

TERMS AND CONDITIONS OF THE USD NC5 NOTES

The following, subject to alteration and except for the paragraphs in italics, are the terms and conditions of the USD NC5 Notes which will be endorsed on each Certificate issued in respect of the USD NC5 Notes.

*The defined terms used in these Terms and Conditions of the USD NC5 Notes (these **Conditions**) are only applicable to the USD NC5 Notes and shall not apply to the USD NC10 Notes.*

The US\$1,000,000,000 Subordinated Non-Call 5 Fixed Rate Reset Notes due 2075 (the **Notes**, which expression, unless the context otherwise requires, includes any further notes issued pursuant to Condition 11 and forming a single series with the **Notes**) of BHP Billiton Finance (USA) Limited (the **Issuer**) are constituted by a trust deed dated 19 October 2015 (such trust deed, as modified and/or amended and/or supplemented and/or restated from time to time, the **Trust Deed**) made between the Issuer, BHP Billiton Limited (the **Australian Guarantor**) and BHP Billiton Plc (the **UK Guarantor** and, together with the Australian Guarantor, the **Guarantors** and each a **Guarantor**) as guarantors and Citicorp Trustee Company Limited (the **Trustee**, which expression shall include any successor thereto) as trustee for the Noteholders (as defined below).

The Notes have the benefit of an agency agreement dated 19 October 2015 (such agency agreement, as modified and/or amended and/or supplemented and/or restated from time to time, the **Agency Agreement**) made between the Issuer, the Guarantors, the Trustee, Citigroup Global Markets Deutschland AG as initial registrar (in such capacity, the **Registrar**, which expression includes any successor thereto) and Citibank, N.A., London Branch as initial principal paying agent (in such capacity, the **Principal Paying Agent**, which expression includes any successor thereto, and the expression **Paying Agents** shall include the Principal Paying Agent and all persons for the time being a paying agent under the Agency Agreement), calculation agent (in such capacity, the **Calculation Agent**, which expression includes any successor thereto) and transfer agent (together with the Registrar, the **Transfer Agents**, which expression includes any successor(s) thereto, and, together with the Paying Agents and the Calculation Agent, the **Agents**). The statements in these Conditions include summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the form of the Notes.

Copies of the Trust Deed and the Agency Agreement are available for inspection during normal business hours by the Noteholders at the specified office of the Trustee (being, at the Issue Date, Citigroup Centre, Canada Square, Canary Wharf, London E14 5LB) and each of the Agents. The Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of all the provisions of, the Trust Deed and the Agency Agreement.

1. FORM, DENOMINATION AND TITLE

1.1 Form and denomination

The Notes are issued in registered form in amounts of US\$200,000 and integral multiples of US\$1,000 in excess thereof (referred to as the **principal amount** of a Note). A note certificate (each a **Certificate**) will be issued to each Noteholder in respect of its registered holding of Notes. Each Certificate will be numbered serially with an identifying number which will be recorded on the relevant Certificate and in the register of Noteholders (the **Register**) which the Issuer will procure to be kept by the Registrar.

1.2 Title

Title to the Notes passes only by registration in the Register. The holder of any Note will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest or any writing on (other than a duly executed transfer thereof in the form endorsed thereon), or

the theft or loss of, the Certificate issued in respect of it) and no person will be liable for so treating the holder.

In the Conditions, **Noteholder** and (in relation to a Note) **holder** mean the person in whose name a Note is registered in the Register.

The Notes are not issuable in bearer form.

2. TRANSFERS OF NOTES AND ISSUE OF CERTIFICATES

2.1 Transfers

Subject to Conditions 2.4 and 2.5 below, a Note may be transferred by depositing the Certificate issued in respect of that Note, with the form of transfer on the back duly completed and signed, at the specified office of any of the Transfer Agents.

For a description of the procedures for transferring title to book-entry interests in the Notes, see "Book-Entry and Clearance System".

2.2 Delivery of new Certificates

Each new Certificate to be issued upon transfer of Notes will, within 3 business days of receipt by the relevant Transfer Agent of the duly completed form of transfer endorsed on the relevant Certificate, be mailed by uninsured mail at the risk of the holder entitled to the Note to the address specified in the form of transfer. For the purposes of this Condition 2, **business day** shall mean a day, other than a Saturday or Sunday, on which banks are open for business in the city in which the specified office of the Transfer Agent with whom a Certificate is deposited in connection with a transfer is located.

Except in the limited circumstances described in "Summary of the Provisions Relating to the Notes while in Global Form", owners of interests in the Notes will not be entitled to receive physical delivery of Certificates. Issues of Certificates upon transfer of Notes are subject to compliance by the transferor and transferee with the certification procedures described above and in the Agency Agreement and, in the case of Rule 144A Notes, compliance with the Securities Act legend.

Where some but not all of the Notes in respect of which a Certificate is issued are to be transferred, a new Certificate in respect of the Notes not so transferred will, within 3 business days of receipt by the relevant Transfer Agent of the original Certificate, be mailed by uninsured mail at the risk of the holder of the Notes not so transferred to the address of such holder appearing on the Register or as specified in the form of transfer.

2.3 Formalities free of charge

Registration of transfer of Notes will be effected without charge by or on behalf of the Issuer or any Transfer Agent but upon payment by the Noteholder (or the giving of such indemnity as the Issuer or the relevant Transfer Agent may reasonably require) in respect of any tax or other governmental charges of whatsoever nature which may be imposed on the Issuer or the relevant Transfer Agent (as the case may be) in relation to such transfer.

2.4 Closed Periods

No Noteholder may require the transfer of a Note to be registered during the period of 15 days ending on the due date for any payment of principal or interest (including Arrears of Interest) on that Note.

2.5 Regulations

All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning transfers of Notes scheduled to the Agency Agreement. The regulations

may be changed by the Issuer with the prior written approval of the Registrar and the Trustee. A copy of the current regulations will be mailed (free of charge) by the Registrar to any Noteholder who requests one.

3. STATUS AND SUBORDINATION OF THE NOTES

3.1 Status of the Notes

The Notes constitute unconditional, unsecured and subordinated obligations of the Issuer and rank, and will at all times rank, *pari passu* without any preference among themselves. The rights and claims of the Noteholders under the Notes are subordinated as described in this Condition 3.

3.2 Subordination of the Notes

The payment obligations of the Issuer under the Notes shall, save for such exceptions as may be provided by applicable legislation, at all times rank in the event of a Winding-Up of the Issuer:

- (a) junior to the rights and claims of the holders of Senior Obligations of the Issuer;
- (b) *pari passu* with the rights and claims of any holders of Parity Obligations of the Issuer; and
- (c) senior to the rights and claims of the holders of the Issuer's Ordinary Shares.

To give effect to the intended ranking described above, if at any time a Winding-Up of the Issuer occurs (otherwise than for the purposes of a Solvent Reorganisation of the Issuer), the amount payable by the Issuer to a Noteholder under or in relation to such Noteholder's Notes (in lieu of any other payment by the Issuer to such Noteholder under or in relation to the Notes, including pursuant to the Conditions or the Trust Deed), shall be the amount that would have been payable to such Noteholder if, immediately prior to and throughout such Winding-Up, such Noteholder was the holder of Notional Preference Shares in the Issuer. For the purpose only of that calculation, a Noteholder will be deemed to hold one preference share of US\$1.00 each in the capital of the Issuer ranking equally with the Notional Preference Shares in the Issuer for each US\$1.00 of any amount that would otherwise be payable to that Noteholder under the Notes, including, without limitation, any accrued but unpaid interest and any outstanding Arrears of Interest (without double counting). Amounts payable to the Noteholders under this Condition 3.2 will only be paid after the debts owing to the holders of the Issuer's Senior Obligations have been paid in full.

Nothing in this Condition 3.2 shall affect or prejudice the payment of the costs, charges, expenses, liabilities or remuneration of the Trustee or the Agents or the rights and remedies of the Trustee or the Agents in respect thereof.

