

**AGRI ENERGY LIMITED**  
**ABN 83 061 375 442**  
**(Subject to Deed of Company Arrangement)**

**NOTICE OF GENERAL MEETING  
AND  
EXPLANATORY STATEMENT**

**For a General Meeting to be held on  
Thursday, 1 October 2009 at 4pm  
at the Institute of Chartered Accountants  
Level 3, 600 Bourke Street  
Melbourne, Victoria 3000**

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*This is an important document. Please read it carefully.*

*If you are unable to attend the General Meeting, please complete the form of proxy enclosed and return it in accordance with the instructions set out on that form.*

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## LETTER TO SHAREHOLDERS

Dear Shareholder

On 13 February 2008, the securities of Agri Energy Limited (**Agri** or the **Company**) were suspended from quotation on the Official List of the ASX at the request of the Company whilst the Company pursued restructuring options.

On 12 September 2008, the directors of the Company appointed Kenneth Stout, Chartered Accountant, of Boutique Corporate Advisory as Administrator of the Company (**Administrator**) pursuant to Section 436A of the Corporations Act.

At the second meeting of creditors of the Company held on 1 December 2008, the Administrator recommended to the creditors that, in the opinion of the Administrator, it was in the best interests of the Company (in the Administration process) and of creditors to approve the execution of a deed of company arrangement to facilitate the recapitalisation of the Company. The Administrator outlined six proposals he had received to recapitalise the Company. At this meeting, creditors resolved to approve execution of a deed of company arrangement to facilitate the recapitalisation proposal put forward by Ascent Capital Holdings Pty Ltd (**Ascent Capital**).

The deed of company arrangement was executed by the Company, the Administrator (as **Deed Administrator**) and Ascent Capital on 19 December 2008 (**Deed of Company Arrangement**). The Deed of Company Arrangement, subject to certain conditions including shareholder approval, requires that an amount of \$402,258 and certain assets and rights of the Company be made available for the satisfaction of the claims of all creditors and to meet the costs of the Administrator and Deed Administrator. Ascent Capital will provide the funding to meet the costs associated with this Notice of Meeting and will arrange \$402,258 in additional loan funds, via a conditional loan agreement, to enable the Company to meet the terms of the Deed of Company Arrangement.

Ascent Capital have nominated Mr Gary Steinepreis, Mr Patrick Burke and Mr Bevan Tarratt to be Directors of the Company.

The Recapitalisation Proposal for the purposes of this Meeting requires as follows:

- (a) Resolution 1 – the consolidation of the existing capital of the Company on a 1 for 15 basis;
- (b) Resolution 2:
  - (i) the allotment and issue of not less than 20,000,000 Shares at an issue price of \$0.0001 per Share (post consolidation) to raise \$2,000 and up to 40,000,000 Shares at an issue price of \$0.0001 per Share (post consolidation) to raise up to \$4,000 for working capital. The determination of the allottees is at the sole discretion of Ascent Capital;
  - (ii) the allotment and issue of not less than 320,000,000 Shares at an issue price of \$0.005 per Share (post consolidation) to raise \$1,600,000 and up to 440,000,000 Shares at an issue price of \$0.005 per Share (post consolidation) to raise up to \$2,200,000 for working capital. The determination of the allottees is at the sole discretion of Ascent Capital; and
  - (iii) the grant of 98,500,000 unlisted Options (post consolidation) with each Option to acquire one Share in the Company exercisable at \$0.005 each on or before 31 December 2013 for no consideration. The determination of the grantees is at the sole discretion of Ascent Capital;

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- (c) Resolution 3 – the transfer of such of the assets of the Company as are capable of being assigned to the Deed Administrator pursuant to ASX Listing Rule 11.2 and the terms of the Deed of Company Arrangement;
  - (d) Resolutions 4, 5 & 6 – the re-election of the Directors of the Company;
  - (e) Resolution 7 – Section 195 of the Corporations Act approval;
  - (f) Resolution 8 – the grant of 1,500,000 unlisted Options (post consolidation) with each Option to acquire one Share in the Company exercisable at \$0.005 each on or before 31 December 2013 to the Trustee for Creditors for no consideration.
  - (g) Resolution 9 – the adoption of a new constitution of the Company to update the constitution in compliance with the Corporations Act and/or Listing Rules of ASX; and
  - (h) Resolution 10 – the change of name of the Company to Viva Resources Limited.

These Resolutions should be considered collectively as well as individually as certain Resolutions are interdependent on others. For the Recapitalisation Proposal to be successful Resolutions 1 to 7 must be passed as ordinary resolutions.

The Resolutions proposed which are included in the attached Notice of Meeting enable the Company to satisfy the terms of the Deed of Company Arrangement. Full details in respect of the proposed Resolutions are contained in the attached Notice of Meeting and Explanatory Statement.

If the above Resolutions are passed, and the proposed restructuring and recapitalisation completed, the Company will seek the reinstatement of the quotation of its securities on ASX. The Company shall continue with its Australian Ethanol Business and pursue complementary acquisitions. The Company also intends to review new investment opportunities in the energy and resources sectors. Further details regarding the Company's intentions are set out in the attached Explanatory Statement.

If the proposed restructuring and recapitalisation is not successful the Deed of Company Arrangement will terminate and the Deed Administrator will call a further meeting of creditors to consider the options available. It is likely that the Company would be placed in liquidation and all Shareholders would lose their investment.

The Notice of Meeting also contains Resolution 11 which is the ratification of allotment and issue of 2,600,000 Shares (post consolidation) to YA Global under the Convertible Loan Agreement it held with the Company. This resolution is in addition to and not conditional upon the approval of the Recapitalisation Proposal.

The Deed Administrator is not responsible for the contents of this Notice of Meeting, the Explanatory Statement or the Memorandum generally, nor the report by Stantons International Securities attached to and forming part of the Memorandum. The Deed Administrator does not accept any responsibility for any disclosure in or failure to include any disclosure in those documents.

Yours faithfully

**Gary Steinepreis**  
**Director**

## TIME AND PLACE OF MEETING AND HOW TO VOTE

### Venue

The General Meeting of the Shareholders of Agri Energy Limited (Subject to Deed of Company Arrangement) will be held at:

**The Institute of Chartered Accountants  
Level 3  
600 Bourke Street  
Melbourne, Victoria 3000**

**Commencing  
4pm  
on Thursday, 1 October 2009**

### How to Vote

You may vote by attending the Meeting in person, by proxy or authorised representative.

### Voting in Person

To vote in person, attend the Meeting on the date and at the place set out above. The Meeting will commence at 4pm.

### Voting by Proxy

To vote by proxy, please complete and sign the proxy form enclosed with this Notice of Meeting as soon as possible and either:

- send the proxy by facsimile to the Company C/- Ascent Capital Holdings Pty Ltd on facsimile number (08) 9481 2690 (International: + 61 8 9481 2690); or
- deliver to the Company, C/- Ascent Capital Holdings Pty Ltd, Level 1, 33 Ord Street, West Perth, Western Australia, 6005,

so that it is received not later than 4pm on Tuesday, 29 September 2009.

**Your proxy form is enclosed.**

**AGRI ENERGY LIMITED**  
**ABN 83 061 375 442**  
(Subject to Deed of Company Arrangement)

**NOTICE OF GENERAL MEETING**

Notice is given that the General Meeting of Shareholders of Agri Energy Limited (Subject to Deed of Company Arrangement) (**Agri** or **Company**) will be held at the Institute of Chartered Accountants, Level 3, 600 Bourke Street, Melbourne, Victoria 3000 at 4pm on Thursday, 1 October 2009.

**AGENDA**

The Explanatory Statement that accompanies and forms part of this Notice of Meeting describes the matters to be considered as ordinary business and special business.

**ORDINARY BUSINESS**

Shareholders should note that Resolutions 1 to 7 inclusive are subject to and conditional upon each of Resolutions 1 to 7 inclusive being passed. Resolutions 8 to 11 are subject to and conditional upon Resolutions 1 to 7 inclusive being passed. Accordingly, these Resolutions should be considered collectively as well as individually.

**Resolution 1 – Consolidation of Capital**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 2 to 7 (inclusive), for the purposes of Section 254H of the Corporations Act, the Company's Constitution and for all other purposes, the issued capital of the Company be consolidated on the basis that every fifteen (15) shares in the capital of the Company be consolidated into one (1) share in the capital of the Company and where this consolidation results in a fraction of a share being held by a member of the Company, the Directors of the Company be authorised to round that fraction down to the nearest whole share."*

**Short Explanation:** Under the Corporations Act, a company may convert all or any of its shares into a smaller number of shares by resolution passed at a general meeting.

**Resolution 2 – Allotment and Issue of Shares and Grant of Options**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 and 3 to 7 (inclusive), for the purposes of Listing Rules 7.1 and 10.11 of the Listing Rules of ASX Limited, Sections 208 and Item 7 of Section 611 of the Corporations Act and for all other purposes, approval is given for:*

- (a) *the Company to allot and issue not less than 20,000,000 Shares at an issue price of \$0.0001 per Share (post consolidation) to raise \$2,000 and up to 40,000,000 Shares in the capital of the Company at an issue price of \$0.0001 per share (post consolidation) to raise up to \$4,000; and*
- (b) *the Company to allot and issue not less than 320,000,000 Shares at an issue price of \$0.005 per Share (post consolidation) to raise \$1,600,000 and up to 440,000,000 Shares in the capital of the Company at an issue price of \$0.005 per share (post consolidation) to raise up to \$2,200,000; and*

- (c) *the Company to grant 98,500,000 Options each to acquire one Share in the capital of the Company at an exercise price of \$0.005 each (post consolidation basis) on or before 31 December 2013 for no consideration; and*
- (d) *those parties set out in the Explanatory Statement to acquire a relevant interest in issued voting shares in the Company on the issue of Shares and on exercise of the Options issued and granted in accordance with this Resolution, to the parties and on the terms set out in the Explanatory Statement accompanying this Notice."*

**Short Explanation:** As part of the recapitalisation of the Company, Shares will be issued and Options will be granted to Ascent Capital, David Steinepreis, Gary Steinepreis, Patrick Burke and Bevan Tarratt (who include Directors of the Company (or entities controlled by them)) and to nominated third parties. For this reason, approval is sought under ASX Listing Rules 7.1 and 10.11 and Sections 208 and 611 of the Corporations Act. Approval is also sought to allow those parties (who could be deemed to be acting in concert) to acquire a relevant interest in more than 20% of the Company. Please refer to the Explanatory Statement for details.

**Voting Exclusion:** The Company will disregard any votes cast on this resolution by:

- (a) Ascent Capital, David Steinepreis, Gary Steinepreis, Patrick Burke and Bevan Tarratt and a person who may participate in the proposed issue and any person who might obtain a benefit, except a benefit solely in the capacity of a security holder if the resolution is passed, and any associates of those persons; and
- (b) a person who is to receive securities in relation to the entity and their associates.

### **Resolution 3 – Disposal of Assets**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 2 (inclusive) and Resolutions 4 to 7 (inclusive), for the purpose of Listing Rule 11.2 of the Listing Rules of ASX Limited and for all other purposes, approval is given for the Company to dispose of certain assets of the Company following appointment of the Administrator and Deed Administrator, in accordance with the Deed of Company Arrangement, and as set out in the Explanatory Statement accompanying this Notice."*

**Short Explanation:** The Listing Rules require the Company to seek shareholder approval where it proposes to dispose of its main undertaking. The Company will retain the Australian Ethanol Business. Please refer to the Explanatory Statement for details.

**Vote Exclusion:** The Company will disregard any votes cast in this resolution by a person who might obtain a benefit, except a benefit solely in the capacity of holder of ordinary securities if the resolution is passed, or any associate of those persons.

### **Resolution 4 – Re-election of Mr Patrick Burke**

To consider and if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 3 (inclusive) and 5 to 7 (inclusive), Mr Patrick Burke being a Director of the Company who was appointed on 22 July 2009, retires in accordance with the Company's constitution and, being eligible and offering himself for re-election, be elected as a Director of the Company."*

## Resolution 5 – Re-election of Mr Gary Steinepreis

To consider and if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 4 (inclusive) and Resolutions 6 and 7, Mr Gary Steinepreis being a Director of the Company who was appointed on 22 June 2009, retires in accordance with the Company's constitution and, being eligible and offering himself for re-election, be elected as a Director of the Company."*

## Resolution 6 – Re-election of Mr Bevan Tarratt

To consider and if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 5 (inclusive) and Resolution 7, Mr Bevan Tarratt being a Director of the Company who was appointed on 22 July 2009, retires in accordance with the Company's constitution and, being eligible and offering himself for re-election, be elected as a Director of the Company."*

## Resolution 7 – Section 195 Approval

To consider and if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That subject to and conditional on the due passage of Resolutions 1 to 6 (inclusive) and for the purposes of section 195(4) of the Corporations Act and for all other purposes, Shareholders approve and authorise the Directors to complete the transactions as contemplated in this Notice."*

**Short Explanation:** Approval of Resolution 2 may result in the Directors appointed by this General Meeting having a "material personal interest" in the Recapitalisation Proposal, completion of the Deed of Company Arrangement and other matters referred to in this notice. In the absence of this Resolution 7, the Directors may not be able to form a quorum at any meetings necessary to carry out the transactions contemplated by this Notice which may mean that the Deed of Company Arrangement cannot be completed and as a consequence the Company may be placed into liquidation.

## Resolution 8 – Grant of Options – Trustee for Creditors

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 7 (inclusive), for the purposes of Listing Rule 7.1 of the Listing Rules of ASX Limited, and for all other purposes, approval is given for the Company to grant 1,500,000 Options each to acquire one Share in the capital of the Company at an exercise price of \$0.005 each (post consolidation) on or before 31 December 2013 to the Trustee for Creditors for no consideration."*

**Short Explanation:** Approval is sought for the grant of 1,500,000 Options to Trustee for Creditors. Approval is being sought in accordance with ASX Listing Rule 7.1 because the grant of Options will exceed the threshold of 15% of the Company's ordinary securities in any 12 month period. Please refer to the Explanatory Statement for details.

**Voting Exclusion:** The Company will disregard any votes cast on this resolution by a person who may participate in the proposed issue and a person who might obtain a benefit, except a benefit solely in the capacity of a holder of ordinary securities, if the resolution is passed and any associate of those persons.



## Resolution 9 – Adoption of New Constitution

To consider and if thought fit, to pass, with or without amendment, the following resolution as a **special resolution**:

*"That, subject to and conditional on the due passage of Resolutions 1 to 7 (inclusive), for the purposes of s136(1) of the Corporations Act, the Company adopts a new constitution in the form as signed by the chairman of the meeting for identification purposes in lieu of the existing constitution of the Company."*

**Short Explanation:** The Company proposes to adopt a new constitution that more accurately reflects the recent changes to the Corporations Act and the Listing Rules of ASX Limited.

