

Governor Phillip Tower
1 Farrer Place Sydney NSW 2000
GPO Box 9925 NSW 2001
Tel (02) 9210 6500
Fax (02) 9210 6611
www.corrs.com.au

**CORRS
CHAMBERS
WESTGARTH**
lawyers

Sydney
Melbourne
Brisbane
Perth
Gold Coast

Drillsearch Energy Limited

Great Artesian Oil and Gas Limited

Amended and Restated Merger Implementation Agreement

Date 17 April 2008

Parties

Drillsearch Energy Limited ACN 006 474 844 of Level 8, 16 Spring Street, Sydney, NSW 2000 (**Drillsearch**)

Great Artesian Oil and Gas Limited ACN 078 607 682 of Level 2, 161 Walker Street, North Sydney, NSW 2060 (**Great Artesian**)

Background

- A Drillsearch and Great Artesian have agreed to combine by means of a scheme of arrangement under Part 5.1 of the Corporations Act. The Scheme will involve Great Artesian and its ordinary shareholders. Pursuant to the Scheme, Drillsearch will acquire all of the Scheme Shares.
 - B Drillsearch and Great Artesian have agreed in good faith to implement the Scheme on the terms set out in this document.
-

Agreed terms

1 Interpretation

1.1 Definitions

In this document:

Advisers means, in relation to an entity, its legal, financial and other expert advisers and agents.

Announcement means the announcement in the form contained in **annexure C**.

ASIC means the Australian Securities and Investments Commission.

Associates in relation to each party, has the meaning given in section 9 of the Corporations Act.

ASX means ASX Limited.

ASX Listing Rules means the official listing rules of ASX.

Business Day has the meaning given in the ASX Listing Rules.

Change in Law means the introduction into the Parliament of the Commonwealth of Australia or of any State or Territory of Australia of any law, or the making of any new regulation under any law, or the adoption by any Regulatory Authority of any policy, or the announcement by or on behalf of any Government of the Commonwealth of Australia or of any State or Territory of Australia or any Regulatory Authority that such a law or regulation will be introduced or such a policy adopted (as the case may be).

Circumpacific Stock Option Plan means the Stock Option Plan approved by Circumpacific Energy Corporation on 15 December 2006.

Condition Precedent means a condition precedent set out in **clause 3.1** and **Conditions Precedent** has a corresponding meaning.

Confidentiality Agreement means the agreement dated 13 March 2008 between Drillsearch and Great Artesian.

Control has the meaning given to that term in the Corporations Act.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act agreed in writing by Great Artesian and Drillsearch.

Deed Poll means a deed in the form of **annexure B** or in such other form agreed by the parties in writing under which Drillsearch covenants in favour of the Great Artesian Shareholders to perform its obligations under the Scheme.

Disclosure Material means:

- (a) in relation to Drillsearch, the information disclosed to Great Artesian prior to the date of this document, a list of which is set out in **annexure D**;
- (b) in relation to Great Artesian, the information disclosed to Drillsearch prior to the date of this document, a list of which is set out in **annexure E**.

Drillsearch Board means the board of directors of Drillsearch.

Drillsearch Break Fee means \$190,000.

Drillsearch Information means such information regarding Drillsearch and its Related Entities and Drillsearch Shares provided by or on behalf of Drillsearch to Great Artesian or the Independent Expert to enable the Scheme Booklet to be prepared and completed, and applications for the Regulatory Approvals to be made.

Drillsearch Material Adverse Change means matters, events or circumstances (including any Change in Law), whether occurring before or after the date of this document, other than:

- (a) those required to be done or procured by Drillsearch pursuant to this document; or

- (b) a matter, event or circumstance which has been fairly disclosed by Drillsearch to Great Artesian in the Disclosure Material or fairly disclosed by Drillsearch to ASX pursuant to its continuous disclosure obligations, in each case prior to the date of this document,

which has had or is reasonably likely to have:

- (c) either individually or when aggregated with other matters, events or circumstances of a like kind, a recurring adverse financial effect of \$1,000,000 or more on the net profit after tax of Drillsearch and its Related Entities in any financial year; or
- (d) either individually or when aggregated with other matters, events or circumstances of a like kind, an adverse financial effect of \$5,000,000 or more on the value of the net assets of Drillsearch and its Related Entities, as compared to the net assets of Drillsearch and its Related Entities set out in Drillsearch's consolidated balance sheet as at 31 December 2007; or
- (e) an effect, the result of which is that, any permit, licence or other Regulatory Approval relating to the operations of Drillsearch is terminated, withdrawn or varied; or
- (f) an effect, the result of which is that, oil production by Drillsearch in any calendar month falls to a level that is 50% less than the average monthly production by Drillsearch during the 2007 calendar year.

Drillsearch Prescribed Occurrence means the occurrence of any of the following without the prior written consent of Great Artesian:

- (a) the constitution of Drillsearch being amended;
- (b) Drillsearch converting all or any of its shares into a larger or smaller number of shares;
- (c) Drillsearch or any Related Entity of Drillsearch which is not a wholly owned subsidiary of Drillsearch resolving to or reducing its share capital in any way;
- (d) Drillsearch or any Related Entity of Drillsearch which is not a wholly owned subsidiary of Drillsearch making or declaring any distribution whether by way of dividend or capital reduction or otherwise and whether in cash or in specie, except in accordance with this document;
- (e) Drillsearch resolving to or buying back any of its ordinary shares, including by:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act; or
- (f) Drillsearch making an allotment or issue of, or granting an option to subscribe for, any ordinary shares or securities or financial products convertible at the option of the holder into, or having the economic characteristics of, ordinary shares, or agreeing to make such an

allotment or issue or to grant such an option, other than pursuant to any of Drillsearch's existing employee share plans or pursuant to:

- (i) the Great Artesian Subscription; or
 - (ii) an issue of Drillsearch shares under the shortfall to Drillsearch's 1 for 1 rights issue conducted pursuant to the prospectus lodged with ASIC on 18 January 2008.
- (g) the terms of any securities issued by Drillsearch being amended;
- (h) Drillsearch or any Related Entity of Drillsearch:
- (i) acquiring, leasing or disposing of;
 - (ii) agreeing to acquire, lease or dispose of; or
 - (iii) offering, proposing or announcing a bid or tenders for, any material business, assets (other than trading inventories and consumables in the ordinary and usual course of business) or entity with a value greater than \$1,000,000;
- (i) Drillsearch or any Related Entity of Drillsearch creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or a part, of its business or property;
- (j) Drillsearch or any Related Entity of Drillsearch incurring any indebtedness or issuing any indebtedness or debt securities by way of borrowings, loans or advances for amounts in aggregate in excess of \$1,000,000;
- (k) Drillsearch or any Related Entity of Drillsearch making, in aggregate, capital expenditure in excess of \$1,000,000 on projects not commenced or approved prior to the date of this document;
- (l) unless in the ordinary and usual course of business on the basis of principles consistent with past practice, Drillsearch or any Related Entity of Drillsearch:
- (i) paying any bonus to, or increasing the compensation of, any Officer or employee of Drillsearch or any Related Entity of Drillsearch;
 - (ii) granting to any Officer or employee of Drillsearch or any Related Entity of Drillsearch any increase in severance or termination pay or superannuation entitlements; or
 - (iii) establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of Drillsearch or relating to the Officers or employees of Drillsearch or any Related Entity of Drillsearch;

- (m) Peter Simpson ceasing to be the executive chairman of Drillsearch, resigning from the board of directors of Drillsearch or otherwise ceasing to be employed by Drillsearch;
- (n) Drillsearch resolving that it be wound up;
- (o) a liquidator, provisional liquidator or administrator of Drillsearch being appointed;
- (p) the making of an order by a court for the winding up of Drillsearch;
- (q) Drillsearch executing a deed of company arrangement;
- (r) a receiver, or a receiver and manager, in relation to the whole, or a part, of the property of Drillsearch being appointed; or
- (s) Drillsearch making any change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of Drillsearch, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

Drillsearch Share means a fully paid ordinary share in the capital of Drillsearch.

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made for the purposes of section 411(4)(b) in relation to the Scheme.

Effective Date means, in relation to the Scheme, the date on which the Scheme becomes Effective.

Excluded Share means a Great Artesian Share held by Drillsearch or by any person on behalf of or for the benefit of Drillsearch.

Exclusivity Period means the period from and including the date of this document to and including the earlier of the date this document is terminated in accordance with its terms or the Implementation Date.

First Court Date means the first day on which an application is made to the Court for orders under section 411(1) of the Corporations Act to convene the Scheme Meeting to consider the Scheme is heard.

Great Artesian Board means the board of directors of Great Artesian.

Great Artesian Break Fee means \$190,000.

Great Artesian Information means all information contained in the Scheme Booklet and all information provided by or on behalf of Great Artesian to the Independent Expert to enable the Independent Expert's Report included in or accompanying the Scheme Booklet to be prepared and completed, but does not include the Drillsearch Information and the Independent Expert's Report included in or accompanying the Scheme Booklet.

Great Artesian Material Adverse Change means matters, events or circumstances (including any Change in Law), whether occurring before or after the date of this document, other than:

- (a) those required to be done or procured by Great Artesian pursuant to this document; or
- (b) a matter, event or circumstance which has been fairly disclosed by Great Artesian to Drillsearch in the Disclosure Material or fairly disclosed by Great Artesian to ASX pursuant to its continuous disclosure obligations, in each case prior to the date of this document,

which has had or is reasonably likely to have:

- (c) either individually or when aggregated with other matters, events or circumstances of a like kind, a recurring adverse financial effect of \$700,000 or more on the net profit after tax of Great Artesian and its Related Entities in any financial year; or
- (d) either individually or when aggregated with other matters, events or circumstances of a like kind, an adverse financial effect of \$3,500,000 or more on the value of the net assets of Great Artesian and its Related Entities, as compared to the net assets of Great Artesian and its Related Entities set out in Great Artesian's consolidated balance sheet as at 31 December 2007; or
- (e) an effect, the result of which is that, any permit, licence or other Regulatory Approval relating to the operations of Great Artesian is terminated, withdrawn or varied.