Each Noteholder will, by virtue of its holding of any Note, be deemed to have acknowledged and agreed that:

- (a) the claims of the holders of Senior Obligations of the Issuer to which it is subordinated include each such holder of Senior Obligations of the Issuer's entitlement to interest under section 563B of the Corporations Act and it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act;
- (b) the debt subordination effected by this Condition 3.2 is not affected by any act or omission of the Issuer or any of the holders of Senior Obligations of the Issuer which might otherwise affect it at law or in equity or by the Winding-Up of the Issuer;

- (c) it must pay or deliver to the liquidator any amount or asset received on account of its claim in the Winding-Up of the Issuer in respect of the Notes in excess of its entitlement under this Condition 3.2; and
- (d) it may not exercise any voting rights as a creditor in any administration which follows an insolvency of the Issuer until after all of the holders of Senior Obligations of the Issuer have been paid in full or otherwise.

4. GUARANTEE

4.1 Guarantee

The payment of principal, interest and all other moneys payable by the Issuer under or pursuant to the Notes and/or the Trust Deed (the **Guaranteed Amounts**) has been unconditionally and irrevocably guaranteed on a joint and several basis by each of the Guarantors (the **Guarantees** and each a **Guarantee**) in and on the terms set out in the Trust Deed. For the avoidance of doubt, any Arrears of Interest will not be a Guaranteed Amount until it becomes due and payable in accordance with Condition 6.5.

4.2 Status of the Guarantee

The obligations of each Guarantor under its respective Guarantee constitute unconditional, unsecured and subordinated obligations of such Guarantor. The rights and claims of the Noteholders under each Guarantee are subordinated as described in this Condition 4.

4.3 Subordination of the Guarantee

The payment obligations of each Guarantor under its respective Guarantee shall, save for such exceptions as may be provided by applicable legislation, at all times rank in the event of a Winding-Up of such Guarantor:

- (a) junior to the rights and claims of the holders of Senior Obligations of such Guarantor;
- (b) *pari passu* with the rights and claims of any holders of Parity Obligations of such Guarantor; and
- (c) senior to the rights and claims of the holders of such Guarantor's Ordinary Shares.

To give effect to the intended ranking described above, if at any time a Winding-Up of a Guarantor occurs (otherwise than for the purposes of a Solvent Reorganisation of such Guarantor), the amount payable by such Guarantor to a Noteholder under or in relation to its Guarantee (in lieu of any other payment by such Guarantor to such Noteholder under or in relation to its Guarantee), shall be the amount that would have been payable to such Noteholder if, immediately prior to and throughout such Winding-Up, such Noteholder was the holder of Notional Preference Shares in such Guarantor. For the purposes only of that calculation, a Noteholder will be deemed to hold one preference share of US\$1.00 each in the capital of such Guarantor ranking equally with the Notional Preference Shares in such Guarantor for each US\$1.00 of any amount that would otherwise be payable to that Noteholder under its respective Guarantee, including, without limitation, any accrued but unpaid interest and any outstanding Arrears of Interest (without double counting). Amounts payable to the Noteholders under this Condition will only be paid after the debts owing to the holders of the relevant Guarantor's Senior Obligations have been paid in full.

Nothing in this Condition 4.3 shall affect or prejudice the payment of the costs, charges, expenses, liabilities or remuneration of the Trustee or the Agents or the rights and remedies of the Trustee or the Agents in respect thereof.

Each Noteholder will, by virtue of its holding of any Note, be deemed to have acknowledged and agreed that:

- (a) (in the case of the Australian Guarantor) the claims of the holders of Senior Obligations of such Guarantor to which it is subordinated include each such holder of Senior Obligations of such Guarantor's entitlement to interest under section 563B of the Corporations Act and it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act;
- (b) (in the case of either Guarantor) the debt subordination effected by this Condition 4.3 is not affected by any act or omission of the relevant Guarantor or any of the holders of Senior Obligations of such Guarantor which might otherwise affect it at law or in equity or by the Winding-Up of such Guarantor;
- (c) (in the case of either Guarantor) it must pay or deliver to the liquidator any amount or asset received on account of its claim in the Winding-Up of the relevant Guarantor in respect of the Notes in excess of its entitlement under this Condition 4.3; and
- (d) (in the case of the Australian Guarantor) it may not exercise any voting rights as a creditor in any administration which follows an insolvency of such Guarantor until after all of the holders of Senior Obligations of such Guarantor have been paid in full or otherwise.

5. NO SET-OFF

To the extent and in the manner permitted by applicable law, neither the Trustee (in respect of amounts owed to the Trustee by the Issuer, either Guarantor or both Guarantors, as the case may be, in respect of, and arising from, the Notes and/or either Guarantee, as applicable, but not in respect of any fees or expenses owed to the Trustee by the Issuer, either Guarantor or both Guarantors, as the case may be) nor any Noteholder may exercise, claim or plead any right of set-off, counterclaim, compensation or retention in respect of any amount owed to it by the Issuer, either Guarantor or both Guarantors, as the case may be, in respect of, or arising from, the Notes and/or either Guarantee, as applicable, and the Trustee waives, and each Noteholder will, by virtue of its holding of any Note, be deemed to have waived, all such rights of set-off, counterclaim, compensation or retention.

6. INTEREST

6.1 Interest

Each Note shall entitle the Noteholder thereof to receive cumulative interest in accordance with the provisions of this Condition 6.

6.2 Interest Rate

Unless previously redeemed or purchased and cancelled in accordance with the Conditions, interest on the Notes will accrue:

- (a) from, and including, the Issue Date to, but excluding, 19 October 2020 (the **First Reset Date**), at an interest rate per annum of 6.250 per cent.; and
- (b) from, and including, the First Reset Date to, but excluding, the Maturity Date, at an interest rate per annum equal to the relevant Reset Interest Rate,

(each an **Interest Rate**), in each case on the outstanding principal amount of each Note, which interest will be payable semi-annually in arrear on 19 October and 19 April of each year (each an **Interest Payment Date**) commencing on 19 April 2016.

6.3 Interest Amount

- (a) Subject to Condition 6.4, the amount of interest payable in respect of the Calculation Amount on each Interest Payment Date to, and including, the First Reset Date shall be US\$31.25.
- (b) Subject to Condition 6.4, the amount of interest payable in respect of the Calculation Amount for any other period for which interest is to be calculated under this Condition 6.3 shall be calculated by:
 - (A) applying the applicable Interest Rate to the Calculation Amount;
 - (B) multiplying the product thereof by the Day Count Fraction; and
 - (C) rounding the resulting figure to the nearest cent (half a cent being rounded upwards).
- (c) The relevant amount of interest payable in respect of a Note for any period shall be the product of:
 - (i) the relevant amount of interest per Calculation Amount determined as described above; and
 - (ii) the number by which the Calculation Amount is required to be multiplied to equal the principal amount of such Note.

6.4 Optional deferral of interest payments

- (a) Interest shall be due and payable on each Interest Payment Date unless the Issuer elects, in its sole discretion, not to pay the whole of the Interest Amount falling due on that Interest Payment Date. If the Issuer elects not to pay the whole of any Interest Amount falling due on an Interest Payment Date, then it will not have any obligation to pay such Interest Amount on the relevant Interest Payment Date, unless the relevant Interest Payment Date is itself a Compulsory Settlement Date. For so long as any such Interest Amount remains unpaid, such Interest Amount will constitute a **Deferred Payment**. Additional interest will accrue on each Deferred Payment:
 - (i) at the same Interest Rate as the outstanding principal amount of the Notes bears from time to time; and
 - (ii) from (and including) the date on which (but for such deferral) the Deferred Payment would otherwise have been due to (but excluding) the date the Deferred Payment is paid,

and will be added to such Deferred Payment (and thereafter accumulate additional interest accordingly) on each Interest Payment Date. Each Deferred Payment and any additional interest thereon will be payable in accordance with Condition 6.5. The nominal amount of any Deferred Payments together with any additional interest thereon shall constitute **Arrears of Interest**.

- (b) The Issuer will notify the Noteholders (in accordance with Condition 16), the Trustee, the Registrar, the Principal Paying Agent and any stock exchange on which the Notes are listed from time to time (if required by the rules of such stock exchange) of any determination by it not to pay the whole of the Interest Amount which would otherwise fall due on an Interest Payment Date not more than 30 and not less than 5 Business Days prior to the relevant Interest Payment Date. Deferral of Interest Amounts pursuant to this Condition 6.4 will not constitute a default of the Issuer or either Guarantor or any breach of their respective obligations under the Notes or the Trust Deed or for any other purpose.