## Resolution 10 – Change of Name to Viva Resources Limited

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **special resolution**:

*"That, subject to and conditional upon the due passage of Resolutions 1 to 7 (inclusive), for the purposes of Section 157(1) of the Corporations Act and for all other purposes, the name of the Company be changed to "Viva Resources Limited" and the Constitution and all other Company records be amended accordingly."*

## Resolution 11 – Ratification of Allotment and Issue of Shares – Convertible Loan Agreement

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, subject to and conditional upon the due passage of Resolutions 1 to 7 (inclusive), for the purpose of Listing Rule 7.4 of the Listing Rules of ASX Limited and for all other purposes, the Company approves and ratifies the allotment and issue of 2,600,000 Shares (post consolidation) at a deemed issue price of \$0.0001 per share to YA Global following conversion of part of the monies owing to YA Global under the Convertible Loan Agreement, and otherwise on the terms set out in the Explanatory Statement accompanying this Notice."*

**Short Explanation:** Approval is sought under Listing Rule 7.4 to allow the Company to ratify the allotment and issue of these securities. Please refer to the Explanatory Statement for details.

**Voting Exclusion:** The Company will disregard any votes cast on this resolution by YA Global and any associates of those persons.

**DATED THIS 6<sup>th</sup> DAY OF AUGUST 2009**

**Gary Steinepreis**  
**Director**

**NOTES:**

1. A Shareholder of the Company who is entitled to attend and vote at a general meeting of Shareholders is entitled to appoint not more than two proxies. Where more than one proxy is appointed, each proxy may be appointed to represent a specified proportion of the Shareholder's voting rights. If the Shareholder appoints two proxies and the appointment does not specify this proportion, each proxy may exercise half of the votes. A proxy need not be a Shareholder of the Company.
2. Where a voting exclusion applies, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote in accordance with the directions on the proxy form to vote as the proxy decides or it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.
3. In accordance with Regulation 7.11.37 of the Corporations Act, the Directors have set a snapshot date to determine the identity of those entitled to attend and vote at the Meeting. The snapshot date is 4pm on 29 September 2009.

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## EXPLANATORY STATEMENT

This Explanatory Statement and all attachments are important documents. They should be read carefully.

If you have any questions regarding the matters set out in this Explanatory Statement or the preceding Notice, please contact Gary Steinepreis, Ascent Capital, on (08) 9420 9300, your stockbroker or other professional adviser.

### 1. GENERAL INFORMATION

This Explanatory Statement has been prepared for the Shareholders of Agri Energy Limited (Subject to a Deed of Company Arrangement) (**Agri** or the **Company**) in connection with the General Meeting of the Company to be held on 1 October 2009.

In considering the Resolutions, Shareholders must bear in mind the current financial circumstances of the Company. In this regard, Shareholders should note that the Administrator issued reports to creditors of the Company in accordance with Section 439A of the Corporations Act. The report sets out in detail the financial position of the Company, the actions and investigations taken by the Administrator, the reasons for the failure of the Company and the Administrator's recommendation for the future of the Company. A copy of this report can be provided on request, but the Shareholders should note that it was prepared for the benefit of Agri creditors and any opinions expressed by the Administrator in this report relate to the creditors' interests which may not be aligned with the Shareholders' interests. As such Shareholders may not place reliance on this report.

**If the Resolutions are passed and the proposed re-structuring set out in the Recapitalisation Proposal is completed, the Company will be in a position to seek the reinstatement of its securities to official quotation on ASX. This reinstatement is, of course, subject to the discretion of ASX.**

**If Shareholders reject the proposed restructuring, the Deed of Company Arrangement will terminate and the Deed Administrator will call a further meeting of creditors to consider the options available. It is likely that the Company will be placed in liquidation. In the event of an unsuccessful recapitalisation, it is likely that there would be no return to Shareholders.**

#### 1.1 Overview

##### 1.1.1 Background

The Company was incorporated in Western Australia on 2 September 1993 as Crest Resources NL.

The Company changed its name to Crest Magnesium NL in 1998 and Crest Magnesium Limited in 2001 to reflect its focus on the development of its magnesite project in Northern Tasmania.

Since 2002, in addition to the magnesite project, the Company has been engaged in the development of fuel ethanol and biodiesel production plants in Australia, the United States and Central Europe. The company has operated under the name Agri Energy Limited since January 2007.

The Company's initial fuel ethanol and biodiesel venture was the acquisition of Australian Biofuels Pty Ltd ("**Australian Biofuels**") in August 2002. At the time of the acquisition, Australian Biofuels was developing an ethanol project in Mossman, Queensland. Since the acquisition, the Company has commenced development of a

number of ethanol projects in Australia, and this part of the business, the Australian Ethanol Business, will be retained. Further details of the Australian Ethanol Business are set out in section 1.1.3.1.

In late 2004 the Company expanded its operations into the United States and then into Central Europe in early 2007. The Company's primary operation in the United States was the development of the Beatrice Biodiesel Plant located in Beatrice, Nebraska. Whilst initially construction of the Beatrice Biodiesel Plant proceeded well, cost overruns and delays in construction during 2007 and 2008 together with significant increases in feedstock prices led to the Company being unable raise sufficient funds to complete and commission the Beatrice Biodiesel Plant. On 11 September 2008 the Company filed for Chapter 7 Bankruptcy in the United States for the Beatrice Biodiesel Plant.

### **1.1.2 Suspension of Trading of Agri Shares and Appointment of Administrator**

On 13 February 2008, the securities of the Company were suspended from quotation on the Official List of the ASX at the request of the Company whilst the Company pursued restructuring options.

On 12 September 2008, following the filing for Chapter 7 Bankruptcy in the United States for the Beatrice Biodiesel Plant, the directors of the Company appointed Kenneth Stout of Boutique Corporate Services as Administrator of the Company pursuant to Section 436A of the Corporations Act.

At the second meeting of creditors of the Company on 1 December 2008, the Administrator recommended to the creditors that, in the opinion of the Administrator, it was in the best interests of creditors to approve the execution of a deed of company arrangement to facilitate the recapitalisation of the Company. The Administrator outlined six proposals he had received to recapitalise the Company. At this meeting, creditors resolved to approve execution of a deed of company arrangement to facilitate the recapitalisation proposal put forward by Ascent Capital.

The Deed of Company Arrangement was executed by the Company, the Deed Administrator and Ascent Capital on 19 December 2008. The Deed of Company Arrangement, subject to certain conditions including shareholder approval, requires that an amount of \$402,258 and certain assets and rights of the Company be made available for the satisfaction of the claims of creditors and to meet the costs of the Administrator and Deed Administrator. Ascent Capital will provide the funding to meet the costs associated with this Notice of Meeting and will arrange \$402,258 in additional loan funds, via a conditional loan agreement, to enable the Company to meet the terms of the Deed of Company Arrangement.

Ascent Capital has nominated Mr Gary Steinepreis, Mr Patrick Burke and Mr Bevan Tarratt to be Directors of the Company.

The Company will continue to undertake the Australian Ethanol Business and all other assets of the Company have been disposed of by either operation of the United States bankruptcy proceedings, the Administrator or the Deed Administrator. All creditors are bound by the Deed of Company Arrangement and on completion all claims against the Company will be released and there will be no residual liabilities or potential recovery from former creditors against the Company after completion.

If the proposed restructuring and recapitalisation is completed, the Company will seek the reinstatement of the quotation of its securities on ASX.

### 1.1.3 Future of the Company

The Company intends to continue with its Australian Ethanol Business and pursue complementary acquisitions. The Company also intends to review new investment opportunities in the energy and resources sectors.

As a condition of the Recapitalisation Proposal, Ascent Capital requires that the Australian Ethanol Business be transferred from Australian Biofuels to the Company and that the Australian Ethanol Business remain as an unencumbered asset of the Company to enable the Company to be reinstated to trading on the ASX.

The Company proposes to raise sufficient working capital to review, evaluate and develop the Australian Ethanol Business and, as part of the working capital budget, pursue new projects in the energy and resources sectors by way of acquisition or investment.

#### 1.1.3.1 Australian Ethanol Business

The Company has a number of ethanol projects under development together with a large and unique intellectual property database with respect to the development of ethanol projects in Australia. The Company's intellectual property and know-how with respect to the development of ethanol projects in Australia includes the following:

- Feedstock research and development database.
- Project development from site selection through design and construction to operation.
- Database of, and relationships with, third parties required for project development, including but not limited to, feedstock, environmental, government, utilities, design, technology, engineering, finance, marketing, distribution and offtake.
- Project management expertise.
- Project funding and financial modelling.
- Government relations (all tiers) and public education database.
- Environmental benefits and issues database.
- Offtake, distribution and retailing database.
- Database of prospective sites for ethanol projects in Australia including detailed information going to availability of feedstock, utilities, demand, prospective workforce etc.
- Database on ethanol sector in Australia and internationally.

The Company's most advanced Australian project at Swan Hill in Victoria was sold prior to the Company entering Administration. However the Company has retained Ethanol Projects under development in Condobolin, Oaklands and Coleambally in New South Wales and Murtoa in Victoria together with scoping studies on a number of other prospective locations across Australia.

The Company has completed design work together with an extensive assessment of the critical issues relating to each of the three Ethanol Projects in NSW including grain supply studies, access to water, rail, infrastructure and a population base to support

each of the proposed projects. The Company also engaged Environmental Resource Management Australia to complete and submit a detailed development application to the relevant authorities in NSW.

The Australian projects were all placed on hold in late 2007 as a result of high feedstock prices and uncertainty from the investment community and governmental support. The Company regarded its overseas projects as being more prospective at the time.

The current indications are however that the environment for ethanol projects in Australia is improving. The NSW Projects are of particular interest in this regard. In 2007 the NSW Government, citing the environmental and energy security benefits of Ethanol, mandated that 2% of all petrol sold must be ethanol. Subsequently the NSW Minister for Lands has announced that the ethanol mandate would increase to 6% by the end of 2010 and, in addition, that by 1 July 2011 regular grade unleaded petrol will have to contain 10% ethanol.

#### 1.1.4 Purpose of Capital Raisings pursuant to Resolution 2

The purpose of the capital raisings proposed by Resolution 2 is to:

- fund the review, evaluation and development of the Australian Ethanol Business;
- provide funds for the acquisition and development of additional opportunities in the energy and minerals sectors, as identified by the Company; and
- meet the costs of the Administrator and Deed Administrator and the expenses of the recapitalisation of the Company including the repayment of loan funds arranged by Ascent Capital.

In particular, it is proposed that the funds raised will be applied as follows:

***On the basis of the approval of Resolution 2, but issuing and allotting 20,000,000 Shares at an issue price of \$0.0001 each and 320,000,000 Shares at an issue price of \$0.005 each:***

#### ***Use of Funds - Expenditure Budget***

	Year 1	Year 2
Total funds raised	1,602,000	-
Utilised as follows:		
Review, evaluation and development of the Australian Ethanol Business	250,000	250,000
Review and evaluation of new projects	200,000	200,000
<b><i>Total general working capital budget</i></b>	<b><i>450,000</i></b>	<b><i>450,000</i></b>
Repayment of loan funds arranged by Ascent Capital for payment to the Deed Administrator to satisfy obligations under the Deed of Company Arrangement,	402,258	-
Working capital, including expenses associated with the Recapitalisation Proposal to be repaid to Ascent Capital*	250,000	49,742
Total funds utilised	1,102,258	499,742

\* Note that the expenses of the recapitalisation are estimated at \$150,000 (refer to the Proforma Balance Sheet set out in Section 2.2.9).

**On the basis of the approval of Resolution 2, but issuing and allotting 40,000,000 Shares at an issue price of \$0.0001 each and 440,000,000 Shares at an issue price of \$0.005 each:**

***Use of Funds - Expenditure Budget***

	Year 1	Year 2
Total funds raised	2,204,000	-
Utilised as follows:		
Review, evaluation and development of the Australian Ethanol Business	350,000	350,000
Review and evaluation of new projects	300,000	300,000
<i>Total general working capital budget</i>	<i>650,000</i>	<i>650,000</i>
Repayment of loan funds arranged by Ascent Capital for payment to the Deed Administrator to satisfy obligations under the Deed of Company Arrangement,	402,258	-
Working capital, including expenses associated with the Recapitalisation Proposal to be repaid to Ascent Capital*	350,000	151,742
Total funds utilised	1,402,258	801,742

\* Note that the expenses of the recapitalisation are estimated at \$150,000 (refer to the Proforma Balance Sheet set out in Section 2.2.9).

**1.1.5 Ascent Capital and information on directors**

Ascent Capital was formed to pursue the reconstruction and recapitalisation of existing listed companies, assist in the establishment of new businesses and the listing of new companies on recognised stock exchanges including the ASX and AIM in the United Kingdom. Ascent Capital and its directors Gary Steinepreis and David Steinepreis have successfully recapitalised and relisted 22 companies on the ASX and 5 IPO's.

***Mr Gary Steinepreis***

Gary Steinepreis holds a Bachelor of Commerce degree from the University of Western Australia and is a Chartered Accountant. Mr Steinepreis provides corporate, management and accounting advice to a number of companies involved in the resource, technology and leisure industries. He is a director of Norseman Gold plc which is listed on AIM and ASX and RMG Limited, WAG Limited, Black Fire Energy Ltd, Avalon Minerals Ltd, Croesus Mining NL and Southern Pacific Petroleum NL, companies listed on ASX. Mr Steinepreis is also Managing Director of Ascent Capital and a 50% beneficial shareholder.

Ascent Capital has also nominated Mr Patrick Burke and Mr Bevan Tarratt to be directors of the Company.

***Mr Patrick Burke***

Patrick Burke holds a Bachelor of Laws degree from the University of Western Australia. He has approximately fifteen years experience working in law firms and companies in Australia and Ireland. His expertise is in corporate, commercial and securities law with an emphasis on capital raisings and mergers and acquisitions. He contributes general corporate and legal skills along with a strong knowledge of the ASX requirements. He is a director of North River Resources plc which is listed on AIM and WAG Limited, Croesus Mining NL, Southern Pacific Petroleum NL and Monto Minerals Limited (subject to deed of company arrangement), companies listed on ASX.

*Mr Bevan Tarratt B.Bus SDIA*

Bevan Tarratt has an extensive background in the accounting industry having worked in various local accounting firms for the past 10 years and is currently a Partner at Marlston Taxation & Financial Services.

In addition Mr Tarratt has a comprehensive practical business background having owned various medium sized retail businesses and is currently involved in Residential and Commercial property development. Mr Tarratt also has extensive experience in primary and secondary capital raisings and corporate strategic consulting.

**1.2 Summary of the terms of the Recapitalisation Proposal and Deed of Company Arrangement**

Set out below is a detailed summary of the Recapitalisation Proposal and Deed of Company Arrangement.

