as identified in the Heads of Agreement, entered into on 19 November 2008 between the Guarantor (or a nominee of the Guarantor), Mount Gibson, Mount Gibson Mining Limited and Koolan Iron Ore Pty Ltd.

Subsidiary of an entity means another entity which is a subsidiary of the first within the meaning of part 1.2 division 6 of the Corporations Act or is a subsidiary or otherwise controlled by the first within the meaning of any approved accounting standard.

Supplier means the party making a supply for the purposes of the GST Law.

Tax Invoice has the meaning given to that term in the GST Law.

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

Terminate or Termination means the termination by the Underwriter of all further obligations of the Underwriter under this Agreement pursuant to clause 2.3 or clause 13 (including the obligation to subscribe for the Shortfall Shares under clause 9).

Timetable means the timetable for the Offer set out in Schedule 1 (subject to clause 7.3) as varied from time to time by written agreement of Mount Gibson and the Underwriter and affected by clause 7.1(c).

Underwriter means APAC Resources Investments Limited (British Virgin Islands company number 1400895).

Underwriting Fee has the meaning given to it in clause 11.1.

Underwritten Offer Potential Proceeds means 82.9 million multiplied by the Issue Price.

Underwritten Shares means 82.9 million Rights Shares which are to be offered at the Issue Price in accordance with the Offer.

Valid Application means an application:

- (a) that is made in conjunction with an application form accompanying the Offer Document, and that is properly completed in accordance with the instructions in that form and in the Offer Document;
- (b) that is accompanied by any supporting documents required by the Offer Document to accompany that form;
- (c) that is received by Mount Gibson on or before 5.00 pm on the Closing Date at a place specified in the Offer Document for lodgment of forms or is otherwise duly received in accordance with the provisions of the Offer Document for electronic lodgment of applications;
- (d) that is not withdrawn before it ceases to be capable of being withdrawn; and
- (e) in respect of which payment of the Issue Price for the relevant number of Rights Shares is received and is cleared (either before or after the Closing Date) when presented (either before or after the Closing Date) for payment by the relevant financial institution on which the payment is drawn.

40% Proceeds has the meaning given to it in clause 14.1(a)(i).

1.2 Interpretation

In this Agreement, unless the contrary intention appears:

- (a) a reference to any legislation or any section or provision of any legislation includes any statutory modification or re-enactment of, or legislative provision substituted for, and subordinate legislation issued under, that legislation or legislative provision;
- (b) words denoting the singular include the plural and vice versa;
- (c) the table of contents and headings are for convenience only and do not affect interpretation;
- (d) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this Agreement;
- (e) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (f) where an expression is defined anywhere in this Agreement, it has the same meaning throughout;

- (g) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (h) a reference to any instrument (such as a deed, agreement or document) is to that instrument (or, if required by the context to a part of it) as amended, novated, substituted or supplemented at any time and from time to time;
- (i) a reference to a party is a reference to a party to this Agreement and includes that party's executors, administrators, successors and permitted assigns;
- (j) a reference to "A\$" or "dollars" is a reference to an amount in Australian currency and a reference to "US\$" is a reference to the currency of the United States of America;
- (k) a reference to time is a reference to the local time in Perth, Western Australia;
- (l) "including" and similar expressions when introducing an example are not and must not be treated as words of limitation, and do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (m) a reference to a "liquidation" or "winding up" includes bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in section 9 of the Corporations Act), being placed in receivership and the occurrence of anything analogous or having a substantially similar effect to any of those conditions or matters under the law of any applicable jurisdiction, and to the procedures, circumstances and events which constitute any of those conditions or matters.

2 Conditions precedent

2.1 Conditions precedent

The obligations of the Underwriter under this Agreement are conditional on:

- (a) the Rights Issue Documentation being in a form acceptable to the Underwriter (acting reasonably);
- (b) none of the termination events set out in clause 13.1 having occurred before 9.00 am on the Shortfall Settlement Date (or before the end of such other period specified with that event in clause 13.1 as being the period within which that event may occur);
- (c) that during the Issue Period, subject to clause 15:
 - (i) there is no preliminary or final decision, order or decree issued by a Regulatory Authority; and

- (ii) no application is made to any Regulatory Authority (other than by the Underwriter), or action or investigation is announced, threatened or commenced by a Regulatory Authority,

in consequence of or in connection with the proposed Offer, which

- (iii) restrains or prohibits (or if granted or completed could reasonably be expected to restrain or prohibit or establish grounds for restraining or prohibiting), or otherwise materially adversely affects, or could reasonably be expected to materially adversely affect, the completion of the proposed Offer or the completion of any other transaction contemplated by the proposed Offer (whether subject to conditions or not) or the rights of the Underwriter or any Related Body Corporate in respect of Mount Gibson and the Rights Shares to be acquired under the proposed Offer; or
- (iv) requires (or if granted or completed could reasonably be expected to require or establish grounds for requiring) the divestiture by the Underwriter or any Related Body Corporate of any Shares, or the divestiture of any assets of the Group or the Underwriter or otherwise;

- (d) ASX giving its Official Quotation Approval on or before:

- (i) the last Business Day before the Rights Trading Start Date in respect of the Rights; and
- (ii) the Official Quotation Approval Date in respect of the Rights Shares,

without qualifications or conditions other than set out in the definition of "Official Quotation Approval", and having been granted, not being subsequently withdrawn, withheld or qualified;

- (e) the Guarantor obtaining the approval of its shareholders at a special general meeting to be held by the Guarantor for the subscription for the aggregate of its Entitlement Shares and the underwriting of the Shortfall Shares under this Agreement and taking all other steps required under the Hong Kong Listing Rules and any other relevant legislation in connection with the transactions contemplated by this Agreement, including FIRB approval, in each case on or before 9.00am on the Shortfall Settlement Date;
- (f) Mount Gibson obtaining the approval of its shareholders at the Mount Gibson Shareholder Meeting for the underwriting arrangements set out in this Agreement and taking all other steps required under the Listing Rules and any other relevant legislation in connection with the transactions contemplated by this Agreement;
- (g) Mount Gibson obtaining the approval of its shareholders at the Mount Gibson Shareholder Meeting and any further necessary approvals from its shareholders and taking all other steps required under the

Listing Rules and any other relevant legislation in connection with its entry into, and performance of its obligations under, the Long Term Offtake Agreement;

- (h) the Underwriter receiving by 9.00am on the Lodgement Date, a copy of the final Due Diligence Report contemplated by the Due Diligence Planning Memorandum, which must also be addressed to, and expressed to be for the benefit of, each of the Due Diligence Committee members (including the Underwriter) and their representatives and signed by each member of the Due Diligence Committee, and accompanied by all of its attachments, including all opinions and sign-offs provided to the Due Diligence Committee which are expressed to be for the benefit of each member of the Due Diligence Committee and their representatives, each in a form acceptable to the Underwriter (acting reasonably);
- (i) the Due Diligence Investigations being completed to the satisfaction of the Underwriter (acting reasonably) by 9.00am on the Lodgement Date; and
- (j) each Offtake Agreement having been executed by all relevant parties on or before the Lodgement Date.

2.2 Satisfaction of Conditions Precedent

Each of the parties agrees to use reasonable endeavours to ensure the Conditions Precedent are fulfilled as soon as reasonably practicable (including that Mount Gibson will use reasonable endeavours to co-operate with the Underwriter or the Guarantor in connection with the satisfaction of Condition Precedent 2.1(e)).

2.3 Non-satisfaction of Conditions Precedent

If any of the Conditions Precedent are not satisfied by their respective deadlines (or, subject to clause 2.4, waived by the Underwriter in its absolute and unfettered discretion and by written notice to Mount Gibson), the Underwriter may Terminate within 1 Business Day of becoming aware of the failure of the relevant Condition Precedent.

2.4 Waiver

The Underwriter alone may in its absolute and unfettered discretion waive any or all of the Conditions Precedent other than the Conditions Precedent in clauses 2.1(f) and 2.1(g) which may not be waived by any party.

2.5 Notification requirements regarding Conditions Precedent

- (a) Immediately upon non-satisfaction of any of the Conditions Precedent or it being the case that any Condition Precedent is incapable of being satisfied, the party becoming aware of that fact must notify the other party,
- (b) The Underwriter must notify Mount Gibson of any necessary approvals or steps (other than internal approvals within the Underwriter or a Related Body Corporate, including director

approvals) required for the performance of its obligations under this Agreement under clause 2.1(e) immediately upon becoming aware that such approvals or steps are required;

- (c) Mount Gibson must notify the Underwriter of any necessary approvals or steps (other than internal approvals within Mount Gibson or a Related Body Corporate, including director approvals) required for the performance of its obligations under this Agreement under clause 2.1(f) and 2.1(g) immediately upon becoming aware that such approvals or steps are required;
- (d) The Underwriter must notify Mount Gibson immediately upon satisfaction of the Conditions Precedent set out in clauses 2.1(a), 2.1(e) and 2.1(i).
- (e) Mount Gibson must notify the Underwriter immediately upon satisfaction of the Conditions Precedent set out in clauses 2.1(d), 2.1(f) and 2.1(g).