6.5 Payment of Deferred Payments

- (a) The Issuer may elect to pay outstanding Arrears of Interest (in whole or in part) at any time on the giving of at least 5 and not more than 15 Business Days' prior notice to the Noteholders, the Trustee, the Registrar and the Principal Paying Agent.
- (b) Any outstanding Arrears of Interest will become due and payable (in whole but not in part), and the Issuer must pay such Arrears of Interest, on a **Compulsory Settlement Date**, being the earliest of:
 - (i) the tenth Business Day following the date on which a Compulsory Arrears of Interest Payment Event occurs;
 - (ii) the next scheduled Interest Payment Date in respect of which the Issuer does not elect to defer the interest accrued in respect of the relevant Interest Period;
 - (iii) the Maturity Date or the date on which the Notes are otherwise redeemed; or
 - (iv) the date on which an order is made or a resolution is passed for the Winding-Up of the Issuer or either Guarantor.

If none of the events referred to above takes place prior to the calendar day which is the fifth anniversary of the Interest Payment Date on which any of the then outstanding Arrears of Interest was initially deferred, it is the intention (without assuming any legal obligation) of the Issuer to pay all outstanding Arrears of Interest in full on the next following Interest Payment Date.

6.6 Accrual

Interest will cease to accrue on each Note from and including its due date for redemption unless, upon the surrender of the Certificate representing such Note, payment of the principal in respect of the Note is improperly withheld or refused or unless default is otherwise made in respect of payment, in which event interest shall continue to accrue as provided in the Trust Deed.

6.7 Determination and publication of Reset Interest Rate

The Reset Interest Rate for each Reset Period will be determined by the Calculation Agent on the relevant Reset Determination Date and promptly notified by the Calculation Agent to the Issuer, the Guarantors, the Trustee, the Registrar, the Principal Paying Agent, to any stock exchange on which the Notes are listed from time to time (if required by the rules of such stock exchange) and to the Noteholders, without undue delay but, in any case, not later than the relevant Reset Date.

6.8 Determination by the Trustee

If the Calculation Agent defaults at any time in its obligation to determine the Reset Interest Rate in accordance with the above provisions, the Trustee (or an agent appointed by the Trustee at the expense of the Issuer) shall be entitled (but shall not be obliged) to determine the Reset Interest Rate at such rate as, in its opinion (having applied the above provisions with any necessary consequential amendments, to the extent that, in the Trustee's opinion, it can do so), it shall deem fair and reasonable in all the circumstances and any such determination shall be deemed to be a determination by the Calculation Agent.

6.9 Notifications, etc. to be final

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 6,

whether by the Reference Banks (or any of them) or the Calculation Agent or the Trustee (or its agent) will (in the absence of manifest error, negligence or wilful default) be binding upon the Issuer, the Guarantors, the Trustee, the Agents and all Noteholders and (in the absence of negligence and wilful default) no liability to the Issuer, the Guarantors, the Trustee or the Noteholders will attach to the Reference Banks (or any of them) or the Calculation Agent or the Trustee (or its agent) in connection with the exercise or non-exercise by any of them of their powers, duties and discretions pursuant to such provisions.

7. REDEMPTION AND PURCHASE

7.1 Maturity

Unless previously redeemed in accordance with the Conditions, the Notes will be redeemed on 19 October 2075 (the **Maturity Date**) at their outstanding principal amount plus any accrued but unpaid interest up to (but excluding) the Maturity Date and any outstanding Arrears of Interest (without double counting).

7.2 Early redemption at the option of the Issuer

Subject to applicable laws, the Issuer may redeem the Notes (in whole but not in part) on the First Reset Date or on any Interest Payment Date thereafter at their outstanding principal amount plus any accrued but unpaid interest up to (but excluding) the relevant Redemption Date and any outstanding Arrears of Interest (without double counting), on the giving of not less than 15 and not more than 30 calendar days' irrevocable notice of redemption to the Noteholders, the Trustee, the Registrar and the Principal Paying Agent.

7.3 Early redemption due to a Gross-Up Event or a Substantial Repurchase Event

- (a) If a Gross-Up Event or a Substantial Repurchase Event occurs, the Issuer may, subject to applicable laws, redeem the Notes (in whole but not in part) at their outstanding principal amount plus any accrued but unpaid interest up to (but excluding) the relevant Redemption Date and any outstanding Arrears of Interest (without double counting), on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Noteholders, the Trustee, the Registrar and the Principal Paying Agent.
- (b) In the case of a Gross-Up Event:
 - (i) no such notice of redemption may be given earlier than 90 calendar days prior to the earliest calendar day on which the Issuer or the relevant Guarantor(s), as the case may be, would be obliged to pay the Additional Amounts in question were a payment in respect of the Notes then due; and
 - (ii) prior to the giving of any such notice of redemption, the Issuer will deliver or procure that there is delivered to the Trustee a certificate signed by an authorised officer of the Issuer or the relevant Guarantor(s), as the case may be, stating that the Issuer is entitled to effect such redemption and setting out a statement of facts showing that the conditions to the exercise of the right of the Issuer to redeem have been satisfied and that the obligation to pay Additional Amounts cannot be avoided by the Issuer or the relevant Guarantor(s), as the case may be, taking reasonable measures available to it, and the Trustee shall be entitled, without liability to any person, to accept such certificate as sufficient evidence of the satisfaction of the conditions precedent set out above, in which event it shall be conclusive and binding on the Noteholders.

- (c) In the case of a Substantial Repurchase Event, prior to giving any notice of redemption, the Issuer will deliver or procure that there is delivered to the Trustee a certificate signed by an authorised officer of the Issuer stating that a Substantial Repurchase Event has occurred. The Trustee shall be entitled, without liability to any person, to accept such certification as sufficient evidence that a Substantial Repurchase Event has occurred, in which event it shall be conclusive and binding on the Noteholders.

7.4 Early redemption due to a Tax Deduction Event or Rating Agency Event

If a Tax Deduction Event or a Rating Agency Event occurs, the Issuer may, subject to applicable laws, redeem the Notes (in whole but not in part) at any time at:

- (a) their Early Redemption Amount, where the relevant Redemption Date occurs prior to but excluding the First Reset Date; or
- (b) their outstanding principal amount plus any accrued but unpaid interest up to (but excluding) the relevant Redemption Date and any outstanding Arrears of Interest (without double counting), where the relevant Redemption Date occurs after, or on, the First Reset Date,

on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Noteholders in accordance with Condition 16, the Trustee, the Registrar and the Principal Paying Agent. Prior to giving such notice of redemption, the Issuer will deliver or procure that there is delivered to the Trustee a certificate signed by an authorised officer of the Issuer or either Guarantor, as the case may be, stating that a Tax Deduction Event or a Rating Agency Event, as the case may be, has occurred and stating in the case of a Tax Deduction Event that the relevant loss of deduction cannot be avoided by the Issuer or the relevant Guarantor(s), as the case may be, taking reasonable measures available to it and, in the case of a Tax Deduction Event, the opinion referred to in the definition thereof. The Trustee shall be entitled, without liability to any person, to accept such certification and, in the case of a Tax Deduction Event, opinion referred to in the definition thereof as sufficient evidence that a Tax Deduction Event or a Rating Agency Event, as the case may be, has occurred, in which event it shall be conclusive and binding on the Noteholders.

7.5 Purchase of Notes

The Issuer, the Guarantors or any of their respective Subsidiaries may, subject to applicable laws and any rules of any stock exchange or exchanges on which any of the Notes are listed from time to time, at any time purchase any amount of Notes in the open market or otherwise at any price. Such acquired Notes may, at the Issuer's election, be surrendered for cancellation or held or resold.

7.6 Cancellations

All Notes which are: (a) redeemed; or (b) purchased by or on behalf of the Issuer, either Guarantor or any of their respective Subsidiaries, and which the Issuer elects to cancel, will forthwith be cancelled and accordingly may not be held, reissued or resold.