**1.2.1 Details of Recapitalisation Proposal**

The essential terms of the Recapitalisation Proposal are as follows:

- (a) the consolidation of the capital of the Company on a 1 for 15 basis;
- (b) the allotment and issue of not less than 20,000,000 Shares at an issue price of \$0.0001 per Share (post consolidation) to raise \$2,000 and up to 40,000,000 Shares at an issue price of \$0.0001 per Share (post consolidation) to raise up to \$4,000 for working capital. The determination of the allottees is at the sole discretion of Ascent Capital;
- (c) the allotment and issue of not less than 320,000,000 Shares at an issue price of \$0.005 per Share (post consolidation) to raise \$1,600,000 and up to 440,000,000 Shares at an issue price of \$0.005 per Share (post consolidation) to raise up to \$2,200,000 for working capital. The determination of the allottees is at the sole discretion of Ascent Capital;
- (d) the grant of 98,500,000 unlisted Options (post consolidation) with each Option to acquire one Share in the Company exercisable at \$0.005 each on or before 31 December 2013 for no consideration. The determination of the grantees is at the sole discretion of Ascent Capital;
- (e) the re-election of the Directors of the Company;
- (f) the Australian Ethanol Business being transferred from Australian Biofuels to the Company and that the Australian Ethanol Business remain as an unencumbered asset of the Company to enable the Company to be reinstated to trading on the ASX; and
- (g) the transfer of all other assets of the Company as are capable of being assigned to the Deed Administrator pursuant to ASX Listing Rule 11.2 and the terms of the Deed of Company Arrangement;

The funds raised pursuant to the capital raisings set out in paragraphs (b) and (c) above will be applied as detailed in Section 1.1.4 of this Explanatory Statement.

The Recapitalisation Proposal is conditional upon ASX giving its approval to lift the suspension of quotation of the Company's securities following completion of the proposal.



### 1.2.2 Details of Deed of Company Arrangement.

The essential terms of the Deed of Company Arrangement are as follows:

- (a) The objects of the Deed of Company Arrangement:
- i. to enable the Company to retain ownership of the Australian Ethanol Business and continue trading for the purpose of exploiting opportunities in the energy and mineral sectors;
  - ii. to provide for a moratorium on creditors taking action against the Company;
  - iii. to enable Ascent to recapitalise the Company and have its shares reinstated to official quotation on the Official List of ASX;
  - iv. to transfer all other assets of the Company to the Trustee of the Creditors' Trust;
  - v. to release all the creditors' claims against the Company; and
  - vi. to grant to the creditors entitlements under the Creditors' Trust;
- (b) Completion of the Deed of Company Arrangement is conditional, amongst other things, upon:
- i. Shareholder approval for the Recapitalisation Proposal;
  - ii. the Australian Ethanol Business being transferred from Australian Biofuels to the Company and that the Australian Ethanol Business remain as an unencumbered asset of the Company to enable the Company to be reinstated to trading on the ASX;
  - iii. Ascent Capital being satisfied that all claims have been released and that the Australian Ethanol Business is unencumbered;
  - iv. The Ascent Capital nominees being appointed directors of the Company; and
  - v. Ascent Capital obtaining written confirmation from the ASX that the suspension of trading of the Company's securities will be lifted upon completion, without the need to comply with chapters 1 and 2 of the ASX Listing Rules;
- if these conditions are not satisfied or waived by 31 August 2009:
- (a) the Deed of Company Arrangement will terminate; and
  - (b) the Company will be wound up and the Administrator shall become the liquidator of the Company; and
- (c) On completion of the Deed of Company Arrangement:
- i. Ascent Capital shall pay the amount of \$352,258 to the Trustee of the Creditors Trust. In addition, the deposit in amount of \$50,000 previously paid by Ascent Capital shall be transferred to the Trustee of the Creditors' Trust;
  - ii. all assets of the Company, save for the Australian Ethanol Business, shall be transferred to the Trustee of the Creditors' Trust;

- iii. all claims against the Company will be released and extinguished and all securities will be released; and
- iv. all creditors shall be entitlement to prove, or claim under, the Creditors' Trust in full satisfaction and complete discharge of all debts and claims which they have or claim to have against the Company.

### 1.2.3 Conclusion

The Resolutions set out in the Notice are important and affect the future of Agri. Shareholders are therefore urged to give careful consideration to the Notice and the contents of this Explanatory Statement.

## 2. THE RESOLUTIONS

### 2.1 Resolution 1 – Consolidation of Capital

The Company is seeking Shareholder approval to consolidate the issued capital of the Company on a 1 for 15 basis in accordance with the Recapitalisation Proposal and the Deed of Company Arrangement.

Section 254H of the Corporations Act provides that a company may, by resolution passed in general meeting, convert all or any of its shares into a larger or smaller number of shares.

If Resolution 1 is passed, the number of Shares on issue will be reduced on 1 for 15 basis, from 260,914,813 to 17,394,320. The terms and conditions of the Shares will not be affected.

As from the effective date of the Resolution (being the date of the Meeting), all holding statements for Shares will cease to have any effect, except as evidence of entitlement to a certain number of post-consolidation Shares.

After the consolidation becomes effective, the Company will dispatch a notice to Shareholders advising them of the number of Shares held by each holder both before and after the consolidation. The Company will also arrange for new holding statements to be issued. It is the responsibility of each stakeholder to check the number of equity securities held prior to a disposal.

For the purposes of the ASX Listing Rules, the Company is required to follow the following indicative timetable for the consolidation:

Event	Indicative Timetable
Company to send out Notice of Meeting	18 August 2009
Company tells ASX that Shareholders have approved the consolidation. Last day for trading in pre-reorganised securities if the securities were trading. The securities are currently suspended.	1 October 2009
Trading in the reorganised securities would commence on a deferred settlement basis, if the securities were trading. The securities are currently suspended.	28 September 2009
Last day for Company to register transfers on a pre-reorganisation basis, if the securities were trading. The securities are currently suspended.	2 October 2009
Last day for securities to be entered on the holders security holding and deferred trading would end, if the securities were trading. The securities are currently suspended.	9 October 2009

For the reference of Shareholders, the Company provides the following additional information:

The current capital structure of the Company is as follows:

<b>Shares</b>	
260,914,813	Shares on issue
<b>Options</b>	
11,350,000	Exercisable at \$0.45 on or before 30 November 2009
5,000,000	Exercisable at \$0.45 on or before 19 January 2010
6,650,000	Exercisable at \$0.45 on or before 29 January 2010
5,000,000	Exercisable at \$0.45 on or before 12 June 2010

Following completion of the consolidation proposed by Resolution 1 and the issue and allotment of Shares and grant of Options proposed by Resolutions 2 and 8 as set out in this Notice, the capital structure of the Company will be as follows:

#### Share Capital – post consolidation

<b>Shares</b>	<b>Shares</b>	
<i>Minimum</i>	<i>Maximum</i>	
17,394,320	17,394,320	<i>Resolution 1</i> - Shares on issue post consolidation
		<i>Resolution 2</i>
20,000,000	40,000,000	Issue of Shares at \$0.0001 each
320,000,000	440,000,000	Issue of Shares at \$0.005 each
<u>357,394,320</u>	<u>497,394,320</u>	Shares on Issue

#### Options – post consolidation

	<i>Resolution 2</i>
98,500,000	Options exercisable at \$0.005 on or before 31 December 2013
756,666	Exercisable at \$0.45 on or before 30 November 2009
333,333	Exercisable at \$0.45 on or before 19 January 2010
443,333	Exercisable at \$0.45 on or before 29 January 2010
333,333	Exercisable at \$0.45 on or before 12 June 2010
<u>100,366,665</u>	Options on Issue
	<i>Resolution 8 (Grant of Options to Trustee for Creditors)</i>
1,500,000	Options exercisable at \$0.005 on or before 31 December 2013
<u>101,866,665</u>	Options on Issue

Where the number of shares is not evenly divisible by 15, any fractional entitlement that would otherwise result from the consolidation will be rounded down to the nearest whole share.

It is considered that there are no taxation consequences that exist for Shareholders arising from the consolidation. However, Shareholders are advised to seek their own tax advice on the effect of the consolidation and neither the Company, the Deed Administrator nor the Directors (or the Company's advisers) accept responsibility for the individual taxation consequences arising from the consolidation.

## **2.2 Resolution 2 – Allotment and Issue of Shares and Grant of Options**

### **2.2.1 Background**

The Shares and Options under Resolution 2 are being issued and granted in accordance with the Recapitalisation Proposal and the Deed of Company Arrangement.

The Shares proposed to be issued and Options proposed to be granted under Resolution 2 will be issued to the directors of Ascent Capital and to third parties nominated by Ascent Capital.

The following proposed issues of securities pursuant to this Resolution 2 will be made to the directors of Ascent Capital (which group has proposed, negotiated and presented the Recapitalisation Proposal, as approved by creditors, and as contained in this Notice of Meeting for consideration by Shareholders) and to nominated third parties:

- (a) not less than 20,000,000 Shares (post consolidation) at \$0.0001 each and up to 40,000,000 Shares (post consolidation) at \$0.0001 each;
- (b) not less than 320,000,000 Shares (post consolidation) at \$0.005 each and up to 440,000,000 Shares (post consolidation) at \$0.005 each; and
- (c) 98,500,000 Options (post consolidation) with each Option to acquire one Share in the Company exercisable at \$0.005 each on or before 31 December 2013 for no consideration.

Part of the funds raised from the allotment of Shares pursuant to Resolution 2 will be used to repay Ascent Capital monies paid for the purpose of the settlement of the Deed of Company Arrangement. The balance of the funds raised, shall be used by the Company to meet the costs of the Recapitalisation Proposal and to meet the costs of the Company's ongoing operations as set out in Section 1.1.4 "Purpose of the Capital Raisings".

Where relevant to the disclosures required pursuant to the Listing Rules and the Corporations Act for the purpose of Resolution 2, matters related to this acquisition are included in this section 2.2. You are also referred to section 2.5.

### **2.2.2 ASX Listing Rules**

Resolution 2 requires Shareholder approval in accordance with ASX Listing Rules 7.1 and 10.11.

#### **ASX Listing Rule 10.11**

ASX Listing Rule 10.11 requires a listed company to obtain shareholder approval by ordinary resolution prior to the issue of securities to a related party of the company.

If Resolution 2 is passed, up to 194,500,000 Shares to be issued and 60,000,000 Options to be granted pursuant to Resolution 2 may be issued and granted to parties comprising Gary Steinepreis, Patrick Burke, Bevan Tarratt and David Steinepreis (who was a director of the Company until 22 July 2009) (or entities controlled by them) each of whom are Directors or former Directors, and Ascent Capital.

Directors are related parties of the Company. Ascent Capital is a related party of David Steinepreis and Gary Steinepreis as it is an entity controlled by them and is therefore a related party of the Company. For this reason, approval for the issue of the Shares and grant of Options to these parties is required pursuant to ASX Listing Rule 10.11.

Approval pursuant to ASX Listing Rule 7.1 is not required in order to issue the Shares and grant of Options to these parties as approval is being obtained under ASX Listing Rule 10.11. Shareholders should note that the issue of Shares and grant of Options to the parties set out above will not be included in the 15% calculation for the purposes of ASX Listing Rule 7.1.

ASX Listing Rule 10.13 sets out a number of matters which must be included in a notice of meeting proposing an approval under ASX Listing Rule 10.11. For the purposes of ASX Listing Rule 10.13, the following information is provided in relation to Resolution 2:

- (a) the allottees of the Shares and Options for the purposes of ASX Listing Rule 10.11 are Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis and Ascent Capital with the maximum number of securities to be issued by the Company set out in Table 1 below (post consolidation). The grantees referred to below shall be entitled to specify any nominee as determined by them subject to paragraph (b) below:

**Table 1**

	<b>Column 1 No. of Shares currently held, both directly &amp; indirectly (post consolidation)</b>	<b>Column 2 Maximum No. of Shares to be issued at \$0.0001 (Res. 2)</b>	<b>Column 3 Maximum No. of Shares to be issued at \$0.005 (Res. 2)</b>	<b>Column 4 Maximum No. of Options to be granted (Res. 2)</b>
Gary Steinepreis	Nil	7,000,000	65,000,000	20,000,000
Patrick Burke	Nil	1,500,000	10,000,000	5,000,000
Bevan Tarratt	Nil	7,000,000	20,000,000	10,000,000
Ascent Capital	Nil	5,000,000	7,000,000	5,000,000
David Steinepreis	Nil	7,000,000	65,000,000	20,000,000
<b>Total</b>	Nil	27,500,000	167,000,000	60,000,000

- (b) in the event the allottee does not take up the maximum allocation, that allottee is entitled to nominate a third party or parties to subscribe for the Shares and/or Options. That third party must be approved by the Directors in their discretion and provided that no nominee will acquire voting power that is greater than 20% of the Company;
- (c) the Shares to be issued and Options to be granted to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis, and Ascent Capital or their nominees will be issued on one date and not later than one month after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the ASX Listing Rules);
- (d) as noted above, Ascent Capital is an entity controlled by Gary Steinepreis and David Steinepreis and as such is a related party of the Company;
- (e) the Shares will be issued to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis, and Ascent Capital or their nominees at the various issue prices set out in Table 1 above;
- (f) the Options will be granted to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis and Ascent Capital or their nominees for no consideration;
- (g) the Shares will rank equally with the existing Shares on issue (post consolidation);
- (h) the Options will be granted on the terms and conditions set out in Section 2.2.6 of this Explanatory Statement (post consolidation); and
- (i) the funds raised from the issue of the Shares and grant of the Options pursuant to Resolution 2 will be used in accordance with Section 1.1.4 of the Explanatory Statement. Shareholders are referred to Sections 1.1 and 1.2 of this Explanatory Statement.

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## ASX Listing Rule 7.1

Approval is required pursuant to ASX Listing Rule 7.1 as the number of securities proposed to be issued will exceed 15% of the capital of the Company on issue during the past 12 months. The approval is for the maximum number of securities to be issued under Resolution 2 in the event that no securities are issued to the parties under the ASX Listing Rule 10.11 approval.

None of the Shares and Options under ASX Listing Rule 7.1 approval will be issued or granted to any related parties of the Company.