3 Agreement to underwrite

3.1 Appointment

Mount Gibson appoints the Underwriter to act as underwriter for the Issue on the terms and conditions of this Agreement.

3.2 Acceptance

For the Underwriting Fee and upon and subject to the terms and conditions of this Agreement, the Underwriter accepts the appointment in clause 3.1, agreeing to underwrite the Issue by subscribing for or procuring subscriptions for, and procuring payment of the Issue Price in respect of, the Shortfall Shares in accordance with clause 9.

3.3 Priority underwriting

Mount Gibson agrees and undertakes that the Underwriter will have the right to underwrite the Issue by subscribing for or procuring subscriptions for, and procuring payment of the Issue Price in respect of, the Shortfall Shares, in priority to any other underwriters who have separately contracted with Mount Gibson to underwrite the Issue.

4 Offer Document

Mount Gibson agrees to submit the Offer Document (and any supplementary or replacement documentation) to the Underwriter for the purpose of the Underwriter approving the form and content of the Offer Document, prior to its lodgment with ASIC and ASX and to make such amendments thereto as the Underwriter may reasonably require.

5 Obligations and warranties of Mount Gibson

5.1 Mount Gibson warranties

Mount Gibson represents and warrants to the Underwriter, as at the date of this Agreement and during the Issue Period that:

- (a) it is a company limited by shares, validly existing under the laws of its place of incorporation; and
- (b) Mount Gibson has power to enter into and comply with all of the terms and conditions of this Agreement and it benefits by entering into this Agreement; and
- (c) all Authorisations that are required to permit Mount Gibson to enter into this Agreement and to perform this Agreement in accordance with its terms have been obtained and remain valid and subsisting; and
- (d) this Agreement is a valid and binding obligation of Mount Gibson; and
- (e) the Rights and the Rights Shares are eligible for Official Quotation on ASX and the Rights Shares will be fully paid, validly issued free from all Encumbrances (other than those provided for in the Constitution), have all of the rights described in the Offer Document and rank equally with existing Shares; and
- (f) all of the information (including Financial Statements) supplied to the Underwriter by or on behalf of Mount Gibson is true, complete and accurate in all material respects, is not misleading or deceptive in any material respect and does not contain any material omissions; and
- (g) other than as set out in its ASX public announcement dated 3 November 2008, Mount Gibson is not engaged in or threatened with any material legal action or other proceedings and there are no facts or matters known to the Directors which are likely to give rise to any material litigation; and
- (h) the Offer, Issue and the content and dissemination of the Public Information and the Rights Issue Documentation does and will comply with the requirements of the Corporations Act, the Constitution, the Listing Rules, any policy, modification, exemption, declaration, waiver, direction or ruling, regulations, licence conditions and other legally binding requirements of ASIC or ASX, and all other applicable laws in all material respects; and
- (i) the issue of the Rights Issue Documentation does not, and will not, involve conduct that is misleading or deceptive on the part of Mount Gibson, and Mount Gibson has not engaged in, and will not engage in, conduct that is misleading or deceptive or which is likely to mislead or deceive in connection with the lodgment, issue or despatch of the Rights Issue Documentation (as appropriate) or the Public Information or the making of the Offer; and

- (j) no person has the right to subscribe for or to receive any shares, options or any other securities of any nature (including warrants) of Mount Gibson or any of its Subsidiaries other than:
 - (i) the Rights Shares offered under the Offer;
 - (ii) any Shares issued pursuant to the Land Access Issue;
 - (iii) any Shares issued pursuant to the exercise of the Existing Options or Performance Rights; and
 - (iv) the Shares to be issued pursuant to the Placement; and
- (k) all necessary corporate action and authorisations to permit Mount Gibson to lodge the Rights Issue Documentation with ASX and for Mount Gibson to make the Issue will be taken and obtained and, when so taken, will remain in full force and effect; and
- (l) the Group is not in breach of any provision of:
 - (i) the Corporations Act;
 - (ii) any other applicable laws;
 - (iii) the Listing Rules;
 - (iv) the Constitution;
 - (v) any legally binding requirement of ASIC or ASX; or
 - (vi) any other undertaking or instrument or authorisation binding on it,

and neither the execution or performance of this Agreement by it, including carrying out by it of the transactions (or any of them) that this Agreement contemplates, does or will contravene any provisions of the instruments set out in clause 5.1(1)(i) to (vi) above; and
- (m) the Closing Certificate will be true and correct in all material respects as at the date that certificate is given; and
- (n) the shortfall notice given by Mount Gibson under clause 9.1(a) will be true and correct in all material respects as at the date that notice is given; and
- (o) no member of the Group is Insolvent and there is no act which has occurred or any omission made which may result in a member of the Group becoming Insolvent; and
- (p) each of the Offer and the Issue comply with all of the conditions specified in section 611, item 10(a) to (e) of the Corporations Act in all respects;

- (q) the Long Term Offtake Agreements are, following receipt of all approvals sought at the Mount Gibson Shareholder meeting, valid and binding in accordance with their terms; and
- (r) the Short Term Offtake Agreement is valid and binding in accordance with its terms.

5.2 Mount Gibson undertakings

Mount Gibson undertakes and represents to the Underwriter that:

- (a) Mount Gibson will comply with the terms and conditions of this Agreement and the terms and conditions of the Issue as set out in this Agreement and in the Rights Issue Documentation in all material respects and immediately give notice to the Underwriter of:
 - (i) any breach of this Agreement including the representations and undertakings contained in this Agreement;
 - (ii) any breach of a term or non-satisfaction of a condition of the Issue as set out in the Rights Issue Documentation;
 - (iii) the occurrence of any event as set out in clause 13.1, or the occurrence of any other event which will or which, with the giving of notice or lapse of time, will give the Underwriter the right to Terminate; and
 - (iv) the non-satisfaction of any of the Conditions Precedent.

Any notice given by Mount Gibson to the Underwriter pursuant to clause 5.2(a) does not release Mount Gibson from any obligation or liability or otherwise affect or limit any obligation or liability which Mount Gibson may have pursuant to this Agreement.

- (b) Mount Gibson has made and will continue until Completion to:
 - (i) make such enquiries as are reasonable; and
 - (ii) exercise due diligence,

to ensure that there are no material omissions from the Rights Issue Documentation and that the statements included in the Rights Issue Documentation are not misleading or deceptive, and do not become misleading or deceptive and do not constitute conduct by any person which is misleading or deceptive;
- (c) it will promptly notify and obtain the prior written consent of the Underwriter to the form and content of, and any amendments to, the Rights Issue Documentation, such consent not to be unreasonably withheld or delayed;
- (d) until Completion, it will carry on its business, and will procure that each member of the Group carries on its business, in the ordinary course and not dispose (or permit any other member of the Group to

dispose) of any material part of its (or their) business or property except disposal in the ordinary course;

- (c) it will give notice to the Underwriter immediately after becoming aware of any of the following:
 - (i) ASIC issuing an order (including an interim order) under section 739 of the Corporations Act; or
 - (ii) ASIC holding a hearing under section 739(2) of the Corporations Act; or
 - (iii) an application being made by ASIC for an order under Part 9.5 of the Corporations Act in relation to the Offer, the Issue or any of the Rights Issue Documentation; or
 - (iv) ASIC commencing any investigation or hearing under Part 3 of the Australian Securities and Investments Commission Act 1989 (Cth) in relation to the Offer, the Issue or the Rights Issue Documentation; or
 - (v) any person who has previously consented to the inclusion of its name in the Offer Document withdrawing its consent.

Any notice given by Mount Gibson to the Underwriter pursuant to clause 5.2(e) does not release Mount Gibson from any obligation or liability or otherwise affect or limit any obligation or liability which Mount Gibson may have pursuant to this Agreement;

- (f) it will promptly provide the Underwriter with copies of any communication between it and ASX or ASIC relating to the Offer or the Issue;
- (g) Mount Gibson will not withdraw the Offer after delivery of the Closing Certificate;
- (h) Mount Gibson will comply with Listing Rules 7.7.1(b) and 7.7.1(c) in respect of each Excluded Shareholder;
- (i) Mount Gibson will not, without the prior written consent of the Underwriter (such consent not to be unreasonably withheld or delayed), at any time from the date of this Agreement and up to and including Completion, allot or agree to allot or indicate in any way that it may or will allot or agree to allot any Shares or other securities that are convertible or exchangeable into equity, or that represent the right to receive equity, of Mount Gibson or any member of the Group other than pursuant to the Offer, the Land Access Issue, this Agreement, the exercise of any Existing Options or Performance Rights or the Placement;
- (j) neither it, any of its Affiliates nor any person acting on its or their behalf (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom it makes no representation), has engaged or will engage in any "directed selling

efforts" (as that term is defined in Rule 902(c) under the Securities Act);

- (k) it is a "foreign private issuer" (as defined in Rule 405 under the Securities Act); and
- (l) there is no "substantial U.S. market interest" (as defined in Rule 902(j) of Regulation S under the Securities Act) in the Rights Shares or any security of the same class or series as the Rights Shares.