8. PAYMENTS

8.1 Payments in respect of Notes

Payments of principal and interest in respect of each Note will be made in U.S. dollars by transfer to the registered account of the Noteholder or by U.S. dollar cheque drawn on a bank (nominated in writing to the Registrar by the Noteholder) that processes payments in U.S. dollars mailed to the registered address of the Noteholder if it does not have a registered account.

Payments of principal and interest due otherwise than on an Interest Payment Date will only be made against surrender of the relevant Certificate at the specified office of any of the Paying Agents. Interest on Notes due on an Interest Payment Date will (subject only as provided in Condition 6.4) be paid to the holder shown on the Register at the close of business on the date (the **record date**) being the fifteenth day before the due date for the relevant payment of interest.

For the purposes of this Condition, a Noteholder's **registered account** means the U.S. dollar account maintained by or on behalf of it with a bank that processes payments in U.S. dollars, details of which appear on the Register at the close of business, in the case of principal, on the second Business Day (as defined below) before the due date for payment and, in the case of interest, on the relevant record date, and a Noteholder's **registered address** means its address appearing on the Register at that time.

8.2 Payments subject to applicable laws

Payments in respect of amounts payable by way of interest (including Arrears of Interest) and on redemption of the Notes will be subject in all cases to: (i) any applicable fiscal or other laws, regulations and directives in the place of payment, but without prejudice to the provisions of Condition 9; and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto. No commissions or expenses shall be charged to the Noteholders in respect of such payments. Any such amounts withheld or deducted will be treated as paid for all purposes under the Notes, and no additional amounts will be paid on the Notes with respect to any such withholding or deduction.

8.3 Payment on Business Days

Where payment is to be made by transfer to a registered account, payment instructions (for value the due date or, if that is not a Business Day, for value the first following day which is a Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed, on the Business Day preceding the due date for payment or, in the case of a payment of principal or a payment of interest due otherwise than on an Interest Payment Date, if later, on the Business Day on which the relevant Certificate is surrendered at the specified office of a Paying Agent.

Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, if the Noteholder is late in surrendering or cannot surrender its Certificate (if required to do so) or if a cheque mailed in accordance with this Condition arrives after the due date for payment.

8.4 Partial Payments

If the amount of principal or interest which is due on the Notes is not paid in full on the relevant due date for payment, the Registrar will annotate the Register with a record of the amount of principal or interest in fact paid.

8.5 Initial Agents

The name of the initial Agents appointed by the Issuer and their specified offices are set out in the Agency Agreement. In accordance with the Agency Agreement, the Issuer reserves the right, subject to the prior written approval of the Trustee, at any time to vary or terminate the appointment of, and to appoint additional or other, Agents, provided that:

- (a) there will at all times be a Principal Paying Agent, a Calculation Agent, a Registrar and a Transfer Agent and such agents as may be required by any stock exchange on which the Notes are then listed;
- (b) there will at all times be at least one Paying Agent having its specified office in at least one major European city; and
- (c) the Issuer undertakes that, to the extent permitted by law, it will maintain a Paying Agent in a Member State of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC (as amended from time to time, the **Savings Directive**) or any law implementing or complying with, or introduced in order to conform to, the Savings Directive, provided that it will not be obliged to maintain a Paying Agent with a specified office in such Member State unless at least one Member State of the European Union does not require a paying agent making payments through a specified office in that Member State to so withhold or deduct tax.

Notice of any termination or appointment and of any change in specified office will be given promptly by the Issuer to the Noteholders (in accordance with Condition 16).

9. TAXATION AND GROSS-UP

9.1 Payment without withholding

All payments in respect of the Notes and the Guarantees by or on behalf of the Issuer or, as the case may be, each Guarantor, will be made free and clear of, and without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (**Taxes**) imposed, levied, collected, withheld or assessed by or on behalf of the Relevant Jurisdiction, unless the withholding or deduction of the Taxes is required by law. In that event, the Issuer or, as the case may be, the relevant Guarantor will pay such additional amounts (**Additional Amounts**) as may be necessary in order that the net amounts received by the Noteholders after the withholding or deduction will equal the respective amounts which would otherwise have been receivable in respect of the Notes in the absence of the withholding or deduction; except that no Additional Amounts shall be payable with respect to any Note:

- (a) *other connection*

to, or to a third party on behalf of, a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of the Noteholder having some connection with the Relevant Jurisdiction other than the mere holding of such Note or the receipt of principal, interest or any other amount in respect of such Note;

- (b) *lawful avoidance of withholding*

to, or to a third party on behalf of, a Noteholder who could lawfully avoid (but has not so avoided) such deduction or withholding by complying or procuring that any

third party complies with any statutory requirements or by making or procuring that any third party makes a declaration of non-residence or other similar claim or filing for exemption to any tax authority in the place where the Certificate representing the relevant Note is presented for payment;

(c) *presentation more than 30 days after the relevant date*

in respect of which the Certificate representing it is presented for payment more than 30 days after the Relevant Date except to the extent that the Noteholder of it would have been entitled to such Additional Amounts on presenting the Certificate representing it for payment on the thirtieth day;

(d) *payment to individuals*

where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to the Savings Directive or any other Directive amending, supplementing or replacing the Savings Directive, or any law implementing or complying with, or introduced in order to conform to, any such Directive, or any agreement entered into by a Member State of the European Union and any jurisdiction providing for equivalent measures;

(e) *supply of Australian tax file number, Australian business number or exemption details*

to, or to a third party on behalf of, an Australian resident Noteholder or non-resident holding the Notes through an Australian permanent establishment, if such withholding or deduction is imposed on a payment because that person has not supplied an appropriate tax file number, Australian Business Number or exemption details;

(f) *payment by another paying agent*

presented for payment by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a Member State of the European Union;

(g) *associates of the Issuer*

issued by the Issuer to, or to a third party on behalf of, a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of the Notes by reason of his being an associate of the Issuer, for the purposes of section 128F of the Income Tax Assessment Act 1936 of Australia; and

(h) *FATCA*

where such withholding is required pursuant to an agreement described in Section 1471(b) of the Code or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof or any law implementing an intergovernmental approach thereto.

9.2 Additional Amounts

Any reference in the Conditions to any amounts in respect of the Notes (including in relation to any Arrears of Interest) will be deemed also to refer to any Additional Amounts which may be payable under this Condition 9 or under any undertakings given in addition to, or in substitution for, this Condition 9 pursuant to the Trust Deed.

10. PRESCRIPTION

Notes will become void unless claims for payment are made against the Issuer and/or the Guarantors within periods of 10 years (in the case of principal) and 5 years (in the case of interest, including any Arrears of Interest) from the Relevant Date relating thereto in respect of the Notes, subject to the provisions of Condition 8.

11. FURTHER ISSUES

Subject to applicable law, the Issuer may from time to time without the consent of the Noteholders create and issue further securities or incur further debt obligations either: (a) ranking *pari passu* in all respects (or in all respects save for the first payment of interest thereon) and so that the same will be consolidated and form a single series with the Notes; or (b) upon such terms as to ranking, distributions or interest, conversion, redemption and otherwise as the Issuer may determine at the time of issue. Any further securities which are to form a single series with the Notes will be constituted by a deed supplemental to the Trust Deed. Any further securities or bonds not forming a single series with the Notes will not be constituted by the Trust Deed.

If any further securities or bonds are not fungible with the Notes for U.S. federal income tax purposes, such further securities or bonds will have a separate CUSIP number and will not constitute a single series with the Notes.

12. EVENTS OF DEFAULT

If an Event of Default occurs and is continuing, then the Trustee may, and shall if so directed by an Extraordinary Resolution of the Noteholders or if so requested in writing by Noteholders holding at least 25 per cent. in principal amount of the Notes then outstanding (subject in each case to being indemnified and/or secured and/or prefunded to its satisfaction):

- (a) give notice to the Issuer and the Guarantors that the Notes are, and they shall immediately become, due and payable at their outstanding principal amount plus any accrued but unpaid interest thereon (including, without double counting, any Arrears of Interest); and
- (b) institute proceedings for the Winding-Up of the Issuer and/or prove in the Winding-Up or claim in the liquidation of the Issuer in respect of the Notes; and/or
- (c) in the case of an Event of Default arising from the failure of either Guarantor to pay a Guaranteed Amount due and payable pursuant to its respective Guarantee, institute proceedings for the Winding-Up of the relevant Guarantor and/or prove in the Winding-Up or claim in the liquidation of the relevant Guarantor in respect of the Guaranteed Amounts,

provided, in each case, that such claim of the Trustee in the Winding-Up or liquidation of the Issuer and/or either Guarantor and/or both Guarantors, as the case may be, in respect of each Note shall be subordinated as described in Condition 3.2 or Condition 4.3, as the case may be.