Great Artesian Option means an issued option to subscribe for a Great Artesian Share.

Great Artesian Optionholder means a holder of Great Artesian Options.

Great Artesian Prescribed Occurrence means the occurrence of any of the following without the prior written consent of Drillsearch:

- (a) the constitution of Great Artesian being amended;
- (b) Great Artesian converting all or any of its shares into a larger or smaller number of shares;
- (c) Great Artesian or any Related Entity of Great Artesian which is not a wholly owned subsidiary of Great Artesian resolving to or reducing its share capital in any way;
- (d) Great Artesian or any Related Entity of Great Artesian which is not a wholly owned subsidiary of Great Artesian making or declaring any distribution whether by way of dividend or capital reduction or otherwise and whether in cash or in specie, except in accordance with this document;
- (e) Great Artesian resolving to or buying back any of its ordinary shares, including by:
 - (i) entering into a buy-back agreement; or

- (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act; or
- (f) Great Artesian making an allotment or issue of, or granting an option to subscribe for, any ordinary shares or securities or financial products convertible at the option of the holder into, or having the economic characteristics of, ordinary shares, or agreeing to make such an allotment or issue or to grant such an option, other than pursuant to:
 - (i) any of Great Artesian's existing employee share plans; or
 - (ii) an issue of ordinary shares following the exercise of any options in issue at the date of this document;
- (g) the terms of any securities issued by Great Artesian being amended;
- (h) Great Artesian or any Related Entity of Great Artesian:
 - (i) acquiring, leasing or disposing of;
 - (ii) agreeing to acquire, lease or dispose of; or
 - (iii) offering, proposing or announcing a bid or tenders for, any material business, assets (other than trading inventories and consumables in the ordinary and usual course of business) or entity with a value greater than \$700,000;
- (i) Great Artesian or any Related Entity of Great Artesian creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or a part, of its business or property;
- (j) Great Artesian or any Related Entity of Great Artesian incurring any indebtedness or issuing any indebtedness or debt securities by way of borrowings, loans or advances for amounts in aggregate in excess of \$700,000;
- (k) Great Artesian or any Related Entity of Great Artesian making, in aggregate, capital expenditure in excess of \$700,000 on projects not commenced or approved prior to the date of this document;
- (l) Unless in the ordinary and usual course of business on the basis of principles consistent with past practice, Great Artesian or any Related Entity of Great Artesian:
 - (i) paying any bonus to, or increasing the compensation of, any Officer or employee of Great Artesian or any Related Entity of Great Artesian;
 - (ii) granting to any Officer or employee of Great Artesian or any Related Entity of Great Artesian any increase in severance or termination pay or superannuation entitlements; or
 - (iii) establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or

superannuation scheme of Great Artesian or relating to the Officers or employees of Great Artesian or any Related Entity of Great Artesian;

- (m) Great Artesian resolving that it be wound up;
- (n) a liquidator, provisional liquidator or administrator of Great Artesian being appointed;
- (o) the making of an order by a court for the winding up of Great Artesian;
- (p) Great Artesian executing a deed of company arrangement;
- (q) a receiver, or a receiver and manager, in relation to the whole, or a part, of the property of Great Artesian being appointed; or
- (r) Great Artesian making any change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of Great Artesian, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

Great Artesian Share means a fully paid ordinary share in the capital of Great Artesian.

Great Artesian Share Register means the register of members of Great Artesian maintained in accordance with the Corporations Act.

Great Artesian Shareholder means each person registered in the Great Artesian Share Register as the holder of Great Artesian Shares.

Great Artesian Subscription means the subscription by Great Artesian for the Placement Shares under the Share Subscription Agreement.

Great Artesian Suspension Date means the date identified in the Timetable as the Great Artesian Suspension Date.

Implementation Date means, in relation to the Scheme, the third Business Day after the Record Date, or such other date as Drillsearch and Great Artesian agree in writing.

Independent Expert means Deloitte Corporate Finance Pty Limited, or such other independent expert that Great Artesian determines (acting reasonably) will be responsible for preparing the Independent Expert's Report.

Independent Expert's Report means the report in connection with the Scheme to be prepared by the Independent Expert for inclusion in the Scheme Booklet.

Ineligible Overseas Shareholder means a Scheme Participant whose address as shown in the Great Artesian Share Register at the Record Date is in a jurisdiction other than Australia or its external territories or New Zealand except where Great Artesian and Drillsearch are reasonably satisfied that the issue of New Drillsearch Shares to the Scheme Participant is not prohibited, not unduly onerous and not unduly impracticable in that jurisdiction.

Integration Committee means the committee established under **clause 6**.

Material Contract means any of the contracts or arrangements listed in **annexure F**.

New Drillsearch Shares means the Drillsearch Shares to be issued as consideration under the Scheme.

Officer in relation to an entity, its directors and senior executives.

Placement Shares means 23,625,000 Drillsearch Shares.

Quit Date means 31 August 2008 or such later date as Drillsearch and Great Artesian may agree in writing.

Record Date means, in relation to the Scheme, 7.00 pm on the fifth Business Day after the Second Court Date or such other date as Drillsearch and Great Artesian agree in writing.

Regulatory Approval means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with a Regulatory Authority; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Regulatory Authority means a government or a governmental, semi-governmental or judicial entity or authority or any Minister, department, office or delegate of any government. It includes a self-regulatory organisation established under statute or a stock exchange, the Foreign Investment Review Board, ACCC, APRA, ASIC and ASX.

Related Entity means, in relation to an entity, any entity which is related to that entity within the meaning of section 50 of the Corporations Act or which is an economic entity (as defined in any accounting standard in force under section 334 of the Corporations Act) that is controlled by that entity (other than managed investment schemes).

Relevant Interest has the meaning given in section 9 of the Corporations Act.

Representative means, in relation to a party:

- (a) each of the party's Related Entities; and
- (b) each of the Officers, employees and Advisers of the party or of any of its Related Entities.

RFC Options means 500,000 Great Artesian Options to be issued to RFC Corporate Limited upon the Scheme being implemented.

RG 60 means Regulatory Guide 60 issued by ASIC on 4 August 1999, as amended, substituted or replaced from time to time.

RG 142 means Regulatory Guide 142 issued by ASIC on 4 August 1999, as amended, substituted or replaced from time to time.

Scheme means the proposed scheme of arrangement between Great Artesian and Scheme Participants, as described in **clause 4.1**, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by Drillsearch and Great Artesian.

Scheme Booklet means the information to be dispatched to Great Artesian Shareholders and approved by the Court, including the Scheme, explanatory statements in relation to the Scheme issued pursuant to section 412 of the Corporations Act and registered with ASIC, an Independent Expert's Report prepared by the Independent Expert, summaries of each of this document and the Deed Poll and notices convening the Scheme Meeting (together with proxy forms).

Scheme Consideration means 3 New Drillsearch Shares for every 1 Great Artesian Share held by a Scheme Participant.

Scheme Meeting means the meeting to be ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in respect of the Scheme.

Scheme Order means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in relation to the Scheme.

Scheme Participant means each person recorded in the Great Artesian Share Register as the holder of Scheme Shares as at the Record Date.

Scheme Shares means the Great Artesian Shares on issue at the Record Date other than the Excluded Shares.

Second Court Date means the first day on which an application made to the Court for an order approving the Scheme pursuant to section 411(4)(b) of the Corporations Act is heard or, if the application is adjourned for any reason, the first day on which the adjourned application is heard.

Secondment Terms means those terms set out in **Schedule 2** relating to the secondment of David Williams to Drillsearch pursuant to **clause 7(a)**.

Security Interest means:

- (a) a mortgage, charge, hypothecation, assignment by way of security, pledge, lien, title retention arrangement, set-off arrangement, flawed asset arrangement or other arrangement having the same or equivalent commercial effect as a grant of security; or
- (b) any agreement to create or give rise to any interest or arrangement of the type referred to in paragraph (a) of this definition.

Sensitive Information means any information that in the reasonable opinion of a party relates to competitive sensitivity.

Share Subscription Agreement means the Share Subscription Agreement between Drillsearch and Great Artesian dated on or about the date of this document.

Subsidiary means, in relation to a body corporate, any body corporate which is a subsidiary of the first mentioned body corporate within the meaning of section 46 of the *Corporations Act 2001* (Cth).

Third Party Proposal means:

- (a) a transaction which, if completed, would mean a person would, directly or indirectly:
 - (i) acquire all or a substantial part of the assets or business of the relevant company and/or its Related Entities;
 - (ii) acquire a Relevant Interest in or become the holder of 15% or more of the relevant company's share capital or of the share capital of any of its Subsidiaries or enter into any cash settled equity swap or other derivative contract arrangement in respect of 15% or more of the relevant company's share capital; or
 - (iii) acquire Control of the relevant company;
- (b) a takeover bid, scheme of arrangement, amalgamation, merger, capital reconstruction, consolidation, purchase of main undertaking or other business combination involving the relevant company and/or its Related Entities,

in all cases, other than the Transaction.

Timetable means the timetable set out in **schedule 1** or such other timetable as may be agreed in writing by the parties.