5.3 Further Mount Gibson undertakings

Mount Gibson will not during the Issue Period without the prior written approval of the Underwriter:

- (a) authorise, permit or allow the amendment of any provision of the Constitution or the constitution of a Subsidiary;
- (b) pass any resolution that it or any of its Subsidiaries be wound up;
- (c) enter into any scheme or composition with or for the benefit of its creditors or the creditors of any of its Subsidiaries;
- (d) be placed under administration or have any of its Subsidiaries placed under administration;
- (e) have a receiver or manager appointed to the whole or any part of its assets or undertakings or the assets or undertakings of any of its Subsidiaries;
- (f) commit any act or omission whereby it or any of its Subsidiaries becomes liable to be wound up;
- (g) dispose of or agree to dispose of the whole or any significant part of any of its business or property or that of any of its Subsidiaries;
- (h) charge or agree to charge the whole or any significant part of any of its assets, business or property or the assets, business or property of any of its Subsidiaries; and
- (i) vary its share capital other than any variation made in consequence of the Issue, the Land Access Issue, the exercise of any Existing Options or Performance Rights or the Placement.

5.4 No breach of laws

Mount Gibson agrees that neither it nor its Directors or officers will during the Issue Period do, commit or acquiesce in any activity which may breach:

- (a) the Corporations Act;
- (b) the Listing Rules;
- (c) the Constitution;
- (d) any legally binding requirement of ASIC or ASX;

- (e) any other undertaking or instrument or authorisation binding on it; or
- (f) any other applicable laws.

5.5 Mount Gibson compliance with Agreement

Mount Gibson must comply with the terms and conditions of this Agreement and shall immediately give notice in writing to the Underwriter of any material breach by Mount Gibson of this Agreement including any breach of any of the representations, warranties and undertakings contained in this Agreement. Such notification does not limit or affect the liability of Mount Gibson for any such breach.

5.6 Reliance on representations and warranties

Mount Gibson acknowledges that the Underwriter has entered into this Agreement in reliance on the representations and undertakings given by Mount Gibson in this Agreement.

5.7 Warranties to be read independently

Each subclause, paragraph and subparagraph in this clause 5 is to be construed independently and no subclause, paragraph or subparagraph is to be limited by implications arising from any other subclause, paragraph or subparagraph.

6 Representations and warranties of the Underwriter

6.1 Underwriter warranties

The Underwriter represents and warrants to Mount Gibson as at the date of this Agreement and during the Issue Period that:

- (a) it is a corporation registered and validly existing under the laws of its place of incorporation;
- (b) the Underwriter has the power to enter into and comply with all of the terms and conditions of this Agreement; and
- (c) the obligations of the Underwriter under this Agreement are valid and binding.

6.2 Underwriter compliance with Agreement

The Underwriter must comply with the terms and conditions of this Agreement and shall immediately give notice in writing to Mount Gibson of any breach by the Underwriter of this Agreement including any breach of any of the representations, warranties and undertakings contained in this Agreement. Such notification does not limit or affect the liability of the Underwriter for any such breach.

6.3 Reliance on representations and warranties

The Underwriter acknowledges that Mount Gibson has entered into this Agreement in reliance on the representations, warranties and undertakings given by the Underwriter in this Agreement.

7 Rights Issue Documentation and conduct of Issue

7.1 Responsibility for the Issue

Mount Gibson will:

- (a) be responsible for the Issue and the Rights Issue Documentation;
- (b) ensure that the Issue is made in accordance with and subject to the terms of this Agreement, its Constitution, the Rights Issue Documentation, the Listing Rules, the Corporations Act and other regulatory requirements and all other applicable laws; and
- (c) ensure that the Issue is made and conducted in accordance with the Timetable.

7.2 Application for Official Quotation

Mount Gibson must, on or before the Official Quotation Application Date, apply to ASX for Official Quotation for all of the Rights and all of the Rights Shares. Mount Gibson must use its best endeavours to, and do everything reasonably necessary (including the execution of documents) to, ensure that ASX gives Official Quotation Approval on or before the last Business Day before the Rights Trading Start Date in respect of the Rights and on or before the Official Quotation Approval Date in respect of the Rights Shares.

7.3 Timetable

- (a) The parties acknowledge that the Timetable in Schedule 1 of this Agreement is a provisional timetable and Mount Gibson will provide the Underwriter with a final timetable based on the provisional Timetable ("Final Timetable") as soon as practicable, but in any case not less than 3 Business Days, prior to the Lodgement Date. The Final Timetable requires the consent of the Underwriter, such consent not to be unreasonably withheld or delayed. All references to "Timetable" in this Agreement, other than in this clause 7.3, are references to the Final Timetable.
- (b) The parties also acknowledge that the Closing Date as specified in the Final Timetable may fall prior to FIRB granting the necessary approvals in relation to the Offer, the underwriting contemplated by this Agreement and the Placement. In that case and only in that case (unless otherwise agreed to by the parties from time to time), the parties agree that the Closing Date shall be extended by at least 2 weeks or such shorter period as is required for FIRB to grant the necessary approvals. However, nothing in this clause 7.3(b) obliges Mount Gibson to agree to extend the Closing Date more than 2 weeks after the Closing Date specified in the Final Timetable.

8 Applications for and allotment of Rights Shares

8.1 Valid Applications

Mount Gibson is only obliged to accept Valid Applications.

8.2 Allotment of Rights Shares

Mount Gibson must accept all Valid Applications lodged by applicants to whom the Offer was made and all Applications lodged by or on behalf of the Underwriter under clause 9.2 and allot the Rights Shares on the basis of those Valid Applications or Applications (as appropriate) on the Allotment Date.

8.3 Inform and instruct share registry

Whenever requested by the Underwriter to do so and as soon as reasonably possible, Mount Gibson will inform and must instruct its share registry to inform the Underwriter of the number of Valid Applications received, the number of Rights Shares allotted and the identity of the applicant.

8.4 Allotment process

Mount Gibson must:

- (a) without limiting clause 9.5, allot and issue the Rights Shares to applicants who have submitted a Valid Application for Rights Shares by 9.00 am on the Allotment Date;
- (b) arrange for the Rights Shares to be entered into each of those applicants' security holding and for such statements to be issued in accordance with the Timetable, the Corporations Act and Listing Rules as soon as practicable after the Allotment Date; and
- (c) forward to ASX on Completion such details of allotment and other information as may be required by the Listing Rules.

8.5 Observance of section 722

Mount Gibson undertakes that it will procure its share registry to bank for collection all cheques accompanying Valid Applications and otherwise observe section 722 of the Corporations Act promptly after receipt of the cheques by the share registry.

8.6 Maintain accurate records

Mount Gibson will maintain or procure its share registry to maintain (and permit the Underwriter to inspect at any reasonable time) accurate records of the receipt of Applications, the banking of subscription monies, the processing of Applications and the despatch of holding statements for the Rights Shares.

8.7 Details of applications

Mount Gibson must, within 2 Business Days of receiving a request by the Underwriter:

- (a) provide, or instruct its share registry to provide, the Underwriter with details of all applications (whether Valid Applications or not) lodged in respect of the Offer;
- (b) inform the Underwriter of the number of applications for Rights Shares which are not Valid Applications;
- (c) inform the Underwriter of the grounds on which Mount Gibson believes any applications in clause 8.7(b) are not Valid Applications;
- (d) if so requested, allow the Underwriter to review the invalid applications; and
- (e) in respect of any applications which are not Valid Applications only because payment has been made by cheque which has not yet cleared, use best efforts to maximise clearance of those cheques by the Shortfall Settlement Date (and to the extent those cheques clear by 4.00 pm on the Shortfall Settlement Date, those applications will constitute Valid Applications and the corresponding Rights Shares will not be Shortfall Shares).

9 Shortfall shares

9.1 Shortfall Notice Deadline Date

If Mount Gibson has not received Valid Applications for all of the Rights Shares on or before 5.00 pm on the Closing Date, Mount Gibson must before 5.00 pm on the Shortfall Notice Deadline Date:

- (a) give notice to the Underwriter specifying the number of Shortfall Shares; and
- (b) at the same time give to the Underwriter a Closing Certificate.