In accordance with ASX Listing Rule 7.3, the following information is provided to Shareholders for the purposes of obtaining Shareholder approval pursuant to the ASX Listing Rules for Resolution 2:

- (a) the maximum number of securities to be issued by the Company is 480,000,000 Shares and 98,500,000 Options (post consolidation);
- (b) the Shares are proposed to be issued and the Options are proposed to be granted to third parties who are nominees of Ascent Capital none of whom are (or will be at the time of the issue of the Shares and grant of the Options) related parties to the Company, in the maximum amounts set out in Table 2 and notes below. For the avoidance of doubt the maximum amounts set out in Table 2 includes the Shares and Options which may be issued to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis and Ascent Capital or their nominees;

**Table 2**

	<b>Column 1 No. of Shares currently held, both directly &amp; indirectly (post consolidation)</b>	<b>Column 2 Maximum No. of Shares to be issued at \$0.0001 (Res. 2)</b>	<b>Column 3 Maximum No. of Shares to be issued at \$0.005 (Res. 2)</b>	<b>Total of existing shareholdings and maximum No. of Shares to be issued (Res.2 )</b>	<b>Total Maximum No. of Options to be granted (Res. 2)</b>
Third Parties	Nil	40,000,000	440,000,000	480,000,000	98,500,000

- (c) the third parties must be approved by the Directors in their discretion and provided that no nominee will acquire voting power that is greater than 20% of the Company;
- (d) the Shares issued and Options granted to the third parties will be allotted on one date and issued not later than 3 months after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the ASX Listing Rules);
- (e) the Shares will be issued at the various issue prices set out in Table 2 above;
- (f) the Options will be granted to the third parties for no consideration;
- (g) the Shares issued will rank equally with the existing Shares on issue (post consolidation);
- (h) the Options will be granted on the terms and conditions set out in Section 2.2.6 of this Explanatory Statement (post consolidation); and
- (i) the funds raised from the issue of the Shares and grant of the Options pursuant to Resolution 2 will be used in accordance with Section 1.1.4 of the Explanatory Statement. Shareholders are referred to Sections 1.1 and 1.2 of this Explanatory Statement.

### 2.2.3 Chapter 2E of the Corporations Act

Chapter 2E of the Corporations Act regulates the provision of financial benefits to related parties by a public company. Section 208 of the Corporations Act prohibits a public company giving a financial benefit to a related party unless one of a number of exceptions applies.

A "financial benefit" is defined in the Corporations Act in broad terms and includes a public company issuing securities.

For the purpose of this meeting, a "related party" includes:

- (a) a director;
- (b) an entity over which a director has control; and
- (c) an entity which believes, or has reasonable grounds to believe, that it is likely to become a related party in the future.

For the purposes of Chapter 2E of the Corporations Act, Gary Steinepreis, Patrick Burke, Bevan Tarratt and David Steinepreis (a former director) are each a related party of the Company by virtue of the fact that they are Directors. David Steinepreis and Gary Steinepreis each own a 50% beneficial interest in Ascent Capital and accordingly, Ascent Capital is a related party of David Steinepreis and Gary Steinepreis and is therefore a related party of the Company.

Section 208 of the Corporations Act provides that for a public company to give a financial benefit to a related party of that company, the public company must:

- (a) obtain the approval of members in the way set out in Sections 217 to 227; and
- (b) give the benefit within 15 months after the approval.

For the avoidance of doubt, the Company is seeking Shareholder approval for the purposes of Chapter 2E of the Corporations Act in respect of the Shares and Options proposed to be issued and granted pursuant to Resolution 2 to Ascent Capital, Gary Steinepreis, Patrick Burke, Bevan Tarratt and David Steinepreis, or their nominees as set out above.

The following information is provided to satisfy the requirements of Section 219 of the Corporations Act:

- (a) the proposed financial benefit to be given to the related party (or his nominee) is the maximum number of Shares and Options set out in Table 1 in Section 2.2.2 and proposed to be allotted to that Director or his nominee and Ascent Capital;
- (b) the Shares proposed to be issued pursuant to Resolution 2 are being issued to the related parties with the various issue prices as set out in Table 1 of Section 2.2.2. The Options are being granted to the related parties for no consideration. These values are as proposed by Ascent Capital in its Recapitalisation Proposal and as incorporated into the Deed of Company Arrangement;
- (c) as the Company was placed in administration and thereafter executed a deed of company arrangement, the Directors have no authority to act on behalf of the Company (other than when expressly authorised under the terms of the Deed of Company Arrangement). Accordingly, the Directors make no recommendation to Shareholders in respect of Resolution 2;
- (d) if Shareholders approve the allotment and issue of the Shares and the grant of the Options to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David

Steinepreis, and Ascent Capital and all or any of the Options are exercised, the effect will be to dilute the shareholding of existing Shareholders. The market price for Shares during the term of the Options would normally determine whether or not those parties exercise the Options. If at the time any of the Options are exercised, the Shares are trading on ASX at a price which is higher than the exercise price of the Options, there may be a perceived cost to the Company. Subject to any adjustments arising from further issues of securities by the Company, 60,000,000 Shares (post consolidation) will be allotted and issued upon exercise of the Options granted to these related parties with the effect that the shareholding of existing shareholders will be diluted by approximately 16.79%, based on 357,394,320 Shares on issue and assuming no other Options are exercised, Resolutions 1 to 7 inclusive contained in this Notice are implemented, the consolidation pursuant to Resolution 1 is effected and that 20,000,000 Shares at an issue price of \$0.0001 each and 320,000,000 Shares at an issue price of \$0.005 each are issued pursuant to the approval of Resolution 2. If 40,000,000 Shares at an issue price of \$0.0001 each and 440,000,000 Shares at an issue price of \$0.005 each are issued pursuant to the approval of Resolution 2 then the number of Shares on issue will increase to 497,394,320 and the dilution will be approximately 12.06%;

- (e) the Company has limited funds, most of which are allocated to development activities. As a result, the Company has chosen to grant the relevant number of Options to Gary Steinepreis, Patrick Burke, Bevan Tarratt, David Steinepreis, and Ascent Capital to provide incentive linked to the performance of the Company. There are no additional performance criteria on the Options as given the speculative nature of the Company's activities, and the small management team responsible for its running, it is considered the performance of the recipients and the performance and value of the Company are closely related. As such, the Options granted will only be of benefit if the recipients perform to the level whereby the value of the Company is sufficient to warrant exercising the Options granted;
- (f) a valuation of the Options proposed to be granted is set out in Section 2.2.4 of this Explanatory Statement; and
- (g) additional information in relation to Resolution 2 is set out throughout this Explanatory Statement. In particular, an Independent Expert's Report, attached to this Memorandum, has been provided in relation to Resolution 2 which sets out a valuation of the Company and concludes that the proposed transaction is fair and reasonable to non-associated Shareholders. Shareholders should therefore read this Explanatory Statement and the Independent Expert's Report in its entirety before making a decision as to how to vote in relation to Resolution 2.

For the purposes of the related party provisions, the following additional information is disclosed:

- (a) the remuneration paid to the related parties over the last 12 months to the date of issue of this Notice is as follows:

Ascent Capital	\$Nil
Gary Steinepreis	\$Nil
Patrick Burke	\$Nil
Bevan Tarratt	\$Nil
David Steinepreis	\$Nil



- (b) the Company's Shares have been suspended from trading on ASX since 12 February 2008 accordingly, no information can be provided as to recent price history; and
- (c) the Directors' and Ascent Capital's interest in Shares and Options in the Company as at the date of this Memorandum is nil, as set out in Table 2 in Section 2.2.2 of this Explanatory Statement.

#### 2.2.4 Valuation of Options

The Options to be granted pursuant to Resolution 2 have been valued using the Black & Scholes pricing model. The assumptions that have been used to value the Options are as follows:

- (a) the last expiry date of the Options is 31 December 2013;
- (b) all of the Options are exercisable at \$0.005 (post consolidation);
- (c) the market price of a Share is \$0.005 (post consolidation);
- (d) a common volatility factor of 25% and 50%;
- (e) an interest rate of 3% (based on the Reserve Bank Target Cash Rate);
- (f) the valuation ascribed to the Options may not necessarily represent the market price of the Options at the date of the valuation; and
- (g) the valuation date for the Options is 31 May 2009.

The above parameters result in a range of values for an option expiring on 31 December 2013 of:

	Total number of \$0.005 options to be granted	25% volatility	50% volatility	Total valuation 25% volatility	Total valuation 50% volatility
Gary Steinepreis	20,000,000	0.13 cents	0.22 cents	\$26,818	\$44,867
Ascent Capital	5,000,000	0.13 cents	0.22 cents	\$6,705	\$11,217
Patrick Burke	5,000,000	0.13 cents	0.22 cents	\$6,705	\$11,217
Bevan Tarratt	10,000,000	0.13 cents	0.22 cents	\$13,410	\$22,434
David Steinepreis	20,000,000	0.13 cents	0.22 cents	\$26,818	\$44,867

The above values assume that the market price of a Share will be \$0.005 (being the issue price of the Shares pursuant to Resolution 2 (b)). The actual market value will not be known until the Shares are quoted on ASX.

#### 2.2.5 Section 611 of the Corporations Act

Pursuant to Section 606(1) of the Corporations Act, a person must not acquire a relevant interest in issued voting shares in a listed company if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and because of the transaction, that person's or someone else's voting power in the company increases:

- (a) from 20% or below to more than 20%; or
- (b) from a starting point above 20% and below 90%.

The voting power of a person in a body corporate is determined in accordance with Section 610 of the Corporations Act. The calculation of a person's voting power in a company involves determining the voting shares in the company in which the person and the person's associates have a relevant interest.

If the person is a body corporate, the "associate" reference includes a reference to a Director or secretary, a related party body corporate or a Director or secretary of a related body corporate.

The "associate" reference includes a reference to a person in concert with whom a primary person is acting or proposes to act.

A person has a relevant interest in securities if they:

- (a) are the holder of the securities;
- (b) have the power to exercise, or control the exercise of, a right to vote attached to securities; or
- (c) have power to dispose of, or control the exercise of a power to dispose of, the securities.

It does not matter how remote the relevant interest is or how it arises. If two or more people can jointly exercise one of these powers, each of them is taken to have that power.

Pursuant to Resolution 2, in accordance with the Recapitalisation Proposal, it is proposed that the Company issue and allot up to 156,000,000 Shares and grant up to 45,000,000 Options to David Steinepreis, Gary Steinepreis and Ascent Capital (or entities controlled by them). The maximum number of Shares and Options to be subscribed for by each of these parties is set out in Table 1 of Section 2.2.2.

### ***Ascent Capital***

Ascent Capital is a company owned as to 50% each by entities controlled by David Steinepreis and Gary Steinepreis and each of these parties are Directors of Ascent Capital.

The voting power of Ascent Capital therefore includes Ascent Capital's voting power and the voting power of each of its associates (David Steinepreis and Gary Steinepreis).

The voting power of each of David Steinepreis and Gary Steinepreis comprises the votes attached to the Shares in which they will each have a direct relevant interest, and, as they each control over 20% of the voting power of Ascent Capital, they will each have a deemed relevant interest in the Shares in which Ascent Capital has a relevant interest.

Further, each of David Steinepreis and Gary Steinepreis and Ascent Capital consider they have "acted in concert" in respect of their Shares and this will continue up to the point in time that the Recapitalisation Proposal is settled.

Ascent Capital will also be nominating third parties who will subscribe for Shares and Options pursuant to Resolution 2. These parties are likely to be persons that are personally known to the directors of Ascent Capital however neither Ascent Capital nor its directors will have any power to control or control the manner in which these persons will vote or dispose of those Shares when issued.

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## **Reasons for Approval**

Shareholder approval under Item 7 of Section 611 of the Corporations Act is required because at the time of settlement under the Deed of Company Arrangement and the Recapitalisation Proposal, Ascent Capital and its associates will each have a voting power that will exceed 20% of the issued capital of the Company. Those persons may also hold Options which, if exercised, will increase their voting power in the Company.

Information is required to be provided to Shareholders under ASIC Policy Statement 74 and the Corporations Act. Shareholders are also referred to the Independent Expert's Report prepared by Stantons International Securities, which accompanies this Explanatory Statement.

For the purposes of the Corporations Act and the approval under Item 7 of Section 611 for Ascent Capital and its associates, the following information is disclosed:

### **Identity of persons who will hold a relevant interest in the Shares to be allotted and issued.**

The identity of the persons who will hold a relevant interest in issued Shares and who may be issued Shares under the capital raising and which is required to be approved for Resolution 2 for the purposes of Item 7 of Section 611 are Ascent Capital and each of the directors of Ascent Capital.

The identities of the directors of Ascent Capital and details of Ascent Capital in its own right are set out in Sections 1.1.5 and 1.2.1 of this Explanatory Statement. Section 1.2.1 sets out detailed information in respect of each of those persons, and the number of issued Shares in which they will have a relevant interest is shown in Table 3a and 3b below.

### **Shares to which the allottee will be entitled immediately before and after the allotment**

As at the date of this Notice, each of Ascent Capital, David Steinepreis and Gary Steinepreis have a relevant interest in the Shares of the Company as shown in Column 1 of Table 3a below.

On the basis of Resolution 2, but issuing and allotting 20,000,000 Shares at an issue price of \$0.0001 each and 320,000,000 Shares at an issue price of \$0.005 each, the maximum number of Shares (post consolidation) that each of Ascent Capital, David Steinepreis and Gary Steinepreis will have a relevant interest in, assuming none of their Options are exercised, is 142,000,000 and, assuming all of their Options are exercised, is 187,000,000, as set out in Table 3a below.

**Table 3a**

	<b>Column 1 No. of Shares currently held, both directly &amp; indirectly (post consolidation)</b>	<b>Column 2 Maximum No. of Shares to be issued at \$0.0001 (Res. 2)</b>	<b>Column 3 Maximum No. of Shares to be issued at \$0.005 (Res. 2)</b>	<b>Column 4 Maximum No. of Shares to be issued on exercise of Options to be granted (Res. 2)</b>
Gary Steinepreis	Nil	2,000,000	65,000,000	20,000,000
Ascent Capital	Nil	1,000,000	7,000,000	5,000,000
David Steinepreis	Nil	2,000,000	65,000,000	20,000,000
<b>TOTALS</b>	Nil	5,000,000	137,000,000	45,000,000

On the basis of Resolution 2, but issuing and allotting 40,000,000 Shares at an issue price of \$0.0001 each and 440,000,000 Shares at an issue price of \$0.005 each, the maximum number of Shares (post consolidation) that each of Ascent Capital, David Steinepreis and Gary Steinepreis will have a relevant interest in, assuming none of their Options are exercised, is 156,000,000 and, assuming all of their Options are exercised, is 201,000,000, as set out in Table 3b below.

**Table 3b**

	<b>Column 1 No. of Shares currently held, both directly &amp; indirectly (post consolidation)</b>	<b>Column 2 Maximum No. of Shares to be issued at \$0.0001 (Res. 2)</b>	<b>Column 3 Maximum No. of Shares to be issued at \$0.005 (Res. 2)</b>	<b>Column 4 Maximum No. of Shares to be issued on exercise of Options to be granted (Res. 2)</b>
Gary Steinepreis	Nil	7,000,000	65,000,000	20,000,000
Ascent Capital	Nil	5,000,000	7,000,000	5,000,000
David Steinepreis	Nil	7,000,000	65,000,000	20,000,000
<b>TOTALS</b>	Nil	19,000,000	137,000,000	45,000,000

***On the basis of Resolution 2, but issuing and allotting 20,000,000 Shares at an issue price of \$0.0001 each and 320,000,000 Shares at an issue price of \$0.005 each; and the grant of 1,500,000 Options pursuant to Resolution 8:***

The maximum number of securities that may be held by each of Ascent Capital, David Steinepreis and Gary Steinepreis, related parties, third parties and Option holders is set out in Table 4 below.