Transaction means the acquisition by Drillsearch of all of the Scheme Shares through the implementation of the Scheme as contemplated in this document.

1.2 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, permitted assigns and persons substituted by permitted novation;

- (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
- (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
- (v) a right includes a benefit, remedy, discretion or power;
- (vi) time is to local time in Sydney;
- (vii) "\$" or "dollars" is a reference to Australian currency;
- (viii) this or any other document includes the document as novated, varied or replaced by agreement between the parties and despite any change in the identity of the parties;
- (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
- (x) this document includes all schedules and annexures to it; and
- (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document;
- (g) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day;
- (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded; and
- (i) a reference to any statement, including a warranty made by a party on the basis of its knowledge, belief or awareness, is made on the basis of the actual knowledge, belief or awareness of the Officers of the party (and no other persons) as at the date of this document.

1.3 Headings

Headings do not affect the interpretation of this document.

2 Implementation of the Scheme

Great Artesian agrees to propose, and the parties agree to implement, the Scheme on the terms set out in this document.

3 Conditions Precedent

3.1 Conditions precedent

The Scheme will not become Effective unless each of the following conditions precedent is satisfied or waived in accordance with **clause 3.2**:

- (a) **(No prohibitions for Scheme)** No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition being in effect at 8.00 am on the Second Court Date which prevents the consummation of any aspect of the Scheme.
- (b) **(No transaction involving Drillsearch)** As at 8.00am on the Second Court Date, Drillsearch has not announced or entered into any agreement, arrangement or understanding with a third party in relation to a Third Party Proposal.
- (c) **(No transaction involving Great Artesian)** As at 8.00am on the Second Court Date, Great Artesian has not announced or entered into any agreement, arrangement or understanding with a third party in relation to a Third Party Proposal.
- (d) **(No Great Artesian Material Adverse Change)** No Great Artesian Material Adverse Change occurs or becomes apparent between the date of this agreement and 8.00am on the Second Court Date.
- (e) **(No Drillsearch Material Adverse Change)** No Drillsearch Material Adverse Change occurs or becomes apparent between the date of this agreement and 8.00am on the Second Court Date.
- (f) **(No Great Artesian Prescribed Occurrence)** No Great Artesian Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date.
- (g) **(No Drillsearch Prescribed Occurrence)** No Drillsearch Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date.
- (h) **(Independent Expert Report)** The Independent Expert issues its report which concludes that the Scheme is in the best interests of Scheme Participants before the date on which the Scheme Booklet is registered by ASIC under the Corporations Act and the Independent Expert does not change its conclusions or withdraw its report prior to 8.00am on the Second Court Date.
- (i) **(Quotation of New Drillsearch Shares for Scheme)** The New Drillsearch Shares to be issued pursuant to the Scheme are approved for official quotation by ASX, subject only to conditions that usually apply to approvals of that type, by 8.00 am on the Second Court Date.
- (j) **(Great Artesian Shareholder approval of Scheme)** Great Artesian Shareholders approve the Scheme by the necessary majorities at the Scheme Meeting (or any adjournment or postponement thereof).
- (k) **(Court approval of Scheme)** The Court approving the Scheme under section 411(4)(b) of the Corporations Act.
- (l) **(Repayment of third party borrowings)** All third party borrowings of Drillsearch are repaid in full by 8.00 am on the Second Court Date, other

than any third party borrowings agreed in writing between Drillsearch and Great Artesian.

3.2 Benefit and waiver of Conditions Precedent

- (a) Great Artesian and Drillsearch together have the benefit of the Conditions Precedent in **clauses 3.1(a) and 3.1(h)** and any breach or non-fulfilment of those Conditions Precedent can only be waived with the consent of both parties.
- (b) Great Artesian has the benefit of the Conditions Precedent in **clauses 3.1(b), 3.1(e), 3.1(g), and 3.1(l)** and any breach or non-fulfilment of those conditions precedent can only be waived with the consent of Great Artesian.
- (c) Drillsearch has the benefit of the Conditions Precedent in **clauses 3.1(c) and 3.1(d) and 3.1(f)** and any breach or non-fulfilment of those Conditions Precedent can only be waived with the consent of Drillsearch.
- (d) The Conditions Precedent in **clauses 3.1(i), 3.1(j) and 3.1(k)** cannot be waived by either party.
- (e) A party entitled to waive a Condition Precedent under this **clause 3.2** may do so in its absolute discretion.
- (f) If a waiver by a party of a Condition Precedent is itself conditional and the other party accepts the condition, the terms of that condition apply accordingly. If the other party does not accept a conditional waiver of the Condition Precedent, the Condition Precedent has not been waived.
- (g) If a party waives the breach or non-fulfilment of any of the Conditions Precedent, that waiver will not preclude it from suing the other party for any breach of this document, including a breach that resulted in the non-fulfilment of the Condition Precedent that was waived.
- (h) Unless specified in the waiver, a waiver of the breach or non-fulfilment of any Condition Precedent will not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from events or circumstances giving rise to the breach or non-fulfilment of the first Condition Precedent; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event or circumstance.

3.3 Best endeavours

- (a) Each of Great Artesian and Drillsearch must use its best endeavours to procure that:
 - (i) each of the Conditions Precedent for which it is responsible is satisfied as soon as practicable after the date of this document, or continues to be satisfied at all times until the last time it is to be satisfied (as the case may require), with a view to the Effective Date for the Scheme occurring on or before the Quit Date; and

- (ii) there is no event or circumstance within the reasonable control or influence of Great Artesian or Drillsearch respectively that would prevent the Conditions Precedent being satisfied.

3.4 Notification of certain events

Each party must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
- (b) promptly notify the other if it becomes aware that any Condition Precedent has been satisfied;
- (c) promptly notify the other if it becomes aware that any Condition Precedent has failed to be satisfied or has become incapable of being satisfied or is not reasonably capable of being satisfied or of any circumstances which may reasonably be expected to lead to such a state of affairs; and
- (d) after having given or received a notice in accordance with **clause 3.4(c)** in relation to a Condition Precedent that it is entitled under **clause 3.2** to waive, give notice to the other party as soon as possible (and in any event no later than five Business Days or such shorter time to ensure that notice is given before 8.00am on the Second Court Date) as to whether or not it waives the breach or non-fulfilment of the relevant Condition Precedent, specifying that Condition Precedent.

3.5 Conditions precedent not met

- (a) If any Condition Precedent is not satisfied or waived by the date specified in this agreement for its satisfaction or if the Scheme is not Effective by the Quit Date, then the parties will consult in good faith:
 - (i) with a view to determining whether the Scheme or a transaction which results in a merger of Drillsearch and Great Artesian may proceed by way of an alternative approach and, if so, to agree on the terms of such an alternative approach; or
 - (ii) to agree to extend the date for satisfaction of the relevant Condition Precedent or the Quit Date or to adjourn or change the date of an application to the Court.
- (b) If the parties are unable to reach agreement under **clause 3.5(a)** by 5.00pm on the day before the Second Court Date, then unless that Condition Precedent is waived in accordance with **clause 3.2**, a party entitled to the benefit of that Condition Precedent may (subject to **clause 3.5(d)**) terminate this agreement.
- (c) A party will not be entitled to terminate this agreement pursuant to **clause 3.5(b)** if the relevant Condition Precedent has not been satisfied as a result of:
 - (i) a breach of this agreement by that party; or

- (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that condition being satisfied.
- (d) Termination of this agreement under **clause 3.5(b)** does not affect any accrued rights of either party arising from any breach of this agreement prior to termination.

4 Scheme

4.1 Scheme

Subject to the terms and conditions of this document and of the Scheme, Great Artesian must propose a scheme of arrangement under Part 5.1 of the Corporations Act between it and the Scheme Participants in the form set out in **annexure A** or such other form as the parties agree in writing, under which, subject to the terms of the Scheme and the Scheme becoming Effective, all of the Scheme Shares will be transferred to Drillsearch and the Scheme Participants will be entitled to receive the Scheme Consideration.

4.2 Scheme Consideration

- (a) (**Provision by Drillsearch**) Subject to **clauses 4.2(b)** and **(c)** and to the terms of the Scheme, Drillsearch covenants in favour of Great Artesian (in its own right and separately as trustee or nominee for each of the Scheme Participants), in consideration for the transfer to Drillsearch of the Scheme Shares held by a Scheme Participant under the terms of the Scheme, to provide to the Scheme Participant the Scheme Consideration.
- (b) (**Fractional entitlements**) Subject to customary provisions which address share splitting or division in an attempt to obtain advantage by reference to rounding, any fractional entitlement of a Scheme Participant to a New Drillsearch Share will be rounded up or down to the nearest whole number of New Drillsearch Shares.
- (c) (**Ineligible Overseas Shareholders**) Where a Scheme Participant is an Ineligible Overseas Shareholder, the number of New Drillsearch Shares to which the Scheme Participant would otherwise be entitled under the Scheme will be issued to a nominee of Drillsearch approved by Great Artesian who will sell those New Drillsearch Shares as it sees fit in its absolute discretion as soon as practicable (at the risk of that Ineligible Overseas Shareholder) and pay the proceeds received, after deducting any applicable brokerage and other selling costs, taxes and charges, to that Ineligible Overseas Shareholder in full satisfaction of that Ineligible Overseas Shareholder's rights to receive New Drillsearch Shares as part of the Scheme Consideration.

4.3 Status of New Drillsearch Shares

The New Drillsearch Shares to be issued by Drillsearch as part of the Scheme Consideration will rank equally in all respects with all existing Drillsearch

Shares then on issue and will be issued fully paid and free from any Security Interests.