9.2 Applications for Shortfall Shares

Subject to clauses 2 and 13, by 5.00 pm on the Shortfall Settlement Date, the Underwriter must, in accordance with its obligations under this Agreement, lodge or cause to be lodged with Mount Gibson Applications in proper form for the number of Shortfall Shares, accompanied by payment of the Issue Price per Shortfall Share (or such other amount as is agreed between Mount Gibson and the Underwriter and disclosed in the Rights Issue Documentation).

9.3 Satisfaction of Underwriter obligations

The obligations, but not the rights, of the Underwriter under this Agreement with respect to the underwriting of the Issue will be satisfied and extinguished on the earlier of one of the following occurring:

- (a) lodgment of Valid Applications for all of the Rights Shares under the Offer;

- (b) the Underwriter providing the Applications in proper form accompanied by payment for the Shortfall Shares in accordance with clause 9.2; or
- (c) any of the Conditions Precedent not being satisfied by their respective deadlines.

9.4 No withdrawal of Application

The Underwriter may not withdraw an Application lodged by it under clause 9.2.

9.5 Allotment of Rights Shares from Shortfall Shares

Mount Gibson must, by 9.00 am on the Allotment Date, issue and allot Rights Shares in accordance with all Applications in proper form received from the Underwriter for Shortfall Shares in accordance with clause 9.2.

9.6 Restriction on resale of Shortfall Shares

The Underwriter and/or the Guarantor (as the case may be) agrees that if it is issued any Shortfall Shares, in accordance with applicable Hong Kong securities laws, it will not sell, or offer to sell, such Shortfall Shares, to the public in Hong Kong within six months after the date of the allotment of, or agreement to allot, those Shortfall Shares except that it may, for the avoidance of doubt, resell any such Shortfall Shares at any time on-market on the ASX.

10 Advertising and public announcements

10.1 Advertising and publicity campaign

Notwithstanding clause 20.16 and during the Issue Period, an appropriate media advertising and publicity campaign in respect of the Issue may be conducted by Mount Gibson as agreed between the parties. The content and other details of the campaign must be submitted to the Underwriter for its prior approval, which approval must not be unreasonably withheld or delayed. The name of the Underwriter must appear on all documents and material used in the campaign, provided that Mount Gibson will first seek the approval of the Underwriter to being named in any documents or material (which approval must not be unreasonably withheld or delayed).

10.2 Mount Gibson responsibility

Mount Gibson will be responsible for:

- (a) the contents of any media advertising or publicity campaign; and
- (b) all announcements and disclosures in respect of the Issue which have been agreed between Mount Gibson and the Underwriter,

other than so much thereof as consists of information provided to Mount Gibson by the Underwriter.

10.3 No breach of representation

Mount Gibson will be responsible for ensuring that any advertising materials or public announcements relating to the Offer or the Issue do not breach its representation in clause 5.2(j).

10.4 No announcement or disclosure without prior Underwriter approval

Mount Gibson undertakes to not, and procure that its Directors and officers do not, make any announcement or disclosure in relation to the Issue, its progress or the result of the Issue without the prior approval of the Underwriter (not to be unreasonably withheld or delayed).

11 Fees and Costs

11.1 Underwriting Fee

Subject to the Underwriter satisfying its obligations under clause 9.2, Mount Gibson must pay to the Underwriter an underwriting fee of 3.5% of the Underwritten Offer Potential Proceeds ("Underwriting Fee") on the Shortfall Settlement Date.

11.2 Reimbursement of reasonable Costs

In addition to the Underwriting Fee and regardless of the Underwriter's performance of its obligations under this Agreement or any Termination, Mount Gibson must pay or reimburse the Underwriter for reasonable Costs incurred by it of and incidental to the Offer and the Issue, including:

- (a) Costs in respect of this Agreement or any aspect of the Offer and the Issue (including any aspect arising after Completion); and
- (b) any stamp duty or other taxes (but excluding any income tax of the Underwriter) payable in respect of this Agreement,

but, for the avoidance of doubt, excluding:

- (c) Costs in respect of the Offtake Agreements,

as soon as reasonably practicable, and in any case within 14 days, after a request for payment or reimbursement is made by the Underwriter or on Termination, and whether such Costs were or are incurred before or after the date of this Agreement or before or after the Closing Date.

11.3 Underwriter set-off

The Underwriter:

- (a) may (in its sole discretion), by notice in writing to Mount Gibson, elect to set-off any amounts payable by it to Mount Gibson under this Agreement (including any amounts payable under clause 9.2 of this Agreement) against any payment obligations owed to it by Mount Gibson or the Subsidiaries (including any amounts payable under this Agreement); and

- (b) must, together with the notice required under clause 11.3(a), provide a statement to Mount Gibson setting out details of the gross amount owing and all individual amounts set off against the same.

11.4 Interest

Any amounts due and payable under this agreement by Mount Gibson to the Underwriter for more than 7 days after the date of the invoice, incurs interest at a rate per annum equal to the Reserve Bank of Australia's overnight cash rate plus 1.00% calculated in arrears on a daily basis on the unpaid amount from the due date until the date payment is received by the Underwriter in full.

12 Indemnities

12.1 Indemnification by Mount Gibson

To the extent permitted by law and subject to clause 12.2, Mount Gibson unconditionally and irrevocably undertakes and agrees to indemnify and keep indemnified the Indemnified Parties against and to hold them harmless from and against all Losses incurred, whether directly or indirectly by, or awarded against, an Indemnified Party (but excluding Costs already covered by clause 11.2), arising out of or as a result of:

- (a) any materially false, misleading or deceptive statement in, or material omission of information required to be contained in the Rights Issue Documentation or the Public Information;
- (b) a breach by Mount Gibson of its obligations under this Agreement or any other binding obligations in respect of the Rights Issue Documentation or the Offer or the Issue, including any of the representations and warranties by Mount Gibson contained in this Agreement not being true and correct;
- (c) the distribution of any Rights Issue Documentation and the making of the Offer;
- (d) the allotment and issue of the Rights Shares;
- (e) any claims that an Indemnified Party has any liability under the Corporations Act (including sections 728, 729, 730, 1041H and 1041I of the Corporations Act) and any other applicable law in any jurisdiction in relation to the Offer;
- (f) any review, inquiry or investigation undertaken by ASIC, ASX, the Australian Taxation Office, any state or territory regulatory office or any other Regulatory Authority in relation to the Offer or any Rights Issue Documentation;
- (g) any non-compliance with or breach of any legal requirement or the Listing Rules in relation to the Offer or any Rights Issue Documentation;

- (h) any advertising and publicity in relation to the Issue made with the agreement of Mount Gibson;
- (i) the Indemnified Parties taking any action required in relation to or in connection with the Offer or the Issue as a result of any breach or failure by Mount Gibson to observe any of the terms of this Agreement; and
- (j) any other claims and proceedings whether civil or criminal arising in any way in any jurisdiction out of the Offer or the Issue.

12.2 Exclusions from indemnity

The indemnity in clause 12.1 does not apply to and is not deemed to be an indemnity against:

- (a) any Losses of an Indemnified Party to the extent that a court of competent jurisdiction has determined by final judgment that those Losses have resulted from any penalty or fine which an Indemnified Party is required to pay in respect of any contravention of the provisions of the Corporations Act;
- (b) any Losses of an Indemnified Party to the extent that a court of competent jurisdiction has determined by final judgment that those Losses have resulted from any other amount in respect of which the indemnities in clause 12.1 would be illegal, void or unenforceable at law;
- (c) any Losses of an Indemnified Party to the extent that a court of competent jurisdiction has determined by final judgment that those Losses have resulted from the wilful default, misconduct, fraud, or gross negligence of any Indemnified Party; or
- (d) any Losses of an Indemnified Party acting in a capacity other than as the underwriter to the Issue or the performance of their duties pursuant to this Agreement in connection with the Offer or the Issue, for example, as a shareholder of Mount Gibson.

12.3 Notice of act giving rise to action or proceeding

If any Indemnified Party receives notice of any act, matter or thing which may give rise to any action or proceeding against any of them in relation to which Mount Gibson would be required to indemnify them under clause 12.1, then the Indemnified Party must notify Mount Gibson of that act, matter or thing, giving full details so far as is practicable, within 5 Business Days of the date of receipt of that notice.

12.4 Failure to notify

The failure of an Indemnified Party to notify Mount Gibson pursuant to clause 12.3 does not release Mount Gibson from any obligation or liability which it may have pursuant to this Agreement.

12.5 Power to defend or institute proceedings

The Indemnified Parties are entitled to defend or to institute such legal or other proceedings in the name of the Indemnified Party and Mount Gibson shall provide all such reasonable assistance as may be requested of it from time to time by the Indemnified Parties, including providing the Indemnified Parties with any documents in Mount Gibson's possession and signing all documents which the Indemnified Parties may reasonably require for the prosecution or advancement of any legal or other proceedings.