**Table 4**

	<b>Maximum No. of Shares (Undiluted position)</b>	<b>Options</b>	<b>Maximum No. of Fully Diluted Shares</b>
Gary Steinepreis	72,000,000	20,000,000	92,000,000
Ascent Capital	12,000,000	5,000,000	17,000,000
David Steinepreis	72,000,000	20,000,000	92,000,000
<b>SUB-TOTAL</b>	<b>156,000,000</b>	<b>45,000,000</b>	<b>201,000,000</b>
Patrick Burke	11,500,000	5,000,000	16,500,000
Bevan Tarratt	27,000,000	5,000,000	32,000,000
Third Parties	145,500,000	45,000,000	190,500,000
Existing Shareholders	17,394,320	Nil	17,394,320
<b>TOTAL</b>	<b>357,394,320</b>	<b>100,000,000</b>	<b>457,394,320</b>

Also set out above are the matters required to be disclosed in accordance with Section 611 Item 7 of the Corporations Act. This information is disclosed on the assumption that:

- (a) settlement under the Deed of Company Arrangement has occurred;
- (b) all Resolutions set out in the Notice are duly passed; and

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- (c) 20,000,000 Shares are subscribed for pursuant to Resolution 2(a), 320,000,000 Shares are subscribed for pursuant to Resolution 2(b), Resolution 2(c) is fully subscribed and Resolution 8 is fully subscribed.

*The maximum extent of the increase in the relevant allottees' voting power in the Company that would result from the Shares to be issued:*

Each of Ascent Capital, David Steinepreis and Gary Steinepreis will increase their voting power as follows:

**Table 5**

Scenario	Maximum extent of the increase in voting power
None of the Options are exercised.	From 0% to 43.65%
Each of David Steinepreis, Gary Steinepreis and Ascent Capital exercise their Options to be granted pursuant to Resolution 2, only.	From 0% to 49.34%
All Options granted pursuant to Resolutions 2 and 8 are exercised.	From 0% to 43.94%

*The voting power that the relevant allottees would have as a result of the Shares to be issued:*

Each of Ascent Capital, David Steinepreis and Gary Steinepreis will have the following voting power:

**Table 6**

Scenario	Voting power
None of the Options are exercised.	43.65%
Each of David Steinepreis, Gary Steinepreis and Ascent Capital exercise their Options to be granted pursuant to Resolution 2, only.	49.34%
All Options granted pursuant to Resolutions 2 and 8 are exercised.	43.94%

*The maximum extent of the increase in the voting power of each of the allottees' associates that would result from the Shares to be issued:*

Each of David Steinepreis and Gary Steinepreis and Ascent Capital are associates of each other. Therefore the maximum extent of the increase in the voting power of each of the allottees' associates is as set out in Table 5 above.

*The voting power that each of the allottees' associates would have as a result of the Shares to be issued:*

The voting power of each of the allottees' associates is as set out in Table 6 above.

***On the basis of Resolution 2, but issuing and allotting 40,000,000 Shares at an issue price of \$0.0001 each and 440,000,000 Shares at an issue price of \$0.005 each; and the grant of 1,500,000 Options pursuant to Resolution 8:***

The maximum number of securities that may be held by each of Ascent Capital, David Steinepreis and Gary Steinepreis, related parties, third parties and Option holders is set out in Table 7 below.

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**Table 7**

	<b>Maximum No. of Shares (Undiluted position)</b>	<b>Options</b>	<b>Maximum No. of Fully Diluted Shares</b>
Gary Steinepreis	72,000,000	20,000,000	92,000,000
Ascent Capital	12,000,000	5,000,000	17,000,000
David Steinepreis	72,000,000	20,000,000	92,000,000
<b>SUB-TOTAL</b>	<b>156,000,000</b>	<b>45,000,000</b>	<b>201,000,000</b>
Patrick Burke	11,500,000	5,000,000	16,500,000
Bevan Tarratt	27,000,000	5,000,000	32,000,000
Third Parties	285,500,000	45,000,000	330,500,000
Existing Shareholders	17,394,320	Nil	17,394,320
<b>TOTAL</b>	<b>497,394,320</b>	<b>100,000,000</b>	<b>597,394,320</b>

Also set out above are the matters required to be disclosed in accordance with Section 611 Item 7 of the Corporations Act. This information is disclosed on the assumption that:

- (a) settlement under the Deed of Company Arrangement has occurred;
- (b) all Resolutions set out in the Notice are duly passed; and
- (c) 40,000,000 Shares are subscribed for pursuant to Resolution 2(a), 440,000,000 Shares are subscribed for pursuant to Resolution 2(b), Resolution 2(c) is fully subscribed and Resolution 8 is fully subscribed.

*The maximum extent of the increase in the relevant allottees' voting power in the Company that would result from the Shares to be issued:*

Each of Ascent Capital, David Steinepreis and Gary Steinepreis will increase their voting power as follows:

**Table 8**

<b>Scenario</b>	<b>Maximum extent of the increase in voting power</b>
None of the Options are exercised.	From 0% to 31.36%
Each of David Steinepreis, Gary Steinepreis and Ascent Capital exercise their Options to be granted pursuant to Resolution 2, only.	From 0% to 36.72%
All Options granted pursuant to Resolutions 2 and 8 are exercised.	From 0% to 33.65%

*The voting power that the relevant allottees would have as a result of the Shares to be issued:*

Each of Ascent Capital, David Steinepreis and Gary Steinepreis will have the following voting power:

**Table 9**

Scenario	Voting power
None of the Options are exercised.	31.36%
Each of David Steinepreis, Gary Steinepreis and Ascent Capital exercise their Options to be granted pursuant to Resolution 2, only.	36.72%
All Options granted pursuant to Resolutions 2 and 8 are exercised.	33.65%

*The maximum extent of the increase in the voting power of each of the allottees' associates that would result from the Shares to be issued:*

Each of David Steinepreis and Gary Steinepreis and Ascent Capital are associates of each other. Therefore the maximum extent of the increase in the voting power of each of the allottees' associates is as set out in Table 8 above.

*The voting power that each of the allottees' associates would have as a result of the Shares to be issued:*

The voting power of each of the allottees' associates is as set out in Table 9 above.

#### **Other Required Information**

The following further information is disclosed:

- (a) it is proposed that the Company will continue with its Australian Ethanol Business, pursue complementary acquisitions and review new investment opportunities in the energy and mineral resources sectors. Further information regarding the future intentions of the Company is set out in Section 1.1.3;
- (b) the Company will be required to raise sufficient capital to fund existing and future operations. To this end, the Company is seeking Shareholder approval to proceed with a placement. Shareholders should refer to Resolution 2 for further details regarding this capital raising;
- (c) there are currently no employees of the Company nor are there any proposals whereby any property will be transferred between the Company and the allottees, vendor or purchaser or any person associated with any of them and, other than the proposed disposal of some of the Company's existing assets as required under the Deed of Company Arrangement, there is no current intention to redeploy any other fixed assets of the Company; and
- (d) there is no intention to change the Company's existing policies in relation to financial matters or dividends. At present, the Company does not pay a dividend. The dividend policy of the Company will be assessed in accordance with the future profitability of the Company's business.

#### **2.2.6 Terms and conditions of Options**

The material terms and conditions of the Options are as follows:

- (a) each Option entitles the holder, when exercised, to one (1) Share;
- (b) the Options are exercisable at any time on or before 31 December 2013;
- (c) the exercise price of the Options is \$0.005 each (on a post-consolidation basis);

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- (d) subject to the Corporations Act, the Constitution and the ASX Listing Rules, the Options are fully transferable;
  - (e) the Options are exercisable by delivering to the registered office of the Company a notice in writing stating the intention of the Option holder to exercise a specified number of Options, accompanied by an Option certificate, if applicable, and a cheque made payable to the Company for the subscription monies due, subject to the funds being duly cleared funds. The exercise of only a portion of the Options held does not affect the holder's right to exercise the balance of any Options remaining;
  - (f) all Shares issued upon exercise of the Options will rank pari passu in all respects with the Company's then issued Shares. The Options will be unlisted however the Company reserves the right to apply for quotation at a later date;
  - (g) there are no participating rights or entitlements inherent in the Options and holders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Options. However, the Company will ensure that, for the purpose of determining entitlements to any issue, Option holders will be notified of the proposed issue at least seven (7) Business Days before the record date of any proposed issue. This will give Option holders the opportunity to exercise the Options prior to the date for determining entitlements to participate in any such issue;
  - (h) if at any time the issued capital of the Company is reorganised, the rights of an Option holder are to be changed to the extent necessary to comply with the Listing Rules applying to a reorganisation of capital at the time of the reorganisation; and
  - (i) in the event the Company makes a pro rata issue of securities, the exercise price of the Options will change in accordance with the formula set out in ASX Listing Rule 6.22.2.

### **2.2.7 Directors' Recommendations**

As the Company is subject to the Deed of Company Arrangement, the existing Directors and the Deed Administrator of the Company do not make any recommendation in respect of this Resolution. Shareholders should read this Memorandum in full and the Independent Expert's Report referred to below to form an opinion on the merits of the Recapitalisation Proposal.

### **2.2.8 Independent Expert's Report**

The Independent Expert's Report accompanying this Memorandum has been prepared by Stantons International Securities and sets out a detailed examination of the proposed issue of Shares and grant of Options to the Directors, Ascent Capital and nominated third parties (Resolution 2) to enable Shareholders to assess the merits and decide whether to approve Resolution 2.

To the extent that it is appropriate, the Independent Expert's Report sets out further information with respect to this proposed transaction and concludes that the issue of the Shares and grant of Options pursuant to Resolution 2 is fair and reasonable to the non associated Shareholders of the Company.

Shareholders are urged to carefully read the Independent Expert's Report to understand the scope of the report, the methodology of the valuation and the sources of information and assumptions made.



## 2.2.9 Balance Sheet

Set out below is a balance sheet of the Company as at 31 May 2009 prepared on a best estimates basis from the information contained in the reports to creditors and information obtained through the Deed Administrator. The creditors report did not include Issued Capital or Accumulated Losses figures and these have been inserted for completeness based upon an analysis of the Company releases to ASX in relation to share issues.

**AGRI ENERGY LIMITED**  
**(SUBJECT TO DEED OF COMPANY ARRANGEMENT)**  
 Balance Sheet  
 as at 31 May 2009

	Notes	Summary of Deed of Company Arrangement Scenario Section 439A Report to creditors and information provided by Deed Administrator \$	<b>RESOLUTION 2</b> Proforma after capital raising and completion of Deed of Company Arrangement <b>Minimum</b> \$	<b>RESOLUTION 2</b> Proforma after capital raising and completion of Deed of Company Arrangement <b>Maximum</b> \$
<b>Current Assets</b>				
Cash assets	1	5,500	1,199,742	1,801,742
<b>TOTAL CURRENT ASSETS</b>		5,500	1,199,742	1,801,742
<b>TOTAL ASSETS</b>		5,500	1,199,742	1,801,742
<b>Current Liabilities</b>				
Trade and other payables			150,000	150,000
Preferential creditors		194,601	-	-
Unsecured creditors		7,709,702	-	-
Administrator, Deed Administrator remuneration and expenses		164,778	-	-
<b>TOTAL CURRENT LIABILITIES</b>		8,069,081	150,000	150,000
<b>NET ASSETS (LIABILITIES)</b>		(8,063,581)	1,049,742	1,651,742
<b>EQUITY</b>				
Issued capital	2	66,925,900	68,527,900	69,129,900
Option reserve		4,895,000	-	-
Accumulated losses		(79,884,481)	(67,478,158)	(67,478,158)
<b>TOTAL EQUITY</b>		(8,063,581)	1,049,742	1,651,742

## Note

1. The movement in the cash and cash equivalents is reconciled as follows:

	\$	\$
Cash and cash equivalents:		
Opening balance	5,500	5,500
Transferred to the Administrator, Deed Administrator	(5,500)	(5,500)
Placement of Shares at \$0.0001	2,000	4,000
Placement of Shares at \$0.005	1,600,000	2,200,000
Repayment of conditional loan made by Ascent Capital to enable Company to satisfy its obligations under Deed of Company Arrangement and Recapitalisation Deed	(402,258)	(402,258)
Closing balance	<u>1,199,742</u>	<u>1,801,742</u>

2. The movement in the issued capital is reconciled as follows:

	\$	\$
Issued capital:		
Opening balance - made up of:		
Ordinary shares, fully paid	66,922,000	66,922,000
Debt conversion to equity *	3,900	3,900
	<u>66,925,900</u>	<u>66,925,900</u>
Placement of Shares at \$0.0001	2,000	4,000
Placement of Shares at \$0.005	1,600,000	2,200,000
Closing balance	<u>68,527,900</u>	<u>69,129,900</u>

\* this is the amount which was converted to shares by the Convertible Note Agreement YA Global – refer Resolution 11.

3. The movement in the reserve – option premium is reconciled as follows:

	\$	\$
Reserve – option premium:		
Opening balance	4,895,000	4,895,000
Forfeit of options	(4,895,000)	(4,895,000)
Closing balance	<u>-</u>	<u>-</u>

### 2.3 Resolution 3 - Disposal of Assets

The Deed of Company Arrangement allows for certain assets of the Company to be disposed of by the Deed Administrator for the benefit of creditors as described in Section 1.2.2 of this Memorandum.

This arrangement will allow for the Company to move out of administration and be returned to the control of the Directors and Shareholders.

ASX Listing Rule 11.2 requires that a disposal of the main undertaking of a Company be approved by Shareholders and this relates to the retrospective approval to the sale of the majority of the assets of the Company. This resolution seeks that approval.

### 2.4 Resolutions 4, 5 and 6 – Re-Election of Directors

The Constitution of the Company states that the Directors may appoint any natural person to be a Director of the Company, either as an addition to the existing Directors or to fill a casual vacancy.

Further, the Constitution requires that at a general meeting of the Company, each Director appointed to fill a casual vacancy must retire from office as a Director. Each

Director retiring from office in this manner is eligible for re-election and may be elected to the office of Director by the Company.