5 Steps for implementation

5.1 Obligations of both parties

Both parties must:

- (a) **(Regulatory Approvals):**
 - (i) co-operate in relation to all applications to, and discussions with, any relevant Regulatory Authority for the purposes of seeking all Regulatory Approvals required by it or its Related Entities;
 - (ii) promptly apply for all of the Regulatory Approvals required by it or its Related Entities and provide to the other party a copy of all such applications;
 - (iii) take all steps for which it is responsible as part of obtaining any Regulatory Approval required by it or its Related Entities, including responding to requests for information at the earliest practicable time and attending meetings with any Regulatory Authority;
 - (iv) provide the other party with all information reasonably requested in connection with the application for any Regulatory Approval required by it or its Related Entities;
 - (v) provide the other party with copies of all substantive correspondence with any Regulatory Authority in connection with the Regulatory Approvals required by it or its Related Entities;
 - (vi) allow the other party, at its request, to attend meetings and discussions with a Regulatory Authority for the purposes of seeking a Regulatory Approval (provided that the Regulatory Authority expresses no objection to same); and
 - (vii) consult with the other party in relation to any proposed extension, renewal, replacement, revocation, amendment or surrender of any Regulatory Approval of a type referred to in paragraph (a) of the definition of "Regulatory Approval" that is material to the business or operations of Great Artesian or any of its Related Entities;
- (b) **(Certificate)** at the hearing by the Court of the application for the Scheme Order provide to the Court a certificate confirming that all of the Conditions Precedent in **clause 3.1** have been satisfied or waived in accordance with the terms of this document. A draft of such certificate shall be provided by each party to the other party by 5.00 pm on the Business Day prior to the Second Court Date;
- (c) **(Timing)** consult with each other regularly in relation to:

- (i) the schedule for performing their respective obligations within the overall framework set by the Timetable; and
- (ii) the need to adjust the Timetable.

5.2 Great Artesian's obligations

Great Artesian must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this document, substantially in accordance with the Timetable, and in particular Great Artesian must:

- (a) **(recommendation of the Scheme)** recommend to holders of Great Artesian Shares that the Scheme is in the best interests of Great Artesian and Great Artesian Shareholders and that Great Artesian Shareholders vote in favour of all resolutions to be proposed at the Scheme Meeting or approve the Scheme (subject to the Independent Expert concluding that the Scheme is in the best interests of Great Artesian Shareholders and no superior proposal being made for all of the Great Artesian Shares) and Drillsearch agrees that the statement to that effect in the Announcement satisfies that obligation;
- (b) **(Scheme Booklet)** as soon as practicable after the date of this document, prepare the Scheme Booklet in compliance with all applicable laws, and in particular the Corporations Act, RG 60, RG 142 and the ASX Listing Rules and provide drafts of the Scheme Booklet at regular intervals to Drillsearch for its review and comment. Great Artesian will consider comments received from Drillsearch in good faith and may include them in the Scheme Booklet;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet;
- (d) **(Independent Expert's Report)** provide Drillsearch with at least one draft of the Independent Expert's Report (for the purpose of providing comments on the factual accuracy of the information included in the report);
- (e) **(approval of draft for ASIC)** as soon as practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the Great Artesian Board is convened to approve that draft as being in a form appropriate for provision to ASIC for review;
- (f) **(liaison with ASIC)** as soon as practicable after the resolution referred to in **clause 5.2(e)** is passed, provide an advanced draft of the Scheme Booklet, in a form acceptable to Great Artesian and Drillsearch to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act, and:

- (i) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet;
 - (ii) keep Drillsearch informed of any matters raised by ASIC in relation to the Scheme Booklet, and use all reasonable endeavours to resolve any such matters; and
 - (iii) at Drillsearch's request, allow Drillsearch to attend meetings and discussions with ASIC or ASX (provided that ASIC and ASX express no objection to same);
- (g) (**approval of Scheme Booklet**) as soon as practicable at the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Great Artesian Board is convened to approve the Scheme Booklet in the form approved by ASIC and also to approve an application to the Court for an order that the Scheme Meeting be convened;
- (h) (**section 411(17)(b) statements**) apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (i) (**Scheme Meeting**) promptly after, and provided that, the approvals in **clauses 5.2(g)** and **5.3(f)** have been received:
- (i) apply to the Court for an order under section 411(1) of the Corporations Act directing Great Artesian to convene the Scheme Meeting; and
 - (ii) take all steps necessary to comply with the order of the Court including, as required, dispatching the Scheme Booklet to the Great Artesian Shareholders and holding the Scheme Meeting;
- (j) (**Court documents**) consult with Drillsearch in relation to the content of the documents required for the purpose of each of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, comments from Drillsearch and its Representatives on those documents;
- (k) (**registration of explanatory statements**) request ASIC to register the explanatory statements included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (l) (**approval and implementation of Scheme**) if the resolution submitted to the Scheme Meeting is passed by the necessary majorities and once the Conditions Precedent are satisfied or waived, promptly apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme and if that approval is obtained:
- (i) promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;

- (ii) close the Great Artesian Share Register in respect of Great Artesian Shares as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) subject to Drillsearch providing the Scheme Consideration, execute proper instruments of transfer, and effect and register the transfer, of the Scheme Shares in accordance with the Scheme; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (m) (**conduct of business**) during the period from the date of this document to the Implementation Date, conduct (and cause each of its Related Entities to conduct) its respective business and operations in the ordinary and usual course consistent with the manner in which each such business and operations have been conducted in the three years prior to the date of this document, use reasonable efforts to preserve intact its current business organisation, keep available the services of its current Officers and employees and preserve its relationship with Regulatory Authorities, rating agencies, customers, suppliers, and others having business dealings with it provided that nothing in this **clause 5.2(m)** restricts Great Artesian or its Related Entities from responding to prevailing market conditions or changes in the market or its business needs in a reasonable and prudent manner consistent with the manner in which such business and operations have responded in the past;
- (n) (**consultation**) during the period from the date of this document to the Implementation Date:
- (i) promptly provide to Drillsearch a copy of the Great Artesian Share Register as requested by Drillsearch from time to time;
 - (ii) hold weekly meetings between the Great Artesian managing director and the Drillsearch executive chairman to discuss, at a high level, material matters (which, for the avoidance of doubt, shall not include information of competitive sensitivity) relating to Great Artesian and Drillsearch and their respective Related Entities including, without limitation;
 - (A) business performance (including updates as to any material variances in relation to forecasts);
 - (B) key personnel issues;
 - (C) risk management;
 - (D) compliance; and
 - (E) major business developments;

- (o) (**ASX listing**) use its best endeavours to ensure that the Great Artesian Shares continue to be quoted on the official list conducted by ASX until the close of business on the Great Artesian Suspension Date;
- (p) (**representation**) allow, and not oppose, any application by Drillsearch for leave of the Court to be represented, or the separate representation of Drillsearch by counsel, at the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme;
- (q) (**publication of information**) as soon as they become available, publish on its website the dates fixed for any Court hearing in relation to the Scheme, including any adjournments or continuance of those hearings, the date of the Scheme Meetings and the text of all announcements made to ASX in connection with the Transaction or the Scheme;
- (r) (**compliance with laws**) do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (s) (**Great Artesian Prescribed Occurrence**) ensure that no Great Artesian Prescribed Occurrence occurs between the date of this document and 8.00 am on the Second Court Date; and
- (t) (**Great Artesian Share information**) promptly send such notices under section 672A of the Corporations Act at such times and to such persons as Drillsearch reasonably requires, and give copies of the responses Great Artesian receives to Drillsearch.

Great Artesian shall be taken to have fulfilled, in a timely manner, its obligations under this **clause 5.2** if such obligations are completed by the time scheduled for such events as set out in the Timetable.

5.3 Drillsearch's obligations

Drillsearch must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this document, substantially in accordance with the Timetable, and in particular Drillsearch must:

- (a) (**Drillsearch Information**) prepare and provide to Great Artesian the Drillsearch Information for inclusion in the Scheme Booklet as soon as is reasonably practicable and consult with Great Artesian in relation to the content of the Drillsearch Information;
- (b) (**Independent Expert**) provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet;
- (c) (**Accuracy of Drillsearch Information**) confirm to Great Artesian that the Drillsearch Information in the Scheme Booklet does not contain any statements that are misleading or deceptive in any material respect;

- (d) (**assistance**) provide any assistance or information reasonably requested by Great Artesian in connection with the preparation of the Scheme Booklet and any other document to be sent to Great Artesian Shareholders in order to facilitate satisfaction of the Condition Precedent in **clause 3.1(j)**;
- (e) (**approval of draft for ASIC**) as soon as practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the Drillsearch Board (or a sub-committee of it) is convened to approve those sections of that draft that relate to Drillsearch and its Related Entities and the Drillsearch Shares as being in a form appropriate for provision to ASIC for review;
- (f) (**approval of Scheme Booklet**) as soon as practicable at the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Drillsearch Board (or a sub-committee of it) is convened to approve those sections of the Scheme Booklet that relate to Drillsearch and its Related Entities and the Drillsearch Shares as being in a form appropriate for dispatch to the Great Artesian Shareholders, subject to approval of the Court;
- (g) (**representation**) if requested by Great Artesian, procure that Drillsearch is represented by counsel at the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme, at which, through its counsel, Drillsearch will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under the Scheme, and, to the extent that leave of the Court is required for Drillsearch to be represented at those Court hearings, apply for that leave;
- (h) (**Deed Poll**) prior to the First Court Hearing, execute the Deed Poll;
- (i) (**application for quotation**) prior to dispatch of the Scheme Booklet, make an application for admission to the official list of ASX and for official quotation of the New Drillsearch Shares to be issued pursuant to the Scheme and use its best endeavours to obtain such official quotation subject to such conditions that are considered by Great Artesian (acting reasonably) to be customary;
- (j) (**compliance with laws**) do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (k) (**conduct of business**) during the period from the date of this document to the Implementation Date, conduct (and cause each of its Related Entities to conduct) its respective business and operations in the ordinary and usual course consistent with the manner in which each such business and operations has been conducted in the three years prior to the date of this document, use reasonable efforts to preserve intact its current business organisation, keep available the services of its current Officers and employees and preserve its relationship with

Regulatory Authorities, rating agencies, customers, suppliers and others having business dealings with it, provided that nothing in this **clause 5.3(k)** restricts Drillsearch or its Related Entities from responding to prevailing market conditions or changes in the market or its business needs in a reasonable and prudent manner consistent with the manner in which such business and operations have responded in the past.

