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**ANNEXURE 2**

**STATEMENT OF KEY AMENDMENTS**

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Pasminco Limited  
(Administrators Appointed)  
ACN 004 368 674  
and its wholly owned  
Australian subsidiaries

Statement of key amendments to the statement setting out details of the  
Deeds and the other Restructure Documents for the purposes of  
s439A(4)(c) of the Corporations Act

**This Statement has been prepared exclusively for the use of creditors of the Pasminco Limited Group pursuant to the Corporations Act. The Statement does not constitute an offer to issue or to sell or the solicitation of an offer to acquire or to buy any securities in any jurisdiction, including the United States.**

This document sets out the key amendments which have been made to the version of the Statement included as annexure 1 to the Administrators' first report dated 1 July 2002. The amended version of the Statement is included as annexure 1 to the Administrators' second report.

Terms defined in this document have the same meaning as in the Statement.

## 1. Transitional Services Agreement

**Section 1** is amended to reflect that there may be a Transitional Services Agreement under which the Ongoing Group and the Residual Group will agree to provide certain services to each other after completion of the Capital Raising.

## 2. Holdings

The Statement is amended throughout to reflect that if the Capital Raising proceeds by way of a Sale Raising, it is proposed the offer of shares in Newco for sale will be made by Holdings and not Pasminco Limited.

## 3. 'Newco Shares' to 'Creditor Shares'

The expression 'Newco Shares' is changed throughout to 'Creditor Shares'. This better reflects that the Creditor Shares will be the shares in Newco retained for distribution to Deed Creditors or the Warrant Trustee.

## 4. Requirement to give the Capital Raising Direction

**Section 3** is amended to reflect that the following additional requirements must be satisfied before the Deed Administrators may give the Capital Raising Direction:

- the Loan Rationalisation Deeds have been executed by all the parties to them;
- the Budel Loan Rationalisation Deed has been executed by all the parties to it; and
- such other of the Restructure Documents as specified in the Deeds including the PPT Lease Transfer and Waiver Deed, the Mine Fleet Assets Transaction Waiver and Consent Deed, the Newcastle Ship Loader Transaction Waiver and Consent Deed and the Accommodation Village

Transaction Waiver and Consent Deed have been executed by all of the parties to them or the waiver, consents and other matters the subject of those documents have otherwise become binding as a consequence of the proposed parties to those agreements voting in favour of the relevant Deeds being executed or the Court so ordering.

**Section 3** is also amended to reflect that the Deed Administrators may with the approval of the Pricing Committee by resolution of that committee give the Capital Raising Direction even if any or all of the requirements under paragraphs **(d)** to **(h)** in **Section 3** have not been satisfied.

## 5. Release of Claims

On:

- Newco transferring the Net Proceeds and issuing the Creditor Shares to or as directed by Pasminco Limited or issuing the Consideration Shares to or as directed by Holdings, as the case may be; or
- resolution 2 described in **Section 5** being passed or Deed Creditors otherwise resolving that the Group's assets are to be sold or otherwise realised and the proceeds distributed pursuant to the Deeds,

the Deed Companies in the Residual Group, if the first bullet point above applies, and all Deed Companies if the second bullet point above applies, will (unless ownership of the share capital of the company or any holding company of the company is sold or is to be sold as part of the sale process being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company) sell their assets (if any) in accordance with the rules summarised in **Section 16** and pay the proceeds (if any) to or as directed by Pasminco Limited.

On:

- (a) ownership of the share capital of the company or any holding company of the company being sold as part of the sale procedure being undertaken by any holding company of that company pursuant to the Deed in respect of the holding company; or
- (b) the company paying the proceeds (if any) from the sale of its assets to or as directed by Pasminco Limited,

the company will be released from all Claims against it and Pasminco Limited will assume liability in respect of the Claims and the creditors of the Company will be entitled to prove in respect of the Claims against Pasminco Limited under the terms of the PL Deed.

**Sections 4** and **7** are amended to reflect that the company will also be released from all Claims against it and Pasminco Limited will assume liability in respect of the Claims and the creditors of the Company will be entitled to prove in respect of the Claims against Pasminco Limited under the terms of the PL Deed where the Deed Administrators confirm in writing that there are no proceeds for distribution.