The Recapitalisation Proposal and the Deed of Company Arrangement provides for the appointment of Ascent Capital's nominees, being Gary Steinepreis, Patrick Burke and Bevan Tarratt as Directors of the Company. Gary Steinepreis was appointed as Directors on 22 June 2009 and Patrick Burke and Bevan Tarratt were appointed as Directors on 22 July 2009. In accordance with the Constitution, each of Gary Steinepreis, Patrick Burke and Bevan Tarratt will retire from office as Director and being eligible, seek re-election as a Director.

Accordingly, Resolutions 4, 5 and 6 seek the re-election of Gary Steinepreis, Patrick Burke and Bevan Tarratt as Directors, effective at the conclusion of the Meeting.

Set out in Section 1.1.5 of this Explanatory Statement is a summary of the backgrounds of each of these persons.

## **2.5 Resolution 7 – Section 195 Approval**

Section 195 of the Corporations Act essentially provides that a director of a public company may not vote or be present during meetings of directors when matters in which that director holds a “material personal interest” are being considered.

Approval of Resolution 2 may result in the Directors appointed by this General Meeting having a “material personal interest” in the Recapitalisation Proposal, completion of the Deed of Company Arrangement and other matters referred to in this notice. In the absence of this Resolution 7, the Directors may not be able to form a quorum at any meetings necessary to carry out the transactions contemplated by this Notice which may mean that the Deed of Company Arrangement cannot be completed and as a consequence the Company being placed into liquidation.

The Directors have accordingly exercised their right under section 195(4) of the Corporations Act to put the issue to Shareholders to resolve upon.

## **2.6 Resolution 8 – Grant of Options – Trustee for Creditors**

The Company proposes to issue 1,500,000 Options to the Trustee for Creditors. These Options are for the benefit of creditors of the Company and are in addition to cash and assets to be transferred to the Trustee for Creditors under the Deed of Company Arrangement.

ASX Listing Rule 7.1 provides that the prior approval of the Shareholders of the Company is required for an issue of securities if the securities will, when aggregated with the securities issued by the Company during the previous 12 months, exceed 15% of the number of securities on issue at the commencement of that 12 month period.

In accordance with ASX Listing Rule 7.3, the following information is provided to Shareholders for the purposes of obtaining Shareholder approval pursuant to the ASX Listing Rules for Resolution 8:

- (a) the maximum number of securities to be issued by the Company is 1,500,000 Options (post consolidation);
- (b) the Options are proposed to be granted to the Trustee for Creditors, who is not a related party of the Company;
- (c) the Options will be allotted on one date and issued not later than 3 months after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the ASX Listing Rules);

- (d) the Options will be granted for no consideration;
- (e) the Options will be granted on the terms and conditions set out in Section 2.2.6 of this Explanatory Statement;
- (f) no funds will be raised from the grant of the Options; and
- (g) a voting exclusion statement is included in the Notice.

## **2.7 Resolution 9 – Adoption of New Constitution**

Resolution 9 is a special resolution which will enable the Company to adopt a new constitution which will comply with and incorporate recent changes to the Corporations Act and the ASX Listing Rules.

It also contains a number of provisions designed to promote the more efficient running of the Company, which should be of long-term benefit to the Company and its Shareholders.

It is not practical to list all the changes to the constitution in this statement and Shareholders are invited to contact the Company if they have any queries or concerns.

For this purpose, a copy of the proposed new constitution is available for review by Shareholders at the office of the Deed Administrator.

## **2.7 Resolution 10 - Change of name to Viva Resources Limited**

Section 157 of the Corporations Act requires the members to pass a special resolution to change the Company's name. Accordingly, Shareholder approval is sought pursuant to this resolution.

The new name proposed to be adopted under Resolution 10 is "Viva Resources Limited". The Directors reserve the right to withdraw the Resolution prior to the meeting.

## **2.8 Resolution 11 – Ratification of Allotment and Issue of Shares to YA Global – Convertible Loan Agreement**

On 25 June 2009, the Company allotted and issued 39,000,000 Shares at a deemed issue price of \$0.0001. The Shares were issued to YA Global Investments LP ("YA Global") following conversion of \$3,900, being part of the debt owing to YA Global under the Convertible Loan Agreement.

The Company confirms that the issue and allotment of Shares did not breach ASX Listing Rule 7.1.

Resolution 11 is required to be approved in accordance with ASX Listing Rule 7.4. The reason for an approval under ASX Listing Rule 7.4 is to reinstate the capacity of the Company to issue up to 15% of its securities without the approval of the Shareholders.

Listing Rule 7.5 contains certain requirements as to the contents of a notice sent to Shareholders for the purposes of Listing Rule 7.4 and the following information is included in this Explanatory Statement for that purpose:

- (a) the number of Shares issued by the Company was 39,000,000;
- (b) The Shares were issued at a deemed issue price of \$0.0001;
- (c) the Shares issued rank equally with the existing Shares on issue;

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- (d) the Shares were issued to YA Global, which is not a related party of the Company;
  - (e) the Shares were issued upon conversion of part of the debt owed by the Company to YA Global under the Convertible Loan Agreement and no funds were raised pursuant to the issue; and
  - (f) a voting exclusion statement is included in the Notice.

### 2.3

#### **ENQUIRIES**

Shareholders are invited to contact Gary Steinepreis, Ascent Capital, on (08) 9420 9300 if they have any queries in respect of the matters set out in this Memorandum.

## GLOSSARY

**Administrator** means Kenneth Stout of Boutique Corporate Services.

**Ascent Capital** means Ascent Capital Holdings Pty Ltd (ABN 15 118 292 238).

**ASIC** means Australian Securities and Investments Commission.

**ASX** means ASX Limited.

**ASX Listing Rules** or **Listing Rules** means the Listing Rules of ASX.

**Australian Biofuels** means Australian Biofuels Pty Ltd ACN 082 938 350.

**Australian Ethanol Business** means the Company's Australian ethanol projects under development together with a large and unique intellectual property database with respect to the development of ethanol projects in Australia, more particularly described in section 1.1.3.1.

**Board** means the board of Directors of the Company.

**Company** or **Agri** means Agri Energy Limited (subject to deed of company arrangement) (ABN 83 061 375 442).

**Constitution** means the Company's constitution.

**Convertible Loan Agreement** means a convertible loan agreement dated 7 June 2006 between the Company and YA Global.

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

**Deed Administrator** means Kenneth Stout of Boutique Corporate Services.

**Deed of Company Arrangement** means the deed of company arrangement for the Company executed on 19 December 2009.

**Directors** means the current directors of the Company.

**Explanatory Statement** means the explanatory statement to the Memorandum.

**General Meeting** or **Meeting** means the general meeting of Shareholders convened by the Notice.

**Independent Expert's Report** means the independent expert's report prepared by Stantons International Securities which is annexed to this Memorandum.

**Memorandum** means this information memorandum.

**Notice** or **Notice of Meeting** means the notice of general meeting accompanying this Memorandum.

**Official List** means the official list of ASX.

**Options** means unlisted options, each to acquire one Share, at an exercise price of \$0.005 each on or before 31 December 2013.

**Recapitalisation Proposal** means the recapitalisation proposal proposed by Ascent Capital and approved by creditors of the Company on 1 December 2008, the substantive terms of which are set out in section 1.2.1.

**Resolution** means a resolution contained in the Notice.

**Shares** means fully paid ordinary shares in the capital of the Company.

**Shareholders** means persons holding Shares.

**Trustee for Creditors** means the trustee of the Agri Energy Creditors Trust, Kenneth Stout of Boutique Corporate Services.

**YA Global** means YA Global Investments, LP.

## INDEPENDENT EXPERT'S REPORT

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23 July 2009

Agri Energy Limited  
(Subject to Deed of Company Arrangement)  
C/- Ascent Capital Holdings Pty Ltd  
Level 1, 33 Ord Street  
WEST PERTH WA 6005

Dear Sirs

**RE: AGRI ENERGY LIMITED (SUBJECT TO DEED OF COMPANY ARRANGEMENT) (ACN 061 375 442) MEETING OF SHAREHOLDERS PURSUANT TO SECTION 611 (ITEM 7) OF THE CORPORATIONS ACT ("TCA") AND LISTING RULE 10.11 RELATING TO THE PROPOSAL TO ISSUE UP TO 480,000,000 POST CONSOLIDATED ORDINARY SHARES TO ASCENT CAPITAL HOLDINGS PTY LTD, THE ASCENT GROUP OR THIRD PARTIES NOMINATED BY ASCENT CAPITAL HOLDINGS PTY LTD AND THE ISSUE OF 98,500,000 POST CONSOLIDATED OPTIONS TO ASCENT CAPITAL HOLDINGS PTY LTD AND THE ASCENT GROUP OR THIRD PARTIES NOMINATED BY ASCENT**

**1. Introduction**

1.1 We have been requested by the directors of Ascent Capital Holdings Pty Ltd ("Ascent") to prepare an independent expert's report to determine the fairness and reasonableness of the transactions referred to in Resolution 2 as detailed in the Notice of Meeting ("the Notice") to Agri Energy Limited (Subject to a Deed of Company Arrangement) ("Agri" or "the Company") shareholders.

Resolution 2(a) relates to the proposal for the Company to allot and issue not less than 20,000,000 fully paid ordinary shares in the capital of the Company at an issue price of 0.01 cents per ordinary share (on a post consolidated basis) to Ascent or the Ascent Group or third parties nominated by Ascent to raise \$2,000 and the issue of up to 40,000,000 fully paid ordinary shares in the capital of the Company at an issue price of 0.01 cents per ordinary share (on a post consolidated basis) to Ascent or the Ascent Group or third parties nominated by Ascent to raise \$4,000. Resolution 2(b) relates to the proposal to allot and issue not less than 320,000,000 fully paid ordinary shares in the Company at an issue price of 0.5 cents per ordinary share (on a post consolidated basis) to Ascent or the Ascent Group or third parties nominated by Ascent to raise \$1,600,000 and up to 440,000,000 shares in the post consolidated capital of the Company at an issue price of 0.5 cent each to raise up to \$2,200,000. Resolution 2(c) relates to the proposal for the Company to allot and issue 98,500,000 share options for a total consideration (on a post consolidated basis) of \$nil to Ascent or the Ascent Group or third parties nominated by Ascent and each option is exercisable at 0.5 cents each, on or before 31 December 2013. Resolution 2(d) allows Ascent and the Ascent Group to acquire a relevant interest in the above shares and shares issued on exercise of the above mentioned share options.

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Further details are noted below and in the Explanatory Statement to Shareholders of Agri.

- 1.2 On 13 February 2008, the securities of Agri were suspended from quotation on the Official List of the ASX at the request of the Company whilst the Company pursued restructuring proposals. On the 12 September 2008, the then directors of Agri appointed Mr Kenneth Stout of Boutique Corporate Service as Administrator of the Company pursuant to Section 436A of the Corporations Act ("TCA"). At a second meeting held on 1 December 2008, the Administrator recommended to the creditors of the Company that it was in the best interests of creditors to enter into a Deed of Company Arrangement ("DOCA"). The Administrator outlines six proposals he had received to recapitalise the Company. The Administrator recommended to the creditors of Agri that it was in their best interests to approve the execution of a DOCA to facilitate the Recapitalisation Proposal of 11 November 2008 put forward by Ascent. The DOCA was executed by the Company, the Administrator of the DOCA and Ascent on 19 December 2008. Under the DOCA, \$402,528 and certain assets of the Company will be made available to the unsecured creditors of the Company. Ascent will arrange a loan of \$402,528 via a conditional loan agreement to meet the terms of the DOCA and Creditors Trust Deed. Further background information is set out in the Letter to Shareholders forming part of the Notice and section 1.1.1 and 1.1.2 of the Explanatory Statement to Shareholders.
- 1.3 Ascent has provided the funding to meet the costs associated with the Notice and funding to meet certain on-going costs of Agri. Nominees of Ascent, being Mr David Steinepreis, Mr Gary Steinepreis and Stephen Dobson were appointed Directors of Agri on 22 June 2009. Due to changed circumstances, Mr David Steinepreis and Stephen Dobson have resigned and Mr Patrick Burke and Mr Bevan Tarratt were appointed directors of Agri on 22 July 2009.

As part of the DOCA and Recapitalisation Proposal put forward by Ascent, the shareholders are being asked to approve the following:

- (a) the consolidation of the capital of the Company on the basis that every 15 shares be consolidated into 1 share (Resolution 1). The existing number of shares on issue is purported to be 260,914,813 and this will reduce to approximately 17,394,320 (this is after the allotment of 39,000,000 pre consolidated shares to YA Global Investments LP ("YA Global") as consideration to convert \$3,900 being part of a debt owing by Agri to YA Global;
- (b) the issue and allotment of not less than 20,000,000 post consolidated shares at an issue price of 0.01 cents per share following the consolidation of capital, to raise \$2,000 and up to 40,000,000 post consolidated shares at 0.01 cents each to raise a gross \$4,000 for working capital. The determination of the allottees is at the sole discretion of Ascent (Resolution 2(a));
- (c) the issue and allotment of not less than 320,000,000 post consolidated shares at an issue price of 0.5 cent per share to raise \$1,600,000 and up to 440,000,000 post consolidated shares at an issue price of 0.5 cent each to raise up to \$2,200,000 for working capital. The determination of the allottees is at the sole discretion of Ascent (Resolution 2 (b));
- (d) the issue of 98,500,000 post consolidated share options for a total consideration of \$nil with each option exercisable at 0.5 cent each on or before 31 December 2013, following the consolidation of capital. The determination of the allottees is at the sole discretion of Ascent (Resolution 2 (c));
- (e) allowing those parties (Ascent and or nominees) to acquire a relevant interest in issued voting shares in the Company on the issue of post consolidated shares and on exercise of the options issued pursuant to Resolution 2 (c) (Resolution 2 (d)).
- (f) the transfer of such assets of the Company as are capable of being assigned to the Trustee pursuant to Listing Rule 11.2 of the ASX and the terms of the DOCA (Resolution 3);
- (g) the re-election of Messrs Patrick Burke (Resolution 4), Gary Steinepreis (Resolution 5) and Bevan Tarratt (Resolution 6);

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- (h) obtaining Section 195 (of the Corporations Act) to allow the completion of all of the proposals included in the Notice (Resolution 7);
- (i) the grant of 1,500,000 share options to the Trustee of the Creditors Trust Fund, each share option being exercisable at 0.5 cents each, on or before 31 December 2013;
- (j) adoption of a new Constitution (Resolution 9);
- (k) changing the name of the Company to Viva Resources Limited; and
- (l) ratifying the allotment and issue of 2,600,000 post consolidated shares (39,000,000 pre consolidated shares issued on 25 June 2009) at a deemed issue price of 0.01 cents each to YA Global.