Drillsearch shall be taken to have fulfilled, in a timely manner, its obligations under this **clause 5.3** if such obligations are completed by the time scheduled for such event as set out in the Timetable.

5.4 Appeal process

If the Court refuses to make an order convening the Scheme Meeting for the Scheme or approving the Scheme, at Drillsearch's request Great Artesian must appeal the Court's decision to the fullest extent possible (except to the extent that the parties agree otherwise, or an independent Senior Counsel indicates that, in their view, an appeal would have a less than 50% prospect of success before the Quit Date). Great Artesian may bring an appeal even if not requested by Drillsearch. If any such appeal is undertaken at the request of Drillsearch, Drillsearch will bear Great Artesian's costs of the appeal (including costs of the independent Senior Counsel) unless the parties otherwise agree.

5.5 Board and management changes

- (a) On the Implementation Date, the Drillsearch Board will invite each of the then existing directors of Great Artesian (up to a maximum of four, and if there is more than four existing directors, the four longest serving directors) to be appointed to the Drillsearch Board and, subject to consent by those existing directors of Great Artesian for the purpose of section 201D of the Corporations Act, the Drillsearch Board must pass all necessary resolutions to effect such appointments.
- (b) If on the Implementation Date, Drillsearch has more than four directors, Drillsearch must procure that such number of directors retire so that, following the appointment of four directors of Great Artesian to the Drillsearch Board pursuant to **clause 5.5(a)**, the Drillsearch Board consists of an equal number of existing Drillsearch directors and former Great Artesian directors.
- (c) If on the Implementation Date, Drillsearch has less than four directors, Drillsearch may appoint such number of additional directors so that, following the appointment of four directors of Great Artesian to the Drillsearch Board pursuant to **clause 5.5(a)**, the Drillsearch Board consists of an equal number of existing Drillsearch directors and former Great Artesian directors.
- (d) Drillsearch may nominate any director to be Chairman of the Drillsearch Board.

5.6 Great Artesian Options

Great Artesian must take all reasonable steps to procure the entry into binding agreements with each of the Great Artesian Optionholders on terms

reasonably acceptable to Drillsearch whereby each Great Artesian Optionholder agrees to the cancellation or transfer to Drillsearch or its nominee of their Great Artesian Options on the Implementation Date in consideration for either a cash amount, or the issue of options to subscribe for shares in Drillsearch, as may be agreed between Great Artesian and Drillsearch. All of these agreements must be entered into on or before the date that is 2 Business Days before the draft Scheme Booklet is lodged with ASIC for review in accordance with the Timetable. Great Artesian must keep Drillsearch fully informed of all communications under this **clause 5.6**, and will provide to Drillsearch copies of all pro forma documents and correspondence to Great Artesian Optionholders, and where applicable, all material individual written communication with a Great Artesian Optionholder.

6 Restriction on Acquiring Securities

Until the Implementation Date, (other than as a result of the allotment and issue of shares by Great Artesian to Drillsearch under the Scheme or the Great Artesian Subscription) neither party may (and must ensure that their Related Entities do not) acquire or offer to acquire, any securities or property or any right or option to acquire any securities or property of the other party unless it has received the prior written consent of the other party.

7 Integration Planning and Assistance

- (a) From the date of this document, Great Artesian agrees to second David Williams, the Managing Director of Great Artesian, to Drillsearch on a part time basis in accordance with the Secondment Terms.
- (b) From the date of this document, the parties will establish an Integration Committee, comprising an agreed equal number of persons (at least one per party) nominated in writing by Drillsearch and Great Artesian respectively, to cooperate regarding planning for the operation of the business of Drillsearch and Great Artesian pending and from the Implementation Date.
- (c) Great Artesian and Drillsearch agree to provide such information (other than Sensitive Information), and make such resources available, to the Integration Committee as are reasonably required for planning for the operation of the business of Drillsearch and Great Artesian after the Implementation Date and determining potential synergies.
- (d) A Drillsearch nominee will chair the Integration Committee.
- (e) The Integration Committee will meet at least fortnightly and at weekly intervals if either Drillsearch or Great Artesian request.
- (f) On termination of this document, all information provided by a party under this **clause 7** shall be returned to that party.

8 Representations and warranties

8.1 Great Artesian's representations

Great Artesian represents and warrants to Drillsearch that:

- (a) **(status)** it, and each of its Related Entities that is a body corporate, is a body corporate duly incorporated under the laws of its jurisdiction of incorporation or formation;
- (b) **(power for business)** it, and each of its Related Entities, has the power to own its assets and to carry on its business as now conducted or contemplated;
- (c) **(power for document)** it has the corporate power to enter into and perform or cause to be performed its obligations under this document and the Scheme and to carry out the transactions contemplated by this document and the Scheme;
- (d) **(corporate authorisations)** it has taken or will take all necessary corporate action to authorise the entry into and performance of this document and the Scheme and to carry out the transactions contemplated by this document and the Scheme;
- (e) **(document binding)** this document is a valid and binding obligation enforceable in accordance with its terms, subject to any necessary stamping;
- (f) **(transactions permitted)** subject to obtaining all applicable Regulatory Approvals, the execution and performance by it of this document and the Scheme and each transaction contemplated by this document and the Scheme did not and will not:
 - (i) violate in any material respect a provision of a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it, or its constitution or any other document or agreement that is binding on it or its assets; or
 - (ii) give to any person any rights of termination, amendment, acceleration or cancellation of any Material Contract;
- (g) **(disclosure to Drillsearch)** it:
 - (i) has materially complied with its obligations under chapter 3 of the ASX Listing Rules and the information disclosed to ASX is true and correct in all material respects;
 - (ii) it has disclosed to Drillsearch details of each Material Contract;
 - (iii) is not aware of any information relating to Great Artesian or any of its Related Entities or their respective businesses or operations that has or could reasonably be expected to give rise to a Great Artesian Material Adverse Change that has not been disclosed to ASX or to Drillsearch in the Great Artesian Disclosure Material;

- (h) **(provision of Great Artesian Information)** the Great Artesian Information included in the Scheme Booklet:
 - (i) will be included in good faith and on the understanding that Drillsearch and each of the Officers of Drillsearch will rely on that information for the purposes of considering and approving the Drillsearch Information in the Scheme Booklet and approving the entry by Drillsearch into the Deed Poll, and that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet (as the case may be); and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and all relevant policy statements, practice notes and other guidelines and requirements of ASIC;
- (i) **(Great Artesian Information true)** the Great Artesian Information included or incorporated by reference in the Scheme Booklet will not, as at the date of dispatch of the Scheme Booklet to the Great Artesian Shareholders, contain any statement which is misleading or deceptive in any material respect nor contain any material omission having regard to applicable disclosure requirements;
- (j) **(update of Great Artesian Information)** it will, as a continuing obligation, provide to Drillsearch all such further or new information which may arise after the Scheme Booklet has been dispatched until the date of the Scheme Meeting where that may be necessary to ensure that there would be no breach of **clause 8.1(i)** as soon as practicable and in any event within two Business Days after the date upon which that information arose;
- (k) **(securities)** its issued securities as at the date of this document are:
 - (i) 183,948,503 Great Artesian Shares; and
 - (ii) 9,050,000 Great Artesian Options,
 and neither it nor any of its Related Entities is under any obligation to issue any shares or securities convertible into shares to any person (other than in connection with any issue of RFC Options) and, except as specified above, no option exists nor is Great Artesian or any of its Related Entities subject to any actual or contingent obligation to issue or convert securities;
- (l) **(compliance with laws)** as far as Great Artesian is aware, after making enquiries of its Officers, it and its Related Entities have complied in all material respects with all applicable laws and regulations which would, if breached, have a material adverse effect on:
 - (i) the financial position of Great Artesian and its Related Entities as a whole; or
 - (ii) on the implementation of this Transaction;

- (m) (**Disclosure Material**) Great Artesian has collated and prepared all of the Disclosure Material in good faith for the purposes of a high level due diligence exercise (but which exercise does not include due diligence on information of competitive sensitivity) and in this context, as far as Great Artesian is aware, such Disclosure Material has been collated with all reasonable care and skill; and
- (n) (**Non-solicitation of Drillsearch employees**) Great Artesian will not at any time during the period from the date of this agreement to the date that is 12 months after the Quit Date, employ or make an offer of employment to any employee of Drillsearch, or by any direct or indirect means encourage any employee of Drillsearch to make, or intimate to any employee of Drillsearch that Great Artesian would be prepared to entertain, an application for employment with Great Artesian.