13. ENFORCEMENT

13.1 Enforcement by the Trustee

Without prejudice to Condition 12, the Trustee may at any time, at its discretion (subject to the next following sentence) and without further notice, institute such proceedings against the Issuer and/or either Guarantor and/or both Guarantors as it may think fit to enforce any term or condition binding on the Issuer or the Guarantors under the Trust Deed and the Notes (other than any payment obligation of the Issuer or the Guarantors under or arising from the Trust

Deed or the Notes, including, without limitation, payment of any principal or interest including any Arrears of Interest in respect of the Notes and including damages awarded for the breach of any payment obligations, but without prejudice to the rights and remedies available to the Trustee in respect of fees, expenses and indemnity claims owing to it under the Trust Deed), but in no event shall the Issuer or the Guarantors, by virtue of the institution of any such proceedings, be obliged to pay any sum or sums in cash or otherwise, sooner than the same would otherwise have been payable by it under the Conditions. The Trustee will not be bound to take any such proceedings or any other action in relation to the Trust Deed or the Notes unless: (a) it has been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by Noteholders holding at least 25 per cent. in principal amount of the Notes then outstanding; and (b) it has been indemnified and/or secured and/or prefunded to its satisfaction.

13.2 No other remedies

Except as permitted by this Condition 13 (including, without limitation, any rights or remedies of the Trustee under Condition 13.1) and Condition 12 and without prejudice to the rights and remedies available to the Trustee in respect of fees, expenses and indemnity claims owing to it under the Trust Deed, no remedy against the Issuer or the Guarantors shall be available to the Trustee or the Noteholders in respect of any breach by the Issuer or the Guarantors (as the case may be) of any of its obligations under the Conditions and/or the Trust Deed (as the case may be).

13.3 Enforcement by the Noteholders

No Noteholder will be entitled to proceed directly against the Issuer or either Guarantor to enforce any right or remedy under or in respect of any Note or the Guarantees, as the case may be, unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure is continuing, in which case any such Noteholder may itself institute proceedings against the Issuer and/or either Guarantor and/or both Guarantors, as the case may be, for the relevant remedy to the same extent (but not further or otherwise) that the Trustee would have been entitled to do so.

14. REPLACEMENT OF CERTIFICATES

Should any Certificate be lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Registrar upon payment by the claimant of the expenses incurred in connection with the replacement and on such terms as to evidence and indemnity as the Issuer may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

15. VARIATION OF RIGHTS

15.1 Variation without consent

The Trustee may agree, without the consent of the Noteholders, to: (i) any modification of any of the provisions of the Conditions, the Trust Deed or the Agency Agreement that is of a formal, minor or technical nature or is made to correct a manifest error or an error which, in the opinion of the Trustee, is proven; and (ii) any other modification of any of the provisions of the Conditions, the Trust Deed or the Agency Agreement that is in the opinion of the Trustee not materially prejudicial to the interests of the Noteholders. Any such modification shall be binding on the Noteholders and, if the Trustee so requires, any such modification shall be notified to the Noteholders as soon as practicable, provided that, prior to making such modification, the Issuer will deliver or procure that there is delivered to the Trustee a certificate signed by an

authorised officer of the Issuer stating that the Notes following such modification will have a level of “equity credit” ascribed to them by each Rating Agency which is equal to or higher than that which was ascribed to the Notes immediately prior to such modification. The Trustee shall be entitled, without liability to any person, to accept such certification as sufficient evidence of the matters referred to therein, in which event it shall be conclusive and binding on the Noteholders.

15.2 Substitution or Variation of the Notes and Substitution of the Issuer

- (a) If a Rating Agency Event, a Tax Deduction Event or a Gross-Up Event (each a **Substitution or Variation Event**) has occurred, the Issuer may, without any requirement for the consent or approval of the Trustee or the Noteholders, at any time either: (i) substitute all (but not some only) of the Notes for Qualifying Notes; or (ii) vary the terms of the Notes with the effect that they remain or become (as the case may be) Qualifying Notes.

Any such substitution or variation in accordance with the foregoing provisions following a Substitution or Variation Event shall only be permitted if it does not give rise to any other Substitution or Variation Event with respect to the Qualifying Notes.

Any such substitution or variation following a Substitution or Variation Event shall only be permitted if it does not result in the Qualifying Notes no longer being eligible for the same, or a higher amount of, “equity credit” (or such other nomenclature that the Relevant Rating Agency may then use to describe the degree to which an instrument exhibits the characteristics of an ordinary share) as is attributed to the Notes on the date notice is given to Noteholders of the substitution or variation.

The Trustee shall (at the expense of the Issuer and following receipt by the Trustee of a certificate signed by an authorised officer of the Issuer confirming that the notes to be substituted for the Notes are Qualifying Notes) use reasonable endeavours to assist the Issuer in such substitution of the Notes (including, but not limited to, entering into such documents or deeds as may be necessary to give effect thereto), provided that the Trustee shall not be obliged to participate in, or assist with, any such substitution if the substitution, or the securities into which the Notes are to be substituted, or if the assistance with such substitution, would impose, in the Trustee’s opinion, more onerous obligations upon it, expose it to liabilities or reduce its protections.

- (b) The Trust Deed contains provisions permitting the Trustee to agree, without the consent of the Noteholders, to the substitution of the Issuer’s successor in business (as defined in the Trust Deed) or any Holding Company (as defined in the Trust Deed) of the Issuer or its successor in business or of either Guarantor or its successor in business in place of the Issuer as principal debtor under the Trust Deed and the Notes, subject to (i) the Trustee being satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution, (ii) compliance with applicable law (including, without limitation, the U.S. Investment Company Act of 1940) and (iii) compliance with certain other conditions set out in the Trust Deed. In the case of such a substitution the Trustee may agree, without the consent of the Noteholders, to a change of the law governing the Notes and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders.

Any such substitution in place of the Issuer shall only be permitted if it does not result in the Notes no longer being eligible for the same, or a higher amount of, “equity credit” (or such other nomenclature that the Relevant Rating Agency may then use to describe the degree to which an instrument exhibits the characteristics of an ordinary share) as is attributed to the Notes on the date notice is given to Noteholders of the aforementioned substitution.

- (c) For the purposes of this Condition 15.2, **equity credit** refers to the “equity credit” assigned by a Relevant Rating Agency in the context of the assessment by such Relevant Rating Agency of the credit rating of the Guarantors.

15.3 Meetings

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of the Conditions or any provisions of the Trust Deed or the Agency Agreement. Such a meeting shall be convened by the Issuer upon a request by Noteholders holding not less than 10 per cent. in principal amount of the Notes then outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution shall be one or more persons holding or representing a clear majority in principal amount of the Notes then outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the principal amount of the Notes held or represented, unless the business of such meeting includes consideration of proposals, inter alia, to: (i) amend the Maturity Date or any Redemption Date of the Notes or any date for payment of interest or Interest Amounts on the Notes; (ii) reduce or cancel the nominal amount of, or any premium payable on redemption of, the Notes; (iii) reduce the Interest Rate in respect of the Notes or vary the method or basis of calculating the Interest Rate or amount of interest or the basis for calculating any Interest Amount in respect of the Notes; (iv) reduce any redemption amount referred to in Condition 7; (v) vary the currency of payment or denomination of the Notes; (vi) take any steps that as specified hereon may only be taken following approval by an Extraordinary Resolution to which the special quorum provisions apply; (vii) modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution; (viii) modify or cancel either Guarantee; or (ix) modify the provisions regarding subordination of the Notes and the Guarantees referred to in Conditions 3.2 and 4.3, respectively, in which case the necessary quorum shall be one or more persons holding or representing not less than 75 per cent., or at any adjourned meeting not less than 20 per cent. in principal amount of the Notes then outstanding. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed).