12.6 Undertakings by Indemnified Parties

The Indemnified Parties must:

- (a) take such reasonable action as Mount Gibson requests to avoid, dispute, resist, appeal, compromise or defend any claim or proceeding or any adjudication in respect of such claim or proceeding; and
- (b) not settle any claim or proceeding without the prior written approval of Mount Gibson, such approval not to be unreasonably withheld.

12.7 Rights of Indemnified Parties not prejudiced

Subject to clause 12.2, the rights of an Indemnified Party in respect of this clause 12 will not in any way be prejudiced or affected by:

- (a) any approval given by that party in relation to the Rights Issue Documentation or the Public Information;
- (b) any consent to be named in any Rights Issue Documentation;
- (c) any knowledge (actual or constructive) acquired after the date of this Agreement of any failure by Mount Gibson to perform or observe any obligations under this Agreement;
- (d) any Termination;
- (e) any inaccuracy in any representation or warranty made by Mount Gibson under the Agreement; or
- (f) any other fact, matter or thing (other than an express waiver) which might otherwise constitute a waiver of, or in any way prejudice or affect, any right of an Indemnified Party.

12.8 Underwriter may enforce

Each Indemnified Party, whether or not a party to this Agreement, will be entitled to the benefit of this clause 12 and this clause 12 is entered into and may be enforced on that Indemnified Party's behalf by the Underwriter.

12.9 Limitation on claims against third parties

Mount Gibson will promptly notify the Underwriter of any limitation on the extent to which Mount Gibson may claim against a third party in connection with the Offer (a Relevant Limitation).

12.10 Loss recoverable by Mount Gibson from the Underwriter

If any Loss is suffered by Mount Gibson for which the Underwriter is held to be jointly or jointly and severally liable with a third party to Mount Gibson, the extent to which the Loss may be recoverable by Mount Gibson from the Underwriter:

- (a) will be limited in proportion to the Underwriter's contribution to the overall fault for the Loss, as agreed between the parties or, in the absence of agreement, as finally determined by a court of competent jurisdiction; and
- (b) will be no more than it would have been had any Relevant Limitation not been agreed to by Mount Gibson.

12.11 Relevant Limitation

If any Loss is suffered by the Underwriter arising from a liability which would be a joint or joint and several liability of the Underwriter with a third party, but for:

- (a) a Relevant Limitation; or
- (b) a limitation on the extent to which the Underwriter may claim against a third party which binds the Underwriter,

the indemnity of Mount Gibson under this clause 12 will cover any amount which the Underwriter is unable to recover from the third party because of the Relevant Limitation or other limitation.

12.12 Reliance on work of third party

In relation to clauses 12.9 to 12.11, the degree (if any) to which the Underwriter may rely on the work of a third party is unaffected by any Relevant Limitation.

13 Termination by the Underwriter

13.1 Termination by Underwriter

Subject to clause 13.2, the Underwriter may at any time during the Issue Period, without cost or liability to itself and without prejudice to any of its rights under this Agreement or for damages arising out of any breach by Mount Gibson of this Agreement and in its absolute and unfettered discretion, by notice in writing to Mount Gibson specifying the event(s) relied upon, terminate its obligations under this Agreement with immediate effect if any of the following events occurs at any time before Completion or such other time as specified below:

- (a) the Offer and the Issue do not comply with all of the conditions specified in section 611, item 10(a) to (e) of the Corporations Act in all respects;
- (b) the Underwriter becomes aware of any information in the Rights Issue Documentation or the Public Information which is untrue,

incorrect or misleading or deceptive in its contents in a material manner or the Underwriter becomes aware of any material omission from or non-disclosure in the Rights Issue Documentation and Mount Gibson fails to lodge any supplementary or replacement documentation (in a form approved by the Underwriter) within 2 Business Days of being notified by the Underwriter of such information, material omission or non-disclosure;

- (c) a statement contained in any of the Rights Issue Documentation or the Public Information is or becomes misleading or deceptive in any material respect;
- (d) any material default by Mount Gibson or any of its Subsidiaries in the performance of its obligations under this Agreement or by any party in the performance of its obligations under any agreement referred to in the Rights Issue Documentation;
- (e) a material contravention by Mount Gibson of any provision of the Constitution (including a contravention by a Subsidiary of any provision of its constitution), the Corporations Act, any legislation relating to the taxation of the Commonwealth of Australia or any State or Territory of Australia or the Listing Rules;
- (f) notwithstanding any other provision of this Agreement, an event occurs which gives rise to or potentially gives rise to a Material Adverse Effect;
- (g) any legal action is commenced or threatened against Mount Gibson or any of its Subsidiaries which, if successful, could, or any current pending legal action is determined with the result that it will, give rise to a Material Adverse Effect;
- (h) any judgment, order or decree for the payment of money in excess of A\$1,000,000 has been rendered against Mount Gibson or any of its Subsidiaries and has not been discharged within 7 Business Days;
- (i) there is introduced in the Parliament of the Commonwealth of Australia or the Parliament of any State or Territory of Australia or a public announcement is made by the Federal Government or the Government of any State or Territory of Australia or by any responsible Minister of such Government or by the Commissioner of Taxation or by any other person authorised so to do of any prospective law or intention to introduce such prospective law, or if any such Government or Commissioner of Taxation or the Reserve Bank of Australia or any other Regulatory Authority adopt or announces a proposal to adopt any new regulations or policy which in any case is likely to prohibit, restrict or regulate the Offer or capital issues or reasonably likely to materially affect the level of Valid Applications, provided that nothing in this clause 13.1(i) refers to any proposed legislation or policy, the substance or content of which has been publicly announced on or prior to the date of this Agreement;
- (j) at any time during the Issue Period, any member of the Group becomes Insolvent;

- (k) Mount Gibson fails to lodge the Offer Document with ASX by the Lodgement Date;
- (l) the Australian Takeovers Panel makes a declaration that circumstances in relation to the affairs of Mount Gibson are unacceptable circumstances under Part 6.10 of the Corporations Act;
- (m) a new circumstance in relation to Mount Gibson or any of its Subsidiaries has arisen since the Rights Issue Documentation was lodged with ASX that would have been required to be included by the Corporations Act if it had arisen before the Rights Issue Documentation was lodged and Mount Gibson fails to lodge any supplementary or replacement documentation to correct the defect within a reasonable time of becoming aware of such new circumstance;
- (n) except for the Issue, the Land Access Issue, the exercise of Existing Options and Performance Rights and the Placement, Mount Gibson or any of its Subsidiaries issues or allots any shares, options or other securities of any nature (including warrants) before the Allotment Date or otherwise alters the issued capital of Mount Gibson or disposes or attempts to dispose of a substantial part of the business or property of Mount Gibson without the prior written approval of the Underwriter;
- (o) approval is refused or not granted, or approval is granted subject to conditions other than customary pre-quotation listing conditions, to the Official Quotation in respect of the Rights Shares or for the Rights Shares to be traded through CHESSE, on or before the Official Quotation Approval Date or if granted, the approval is subsequently withdrawn, qualified (other than by customary pre-quotation listing conditions) or withheld;
- (p) approval is refused or not granted, or approval is granted subject to conditions, to the Official Quotation in respect of the Rights or for the Rights to be traded through CHESSE, on or before the last Business Day before the Rights Trading Start Date or if granted, the approval is subsequently withdrawn, qualified or withheld;
- (q) ASIC gives notice of any deficiency in the Rights Issue Documentation or related documents or ASIC gives notice of an intention to hold a hearing, examination or investigation, or it requires information to be disclosed in connection with the Offer or Mount Gibson, other than where such notice of deficiency, notice of intention or requirement for the disclosure of information does not become public and is withdrawn or addressed within 3 Business Days of the notice or requirement and the Underwriter is immediately notified of ASIC's notice or requirements and the progress of its being withdrawn or addressed;
- (r) any person (other than the Underwriter) who has previously consented to the inclusion of its name in the Offer Document withdraws that consent or any person gives notice under section 730 of the Corporations Act in relation to the Offer Document;

- (s) Mount Gibson is prevented from allotting the Rights Shares within the time required by this Agreement, the Corporations Act, the Listing Rules, any statute, regulation or order of a court of competent jurisdiction by ASIC, ASX or any court of competent jurisdiction or any Regulatory Authority;
- (t) the S&P/ASX 200 Index, as published by ASX, is at any time after the Lodgement Date, 20% or more below its level as at the close of business on the Business Day prior to the Lodgement Date for a period of 3 consecutive Trading Days;
- (u) Mount Gibson does not provide a Closing Certificate as and when required by this Agreement or a statement in any Closing Certificate is untrue or incorrect in a material respect;
- (v) the Offer is not conducted in accordance with the Timetable or any event specified in the Timetable is delayed for more than 2 Business Days without the prior written consent of the Underwriter;
- (w) Mount Gibson withdraws the Offer;
- (x) any representation, warranty or undertaking given by Mount Gibson in this Agreement is or becomes untrue or incorrect; or
- (y) local, national or international hostilities or armed conflict not presently existing commence (whether war has been declared or not) or a major escalation in existing hostilities or armed conflict occurs (whether war has been declared or not), or a major terrorist act is perpetrated on any country or any diplomatic, military, commercial or political establishment of any country, or the occurrence of any combination of such circumstances, where in each case in the bona fide and reasonable opinion of the Underwriter, the event:
 - (i) has materially adversely affected, or is reasonably likely to materially adversely affect, the business or the financial or trading position of the APAC Group as a whole;
 - (ii) is (or in the absence of any contractual obligation, would be) reasonably likely to materially adversely prejudice the success of the Offer, the willingness of persons to subscribe for the Rights Shares or the market price of the securities of Mount Gibson;
 - (iii) has given or could give rise to a material liability for the Underwriter or the Guarantor; or
 - (iv) has given or could give rise to a contravention by the Underwriter or the Guarantor, or the Underwriter or the Guarantor being involved in a contravention of, the Corporations Act or any other applicable law.