8.2 Drillsearch's representations

Drillsearch represents and warrants to Great Artesian that:

- (a) (**status of Drillsearch**) it and each of its Related Entities that is a body corporate is a body corporate duly incorporated under the laws of its jurisdiction of incorporation or formation;
- (b) (**power for business**) it, and each of its Related Entities, has the power to own its assets and to carry on its business as now conducted or contemplated;
- (c) (**power of Drillsearch for document**) it has the corporate power to enter into and perform or cause to be performed its obligations under this document, the Scheme and the Deed Poll and to carry out the transactions contemplated by this document, the Scheme and the Deed Poll to be carried out by Drillsearch;
- (d) (**corporate authorisations for Drillsearch**) it has taken or will take all necessary corporate action to authorise the entry into and performance of this document, the Scheme and the Deed Poll and to carry out the transactions contemplated by this document, the Scheme and the Deed Poll to be carried out by Drillsearch;
- (e) (**document binding**) this document is a valid and binding obligation enforceable in accordance with its terms;
- (f) (**transactions permitted**) the execution and performance by it of this document, the Scheme and the Deed Poll and each transaction contemplated by this document, the Scheme and the Deed Poll did not and will not violate in any material respect a provision of a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it, or its constitution or any other document or agreement that is binding on it or its assets.
- (g) (**disclosure to Great Artesian**) it:

- (i) has materially complied with its obligations under chapter 3 of the ASX Listing Rules and the information disclosed to ASX is true and correct in all material respects;
 - (ii) is not aware of any information relating to Drillsearch or any of its Related Entities or their respective businesses or operations that has or could reasonably be expected to give rise to a Drillsearch Material Adverse Charge that has not been disclosed to ASX or to Great Artesian in the Drillsearch Disclosure Material.
- (h) **(provision of Drillsearch Information)** the Drillsearch Information:
- (i) will be provided in good faith and on the understanding that Great Artesian and each of the Officers of Great Artesian will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme, and that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet (as the case may be); and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and all relevant policy statements, practice notes and other guidelines and requirements of ASIC;
- (i) **(Drillsearch Information true)** the Drillsearch Information included or incorporated by reference in the Scheme Booklet in the form consented to by Drillsearch will not, as at the date of dispatch of the Scheme Booklet to the Great Artesian Shareholders, contain any statement which is misleading or deceptive in any material respect nor contain any material omission having regard to applicable disclosure requirements and Drillsearch will not be responsible for any other information in the Scheme Booklet;
- (j) **(update of Drillsearch Information)** it will, as a continuing obligation, provide to Great Artesian all such further or new information which may arise after the Scheme Booklet has been dispatched until the date of the Scheme Meeting where that may be necessary to ensure that there would be no breach of **clause 8.2(i)** as soon as practicable and in any event within two Business Days after the date upon which that information arose;
- (k) **(securities)** its issued securities as at the date of this document are 1,165,193,238 Drillsearch Shares, and neither it nor any of its Related Entities is under any obligation to issue any shares or securities convertible into shares to any person (other than under the terms of the Great Artesian Subscription and the Circumpacific Stock Option Plan or pursuant to an issue of Drillsearch shares under the shortfall to Drillsearch's 1 for 1 rights issue conducted pursuant to the prospectus lodged with ASIC on 18 January 2008) and, except as specified above, no option exists nor is Drillsearch or any of its Related Entities subject to any actual or contingent obligation to issue or convert securities; and

- (l) (**compliance with laws**) as far as Drillsearch is aware, after making enquiries of its Officers, it and its Related Entities have complied in all material respects with all applicable laws and regulations which would, if breached, have a material adverse effect on:
 - (i) the financial position of Drillsearch and its Related Entities as a whole; or
 - (ii) on the implementation of this Transaction; and
- (m) (**Disclosure Material**) Drillsearch has collated and prepared all of the Disclosure Material in good faith for the purposes of a high level due diligence exercise (but which exercise does not include diligence on information of commercial or competitive sensitivity) and in this context, as far as Drillsearch is aware, such Disclosure Material has been collated with all reasonable care and skill; and
- (n) (**Non-solicitation of Great Artesian employees**) other than in circumstances where the Scheme has become Effective, Drillsearch will not at any time during the period from the date of this agreement to the date that is 12 months after the Quit Date, employ or make an offer of employment to any employee of Great Artesian, or by any direct or indirect means encourage any employee of Great Artesian to make, or intimate to any employee of Great Artesian that Drillsearch would be prepared to entertain, an application for employment with Drillsearch.

8.3 Timing of representations

Each representation and warranty made under this **clause 8** is made, unless otherwise expressly stated, as at the date of this document and as at 8.00 am on the Second Court Date.

8.4 Reliance by parties

Each party (the **representor**) acknowledges that in entering into this document the other party has relied on the representations and warranties provided by the representor under this **clause 8**. The representations and warranties provided by the representor are not extinguished or affected by any investigation made by or on behalf of the other party into the affairs or business of the representor or its Related Entities.

8.5 Survival of representations

The representations and warranties provided by each party under this **clause 8**:

- (a) are severable; and
- (b) will survive the termination of this document.

9 Indemnities

9.1 Great Artesian's indemnity

Great Artesian agrees with Drillsearch to indemnify and keep indemnified Drillsearch and its Representatives from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which they may suffer or incur by reason of or in relation to:

- (a) a breach by Great Artesian of any of the representations and warranties in **clause 8.1**; or
- (b) any breach by Great Artesian of any covenant or undertaking on the part of Great Artesian under this document or the Scheme.

This **clause 9.1** must be read down to the extent necessary to ensure that there is no breach of section 199A of the Corporations Act.

9.2 Drillsearch's indemnity

Drillsearch agrees with Great Artesian to indemnify and keep indemnified Great Artesian and its Representatives from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which they may suffer or incur by reason of or in relation to:

- (a) a breach by Drillsearch of any of the representations and warranties in **clause 8.2**; or
- (b) any breach by Drillsearch of any covenant or undertaking on the part of Drillsearch under this document or the Scheme.

This **clause 9.2** must be read down to the extent necessary to ensure that there is no breach of section 199A of the Corporations Act.

9.3 Survival of indemnities

Each indemnity provided by each party under this **clause 9** will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this document; and
- (d) survive the termination of this document.

10 Confidentiality

Each party must comply, and must procure that its Representatives comply, with the terms of the Confidentiality Agreement. For the purposes of the Confidentiality Agreement, each party consents to the use of, and the disclosure on a confidential basis to a Regulatory Authority of, its confidential

information for the purposes of satisfying any Condition Precedent and the implementation of the transactions contemplated by this document. Nothing in this clause derogates from a party's obligations to comply with **clause 11** or **clause 12**.

11 Great Artesian Exclusivity

11.1 No current discussions

Great Artesian represents and warrants to Drillsearch that, as at the date of this document, neither it nor any of its Representatives:

- (a) is participating, directly or indirectly, in any discussions or negotiations with a third party that concern, or could reasonably be expected to lead to, a Third Party Proposal involving Great Artesian; or
- (b) is a party to any agreement, arrangement or understanding with a third party in relation to a Third Party Proposal or a possible Third Party Proposal that would prevent it entering into this document or complying with its obligations under this document.

11.2 No solicitation

During the Exclusivity Period, Great Artesian must ensure that neither it nor its Representatives directly or indirectly:

- (a) solicit, invite, initiate or encourage the submission of, any enquiries; or
- (b) communicate to any person an intention to do any of the things referred to in **clause 11.2(a)**;

which might lead to obtaining any expression of interest, offer or proposal from any other person in relation to a Third Party Proposal.

11.3 No due diligence

During the Exclusivity Period, Great Artesian must not and must use reasonable endeavours to ensure that its Representatives do not, solicit any person to undertake any due diligence investigations regarding Great Artesian or any of its subsidiaries or any of their operations which might lead to a Third Party Proposal.

11.4 No talk

During the Exclusivity Period, Great Artesian must not and must use all reasonable endeavours to ensure that its Representatives do not:

- (a) directly or indirectly enter into or participate in any discussions or negotiations with any person regarding a Third Party Proposal;
- (b) enter into any agreement, arrangement or understanding in relation to, or which might lead to, a Third Party Proposal; or
- (c) endorse, or propose to endorse, any Third Party Proposal.

11.5 Notification of approaches

- (a) During the Exclusivity Period, Great Artesian must promptly notify Drillsearch in writing of any approach, inquiry or proposal made to, and any attempt to initiate negotiations or discussions with, Great Artesian or any of its Representatives with respect to any Third Party Proposal.
- (b) A notice under this clause must include comprehensive details of the applicable matter (including reasonable details of the Third Party Proposal and the identity of that person).

11.6 Exception to no talk

Despite anything else in this document:

- (a) the restrictions in **clause 11.3** or **11.4** do not apply to restrict Great Artesian taking any action with regard to a Third Party Proposal in respect of all the Great Artesian Shares or substantially all of Great Artesian's businesses (which was not solicited or initiated by Great Artesian in contravention of **clause 11.2**); and
- (b) the obligations in **clause 11.5** do not apply to require Great Artesian to inform Drillsearch of a Third Party Proposal,

where such action or inaction (as the case may be) is necessary to discharge the fiduciary or statutory duties of the directors of Great Artesian (or to avoid a contravention of law).

11.7 Revisions to a Third Party Proposal

Any modification to any Third Party Proposal will be deemed to make that proposal a new Third Party Proposal in respect of which Great Artesian must comply with its obligations under **clause 11.5**.

12 Drillsearch Exclusivity

12.1 No current discussions

Drillsearch represents and warrants to Great Artesian that, as at the date of this document, neither it nor any of its Representatives:

- (a) is participating, directly or indirectly, in any discussions or negotiations with a third party that concern, or could reasonably be expected to lead to, a Third Party Proposal involving Drillsearch; or
- (b) is a party to any agreement, arrangement or understanding with a third party in relation to a Third Party Proposal or a possible Third Party Proposal that would prevent it entering into this document or complying with its obligations under this document.