15.4 Waiver, authorisation and determination

The Trustee may agree, without the consent of the Noteholders, to any waiver or authorisation of any breach or proposed breach of any of the provisions of the Conditions, the Trust Deed or the Agency Agreement that is in the opinion of the Trustee not materially prejudicial to the interests of the Noteholders. Any such waiver or authorisation shall be binding on the Noteholders and, if the Trustee so requires, any such waiver or authorisation shall be notified to the Noteholders as soon as practicable.

15.5 Trustee to have regard to interests of Noteholders as a class

In connection with the exercise by it of any of its trusts, powers, authorities and discretions (including, without limitation, any modification, waiver, determination, authorisation or substitution), the Trustee shall have regard to the general interests of the Noteholders as a class but shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual Noteholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political subdivision thereof and the Trustee shall not be entitled to require, nor shall any Noteholder be

entitled to claim, from the Issuer, the Guarantors, the Trustee or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders except to the extent already provided for in Condition 9 and/or any undertaking given in addition to, or in substitution for, Condition 9 pursuant to the Trust Deed.

15.6 Notification to the Noteholders

Any modification, abrogation, waiver, determination, authorisation or substitution pursuant to or described in this Condition 15 shall be binding on the Noteholders and, unless the Trustee agrees otherwise, notified by the Issuer to the Noteholders as soon as practicable thereafter in accordance with Condition 16.

15.7 Compliance with stock exchange rules

In connection with any modification, variation or substitution under this Condition 15, the Issuer will comply with the rules of any stock exchange on which the Notes are for the time being listed or admitted to trading.

16. NOTICES

All notices to the Noteholders will be valid if mailed to them (or to the first of any joint named holders) at their respective addresses in the Register and will be deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing.

If and for so long as the Notes are listed, the Issuer will also ensure that notices are duly published in a manner which complies with the rules and regulations of any stock exchange or the relevant authority on which the Notes are for the time being listed.

17. INDEMNIFICATION AND PROTECTION OF THE TRUSTEE AND ITS CONTRACTING WITH THE ISSUER AND THE GUARANTORS

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility. The Trustee is entitled to enter into business transactions with the Issuer and the Guarantors and any entity related to the Issuer and/or the Guarantors without accounting for any profit.

18. GOVERNING LAW AND SUBMISSION TO JURISDICTION

18.1 Governing law

The Trust Deed (including the Guarantees) and the Notes, and any non-contractual obligations arising out of or in connection with them are governed by, and will be construed in accordance with, English law, save for Conditions 3, 4.2 and 4.3 and the provisions of Clauses 5 and 6 of the Trust Deed which will be governed by, and construed in accordance with, the laws of New South Wales, Australia, but only insofar as they relate to the Issuer and the Australian Guarantor. For the avoidance of doubt, Conditions 4.2 and 4.3 and the provisions of Clauses 5 and 6 of the Trust Deed will be governed by, and construed in accordance with, English law insofar as they relate to the UK Guarantor.

18.2 Jurisdiction of the English courts

- (a) Subject to Condition 18.2(c) below, the English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with the Trust Deed or the Notes, including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Trust Deed or the Notes

(a **Dispute**) and each of the Issuer, each of the Guarantors, the Trustee and any Noteholders in relation to any Dispute submits to the exclusive jurisdiction of the English courts.

- (b) For the purposes of this Condition 18.2, each of the Issuer and the Guarantors waive any objection to the English courts on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (c) To the extent allowed by law, the Trustee and the Noteholders may, in respect of any Dispute or Disputes, take: (i) proceedings in any other court with jurisdiction; and (ii) concurrent proceedings in any number of jurisdictions.

18.3 Appointment of process agent

Each of the Issuer and the Australian Guarantor has, in the Trust Deed, irrevocably and unconditionally appointed BHP Billiton Plc at Neathouse Place, London SW1V 1LH as its agent for service of process in England in respect of any Disputes and has undertaken that in the event of such agent ceasing so to act it will appoint such other person as the Trustee may approve as its agent for that purpose.

19. RIGHTS OF THIRD PARTIES

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Note, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

20. DEFINITIONS

Unless the context otherwise requires, the following terms will have the following meanings in the Conditions:

Additional Amounts has the meaning specified in Condition 9.1.

Agency Agreement has the meaning specified in the preamble to the Conditions.

Agents has the meaning specified in the preamble to the Conditions.

Arrears of Interest has the meaning specified in Condition 6.4.

Australian Guarantor means BHP Billiton Limited (ABN 49 004 028 077).

BHP Billiton Group means the Guarantors and their respective Subsidiaries.

Business Day means a day which is a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in New York City and London and, in the case of surrender of a Certificate, in the place in which the Certificate is surrendered.

Calculation Agent means Citibank, N.A., London Branch.

Certificate has the meaning specified in Condition 1.1.

Code has the meaning specified in Condition 8.2.

Companies Act means the Companies Act 2006 of the United Kingdom.

Calculation Amount means US\$1,000.

Compulsory Arrears of Interest Payment Event means that:

- (a) either of the Guarantors has resolved to pay or declared a discretionary dividend, distribution or payment on any of their respective Ordinary Shares (excluding, for these purposes, any equalisation share (or share which has a different name but is designed to have the same effect as an equalisation share, including, without limitation, any “DLC Dividend Share”) or special voting share of either Guarantor), other than in the form of the further issuance of any Ordinary Shares;
- (b) the Issuer or either of the Guarantors has, directly or indirectly, declared or made any discretionary distribution payment to any holders of their Parity Obligations;
- (c) the Issuer or either of the Guarantors redeems or repurchases any of their Parity Obligations (in each case, other than on a pro-rata basis with redemption of the Notes), except where such redemption or repurchase is effected as a public cash tender offer or public exchange offer at a purchase price per security which is below its par value;
- (d) the Issuer or either of the Guarantors repurchases any Notes; or
- (e) either of the Guarantors or any member of the BHP Billiton Group redeems or repurchases any Ordinary Shares of either of the Guarantors (excluding, for these purposes, any equalisation share (or share which has a different name but is designed to have the same effect as an equalisation share, including, without limitation, any “DLC Dividend Share”) or special voting share of the Issuer or either Guarantor, as the case may be), except where such redemption or repurchase: (a) resulted from the hedging of convertible securities of either of the Guarantors; or (b) was effected in connection any stock option or long term incentivisation plan or scheme or any employee or directors’ benefit plan or scheme,

except, in each case, if the Issuer or the relevant Guarantor(s) (as the case may be) is obliged under the terms and conditions of such securities to make such payment, such redemption or such repurchase.

Compulsory Settlement Date has the meaning specified in Condition 6.5.

Corporations Act means the Corporations Act 2001 of the Commonwealth of Australia.

Day Count Fraction means, in respect of the calculation of an amount for any period of time (the **Calculation Period**), the number of days in the Calculation Period divided by 360 on the basis of a 360-day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the number of days elapsed on the basis of a month of 30 days.

Deferred Payment has the meaning specified in Condition 6.4(a).

Early Redemption Amount means 101 per cent. of the outstanding principal amount of the Notes, plus any accrued but unpaid interest up to (but excluding) the relevant Redemption Date and any outstanding Arrears of Interest (without double counting).

Event of Default means the occurrence of either of the following events:

- (a) there is a failure to pay any amount in respect of the Notes or any of them and such failure to pay continues for a period of 5 business days in the case of a payment of principal or 10 business days in the case of a payment of interest; or
- (b) an order is made (other than an order successfully appealed or permanently stayed within 60 days):
 - (i) by a State or Federal Court in the Commonwealth of Australia (in the case of the Issuer or the Australian Guarantor) or by the Courts of England and Wales (in the case of the UK Guarantor); or

- (ii) a resolution is passed by the shareholders of the Issuer or either Guarantor, as the case may be,

for the Winding-Up of the Issuer or such Guarantor (other than for the purposes of a Solvent Reorganisation of the Issuer or such Guarantor),

except that none of the following will constitute an Event of Default:

- (a) the non-payment by the Issuer or either Guarantor of any amount due and payable in respect of any of the Notes or any Guaranteed Amounts pursuant to its respective Guarantee, as the case may be:
 - (i) in order to comply with any fiscal or other law or regulation or with the order of any court of competent jurisdiction, in each case applicable to such payment; or
 - (ii) during any period where there is doubt as to the validity or applicability of any such law, regulation or order, in accordance with advice given by an independent law firm as to such validity or applicability; or
- (b) the deferral of any Interest Amount pursuant to Condition 6.4 (which, for the avoidance of doubt, excludes any deferral of payment of Arrears of Interest which has become due and payable in accordance with Condition 6.5).