13.2 Notice of Termination event

Without prejudice to its rights under this clause 13 (including its right to Terminate with immediate effect under clause 13.1), the Underwriter may, in

its absolute and unfettered discretion at any time after becoming aware of the happening of any one or more of the events specified in clause 13.1, by notice in writing to Mount Gibson:

- (a) advise Mount Gibson that it has become aware of the happening of the event and that in its view it is entitled to Terminate as a consequence of the event; and
- (b) set out the grounds which have led the Underwriter to form that view and that as a consequence the Underwriter reserves the right to Terminate unless the event is remedied to the satisfaction of the Underwriter within a reasonable period specified by the Underwriter, if capable of remedy, or the Underwriter determines that it is prepared to waive its rights in relation to that event.

Unless the event is remedied or the Underwriter determines that it is prepared to waive its rights in relation to that event, the Underwriter may by notice in writing to Mount Gibson then Terminate without cost or liability to the Underwriter in accordance with the terms of this clause 13.

13.3 Underwriter reasonable Costs

If this Agreement is terminated pursuant to clause 13.1, Mount Gibson must pay to or reimburse the Underwriter all such reasonable Costs or fees as are payable by the Underwriter in accordance with clause 11 of this Agreement.

13.4 Notify ASX

If this Agreement is terminated pursuant to clause 13.1, the Underwriter must immediately notify ASX in writing of the termination.

13.5 Continue to underwrite

Notwithstanding anything contained in this clause 13, the Underwriter may in its absolute and unfettered discretion continue to underwrite the Issue, after the happening of any one or more of the events set out in clause 13.1.

14 Escrow, bank guarantee or letter of credit

14.1 Escrow, bank guarantee or letter of credit

If required in writing by Mount Gibson's Banking Syndicate, the Underwriter will:

- (a) within five Business Days of receipt by the Underwriter of the request in writing from Mount Gibson's Banking Syndicate:
 - (i) deposit 40 per cent of the Underwritten Offer Potential Proceeds ("40 % Proceeds") into an Australian dollars interest bearing deposit account maintained at a reputable bank (or otherwise maintained) agreed upon by the parties and to be administered by a reputable escrow agent agreed upon by the parties in accordance with the provisions of clause 14.2 ("Escrow Account"); or

- (ii) provide a letter of credit or bank guarantee in the amount of 40 per cent of the Underwritten Offer Potential Proceeds; and
- (b) at least five Business Days before the latter of the two shareholder meetings at which the shareholder approvals described in clauses 2.1(e) and 2.1(f) will be sought are held, deposit the remaining balance (if any) of the outstanding Underwritten Offer Potential Proceeds into the Escrow Account (taking into account the actual number of Shortfall Shares and the Underwriter's initial 40% Proceeds deposit into the Escrow Account or letter of credit under clause 14.1(a) above) ("**Remaining Proceeds**").

14.2 Dealing with Escrow Amount

Mount Gibson and the Underwriter agree that:

- (a) the escrow agent will be directed not to dispose of, deliver, release or otherwise deal with any of the Escrow Amount in the Escrow Account unless jointly authorised in writing by Mount Gibson and the Underwriter.
- (b) In accordance with clause 14.1, Mount Gibson and the Underwriter will jointly authorise the escrow agent to:
 - (i) refund to the Underwriter as soon as practicable or in any case prior to Completion, any balance of the Escrow Amount (including interest accrued on that Escrow Amount) not required for subscription by the Underwriter for Shortfall Shares pursuant to the terms of this Agreement;
 - (ii) refund to the Underwriter the entire Escrow Amount (including interest accrued on that Escrow Amount) immediately upon termination of this Agreement in accordance with its terms, if any of the conditions precedent set out in clause 2.1 are not satisfied or waived in accordance with this Agreement; and
 - (iii) in order to satisfy the Underwriter's obligation to pay the Issue Price per Shortfall Share at Completion in accordance with this Agreement, release to Mount Gibson the Escrow Amount, less any amount not required for the subscription by the Underwriter for Shortfall Shares and refund to the Underwriter the balance of the Escrow Account (including interest accrued on the Escrow Amount).
- (c) If the escrow agent or the Underwriter is required to make a deduction or withholding in respect of interest withholding tax from any of the Escrow Amount or if the relevant bank makes a deduction in respect of interest withholding tax on any interest on any of the Escrow Amount, Mount Gibson:
 - (i) will indemnify the Underwriter against that interest withholding tax; and

- (ii) must pay to the Underwriter an additional amount which the Underwriter determines to be necessary to ensure that the Underwriter receives when due a net amount (after payment of any interest withholding tax in respect of each additional amount) that is equal to the full amount it would have received if a deduction or withholding or payment of interest withholding tax had not been made.
- (d) if the Underwriter deducts or withholds an amount in respect of interest withholding tax and clause 14.2(c) applies:
 - (i) the Underwriter must pay the amount deducted or withheld to the appropriate government agency as required by law; and
 - (ii) the Underwriter must:
 - (A) use reasonable endeavours to obtain a payment receipt from the government agency (and any other documentation ordinarily provided by the government agency in connection with the payment); and
 - (B) within 2 Business Days after receipt of the documents referred to in clause 14.2(d)(ii)(A), deliver copies of them to Mount Gibson.

14.3 Escrow claims

- (a) If either the Underwriter or Mount Gibson (the **Claiming Party**) considers that an authorisation should be given to the escrow agent in accordance with clause 14.2, but the other party (the **Disputing Party**) disagrees with the authorisation proposed by the Claiming Party, the Claiming Party must promptly give the Disputing Party a Notice of Claim (copied to the Guarantor and the escrow agent), setting out the amount it considers should be released to it from the Escrow Account and the reasons why it considers that the amount should be released.
- (b) If the Disputing Party disputes a Notice of Claim, it must, within 5 Business Days of receipt of the Notice of Claim, issue a notice of dispute (**Dispute Notice**) to the Claiming Party (copied to the Guarantor and the Escrow Agent), specifying the full details of why it disputes the Notice of Claim and the monetary amount (if any) admitted by the Disputing Party that should be released to the Claiming Party from the Escrow Account.
- (c) If a Dispute Notice is received by the Claiming Party (and copied to the Guarantor and escrow agent) within the time limit in clause 14.3(b), and the Dispute Notice disputes all or some of the amount claimed by the Claiming Party in the Notice of Claim:
 - (i) the Underwriter and Mount Gibson must authorise the escrow agent to release to the Claiming Party from the Escrow Account the quantum that is not disputed in the Dispute Notice;

- (ii) the Underwriter and Mount Gibson must submit any remaining amount in dispute to an expert in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Expert Determination Rules to decide the extent to which the Claiming Party is entitled to have any amounts released to it from the Escrow Amount;
 - (iii) Mount Gibson and the Underwriter must authorise the escrow agent to release the disputed portion of the Escrow Amount according to the finding of the expert; and
 - (iv) the escrow agent must comply with any authorisation provided under this clause 14.3(c).
- (d) If no Dispute Notice is received by the Claiming Party (or copied to the Guarantor and escrow agent) within the time limit in clause 14.3(b):
- (i) the Disputing Party is deemed to have agreed with the claim by the Claiming Party set out in the Notice of Claim;
 - (ii) the Disputing Party irrevocably appoints the Claiming Party its attorney for the purpose of providing an authorisation to the escrow agent in respect of the amount subject to the Notice of Claim;
 - (iii) the Claiming Party may authorise the escrow agent (on both its own and the Disputing Party's behalf) to release to the Claiming Party the amount of the Escrow Amount referred to in the Notice of Claim; and
 - (iv) the escrow agent must comply with that authorisation.
- (e) In any matter referred to an expert pursuant to this clause 14.3:
- (i) the expert will be acting as an expert and not as an arbitrator;
 - (ii) the dispute resolution proceedings are not arbitration proceedings under the *Commercial Arbitration Act 1985* (WA);
 - (iii) the expert's determination is final and binding on the parties;
 - (iv) the parties must bear equally the expert's costs; and
 - (v) the parties must promptly provide all information and assistance reasonably requested by the expert.