12.2 No solicitation

During the Exclusivity Period, Drillsearch must ensure that neither it nor its Representatives directly or indirectly:

- (a) solicit, invite, initiate or encourage the submission of, any enquiries; or

- (b) communicate to any person an intention to do any of the things referred to in **clause 12.2(a)**;

which might lead to obtaining any expression of interest, offer or proposal from any other person in relation to a Third Party Proposal.

12.3 No due diligence

During the Exclusivity Period, Drillsearch must not and must use reasonable endeavours to ensure that its Representatives do not, solicit any person to undertake any due diligence investigations regarding Drillsearch or any of its subsidiaries or any of their operations which might lead to a Third Party Proposal.

12.4 No talk

During the Exclusivity Period, Drillsearch must not and must use all reasonable endeavours to ensure that its Representatives do not:

- (a) directly or indirectly enter into or participate in any discussions or negotiations with any person regarding a Third Party Proposal;
- (b) enter into any agreement, arrangement or understanding in relation to, or which might lead to, a Third Party Proposal; or
- (c) endorse, or propose to endorse, any Third Party Proposal.

12.5 Notification of approaches

- (a) During the Exclusivity Period, Drillsearch must promptly notify Great Artesian in writing of any approach, inquiry or proposal made to, and any attempt to initiate negotiations or discussions with, Drillsearch or any of its Representatives with respect to any Third Party Proposal.
- (b) A notice under this clause must include comprehensive details of the applicable matter (including reasonable details of the Third Party Proposal and the identity of that person).

12.6 Exception to no talk

Despite anything else in this document:

- (a) the restrictions in **clause 12.3** or **12.4** do not apply to restrict Drillsearch taking any action with regard to a Third Party Proposal in respect of all the Drillsearch Shares or substantially all of Drillsearch's businesses (which was not solicited or initiated by Drillsearch in contravention of **clause 12.2**); and
- (b) the obligations in **clause 12.5** do not apply to require Drillsearch to inform Great Artesian of a Third Party Proposal,

where such action or inaction (as the case may be) is necessary to discharge the fiduciary or statutory duties of the directors of Drillsearch (or to avoid a contravention of law).

12.7 Revisions to a Third Party Proposal

Any modification to any Third Party Proposal will be deemed to make that proposal a new Third Party Proposal in respect of which Drillsearch must comply with its obligations under **clause 12.5**.

13 Break Fees

13.1 Rationale

The parties acknowledge that:

- (a) each party has required the inclusion of this **clause 13**, in the absence of which it would not have entered into this document or otherwise agreed to propose the Scheme.
- (b) each party and their respective Boards believe that the Scheme will provide significant benefits to Great Artesian Shareholders and to Drillsearch shareholders and that it is reasonable and appropriate that the parties agree to the inclusion of this **clause 13**, in order to secure the party's execution of this document and the parties' agreement to propose the Scheme.

13.2 Great Artesian Break Fee

- (a) Great Artesian will pay Drillsearch the Great Artesian Break Fee if any of the following occur:
 - (i) any director of Great Artesian:
 - (A) makes any public statement prior to the approval of the Scheme by the Court under section 411(4)(b) to the effect that he or she does not support (or no longer supports) the Scheme; or
 - (B) (without limiting **paragraph (i)** above) fails to recommend the Scheme or, having done so, any director of Great Artesian publicly withdraws or varies his or her favourable recommendation of the Scheme (or any part of it) prior to the approval of the Scheme by the Court under section 411(4)(b),

other than (in either such case) because the Independent Expert has concluded in the Independent Expert's Report or in any supplementary report of the Independent Expert that the Scheme is not in the best interests of Great Artesian Shareholders;
 - (ii) before the Scheme becomes Effective, any director of Great Artesian publicly recommends, promotes or otherwise endorses a Third Party Proposal in relation to Great Artesian; or
 - (iii) before the Scheme becomes Effective:
 - (A) a Third Party Proposal in relation to Great Artesian is announced or open for acceptance;

- (B) the person proposing the Third Party Proposal (either alone or together with its Associates) acquires a Relevant Interest in 20% or more in the voting shares of Great Artesian; and
- (C) that Third Party Proposal is more favourable to Scheme Participants than the Scheme, taking into account all terms and conditions of the Third Party Proposal; or
- (iv) Great Artesian is in material breach of any of its obligations under this agreement and (if capable of remedy) has failed to remedy the breach within three Business Days of receipt by it of written notice from Drillsearch notifying Great Artesian of the breach;
- (b) For the purposes of **clause 13.2**, customary qualifications and explanations contained in the Scheme Booklet in relation to the recommendation to vote in favour of the Scheme to the effect that the recommendation is made subject to the Independent Expert concluding that the Scheme is in the best interests of Great Artesian Shareholders or that the recommendation is made in the absence of a superior proposal from a third party will not be regarded as a failure to make or withdraw the making of a recommendation in favour of the Scheme.
- (c) Any payment required to be made to Drillsearch in satisfaction of this **clause 13.2** must be paid within five Business Days of the relevant event specified in **clause 13.2** above occurring.

13.3 Drillsearch Break Fee

- (a) Drillsearch will pay Great Artesian the Drillsearch Break Fee if any of the following occur:
 - (i) before the Scheme becomes Effective a Third Party Proposal in relation to Drillsearch is announced or open for acceptance; or
 - (ii) Drillsearch is in material breach of any of its obligations under this agreement and (if capable of remedy) has failed to remedy the breach within three Business Days of receipt by it of written notice from Great Artesian notifying Drillsearch of the breach.
- (b) The Drillsearch Break Fee payable pursuant to **clause 13.3(a)(i)** is only payable where this document is terminated in accordance with **clause 15.2(a)**.
- (c) Any payment required to be made to Great Artesian in satisfaction of this **clause 13.3** must be paid within five Business Days of the relevant event specified in **clause 13.3** above occurring.

13.4 Compliance with law

- (a) If a court or the Takeovers Panel determines that any obligation of a party under this **clause 13**:
 - (i) involves, involved or would involve a breach of the duties of the Directors of that party; or

(ii) constitutes, unacceptable circumstances within the meaning of the *Corporations Act*; or

(iii) is, was or would be unlawful,

then, to that extent, that party is not obliged to comply with that provision of **clause 13**.

- (b) A party must not make, nor may it cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in **clause 13.4(a)**.
- (c) If the court or the Takeovers Panel consents, a party must allow the other party (at that party's cost) to participate with the original party in any action or proceedings referred to in **clause 13.4(a)**.

13.5 Clause without prejudice

Nothing in this **clause 13** affects any rights a party may have against the other party in the event of any breach of this document by the other party.

13.6 Calculation of break fee

The Great Artesian Break Fee and the Drillsearch Break Fee have been calculated to reimburse each party for the following:

- (a) fees for legal and financial advice in planning and proposing the Transaction and the Scheme;
- (b) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
- (c) costs of management and directors' time in undertaking due diligence, planning and proposing the Transaction;
- (d) out of pocket expenses including, but not limited to, airfares, hotel accommodation, meals and associated expenses incurred by a party and its Representatives in planning and proposing the Transaction;
- (e) any damage to that party's reputation associated with a failed transaction and the implications of those damages if Drillsearch sought to execute alternative acquisitions in the future;
- (f) costs as a result of losses sustained on hedges and other derivative instruments taken out in order to manage risks associated with the Transaction; and
- (g) costs of planning the merging of the businesses.

13.7 Quantification

The parties acknowledge that the amount of fees, costs and losses referred to in **clause 13.6** is inherently unascertainable and that, even after termination of this document, the costs will not be able to be accurately ascertained. The amount of the Great Artesian Break Fee and the Drillsearch Break Fee is a genuine and reasonable pre-estimate of those fees, costs and losses (it being

acknowledged by the parties that the costs would most likely be significantly in excess of this amount).

14 Public announcements

14.1 Announcement of Transaction

Immediately after execution of this document, the parties will each issue the Announcement.

14.2 Public announcements

Subject to **clause 14.3**, no public announcement or disclosure of the Transaction or any other transaction the subject of this document or the Scheme may be made other than in a form approved by each party (acting reasonably), but each party must use all reasonable endeavours to provide such approval as soon as practicable.

14.3 Required disclosure

Where a party is required by law or the ASX Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this document or the Scheme, it may do so only after it has given at least one Business Day's notice, or such lesser period as may be required or permitted to comply with its legal or regulatory responsibilities, but in any event prior notice, to the other party and has taken all reasonable steps to consult with the other party and its legal advisers and to take account of all reasonable comments received from the other party.

14.4 Statements on termination

The parties must act in good faith and use all reasonable endeavours to issue an agreed statement or statements in respect of any termination of negotiations provided for in this document and will make no statements or disclosure in respect of the termination of this document except in accordance with **clauses 14.2 and 14.3**.

15 Termination

15.1 Termination rights by either party

This document may be terminated with immediate effect by either party giving notice to the other if:

- (a) the Effective Date for the Scheme has not occurred on or before the Quit Date;
- (b) the Independent Expert concludes that the Scheme is not in the best interests of Great Artesian Shareholders;
- (c) the other party is in material breach of its obligations under this document at any time before 8.00am on the Second Court Date (including any material breach of a representation or warranty provided

under this document) and (if capable of remedy) has failed to remedy the breach within three Business Days of receipt by it of written notice from the first party notifying the other party of the breach;

- (d) at the Scheme Meeting or any adjournment or postponement of it at which the Scheme is voted on, the Scheme is not approved by the necessary majorities of Great Artesian Shareholders;
- (e) any court or Regulatory Authority has issued any order, decree or ruling or taken any other action permanently enjoining, restraining or otherwise prohibiting the Scheme, or has refused to do anything necessary to permit the Scheme, and the parties fail to agree on conducting an appeal within 5 Business Days; or
- (f) any of the Conditions Precedent in **clause 3.1** is not satisfied, has become incapable of being satisfied or is not reasonably capable of being satisfied, and has not been waived by the party entitled to waive it, before 8.00am on the Second Court Date.