Extraordinary Resolution has the meaning given to it in the Trust Deed.

First Reset Date has the meaning specified in Condition 6.2(a).

Gross-Up Event means an event upon the occurrence of which: (i) the Issuer or either Guarantor determines (in its reasonable opinion (as applicable), having consulted with a recognised independent tax adviser) that it has or will become obliged to pay Additional Amounts or either Guarantor or both Guarantors would be unable for reasons outside its or their control to procure payment by the Issuer and in making payment itself or themselves would be required to pay such Additional Amounts, in each case as a result of any change in, or amendment to, the laws or regulations of the Relevant Jurisdiction, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date; and (ii) such obligation cannot be avoided by the Issuer, the relevant Guarantor or the Guarantors, as the case may be, taking reasonable measures available to it or them.

Guarantee has the meaning specified in Condition 4.1.

Guaranteed Amounts has the meaning specified in Condition 4.1.

Guarantors means the Australian Guarantor and the UK Guarantor.

Holding Company has the meaning given to it in the Trust Deed.

Interest Amount means the amount of interest scheduled to be paid on the outstanding principal amount of each Note on an Interest Payment Date under Condition 6.2.

Interest Payment Date has the meaning specified in Condition 6.2.

Interest Period means the period beginning on (and including) the Issue Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

Interest Rate has the meaning specified in Condition 6.2.

Issue Date means 19 October 2015.

Issuer means BHP Billiton Finance (USA) Limited (ABN 79 057 525 505).

Issuer's successor in business has the meaning given to it in the Trust Deed.

Margin means in respect of:

- (a) the Reset Period ending on (but excluding) the Reset Date falling on 20 October 2025, 4.971 per cent. per annum;
- (b) each Reset Period which falls in the period commencing on (and including) the Reset Date falling on 20 October 2025 and ending on (but excluding) the Reset Date falling on 19 October 2040, 5.221 per cent. per annum; and
- (c) each Reset Period which falls on or after the Reset Date falling on 19 October 2040, 5.971 per cent. per annum.

Maturity Date has the meaning specified in Condition 7.1.

Moody's means Moody's Investors Service, Inc. (or any of its subsidiaries or any successor in business thereto from time to time).

Noteholder has the meaning specified in Condition 1.2.

Notes has the meaning specified in the preamble to the Conditions, and **Note** shall be construed accordingly.

Notional Preference Shares means, with respect to the Issuer or either Guarantor, as the case may be, a notional class of preference shares in the capital of the Issuer or such Guarantor, as the case may be: (i) ranking junior to the claims of all holders of Senior Obligations of the Issuer or such Guarantor, as the case may be; (ii) having an equal right to return of assets in the Winding-Up of the Issuer or such Guarantor, as the case may be, and so ranking *pari passu* with any Parity Obligations of the Issuer or such Guarantor, as the case may be; and (iii) having a right to return of capital ahead of, and so ranking ahead of, the claims of holders of the Ordinary Shares of the Issuer or such Guarantor, as the case may be.

Ordinary Shares means any ordinary shares in the capital of the Issuer or either Guarantor, as the case may be, any equalisation share (or share which has a different name but is designed to have the same effect as an equalisation share, including, without limitation, any "DLC Dividend Share") of the Issuer or such Guarantor, as the case may be, and any special voting share of the Issuer or such Guarantor, as the case may be.

Parity Obligations means, with respect to the Issuer or either Guarantor, as the case may be:

- (a) any preference shares in the capital of the Issuer or such Guarantor, as the case may be, which are expressed to rank *pari passu* with the Issuer's obligations under the Notes or such Guarantor's obligations under its respective Guarantee, as the case may be; and
- (b) any other security or other instrument issued by, or any other obligation of, the Issuer or such Guarantor, as the case may be, which is expressed to rank *pari passu* with the Issuer's obligations under the Notes or such Guarantor's obligations under its respective Guarantee, as the case may be,

and for the avoidance of any doubt not including any equalisation share (or share which has a different name but is designed to have the same effect as an equalisation share, including, without limitation, any "DLC Dividend Share") or special voting share of the Issuer or such Guarantor, as the case may be.

Paying Agents has the meaning specified in the preamble to the Conditions.

Preference Shares means, with respect to the Issuer or either Guarantor, as the case may be, any preference shares in the capital of the Issuer or such Guarantor, as the case may be, which are not Parity Obligations, including, in the case of the UK Guarantor, the preference shares in the capital of the UK Guarantor outstanding on the Issue Date and any other preference shares ranking equally with and forming a single class with those preference shares (and for the avoidance of any doubt not

including any equalisation share (or share which has a different name but is designed to have the same effect as an equalisation share, including, without limitation, any “DLC Dividend Share”, of the Issuer or such Guarantor, as the case may be) or special voting share of the Issuer or such Guarantor, as the case may be).

principal means the principal of the Notes and shall also be deemed to include any premium payable in respect of the Notes.

Principal Paying Agent has the meaning specified in the preamble to the Conditions.

Qualifying Notes means notes that:

- (a) are issued either:
 - (i) by the Issuer, with a guarantee of the payment obligations of the Issuer by each of the Guarantors that ranks, in relation to the obligations of each Guarantor under its respective guarantee, *pari passu* in a Winding-Up of each Guarantor with such Guarantor's Parity Obligations;
 - (ii) by the Australian Guarantor with a cross guarantee of its payment obligations under the notes from the UK Guarantor that ranks, in relation to the obligations of the UK Guarantor under such cross guarantee, *pari passu* in a Winding-Up of the UK Guarantor with the UK Guarantor's Parity Obligations; or
 - (iii) by the UK Guarantor with a cross guarantee of its payment obligations under the notes from the Australian Guarantor that ranks, in relation to the obligations of the Australian Guarantor under such cross guarantee, *pari passu* in a Winding-Up of the Australian Guarantor with the Australian Guarantor's Parity Obligations;
- (b) (to the extent the Notes are listed at the time the Qualifying Notes are issued) are listed on a recognised stock exchange at that time; and
- (c) contain terms not materially less favourable to Noteholders when taken as a whole than the terms of the Notes (as reasonably determined by the Issuer (in consultation with an independent investment bank of international standing)) and which:
 - (i) provide for the same or a more favourable Interest Rate from time to time as applied to the Notes immediately prior to such substitution or variation and preserve the same Interest Payment Dates;
 - (ii) preserve any existing rights to any accrued interest, any Arrears of Interest and any other amounts payable under the Notes which, in each case, has accrued to Noteholders and not been paid;
 - (iii) preserve the obligations (including the obligations arising from the exercise of any right) of the Issuer or the Guarantors as to principal and as to redemption of the Notes, including (without limitation) as to timing of, and amounts payable upon such redemption;
 - (iv) do not contain terms providing for the mandatory deferral of payments of interest and/or principal; and
 - (v) do not contain terms providing for loss absorption through principal write-down or conversion to ordinary shares.

Rating Agency means each of Standard & Poor's and Moody's or any other rating agency substituted for either of them by the Issuer and/or the Guarantors with the prior written approval of the Trustee (such approval not to be unreasonably withheld).

Rating Agency Event means an amendment, clarification or change has occurred in the “equity credit” criteria of any rating agency from whom each Guarantor (taken together) or, if applicable, the Issuer, is assigned a sponsored rating, whereby that sponsored rating shall refer to a rating assigned by a rating agency with whom each Guarantor (taken together) or, if applicable, the Issuer, has a contractual relationship under which the Notes are assigned an “equity credit” (the **Relevant Rating Agency**), which has resulted in a lower “equity credit” for the Notes than the respective “equity credit” assigned by the Relevant Rating Agency on the Issue Date, or if an “equity credit” was not assigned on the Issue Date, at the date when the “equity credit” was assigned for the first time. For the purposes of this definition, **equity credit** refers to the “equity credit” assigned by a Relevant Rating Agency in the context of the assessment by such Relevant Rating Agency of the credit rating of the Guarantors.