Ascent who will lend \$402,258 to the Company in satisfaction of the DOCA will be repaid out of the capital raisings noted in Resolution 2. The Administrators of the DOCA are responsible for the acquittal of \$402,258. As a condition of the Recapitalisation Proposal by Ascent, Ascent requires that the Company's interest in the Australian Ethanol Business (effectively undeveloped ethanol projects in Australia) remain as unencumbered assets of Agri to enable the Company to be re-instated to trading on ASX. Details on the Australian Ethanol Business are outlined in sections 1.1.3 and 1.1.3.1 of the Explanatory Statement to Shareholders. The \$402,258 will be distributed by the Deed Administrator of the DOCA (via a Creditors Trust Fund) and the Deed Administrator/Creditors Trustee will be paid his fees and costs and the fees and costs outstanding as Administrators. The balance will be used to the benefit of the unsecured creditors (as a full and final settlement). On completion of the recapitalisation proposals, there will be no residual creditors of the Company or potential recovery from former creditors against the Company.

- 1.4 For the purposes of Chapter 2E of the TCA, Patrick Burke, Gary Steinepreis and Bevan Tarratt are each a related party of the Company by virtue of the fact that they are directors of Agri (from 22 June 2009). Messrs David Steinepreis (a former director of Agri) and Gary Steinepreis are directors of and 50% shareholders each in Ascent. For the purposes of this report all of the above, including Ascent are referred to as the Ascent Group.
- 1.5 Upon successful completion of the DOCA, the unsecured creditors claim will be extinguished and the Company will:
  - be released from the DOCA;
  - apply to be quoted on the ASX;
  - have approximately a minimum of \$1,049,000 cash funds (and up to approximately \$1,651,000 if \$2,200,000 is raised pursuant to Resolution 2(b)) after recapitalisation costs but before spending funds on acquiring new investments and evaluating the Australian Ethanol Business; and
  - have a 100% interest in the Australian Ethanol Business.
- 1.6 There are ten other resolutions (Resolutions 1 and 3 to 11) being put to the shareholders of Agri. We are not reporting on the fairness and reasonableness of such proposals. This report specifically addresses Resolution 2 only. However, we note that all of the other Resolutions are all part of the recapitalisation process of Agri and Resolutions 1 to 7 are interdependent upon each other and Resolution 8 is dependent on the passing of Resolutions 1 to 7.
- 1.7 Under Section 606 of TCA, a person must not acquire a relevant interest in issued voting shares in a company if because of the transaction, that persons or someone else's voting power in the company increases:
  - (a) from 20% or below to more than 20%; or
  - (b) from a starting point that is above 20% and below 90%.

Under Section 611 (Item 7) of TCA, Section 606 does not apply in relation to any acquisition of shares in a company by resolution passed at a general meeting at which no votes were cast in favour of the resolution by the acquirer or the disposer or their respective associates. An

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independent expert is required to report on fairness and reasonableness of the transaction pursuant to a Section 611 (Item 7) meeting.

- 1.8 Following the consummation of the Resolutions relating to the share structure of the Company, the following table depicts the new share structure of the Company. In addition Section 2.1 refers to the shareholding details if all Resolutions are passed and consummated.

	Existing shareholders after the 1 for 15 consolidation of capital (Resolution 1)	Minimum No. of Shares to be issued pursuant to Resolution 2(a)	Maximum No. of Shares to be issued pursuant to Resolution 2(a)	Minimum No. of Shares to be issued pursuant to Resolution 2(b)	Maximum No. of Shares to be issued pursuant to Resolution 2(b)
Gary Steinepreis	-	2,000,000	7,000,000	10,000,000	65,000,000
David Steinepreis	-	2,000,000	7,000,000	10,000,000	65,000,000
Patrick Burke	-	1,000,000	1,500,000	2,000,000	10,000,000
Bevan Tarratt	-	2,000,000	7,000,000	10,000,000	20,000,000
Ascent	-	1,000,000	5,000,000	2,000,000	7,000,000
<b>Ascent Group</b>	-	<b>8,000,000</b>	<b>27,500,000</b>	<b>34,000,000</b>	<b>167,000,000</b>
Third Parties to be Nominated by Ascent	-	12,000,000	12,500,000	286,000,000	-
Existing shareholders	17,394,320	-	-	-	-
<b>Total if 320,000,000 shares issued pursuant to Resolution 2(b)</b>	<b>17,394,320</b>	<b>20,000,000</b>	<b>40,000,000</b>	<b>320,000,000</b>	<b>-</b>
Third parties nominated by Ascent (additional shares)	-	-	-	-	273,000,000
<b>Total if 440,000,000 shares issued pursuant to Resolution 2(b)</b>	<b>17,394,320</b>	<b>20,000,000</b>	<b>40,000,000</b>	<b>-</b>	<b>440,000,000</b>

	Maximum No of Options to be issued pursuant to Resolution 2 (c) and 8
Gary Steinepreis	20,000,000
David Steinepreis	20,000,000
Patrick Burke	5,000,000
Bevan Tarratt	10,000,000
Ascent	5,000,000
<b>Ascent Group</b>	<b>60,000,000</b>
Third Parties to be Nominated by Ascent	38,500,000
The Trustee of the Creditors Trust Fund	1,500,000
<b>Total if 100,000,000 shares issued pursuant to Resolution 2(c)</b>	<b>100,000,000</b>

The fully paid ordinary shareholding interests of the Ascent Group if it is assumed that 20,000,000 shares will be issued pursuant to Resolution 2 (a) and 320,000,000 shares will be issued pursuant to Resolution 2(b) would be as follows:

	Ignoring Options %	Including Options Exercised %
Gary Steinepreis	3.36	7.00
David Steinepreis	3.36	7.00
Patrick Burke	0.84	1.75
Bevan Tarratt	3.36	4.81
Ascent	0.84	1.75
Ascent Group (rounded)	11.76	22.31
Third parties nominated by Ascent	83.38	73.56
	<u>95.14</u>	<u>95.87</u>

The total number of fully paid ordinary shares on issue (post-consolidation) would be 357,394,320 (before exercise of the 100,000,000 share options being issued pursuant to Resolutions 2(c) and 8) and 457,394,320 (after exercise of the 100,000,000 share options). In addition there will be 756,666 share option exercisable at 45 cents each on or before 30 November 2009, 333,333 share options exercisable at 45 cents on or before 19 January 2010, 443,333 share options exercisable at 45 cents each on or before 29 January 2010 and 333,333 share options exercisable at 45 cents each on or before 12 June 2010. We have ignored the effect that the non ordinary shares will have on shareholders interests as noted above and below. The above percentages exclude the 1,500,000 share options to be issue to the Trustee of the Creditors Trust Fund.

The fully paid ordinary shareholding interests of the Ascent Group if it is assumed that 40,000,000 shares will be issued pursuant to Resolution 2 (a) and 440,000,000 shares will be issued pursuant to Resolution 2(b) would be as follows:

	<b>Ignoring Options %</b>	<b>Including Options Exercised %</b>
Gary Steinepreis	14.48	15.40
David Steinepreis	14.48	15.40
Patrick Burke	2.31	2.76
Bevan Tarratt	5.43	6.19
Ascent	2.41	2.85
Ascent Group (rounded)	39.11	42.60
Third parties nominated by Ascent	57.40	54.23
	<u>96.51</u>	<u>96.83</u>

The total number of fully paid ordinary shares on issue (post-consolidation) would be 497,394,320 (before exercise of the 100,000,000 share options issue pursuant to Resolutions 2(c) and 8) and 597,394,320 (after exercise of the 100,000,000 share options). The above percentages exclude the 1,500,000 share options to be issue to the Trustee of the Creditors Trust Fund.

The combined ordinary fully paid shareholder interests of the Ascent Group would initially be a minimum of 11.76% (7.56% excluding Patrick Burke and Bevan Tarratt) and 22.31% (15.75% excluding Patrick Burke and Bevan Tarratt) if only the 100,000,000 share options to be granted to the Ascent Group and/or parties nominated by Ascent in conjunction with the Broker and the Trustee of the Creditors Trust Fund were exercised. Further potential shareholding interests of the combined interests of David Steinepreis, Gary Steinepreis and Ascent are set out in sections 2.2.5 (Tables 3 to 9) to the Explanatory Statement to Shareholders accompanying the Notice.

Therefore, an independent expert's report pursuant to the Section 611 (Item 7) of TCA is required to report on the fairness and reasonableness of the transactions pursuant to Resolution 2. Also, as Messrs David Steinepreis, Gary Steinepreis of Ascent, Patrick Burke and Bevan Tarratt are deemed by ASX Listing Rules to be related parties, shareholder approval under Listing Rule 10.11 is required. Ascent has requested Stantons International Securities to prepare an independent expert's report to assist the shareholders of Agri in determining as to whether they vote for or against Resolution 2 as outlined in the Notice.

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1.9 Apart from this introduction, the report considers the following:

- Summary of opinion
- Implications of the proposals
- Future directions of Agri
- Basis of technical valuation of Agri
- Premium for control
- Fairness and reasonableness of the proposals
- Conclusion as to fairness and reasonableness
- Sources of information
- Appendix A and Financial Service Guide

## 2. Summary of Opinion

2.1 In determining the fairness and reasonableness of the transactions pursuant to Resolution 2 we have had regard to the guidelines set out by the Australian Securities and Investments Commission (“ASIC”) in its Regulatory Guideline 111 “Content of Expert Reports”. Regulatory Guide 111 states that an opinion as to whether an offer is fair and/or reasonable shall entail a comparison between the offer price and the value that may be attributed to the securities under offer (fairness) and an examination to determine whether there is justification for the offer price on objective grounds after reference to that value (reasonableness). The concept of “fairness” is taken to be the value of the offer price, or the consideration, being equal to or greater than the value of the securities in the above mentioned offer. Furthermore, this comparison should be made assuming 100% ownership of the “target” and irrespective of whether the consideration is scrip or cash. An offer is “reasonable” if it is fair. An offer may also be reasonable, if despite not being “fair”, there are sufficient grounds for security holders to accept the offer in the absence of any higher bid before the close of the offer. It also states that, where an acquisition of shares by way of an allotment is to be approved by shareholders pursuant to Section 611 (Item 7) of TCA, it is desirable to commission a report by an independent expert stating whether or not the proposal is fair and reasonable, having regards to the proposed allottees and whether a premium for potential control is being paid by the allottees.

Accordingly, our report relating to Resolution 2 is concerned firstly with the fairness and reasonableness of the proposals with respect to the existing non associated shareholders of Agri and secondly whether the price payable for potential control includes a premium for control.

2.2 In our opinion:

The proposals as outlined in Resolution 2 that would allow Ascent and the Ascent Group or third parties nominated by Ascent to acquire up to 480,000,000 post consolidated shares and 98,500,000 share options in Agri (and allow such share options to be exercised) are, in the absence of a superior offer, on balance, **fair and reasonable** to the non associated shareholders of Agri.

The opinions expressed above are to be read in conjunction with the more detailed analysis and comments made in this report.

## 3. Implications of the Proposals

3.1 Prior to the appointment of the Deed Administrator, the total number of ordinary fully paid shares on issue in Agri was 221,914,813 and Agri had four classes of share options outstanding as noted above. Post the appointment, a further 39,000,000 pre consolidated shares have been issued as noted in paragraph 1.3(a) above. If all the resolutions are consummated Ascent and the Ascent Group or third parties nominated by Ascent could own between 95.14% and 96.51% of the post consolidated ordinary fully paid share capital of the Company (as depicted in paragraph 1.8) prior to the exercise of the 100,000,000 share options.

As the third parties nominated by Ascent are only deemed under TCA to be related, the actual holding of the post-consolidated ordinary share capital of the Company by the Ascent Group is approximately 11.76% to 39.11% depending on how many shares are issued pursuant to Resolution 2. If the 100,000,000 options proposed to be issued pursuant to Resolutions 2(c) and 8 are exercised, then Ascent and the Ascent Group or third parties nominated by Ascent will own between approximately 96.51% and 96.83% of the post-consolidated ordinary share capital of the Company and the Ascent Group only would own approximately between 22.31% and 42.60%.

It is estimated that the cost of the reconstruction process (legal fee, corporate fees, expert's report but excluding capital raising fees) will be around \$150,000. The Administrator and Deed Administrator's remuneration and expenses are payable out of the \$402,258 to be lent to the Company by Ascent pursuant to the terms of the DOCA.

- 3.2 Following the consummation of all terms and conditions of the various Deeds and assuming all Resolutions are consummated Agri's unaudited pro-forma Balance Sheet is expected to disclose:

	Notes	Summary of DOCA Scenario Section 439A Report to Creditors and information provided by Deed Administrators \$	Pro-forma after capital raisings and completion of DOCA and Resolutions 1 to 11 Minimum \$	Pro-forma after capital raisings and completion of DOCA and Resolutions 1 to 11 Maximum \$
<b>Current and Non Current Assets</b>				
Cash assets	1	5,500	1,049,742	1,651,742
Australian Ethanol Business		-	-	-
<b>Total Assets</b>		<u>5,500</u>	<u>1,049,742</u>	<u>1,651,742</u>
<b>Liabilities</b>				
Priority creditors		194,601	-	-
Deed Administrator remuneration and expenses		164,778	-	-
Unsecured creditors		7,709,702	-	-
<b>Total Current Liabilities</b>		<u>8,069,081</u>	<u>-</u>	<u>-</u>
<b>Net Assets (Liabilities)</b>		<u>(8,063,581)</u>	<u>1,049,742</u>	<u>1,651,742</u>
<b>Equity</b>				
Issued capital	2	66,925,900	68,527,900	69,129,900
Option reserve		4,895,000	-	-
Accumulated losses		(79,884,481)	(67,478,158)	(67,478,158)
<b>Total Equity (Deficiency)</b>		<u>(8,063,581)</u>	<u>1,049,742</u>	<u>1,651,742</u>

In view of the above, it is reasonable to assume that the value of an Agri share prior to the recapitalisation proposal put forward by Ascent is nil. The Administrator also considers that the likely value of an Agri share pre the DOCA is nil.

1. The movement in the cash assets is reconciled as follows:

<b>Note</b>	<b>Minimum</b>	<b>Maximum</b>
Cash assets:	<b>\$</b>	<b>\$</b>
Opening balance	5,500	5,500
Transferred to Administrator	(5,500)	(5,500)
Placement of shares at 0.01 cents	2,000	4,000
Placement of shares at 0.5 cent	1,600,000	2,200,000
Payment to satisfy obligations under DOCA	(402,258)	(402,258)
Costs of DOCA and holding shareholders meeting	(150,000)	(150,000)
Closing balance	<u>1,049,742</u>	<u>1,651,742</u>

2. The movement in the issued capital is reconciled as follows:

	<b>Minimum \$</b>	<b>Maximum \$</b>
Opening balance fully paid shares	66,922,000	66,922,000
Issue of shares to YA Global	3,900	3,900
Issue of shares at 0.01 cents each	2,000	4,000
Issue of shares at 0.5 cents each	1,600,000	2,200,000
Closing balance	<u>68,527,900</u>	<u>69,129,900</u>

The option premium reserve has been transferred to accumulated losses.