15.2 Termination by Great Artesian

Great Artesian may, by notice in writing to Drillsearch, terminate this document with immediate effect if:

- (a) any of the circumstances in **clause 13.3(a)** occurs or arises;
- (b) any of the Conditions Precedent become impossible to be achieved, or in any event if all of the Conditions Precedent are not satisfied by the Quit Date.

15.3 Termination by Drillsearch

Drillsearch may, by notice in writing to Great Artesian, terminate this document with immediate effect if:

- (a) any of the circumstances in **clause 13.2(a)** occurs or arises; or
- (b) any of the Conditions Precedent become impossible to be achieved, or in any event if all of the Conditions Precedent are not satisfied by the Quit Date.

15.4 Effect of termination

If this document is terminated by a party under this **clause 15**:

- (a) each party will be released from its obligations under this document except its obligations under **clauses 8, 9, 10, 13 and 14**;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this document; and
- (c) in all other respects, all future obligations of the parties under this document will immediately terminate and be of no further force or effect, including without limitation any further obligations in respect of the Scheme.

16 GST

16.1 Definitions

In this **clause 16**:

Consideration has the meaning given by the GST Law.

GST has the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply.

GST Group has the meaning given by the GST Law.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), or, if that Act does not exist means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Tax Invoice has the meaning given by the GST Law.

Taxable Supply has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

16.2 GST to be added to amounts payable

If GST is payable on a Taxable Supply made under this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration, subject to the supplier issuing a Tax Invoice at or before the time for payment. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly stated to be GST inclusive.

16.3 Liability net of GST

Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability. A party will be assumed to have an entitlement to a full Input Tax Credit unless it demonstrates otherwise prior to the date on which the Consideration must be provided.

16.4 Cost exclusive of GST

Any reference in this document (other than in the calculation of Consideration) to cost, expense or other similar amount (**Cost**), is a reference to that Cost exclusive of GST.

16.5 GST obligations to survive termination

This clause will continue to apply after expiration or termination of this document.

17 Notices

17.1 General

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

17.2 How to give a communication

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

- (a) personally delivered;
- (b) left at the party's current address for notices;
- (c) sent to the party's current address for notices by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail; or
- (d) sent by fax to the party's current fax number for notices.

The parties will use all reasonable endeavours to provide a copy of any communication provided under this clause by email to the email address of the other party set out in **clause 17.3**. To avoid doubt, such email communication is provided as support for the official communication provided in accordance with paragraphs (a) to (d) of this clause and does not supersede or replace any obligation on a party to provide that communication in accordance with paragraphs (a) to (d) of this clause or derogate from the other provisions of this **clause 17**.

17.3 Particulars for delivery of notices

- (a) The particulars for delivery of notices are initially:

Drillsearch

Address: Level 8, 16 Spring Street
Sydney, NSW 2000

Fax: (02) 9241 4404

Attention: Peter Simpson

Email: psimpson@peterpan.com.au

Great Artesian

Address: Level 2, 161 Walker Street,
North Sydney, NSW 2060

Fax: (02) 9929 3883

Attention: David Williams

Email: david.williams@greatoil.com.au

- (b) Each party may change its particulars for delivery of notices by notice to each other party.

17.4 Communications by post

Subject to **clause 17.6**, a communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting; or
- (b) in any other case, ten Business Days after posting.

17.5 Communications by fax

Subject to **clause 17.6**, a communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

17.6 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

17.7 Process service

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 17** or in accordance with any applicable law.

18 General

18.1 Duty

- (a) Drillsearch as between the parties is liable for and must pay all duty (including any fine or penalty except where it arises from default by the other party) on or relating to this document, the Scheme, the Deed Poll, any document executed under any of these, or any dutiable transaction evidenced or effected by any of these.

- (b) If a party other than Drillsearch pays any duty (including any fine or penalty) on or relating to this document, the Scheme, the Deed Poll, any document executed under any of these, or any dutiable transaction evidenced or effected by any of these, Drillsearch must pay that amount to the paying party on demand.

18.2 Legal costs

Except as expressly stated otherwise in this document, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.

18.3 Amendment

This document may only be varied or replaced by a document executed by the parties.

18.4 Waiver and exercise of rights

- (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

18.5 Rights cumulative

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

18.6 Consents

Except as expressly stated otherwise in this document, a party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.

18.7 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this document and to perform its obligations under it.

18.8 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in New South Wales.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and of the Commonwealth of Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

18.9 Assignment

- (a) A party must not assign or deal with any right under this document without the prior written consent of the other parties.
- (b) Any purported dealing in breach of this clause is of no effect.

18.10 Liability

An obligation of two or more persons binds them separately and together.

18.11 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

18.12 Entire understanding

- (a) This document contains the entire understanding between the parties as to the subject matter of this document.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
 - (i) affects the meaning or interpretation of this document; or
 - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

18.13 Relationship of parties

This document is not intended to create a partnership, joint venture or agency relationship between the parties.

18.14 No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this document. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

18.15 Specific Performance

The parties acknowledge that damages will not be an adequate remedy for breaches of obligations under this document and that it would be appropriate for a Court to grant specific performance of those obligations.

Schedule 1 – Timetable

Not reproduced here.

Schedule 2

Secondment Terms

The following terms will apply to the secondment of David Williams to Drillsearch pursuant to **clause 7(a)** of the agreement (**Secondment**):

- (a) Great Artesian will provide the services of David Williams (**Secondee**) to Drillsearch for up to 20 hours per week, or such other period as agreed by Great Artesian.
- (b) The period of the secondment will be from the date of this agreement until the earliest of:
 - (i) the Implementation Date;
 - (ii) the Quit Date; or
 - (iii) such other date agreed between the parties.
- (c) The Secondee is to perform such management functions in connection with Drillsearch as may be determined by the executive chairman of Drillsearch, acting reasonably. The Secondee will remain at all times under the direction and supervision of Drillsearch management and the Drillsearch Board.
- (d) In consideration for the services of the Secondee, Drillsearch must pay Great Artesian the amount of \$10,000 (plus GST) per week (**Secondment Fee**).
- (e) Payment of the Secondment Fee must be made within seven Business Days of receipt by Drillsearch of a tax invoice from Great Artesian.
- (f) Drillsearch agrees to provide the Secondee with access to such number of Drillsearch employees and consultants as the Secondee may consider to be reasonably necessary for the Secondee to provide the services and to discharge his duties in a diligent and professional manner.
- (g) Drillsearch acknowledges that the Secondee may also use employees or consultants of Great Artesian in connection with the performance of his duties in accordance with **paragraph (c)** of these secondment terms.
- (h) Confidentiality
 - (i) All Confidential Information is and remains the property of Drillsearch and Great Artesian assigns and will procure that the Secondee will assign to Drillsearch any interest they have in the Confidential Information.
 - (ii) Great Artesian must procure that without Drillsearch's consent, the Secondee must not at any time copy or take extracts from Confidential Information or remove any Confidential Information from the premises of Drillsearch except in the normal course of the Secondment. In the case of approved removal, Great Artesian must procure that the Secondee must as promptly as possible return the information to Drillsearch.
 - (iii) Great Artesian must procure that the Secondee must not either before or after the Secondment disclose to any person (other than Drillsearch and

persons from time to time authorised by Drillsearch) any Confidential Information.

- (iv) Great Artesian must procure that the Secondee must not make any use of any such Confidential Information to gain directly or indirectly any improper advantage to himself or to any other person, firm or body corporate.
- (v) When the Secondment ends, Great Artesian must procure that the Secondee must leave in the possession of, or return to, Drillsearch any Confidential Information including copies or extracts which are in his possession at any time prior to termination.
- (vi) Nothing in this **paragraph (h)** limits **clause 10** of this agreement.
- (vii) In this **paragraph (h)**, "Confidential Information" means any information obtained by Great Artesian or the Secondee in the course of the Secondment, whether or not marked or designated as confidential, secret or otherwise and including:
 - (A) trade secrets of Drillsearch;
 - (B) technical information of Drillsearch;
 - (C) commercial information about Drillsearch and persons with whom Drillsearch deals;
 - (D) product and market information of Drillsearch; and
 - (E) any information marked "confidential" or which Drillsearch informs the Secondees is confidential or a trade secret;but excluding:
 - (F) information available to the public, and
 - (G) information which Great Artesian or the Secondee can prove they lawfully possessed before obtaining it either in the course of the Secondment or prior to the commencement of the Secondment.
- (viii) Great Artesian must procure that any Great Artesian employees or consultants utilised by the Secondee as part of the Secondment must comply with the terms of confidentiality and obligations set out in this **paragraph (h)**.

Annexure A - Scheme

Not reproduced here. Refer to Appendix D of the Scheme Booklet

Annexure B – Deed Poll

Not reproduced here. Refer to Appendix E of the Scheme Booklet.

Annexure C – Announcement

Not reproduced here.

Annexure D – Drillsearch’s Disclosure Material

Not reproduced here.

Annexure E – Great Artesian’s Disclosure Material

Not reproduced here.

Annexure F – Material Contracts

Not reproduced here.