Redemption Date means any date on which the Notes become due for redemption in accordance with the Conditions.

Reference Bank has the meaning specified in the definition of Reset Reference Bank Rate.

Register has the meaning specified in Condition 1.1.

Registrar has the meaning specified in the preamble to the Conditions.

Relevant Date means, in respect of any Note, the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Noteholders that, upon further presentation of the Certificate representing the Note being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation.

Relevant Jurisdiction means the Commonwealth of Australia (in the case of the Issuer or the Australian Guarantor), England and Wales (in the case of the UK Guarantor), or, in each case, any political sub-division or any authority thereof or therein having the power to tax or, in the event of any substitution, solvent reorganisation or other corporate action resulting in the Issuer or the relevant Guarantor being tax resident in any other jurisdiction, that other jurisdiction or any political subdivision or any authority thereof or therein having power to tax.

Relevant Rating Agency has the meaning specified in the definition of Rating Agency Event.

Representative has the meaning given to it in the Trust Deed.

Reset Date means each of:

- (a) the First Reset Date; and
- (b) each date that falls five, or a multiple of five, years following the First Reset Date to but excluding the Maturity Date.

Reset Determination Date means the second U.S. Government Securities Business Day prior to the relevant Reset Date.

Reset Interest Rate means, in relation to any Reset Period, the sum of the Swap Rate in relation to that Reset Period plus the Margin applicable to that Reset Period.

Reset Period means the period from and including the First Reset Date to but excluding the next Reset Date, and each successive period from and including a Reset Date to but excluding the next succeeding Reset Date.

Reset Reference Bank Rate means the percentage rate determined on the basis of the Swap Rate Quotations provided by at least five leading swap dealers in the New York City interbank market (the **Reference Banks**) to the Calculation Agent at its request at approximately 11:00 a.m. (New York City time) on the relevant Reset Determination Date. If one quotation is provided, the Reset Reference

Bank Rate will be such quotation. If two or more quotations are provided, the Reset Reference Bank Rate will be the arithmetic mean of the quotations, eliminating, if at least three quotations are provided, the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest). If no quotations are provided, the applicable Reset Reference Bank Rate for the relevant Reset Period will be: (i) in the case of each Reset Period other than the Reset Period commencing on the First Reset Date, the Swap Rate in respect of the immediately preceding Reset Period; or (ii) in the case of the Reset Period commencing on the First Reset Date, 1.279 per cent. per annum.

Reset Screen Page means Reuters screen “ISDAFIX1” or such other page as may replace it on Reuters or, as the case may be, on such other information service that may replace Reuters, in each case, as may be nominated by the party providing or sponsoring the information appearing there for the purpose of displaying rates comparable to the Swap Rate Quotations.

Senior Obligations means, with respect to the Issuer or either Guarantor, as the case may be, all obligations of the Issuer or such Guarantor, as the case may be, including any Preference Shares of the Issuer or such Guarantor, as the case may be, but excluding any Parity Obligations and any Ordinary Shares of the Issuer or such Guarantor, as the case may be.

Solvent Reorganisation means, with respect to the Issuer or either Guarantor, as the case may be, a solvent Winding-Up, deregistration, dissolution, scheme of arrangement or other reorganisation of the Issuer or such Guarantor, as the case may be, solely for the purposes of a consolidation, amalgamation, merger or reconstruction, the terms of which have been approved by the holder(s) of the Ordinary Shares of the Issuer or such Guarantor, as the case may be, or by a court of competent jurisdiction under which the continuing or resulting corporation effectively assumes the obligations of the Issuer under the Notes and the Trust Deed or of such Guarantor under its respective Guarantee, as the case may be.

Standard & Poor’s means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc. (or any of its subsidiaries or any successor in business thereto from time to time).

Subsidiary, in respect of the Issuer and the Australian Guarantor, has the meaning given in the Corporations Act and, in respect of the UK Guarantor, has the meaning given in the Companies Act.

Substantial Repurchase Event means at least 80 per cent. of the aggregate principal amount of the Notes issued on the Issue Date have been purchased by or on behalf of the Issuer, the Guarantors and/or any of their Subsidiaries.

Substitution or Variation Event has the meaning specified in Condition 15.2.

Swap Rate means, in relation to a Reset Period and the Reset Determination Date in relation to such Reset Period, the semi-annual mid-swap rate for a term of 5 years as displayed on the Reset Screen Page as at 11:00 a.m. (New York City time) on such Reset Determination Date. In the event that such mid-swap rate does not appear on the Reset Screen Page on the relevant Reset Determination Date at approximately that time, the Swap Rate will be the Reset Reference Bank Rate.

Swap Rate Quotations means the arithmetic mean of the bid and offered rates for the semi-annual fixed leg (calculated on a 30/360 day count basis) of a fixed-for-floating U.S. dollar interest rate swap which: (i) has a term of 5 years commencing on the first day of the relevant Reset Period; (ii) is in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market; and (iii) has a floating leg based on the 3-month U.S. dollar LIBOR rate (calculated on an Actual/360 day count basis).

Tax Deduction Event means, in the opinion of a recognised independent tax adviser, on or after the Issue Date, as a result of:

- (a) any amendment to, or change in, the laws (or any rules or regulations thereunder) of the Relevant Jurisdiction which is enacted, promulgated, issued or becomes effective otherwise on or after the Issue Date; or

- (b) any amendment to, or change in, an official and binding interpretation of any such laws, rules or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation and the publication of any judicial decision or regulatory determination) which is enacted, promulgated, issued or becomes effective otherwise on or after the Issue Date; or
- (c) any generally applicable official interpretation or pronouncement or government agency or regulatory authority taking an action that provides for a position with respect to such laws, rules or regulations that differs from the previous generally accepted position (including a position included in a ruling issued in respect of the Notes to the Issuer or, in respect of the Guarantees, to either Guarantor) which is issued, announced or occurs on or after the Issue Date,

interest paid by the Issuer on the Notes or interest paid by either Guarantor pursuant to its respective Guarantee would no longer, or within 90 days of the date of that opinion will no longer, be fully deductible (or the entitlement to make such deduction shall be materially reduced (as determined in the reasonable opinion of the Issuer or such Guarantor (as applicable), having consulted with a recognised independent tax adviser)) by or on behalf of the Issuer or such Guarantor (as applicable) for corporate income tax purposes in the Relevant Jurisdiction or the Issuer or such Guarantor (as applicable) would not be able to have such deductions set against the profits of companies with which it is grouped for tax purposes in the Relevant Jurisdiction (or the amount of the deduction which can be so set against the profit of companies with which it is so grouped is materially reduced (as determined in the reasonable opinion of the Issuer or such Guarantor (as applicable), having consulted with a recognised independent tax adviser)).

Taxes has the meaning specified in Condition 9.1.

Transfer Agent has the meaning specified in the preamble to the Conditions.

Trust Deed has the meaning specified in the preamble to the Conditions.

Trustee has the meaning specified in the preamble to the Conditions.

UK Guarantor means BHP Billiton Plc (registered number 3196209).

U.S. Government Securities Business Day means any day except for a Saturday, Sunday or a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

Winding-Up means: (i) in respect of the Issuer, the appointment of an administrator, a liquidator, provisional liquidator or other similar officer in respect of the Issuer or any corporate action is taken by the Issuer or either Guarantor to appoint such a person; (ii) in respect of the Australian Guarantor, the appointment of an administrator, a liquidator, provisional liquidator or other similar officer in respect of such Guarantor or any corporate action is taken by such Guarantor to appoint such a person; and (iii) in respect of the UK Guarantor, an order being made, or an effective resolution being passed, for the winding-up of the UK Guarantor or an administrator of the UK Guarantor being appointed and such administrator giving notice that it intends to declare and distribute a dividend.