15 FIRB approval

- (a) The parties acknowledge and agree that the Underwriter may be restricted from subscribing for Shortfall Shares in accordance with the terms of this Agreement unless new FIRB approval (subsequent

to its Existing FIRB Approval) is obtained in connection with the subscription for Entitlement Shares and Shortfall Shares.

- (b) The Underwriter undertakes to procure application to FIRB as soon as practicable for, among other approvals, approval to increase its shareholding in Mount Gibson to the maximum shareholding it would hold if it were to subscribe for all of the Shortfall Shares in accordance with the terms of this Agreement (“New FIRB Approval”).
- (c) Mount Gibson must use its best endeavours to assist the Underwriter or a Related Body Corporate with obtaining the New FIRB Approval.
- (d) If the New FIRB Approval is not received by the Underwriter or a Related Body Corporate prior to all Conditions Precedent (other than clause 2.1(e)) being satisfied in accordance with the terms of this Agreement, the Underwriter (or its Related Body Corporate) will subscribe for the Shortfall Shares on the basis of the Existing FIRB Approval.
- (e) If the Underwriter (or its Related Body Corporate) cannot complete any or all of its obligations to subscribe for the Shortfall Shares under clause 9.2 because it is unable to rely on the Existing FIRB Approval, the Underwriter will use its best endeavours to arrange for a non-associated person that is not subject to any regulatory approval restrictions to subscribe for the quantity of Shortfall Shares for which the Underwriter is unable to subscribe due to FIRB restrictions.

16 Due Diligence Investigations

16.1 Mount Gibson’s responsibilities

Mount Gibson will form a Due Diligence Committee in connection with the Offer.

Until Completion, Mount Gibson must:

- (a) continue to make such enquiries as are reasonable;
- (b) conduct due diligence in accordance with the Due Diligence Planning Memorandum; and
- (c) take all reasonable steps,

to ensure that there are no omissions from the Offer Document of material required by the Corporations Act and other applicable laws and that the statements included in the Offer Document are not, and do not become, misleading or deceptive.

16.2 Access to premises, books and records

Mount Gibson agrees to allow the Underwriter and its officers and advisers full and free access to the premises, books and records of the Group at all reasonable times:

- (a) before Completion; or
- (b) during any regulatory enquiry or litigation proceedings in relation to the Offer,

to enable the Underwriter to obtain any information about any matters which the Underwriter reasonably requires in relation to the Offer or this Agreement.

16.3 Due Diligence Report

Without limiting clause 16.2, Mount Gibson must provide the Underwriter and its officers and advisers with full and free access to, and on request (acting reasonably), copies of the Due Diligence Report and all materials and documents used or created in connection with the Due Diligence Investigations, and must maintain those materials and documents for at least seven years from the date of this Agreement for that purpose.

16.4 Assistance

Mount Gibson must provide any information, assistance and facilities which the Underwriter reasonably requires from time to time for the purposes of clauses 16.2 and 16.3, for the period or periods specified in the relevant clause or seven years from the Closing Date, whichever is the later.

17 Guarantee

17.1 Guarantee

- (a) The Guarantor unconditionally and irrevocably guarantees to Mount Gibson the Underwriter's compliance with its obligations in connection with this Agreement.
- (b) If the Underwriter does not comply with those obligations on time and in accordance with the Agreement, then the Guarantor agrees to comply with those obligations on demand from Mount Gibson. A demand may be made whether or not Mount Gibson has made demand on the Underwriter.

17.2 Indemnity

- (a) The Guarantor indemnifies Mount Gibson against any liability or Losses arising from the following, and any Costs it incurs if:
 - (i) the Underwriter does not comply with an obligation it has (including an obligation to pay money) in connection with the Agreement; or
 - (ii) an obligation the Underwriter would otherwise have under the Agreement (including an obligation to pay money) is found to be void, voidable or unenforceable; or

- (iii) an obligation the Guarantor would otherwise have under clause 17.1 ("Guarantee") is found to be void, voidable or unenforceable; or
 - (iv) a representation or warranty by the Underwriter in the Agreement is found to have been materially incorrect or materially misleading when made or taken to be made,
- (b) The Guarantor agrees to pay amounts due under this clause on demand from Mount Gibson.
 - (c) Mount Gibson need not incur expense or make payment before enforcing this right of indemnity.

17.3 Extent of guarantee

The Guarantee and the indemnity in clause 17.2 ("Indemnity") are continuing obligations despite any intervening payment, settlement or other thing and extend to all of the Underwriter's obligations in connection with the Agreement. The Guarantor waives any right it has of first requiring Mount Gibson to commence proceedings or enforce any other right against the Underwriter before claiming from the Guarantor under the Guarantee and Indemnity.

17.4 Obligation to pay interest

- (a) The Guarantor agrees to pay interest at an annual rate of 3% on any amount under this Guarantee and Indemnity which:
 - (i) is not paid on the due date for payment; and
 - (ii) is not otherwise incurring interest.
- (b) 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 365 days.
- (c) The Guarantor agrees to pay interest under this clause on demand from Mount Gibson.

18 Goods and services tax (GST)

18.1 GST

If any supply made by a party under this Agreement (including the supply of any rights, goods, services, benefits or other things) is subject to GST, the Supplier may, if it incurs a liability to pay GST in respect of that supply, recover from the Recipient an amount on account of GST in addition to any payment or other consideration for the supply.

18.2 Additional Amount

The additional amount is:

- (a) equal to the Issue Price (or the relevant part of the Issue Price if only part of the Issue Price relates to a supply which is subject to GST) for the supply multiplied by the prevailing GST rate; and
- (b) is payable at the same time and in the same manner as the Recipient is required to pay or provide the consideration for the supply to which the additional amount relates.

18.3 Tax Invoice

Within 7 days of receiving an amount under this clause, the Supplier must provide the Recipient with a Tax Invoice.

Mount Gibson must use its best endeavours to assist the Underwriter to apply for or issue any such Tax Invoice if necessary.

19 Notices

19.1 Form

Unless expressly stated otherwise in this Agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this Agreement 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 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

19.2 Delivery

They must be:

- (a) left at the address set out or referred to in the Details;
- (b) sent by prepaid ordinary post (airmail if overseas) to the address set out or referred to in the Details;
- (c) sent by fax to the fax number set out or referred to in the Details; or
- (d) given in any other way permitted by law.

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

19.3 When effective

They take effect from the time they are received unless a later time is specified.

19.4 Receipt - post

If sent by post, they are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

19.5 Receipt - fax

If sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

19.6 Receipt - general

Despite clauses 19.4 and 19.5, if they are received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

20 General

20.1 Discretion in exercising rights

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

20.2 Amendment

This Agreement may be amended only in writing and signed by all parties.

20.3 Counterparts

This Agreement may consist of a number of copies each signed by one or more parties to the Agreement. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed will be the date of the Agreement.

20.4 Waiver

- (a) The failure by any party at any time to enforce any of its powers, remedies or rights under this Agreement will not constitute a waiver of those powers, remedies or rights or affect the party's rights to enforce those powers, remedies or rights at any time.
- (b) Any single or partial exercise of any power, remedy or right does not preclude any other or further exercise of it or the exercise of any other power, remedy or right under this Agreement.

20.5 Severance

If any provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

20.6 Conflict of interest

The parties' rights and remedies under this agreement may be exercised even if this involves a conflict of duty or a party has a personal interest in their exercise.

20.7 Remedies cumulative

The rights and remedies provided in this agreement are in addition to other rights and remedies given by law independently of this agreement.

20.8 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this agreement.

20.9 Indemnities

The indemnities in this Agreement are continuing obligations, independent from the other obligations of Mount Gibson under this Agreement and continue after this agreement ends. It is not necessary for the Underwriter to incur expense or make payment before enforcing a right of indemnity under this agreement.

20.10 Enforceability

For the purpose of this agreement, the Underwriter is taken to be acting as agent and trustee on behalf of and for the benefit of all Indemnified Parties and all of those persons are to this extent taken to be parties to this agreement.

20.11 Amendment

This agreement may be amended by the Underwriter and the Company (including in a manner that adversely affects the interests of the Indemnified Parties) without obtaining the consent of the Indemnified Parties.

20.12 Governing law

This Agreement is governed by the law in force in Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of Western Australia and all courts competent to hear appeals from the courts of Western Australia in respect of all proceedings arising in connection with this Agreement.

20.13 Attorneys

Each attorney who executes this Agreement on behalf of a party declares that the attorney has no notice of the revocation or suspension of the power of attorney under the authority of which the attorney executes this Agreement.