## 6. PCML indemnity and Pasminco Limited guarantee in favour of QBE

Under an agreement between PCML, Pasminco Limited and QBE relating to the PPT Lease, PCML has provided an indemnity and Pasminco Limited has provided a guarantee in favour of QBE in respect of an amount relating to the PPT Lease.

A new paragraph is included in **Section 4** to reflect that, conditional on QBE providing various waivers and consents in relation to the PPT Lease:

- the Deeds will have the effect that the indemnity by PCML will not be compromised under the Deeds; and

- an agreement will be entered into between Pasminco Limited, Newco and QBE under which the guarantee by Pasminco Limited in favour of QBE will be replaced by a guarantee by Newco in favour of QBE.

## 7. Possible variations to structure

A new paragraph is included in **Section 4** explaining that the Deeds will allow for possible variations to the structure for the Capital Raising. For example, if the Capital Raising is to proceed by way of a Sale Raising (offer by or on behalf of Holdings of shares in Newco for sale), Newco may issue the Consideration Shares to Pasminco Finance (and/or another company in the Group) rather than to Holdings. The Sale Shares could then be transferred to Holdings by Pasminco Finance for Holdings to complete the Capital Raising by sale and transfer of the Sale Shares to successful applicants under the Capital Raising. Holdings could pay Pasminco Finance the proceeds received by Holdings from the Capital Raising in consideration for the Sale Shares.

The Deeds will also allow for the structure to be varied to involve an existing group company such as PCML instead of Newco acquiring the Ongoing Group and the debt payable by the Ongoing Group to the Residual Group. Holdings or another company in the Group could then offer shares in PCML or the other company for sale under a capital raising.

The acquisition of the Ongoing Group and the debt by PCML or the other company could occur as a pre-capital raising restructure. That is, those steps could occur prior to any 'Capital Raising Direction' being given or even prior to shares in PCML or the other company being offered to investors under a capital raising. It is possible that PCML or another company could become the holding company of the Ongoing Group as a further float failure option for consideration by creditors in addition to the other options described in **Sections 5, 6, 7 and 8** of the Statement.

## 8. If resolution 3 is passed - Formal winding up under the Act

If resolution 3 described in **Section 5** is passed or Deed Creditors otherwise resolve that the Group is to be wound up in accordance with the Act, the Deeds will terminate effective on the resolution being passed and the Deed Companies will be wound up in accordance with the Act.

**Section 8** is amended to reflect that if the Deeds terminate and the Deed Companies are to be wound up in accordance with the Act, the Deed Administrators and Voluntary Administrators may, without prejudice to the effect of any existing order of the Court, seek a further order from the Court as required:

- deeming claims of the Voluntary Administrators and Deed Administrators under the cross indemnity described in **Section 43** to rank equally with claims under section 556(1)(a) of the Act for the purposes of the winding up; and/or
- confirming that the Voluntary Administrators and Deed Administrators may have an equitable lien over all of the assets of the Group to secure their personal liability to third parties and their costs and expenses.

Deed Creditors agree they will not oppose any such application before the Court.

Deed Creditors also agree that the Deed Administrators may secure their rights under the Deeds and otherwise as described above as a charge over the assets of each company in the Group. This charge could be in lieu of the security arrangements currently contemplated under the Security Trust Deed to be provided in favour of the Voluntary Administrators and the Deed Administrators.

## 9. The Security Structure

**Section 17** is amended to:

- add Holdings as a guarantor and security provider;

- add the financiers under the funding provided to the Voluntary Administrators during the course of their appointment (the “**VA Facility**”) to the security structure (as such funding will no longer be repaid out of the proceeds of the Summit Facility);
- add the lessors or service providers under the PPT Lease, the Mine Fleet Asset Transaction, the Accommodation Village Transaction and the Newcastle Ship Loader Transaction to the security structure (the lessors will have security for the payment of an amount capped at one rental payment or service payment under each of these leases) (The operating lease payments and service payments referred to are those which have accrued in accordance with the terms of the relevant operating lease or service agreement but have not been paid. However, in the case of the PPT Lease, as the rent is paid 6 monthly, the amount secured will be pro-rated for the period of use of the PPT Assets prior to any enforcement of the security.); and
- adjust the priority regime.

**Section 17** is also amended to reflect that, as between themselves, employee Claims will be satisfied in order of their respective priority under s556 of the Act. Subject to agreement with Rio Tinto, sharing in the security granted to the employee Claims at the same level as injury compensation Claims, may include amounts owing in accordance with certain indemnity arrangements with certain companies in the Rio Tinto group of companies.

## 10. The Summit Facility

**Section 24** is amended to:

- reflect that the VA Facility will no longer be repaid out of the proceeds of the Summit Facility (the VA Facility will be restated on substantially the same terms and conditions as the Summit Facility, participations in the VA Facility will be sold to the Summit Facility financiers and the VA Facility will be repayable out of the proceeds of the Capital Raising);
- reflect that drawdowns may be made under the Summit Facility for the payment of PPT Lease arrears; and
- extend the circumstances in which the Summit Facility is reviewable by the Summit Facility financiers.

**Section 24** is also amended to reflect that the terms of the Summit Facility are still subject to final agreement with the Summit Facility financiers.

## 11. Budel Loan Rationalisation Deed

New **Section 26** is included setting out details of the Budel Loan Rationalisation Deed.

## 12. Failure to resolve to execute Deeds

The version of the Statement included as annexure 1 to the Administrators' first report reflected the previous intention that the failure of the Deed Creditors of any Deed Company to resolve that that company execute a Deed would be a termination event under the Deeds. **Section 29** is amended to reflect that the failure of the Deed Creditors of only certain of the Deed Companies as specified in the Deeds to resolve that those companies execute a Deed will be a termination event under the Deeds.

## 13. Termination

**Section 29** is amended to reflect that, in addition to the other termination events, a Deed will terminate if the Deed Administrators determine that it is in the best interests of the Deed Creditors that the relevant Deed Company be wound up in accordance with the Act.

## 14. Winding up

**Section 30** is amended to reflect that, in addition to the other winding up events, each Deed will have the effect that the Deed Company will be wound up under the Act on termination of the Deed if the Deed has terminated as a consequence of the Deed Administrators having given notice in writing to Deed Creditors that they have determined that it is in the best interests of the Deed Creditors that the relevant Deed Company be wound up in accordance with the Act.

## 15. Non-execution of the Security Trust Deed

**Sections 29** and **30** are amended to reflect that non-execution of the Security Trust Deed by all of the parties to it will not be a termination or winding up event under the Deeds.

## 16. Non-execution of Security Trust Deed and Summit Facility

New **Section 31** is included to reflect that if the Security Trust Deed and Summit Facility are not executed by all the parties to them on or before the Commencement Date, the Deeds will require the Deed Administrators to convene a meeting of Deed Creditors as soon as is practicable having regard to the circumstances.

At the meeting, Deed Creditors will be asked to consider, among other things, whether the Group's assets should be sold or otherwise realised and the proceeds distributed pursuant to the Deeds or whether the Group should be wound up in accordance with the Act.

Deed Creditors agree that if the Deeds terminate and the Deed Companies are to be wound up in accordance with the Act, the Deed Administrators and Voluntary Administrators may seek an order from the Court:

- deeming claims of the Voluntary Administrators and Deed Administrators under the cross indemnity described in **Section 43** to rank equally with claims under section 556(1)(a) of the Act for the purposes of the winding up; and/or
- confirming that the Voluntary Administrators and Deed Administrators may have an equitable lien over all of the assets of the Group to secure their personal liability to third parties and their costs and expenses.

Deed Creditors agree they will not oppose any such application before the Court.

Deed Creditors also agree that the Deed Administrators may secure their rights under the Deeds and otherwise as described above as a charge over the assets of each company in the Group.

## 17. Moratorium

New **Section 23** is included to reflect that it is proposed there may be a Newcastle Ship Loader Waiver and Consent Deed providing for the waiver of events of default and consent to the arrangements contemplated by the relevant Deeds under the Newcastle Ship Loader Transaction Documents.

**Section 36** is amended to reflect that the Deeds will provide that if the Newcastle Ship Loader Transaction Waver and Consent Deed is not entered into on or before the Commencement Date and:

- (a) the parties to the Newcastle Ship Loader Transaction Documents voted in favour of the resolution that the Deed be executed; or
- (b) the Court so orders,

then the waivers and consents contemplated under the Newcastle Ship Loader Waiver and Consent Deed will be effected under the Deeds to the extent possible.