20.14 Assignment

- (a) The Underwriter may assign any of its rights or procure one of its wholly owned subsidiaries to assume its obligations under this Agreement without the prior written approval of Mount Gibson and the assumption of obligations will be effective when the Underwriter's wholly owned subsidiary has agreed to assume the obligations and has covenanted in favour of Mount Gibson. Any such assignment shall provide that if such assignee fails to perform its rights and obligations, then the Underwriter shall remain liable therefor.

- (b) Other than as provided in clause 20.14(a), no party may assign any of its rights or procure some other person to assume its obligations under this Agreement without the prior written approval of all other parties and no assumption of obligations will be effective unless and until the person assuming the obligations has covenanted in favour of, and in form satisfactory to, the parties other than the one whose obligations are assumed, to assume and to be bound by those obligations.

20.15 Further assurances

Each party must perform, sign, execute and deliver and must procure that each of its employees and agents performs, signs, executes and delivers all instruments and acts reasonably required of it or them by notice from another party effectively to carry out and give full effect to this Agreement and the rights and obligations of the parties under it.

20.16 Confidentiality

Without limiting clause 10, each of the parties will procure that neither it nor any of its Affiliates and Related Bodies Corporate will make any public announcement or disclosure to any person in relation to this Agreement or information of which it has become aware in connection with this Agreement unless it first consults with and obtains the agreement in writing of the other parties, which agreement will not be unreasonably withheld or delayed, save that each party may disclose to the extent:

- (a) that the same is required by law, the Listing Rules, the Hong Kong Listing Rules or a Regulatory Authority;
- (b) required to make disclosures to the directors, secretary, professional advisers and bankers of that party and its Affiliates and Related Bodies Corporate so long as the party uses all reasonable endeavours to ensure that the matters disclosed are kept confidential; and
- (c) that an accurate summary of this Agreement may appear in the Rights Issue Documentation.

EXECUTED as an agreement

Underwriting Agreement

Schedule 1 - Timetable

The following timetable is provisional. It is subject to amendment by agreement between the parties and a final timetable will be issued prior to the Lodgement Date in accordance with clause 7.3.

Lodgement Date	1 December 2008
Official Quotation Application Date	1 December 2008
Official Quotation Approval Date	3 December 2008
Rights Trading Start Date	3 December 2008
Record Date	9 December 2008
Despatch Date	10 December 2008
Opening Date	10 December 2008
Rights Trading End Date	29 December 2008
Mount Gibson Shareholder Meeting	30 December 2008
Closing Date	6 January 2009 (may be extended until necessary FIRB approvals granted)
Shortfall Notice Deadline Date	9 January 2009 NOTE: ASX must be notified of shortfall within 3 business days of close (ie, 9th).
Shortfall Settlement Date	9 January 2009
Allotment Date	12 January 2009 NOTE: Obligation is to allot on Allotment Date by 9.00am, so should be at least 1 business day after Shortfall Settlement Date.
Despatch of shareholding statements	12 January 2009
Trading of Rights Shares commences on the ASX	13 January 2009

Underwriting Agreement

Schedule 2 - Closing Certificate

To: **APAC Resources Investments Limited**

Attention: *[insert]*

Each of the undersigned certify, as at the date of this certificate that, other than as disclosed in this certificate, in relation to Mount Gibson Iron Limited ("**Mount Gibson**");

- (a) Mount Gibson has complied with all obligations on its part to be performed:
 - (i) under the Underwriting Agreement between APAC Resources Investments Limited ("**Underwriter**"), Mount Gibson and APAC Resources Limited ("**Guarantor**") dated 20 November 2008 ("**Agreement**"); and
 - (ii) in respect of the Offer, Listing Rules, statute or otherwise;
- (b) Mount Gibson is not in default under the provisions of the Agreement;
- (c) none of the events set out in clauses 13.1 of the Agreement have occurred or, if any of those events have occurred, the same has been disclosed in writing to the Underwriter before the date of this certificate and the Underwriter has confirmed in writing that it has not, in relation to the event, formed the opinion described in clause 13.2 of the Agreement; and
- (d) the representations and warranties given by Mount Gibson set out in clause 5 of the Agreement are true and correct.

For the purposes of this certificate, "Offer", "Offer Document" and "Listing Rules" have the meaning given in the Agreement.

Signed for and on behalf of Mount Gibson Iron Limited:

..... Signature Signature
..... Name Name
..... Position Position

Underwriting Agreement

Schedule 3 – Existing Options

Number of securities	Class of security
100,000	unlisted options exercisable at A\$0.55, expiring on 31 December 2008
2,000,000	unlisted options exercisable at A\$0.90, expiring on 30 June 2010
3,000,000	unlisted options exercisable at A\$0.90, expiring on 24 October 2010
2,000,000	unlisted options exercisable at A\$1.10, expiring on 24 October 2012
250,000	unlisted options exercisable at A\$0.78, expiring on 31 December 2009
1,681,000	unlisted options exercisable at A\$0.89, expiring on 31 December 2009

Underwriting Agreement

Schedule 4 – Performance Rights

The following performance rights have been granted to the management of the Company in the 2008-2009 financial year:

Recipient	Grant Date	Performance period start	Performance period end	Grant Number
L Tonkin	18-Apr-08	1-Jul-07	30-Jun-10	161,681
A Rule	18-Apr-08	1-Jul-07	30-Jun-10	121,261
L Tonkin	22-Sep-08	1-Jul-08	30-Jun-10	66,077
A Rule	22-Sep-08	1-Jul-08	30-Jun-10	47,063

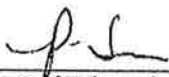
Further performance rights may be provided in subsequent financial years in accordance with agreements currently in place with the management of the Company.

Underwriting Agreement

Signing page

DATED: 20 November 2008

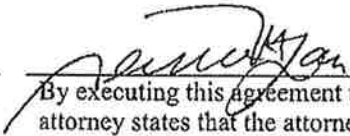
Executed by *LAU POK HO* in Hong Kong
as attorney for MOUNT GIBSON
IRON LIMITED (ABN 87 008 670
817) under power of attorney dated
19 November 2008 in the presence of:



(Signature of Witness)


SUN NATM PHOEBE

(Name of Witness in full)



By executing this agreement the
attorney states that the attorney is duly
authorised to execute this agreement for
and on behalf of Mount Gibson Iron
Limited and that the attorney has
received no notice of revocation of the
power of attorney


Executed by LIU YONGSHUN
for and on behalf of APAC
RESOURCES INVESTMENTS
LIMITED British Virgin Islands
company number 1400895 in the presence
of:



(Signature of Witness)

ZHOU LUYONG

(Name of Witness in full)



By executing this agreement, the
signatory warrants that the signatory is
duly authorised to execute this
agreement for and on behalf of APAC
Resources Investments Limited

Executed by LIU YONGSHUN
for and on behalf of APAC
RESOURCES LIMITED Bermuda
company number BC25496 in the
presence of:



(Signature of Witness)

ZHOU LUYONG

(Name of Witness in full)



By executing this agreement, the
signatory warrants that the signatory is
duly authorised to execute this
agreement for and on behalf of APAC
Resources Limited

Schedule 1 - Timetable

The following timetable is the final Timetable for the Offer under the Underwriting Agreement between Mount Gibson Iron Limited, APAC Resources Investments Limited and APAC Resources Limited, dated 20 November 2008.

Lodgement Date	3 December 2008
Official Quotation Application Date	3 December 2008
Official Quotation Approval Date	5 December 2008
Rights Trading Start Date	5 December 2008
Record Date	11 December 2008
Despatch Date	17 December 2008
Opening Date	17 December 2008
Rights Trading End Date	29 December 2008
Mount Gibson Shareholder Meeting	30 December 2008
Closing Date	6 January 2009 (may be extended until necessary FIRB approvals granted)
Shortfall Notice Deadline Date	9 January 2009 NOTE: ASX must be notified of shortfall within 3 business days of close (ie, 9th).
Shortfall Settlement Date	9 January 2009
Allotment Date	12 January 2009 NOTE: Obligation is to allot on Allotment Date by 9.00am, so should be at least 1 business day after Shortfall Settlement Date.
Despatch of shareholding statements	12 January 2009
Trading of Rights Shares commences on the ASX	13 January 2009

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 6 of the form.
 - (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
 - (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
 - (4) The voting shares of a company constitute one class unless divided into separate classes.
 - (5) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
 - (6) Include details of:
 - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).
- See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (7) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.
 - (8) If the substantial holder is unable to determine the identity of the person (eg if the relevant interest arises because of an option) write "unknown".
 - (9) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

TRANSMISSION VERIFICATION REPORT

TIME : 14/01/2009 11:01
NAME :
FAX :
TEL :
SER.# : 000L6J194994

DATE, TIME	14/01 10:36
FAX NO./NAME	00761297780999
DURATION	00:21:18
PAGE(S)	62
RESULT	OK
MODE	STANDARD
	ECM