## 18. Prohibition against share transfers

**Section 38** is amended to reflect that PL Deed will have the effect that Members of Pasminco Limited may not transfer and Pasminco Limited may not register any transfer of shares in the company while the PL Deed remains on foot without the prior written consent of the Deed Administrators. This prohibition does not apply if the Deed Administrators consent in writing to the re-commencement of official quotation of shares in Pasminco Limited on a financial market of ASX.

## 19. Powers of the Deed Administrators

**Section 40** is amended to reflect that the Deeds will confirm the power of the Deed Administrators to apply for a summons of any person for examination of the person about the examinable affairs of any person in the Pasminco Group pursuant to Division 1 of Part 5.9 of the Act or to apply for an order pursuant to Division 2 of Part 5.9 of the Act.

## 20. Voluntary and Deed Administrators' cross indemnity

The details of the indemnity given by each Deed Company in favour of the Voluntary Administrators and Deed Administrators in **Section 43** are amended to reflect that the indemnities are to be given jointly and severally by each Deed Company in the Ongoing Group and the Residual Group in respect of the activities of the Voluntary Administrators and the Deed Administrators in relation to any Deed Company and under any Deed in respect of the period until the Capital Raising has completed and by each Residual Group Company in respect of the period after the Capital Raising has completed.

**Section 43** is also amended to reflect that, in the case of companies in the Ongoing Group, the indemnity will not apply after the Capital Raising has completed. The previous version of the document expressed the previous intention that only the indemnities in paragraphs (b) and (e) would not apply after the Capital Raising has completed. The indemnity will continue to apply in the case of companies in the Residual Group after the Capital Raising has completed and the indemnity given by those companies will continue despite termination of the Deeds. The Voluntary Administrators and Deed Administrators will continue to be fully cross indemnified by the Residual Group in respect of all of the matters described above notwithstanding the indemnities by the Ongoing Group ceasing to apply after completion of the Capital Raising.

The Deed Administrators may pay amounts out of the Deed Company's funds to recover or satisfy amounts payable to the Voluntary Administrators and the Deed Administrators under the indemnity.

## 21. Records and inspection of premises of companies in the Ongoing Group

New **Section 50** is included to reflect that each company in the Ongoing Group agrees that each company in the Residual Group and its representatives including its professional advisers and the Deed Administrators may, during the period following termination of the Deed in respect of the company in the Ongoing Group and while the Deed in respect of the Residual Group company remains on foot, inspect and copy all records of the company in the Ongoing Group relating to the period until termination of the Deed in respect of the company in the Ongoing Group.

The company in the Residual Group must give reasonable notice before inspecting and copying documents and the inspection and copying must be done during business hours and for the purpose of the administration of the Deed in respect of the company in the Residual Group.

The relevant company in the Residual Group will be liable for disbursements incurred by the company in the Ongoing Group in relation to inspecting and copying the records. Where the records are subject to legal professional privilege or subject to obligations of confidentiality, the company in the Residual

Group must take all reasonable precautions to ensure the privilege is not lost and the confidentiality is maintained.

## 22. Termination of ASIC Deed of Cross Guarantee

New **Section 51** is included to reflect that provision will be made in the Deeds and other Restructure Documents for termination of the ASIC Deed of Cross Guarantee or the cessation of its operation in relation to members of the Ongoing Group. It is possible that the cessation of the operation of the ASIC Deed of Cross Guarantee in relation to members of the Ongoing Group will not take effect until some time after the Capital Raising has completed. If this transpires, it would be proposed that the Residual Group would indemnify the Ongoing Group against any claims against the Ongoing Group in reliance of the ASIC Deed of Cross Guarantee. The Ongoing Group would also indemnify the Residual Group against any claims against the Residual Group in reliance on the ASIC Deed of Cross Guarantee where the company primarily liable in respect of the claim is a company in the Ongoing Group.

## 23. Creditors agree to Loan Rationalisations

**Sections 25** and **26** of the Statement explain that the Loan Rationalisation Deeds and the Budel Loan Rationalisation Deed provide for a number of set offs, assignments and discharges of debt between members of the Group, and between Budel Zink B.V. and members of the Group, which will have the effect of significantly reducing the number and amount of debts outstanding.

New **Section 52** is included to reflect that the Deeds will contain an acknowledgment by Deed Creditors that the above is occurring and is necessary for the purposes of the restructure.