The interest in the Australian Ethanol Business to be retained has not been independently valued for the purposes of the pro-forma balance sheet. The assets would be subject to an impairment test under the Australian equivalents of International Financial Reporting Standards ("A-IFRS") and Ascent considers that the current value to be minimal for the purposes of accounting under A-IFRS although no formal valuation has been made by the Directors. The directors have committed new working capital to spend on assessing the viability of the Australian Ethanol Business. For the purposes of this report, we have ascribed nil value in the absence of an independent valuation but note that the Australian Ethanol Business may have some value in the future but not enough to conclude that the current value of a share in Agri has any value.

- 3.3 The share options under Resolution 2(c) and Resolution 8 will be 100,000,000 options exercisable at 0.5 cent each, on or before 31 December 2013.

- 3.4 It is proposed that the existing directors, Gary Steinepreis (appointed 22 June 2009), Patrick Burke and Bevan Tarratt (both appointed 22 July 2009) remain on the Agri Board.

#### **4. Future direction of Agri**

- 4.1 We have been advised by a current director (Gary Steinepreis) of the Company who is also representative of Ascent that:

- The short term intention is to complete the DOCA including the recapitalisation process;
- At the time of preparation of this report they are not aware of any proposals currently contemplated whereby Agri will acquire any property or assets from Ascent, the Ascent Group or third parties nominated by Ascent or where Agri is to transfer any of its property or assets to Ascent, the Ascent Group or third parties nominated by Ascent;
- The Board of Directors of Agri will not change in the very near future although new directors may be appointed in the event of any significant new acquisition;
- The Company proposes to change its name and Constitution;
- No dividend policy has been set and is not proposed to be set until such time as the Company is profitable and has a positive cash flow;
- As part of the recapitalisation process, the Company proposes to seek re-quotations of the Company's shares on the ASX; and

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- The proposal by Ascent is to have Agri evaluate the Australian Ethanol Business and as outlined in section 1.1.3 and 1.1.3.1 of the Explanatory Statement to Shareholders Agri will seek new projects in the energy and resources sectors by way of acquisition or investment.

## **5. Basis of Technical Valuation of Agri**

### **5.1 Allotment of Shares**

5.1.1 In considering the proposals as outlined in Resolution 2 we have sought to determine if the potential considerations payable by Ascent and the Ascent Group or third parties nominated by Ascent is fair and reasonable to the existing non-associated shareholders of Agri.

5.1.2 The proposals pursuant to Resolution 2 would be fair to the existing non-associated shareholders if the value of the considerations being offered by Ascent, the Ascent Group or third parties nominated by Ascent are greater than the current implicit value of the shares and options of Agri immediately prior to the transactions. Accordingly, we have sought to determine a theoretical value that could reasonably be placed on Agri shares and options for the purposes of this report.

5.1.3 The valuation methodologies we have considered in determining the current technical value of an Agri share are:

- Capitalised maintainable earnings/discounted cash flow
- Takeover bid - the price which an alternative acquirer might be willing to offer
- Adjusted net asset backing and windup value
- The market value price of Agri shares

### **5.2 Capitalised maintainable earnings/discounted cash flows**

5.2.1 As noted above, Agri is under a DOCA and under the control of a Deed Administrator. Due to Agri's current state of affairs, the lack of a profit history arising from business undertakings and the immediate lack of a reliable future cash flow from a business activity, we have considered these methods of valuation not to be relevant for the purposes of this report (also refer 3.2 above).

### **5.3 Takeover bid**

We have been advised by Ascent directors and the current directors of Agri that they do not believe that there would be any existing shareholder or proposed shareholder that has an interest in taking over the Company by way of a formal takeover bid. However, we note that under the DOCA and recapitalisation process, Ascent and the Ascent Group or third parties nominated by Ascent could own up to approximately 96.83% of the post-consolidated ordinary share capital of the Company (or Ascent Group would own approximately up to 42.60%).

### **5.4 Net asset backing and windup value**

5.4.1 As noted in the Administrator's reports, prior to the DOCA Agri was insolvent and the Administrator of Agri considered that on a windup basis, there would be a deficiency in funds resulting in the unsecured creditors receiving no return.

5.4.2 Purely based on the cash value of a reconstructed Agri, the net assets would be disclosed at between approximately \$1,049,742 and \$1,651,742 depending on how many shares are issued at 0.5 cent each pursuant to Resolution 2 which would be equivalent to approximately between 0.29 cents and 0.33 cents per post consolidated ordinary fully paid share, assuming



either 357,394,320 or 497,394,320 ordinary fully paid shares would be on issue after the recapitalisation process. This compares with the current value of an Agri share of nil cents.

#### 5.5 Market price of Agri shares

5.5.1 As the Company is suspended from the ASX, we do not believe it is appropriate to value an Agri share based on prior quoted prices of Agri shares on the ASX.

5.6 After taking into account the matters referred to in the preceding paragraphs, we are of the view that the current theoretical value of an Agri share (prior to the recapitalisation process) is nil cents.

5.7 If the DOCA and the recapitalisation process are finalised, the cash value of an Agri share immediately post construction and recapitalisation could approximate between 0.28 cents and 0.33 cents per ordinary fully paid share after capital raising costs (refer paragraph 5.4.2 above).

### 6. Premium for Control

6.1 Premium for control for the purposes of this report has been defined as the difference between the price per share that a buyer would be prepared to pay to obtain a controlling interest in the Company and the price per share at which the same person would be required to pay per share which does not carry with it control of the Company.

6.2 Under TCA, control may be deemed to occur when a shareholder or group of associated shareholders control more than 20% of the issued capital. In this case, Ascent and the Ascent Group or third parties nominated by Ascent could hold between approximately 95.14% and 96.51% of the expanded post-consolidated ordinary fully paid issued capital of Agri (or Ascent and the Ascent Group could own between 95.87% and 96.83% assuming the 100,000,000 share options are exercised).

6.3 The Agri shares that are proposed to be issued to Ascent and the Ascent Group or third parties nominated by Ascent are deemed to be theoretically worth nil cents. Of the amount raised, \$402,258 will be repaid to Ascent. Ascent will lend the Company \$402,258 in satisfaction of the DOCA and such funds are to be acquitted by the DOCA Administrator (as the Trustee of the Creditors Trust Fund). The \$402,258 will be used to pay the Administrator's/ Deed Administrator's and Trustee's remuneration and expenses and the unsecured creditors the balance as full and final settlement of debts. After certain transaction costs, a cash balance of approximately between \$1,049,742 and \$1,651,742 will remain in the Company (after estimated reconstruction costs of \$150,000) and assuming Resolution 2 is passed and consummated. In our opinion, it is possible that Ascent and the Ascent Group or third parties nominated by Ascent are paying a premium for control, however, the non associated shareholders of Agri are benefiting in that the theoretical value of a Agri share rises from nil cents (with significant liabilities) to a company with a theoretical cash backed value of approximately between 0.28 cents and 0.33 cents per ordinary fully paid share, all liabilities extinguished and the consolidated ordinary fully paid shares re-quoted on the ASX.

### 7. Fairness and Reasonableness of the Proposals

We have set out below some of the advantages, disadvantages and other factors pertaining to the proposals, pursuant to Resolution 2 and the recapitalisation proposals generally.

### Advantages

- 7.1 The passing and consummation of Resolution 2 in conjunction with the completion of the DOCA and recapitalisation process would result in a net cash injection of approximately between \$1,049,742 and \$1,651,742 (after recapitalisation costs) into the Company and having a company with no liabilities, compared with the current position whereby the Company is subject to a DOCA and is in a net liability position.
- 7.2 If the proposals per Resolution 2 are consummated along with the completion of the DOCA, the book value and cash asset backing of an Agri post consolidated ordinary fully paid share rises from nil cents to approximately between 0.28 cents and 0.33 cents.
- 7.3 If Resolution 2 is passed together with the completion of the DOCA and recapitalisation process, the Company's chances to seek re-quotations of its shares on the ASX are enhanced. By obtaining re-quotations of the Company's shares, the existing shareholders are offered some liquidity to sell their shares (reduced on a 1 for 15 basis) on the ASX although as a disadvantage many shareholders may be left without a marketable parcel under ASX listing rules.
- 7.4 Ascent and the Ascent Group bring expertise to the Company in that Messrs Gary Steinepreis and Patrick Burke have had experience as directors or managers of public listed companies and Bevan Tarratt also has accounting, retail and property development experience in Australia. They will also seek new business opportunities in the energy and resources sectors. Further details on the new directors are outlined in the Explanatory Statement to Shareholders in Section 1.1.5.

### Disadvantages

- 7.5 A significant shareholding in the Company is being obtained by Ascent and the Ascent Group or third parties nominated by Ascent by the subscription for ordinary fully paid shares. However, we note that Agri will be recapitalised with approximately between \$1,049,742 and \$1,651,742 in cash will have no debt and will have the opportunity to consider the acquisition of other assets in the energy and resources sectors.
- 7.6 Agri would only have approximately cash of between \$1,049,742 and \$1,651,742 (after recapitalisation costs but before any brokerage costs) after completion of the DOCA and the recapitalisation process. Further fundraisings may be required to be undertaken in the near future. If further shares are issued, the percentage share holding of the existing shareholders of Agri may be diluted down even further. However as noted above, the shares in Agri prior to the recapitalisation process is considered to be of nil value.
- 7.7 The ultimate value of the Australian Ethanol Business is unknown. The Australian Ethanol Business may not be commercially successful or viable to proceed to commerciality and further losses may be incurred.

### Other

- 7.8 The 100,000,000 share options if exercised would result in an inflow of funds to Agri of \$500,000. The exercise price of the 100,000,000 share options is 0.5 cent each. The trading price of an Agri share (after re-quotations of the Company's shares on the ASX that is dependent upon completion of the recapitalisation process) at the date of exercise of the share options would probably be in excess of 0.5 cents before option holders exercised the share options.

7.9 The 100,000,000 share options to be issued for a total of \$nil have been valued using the Black Scholes option valuation methodology as noted in Section 2.2.4 of the Explanatory Memorandum to Shareholders attached to the Notice. It is noted that at a 100% volatility factor, the technical value of one of the 100,000,000 share options would equate to approximately 0.36 cents (25% volatility 0.13 cents, 50% volatility 0.22 cents and 75% volatility 0.29 cents)

## 8. Conclusion as to Fairness and Reasonableness

8.1 After taking into account the matters referred to in 7 above and elsewhere in this report, we are of the opinion that, in the absence of a superior offer, on balance, the proposals as outlined in Resolution 2 are, on balance **fair and reasonable** to the non-associated shareholders of Agri.

## 9. Sources of Information

9.1 In making our assessment as to whether the proposals pursuant to Resolution 2 are fair and reasonable, we have reviewed relevant published available information and other unpublished information of Agri which is relevant in the current circumstances. In addition, we have held discussions with a representative of the Ascent Group (and a director of Agri) about the present state of affairs of Agri. Statements and opinions contained in this report are given in good faith, but in the preparation of this report, we have relied in part on information provided by Ascent and a director of Agri.

9.2 Information we have received includes, but is not limited to:

- Draft of Notice of General Meeting of Shareholders of Agri (and Draft Explanatory Statement to Shareholders attached) prepared in June and July 2009;
- Discussions with a representative of Ascent and a director of Agri to 23 July 2009;
- Shareholding details of Agri;
- The Administrator's Reports and Circulars to Creditors pursuant to Section 439A of TCA for Agri of 30 October 2008 and 24 November 2008;
- DOCA dated 19 December 2008;
- Agri annual report for the year ended 30 June 2007 and the half year ended 31 December 2006;
- ASX information on Agri;
- The Creditors Trust Deed dated 19 December 2008;
- General information on Agri; and
- The Recapitalisation Proposal regarding a proposal to recapitalise Agri dated 11 November 2008 between Ascent, Agri and the Deed Administrator.

9.3 Our report includes Appendix A and Financial Services Guide, attached to this report.

Yours faithfully

**STANTONS INTERNATIONAL SECURITIES**



**J P Van Dieren - FCA**  
**Director**

**APPENDIX A****AUTHOR INDEPENDENCE**

This annexure forms part of and should be read in conjunction with the report of Stantons International Securities Pty Ltd dated 23 July 2009, relating to Resolution 2 (only) outlined in the Notice of Meeting of Shareholders of Agri.

At the date of this report, Stantons International Securities does not have any interest in the outcome of the proposals. There are no relationships with Agri other than acting as an independent expert for the purposes of this report. There are no existing relationships between Stantons International Securities and the parties participating in the transactions detailed in this report which would affect our ability to provide an independent opinion. The fee to be received for the preparation of this report is based on the time spent at normal professional rates plus out of pocket expenses and is estimated not to exceed \$8,500 (excluding GST). The fee is payable regardless of the outcome. With the exception of that fee, neither Stantons International Securities nor John P Van Dieren have received nor will or may they receive any pecuniary or other benefits, whether directly or indirectly for or in connection with the making of this report. Stantons International Securities or its predecessor firm Stanton Partners Corporate Pty Ltd has prepared nineteen independent expert reports of a similar nature when Ascent Capital Pty Ltd or Ascent Capital Holdings Pty Ltd has been involved in the re-capitalisation of various companies in Administration. Stantons International Securities, Stanton Partners Corporate Pty Ltd, Stantons International Pty Ltd or any directors of Stantons International Pty Ltd do not hold any securities in Agri. There are no pecuniary or other interests of Stantons International Securities that could be reasonably argued as affecting its ability to give an unbiased and independent opinion in relation to the proposal. Stantons International Securities and Mr J Van Dieren have consented to the inclusion of this report in the form and context in which it is included as an annexure to the Notice.

**QUALIFICATIONS**

We advise Stantons International Securities is the holder of an Investment Advisers Licence (No 319600) under the Corporations Act relating to advice and reporting on mergers, takeovers and acquisitions involving securities. A number of the directors of Stantons International Pty Ltd are the directors of Stantons International Securities and its affiliated company Stantons International Services Pty Ltd. Stantons International Securities and Stantons International Services Pty Ltd have extensive experience in providing advice pertaining to mergers, acquisitions and strategic for both listed and unlisted companies and businesses.

Mr John P Van Dieren, FCA, the person responsible for the preparation of this report, has extensive experience in the preparation of valuations for companies and in advising corporations on takeovers generally and in particular on the valuations and financial aspects thereof, including the fairness and reasonableness of the consideration offered. The professionals employed in the research, analysis and evaluation leading to the formulation of opinions contained in this report, have qualifications and experience appropriate to the tasks they have performed.

## DECLARATION

This report has been prepared at the request of Ascent in order to assist the shareholders of Agri to assess the merits of the proposals (Resolution 2 only) to which this report relates. This report has been prepared for the benefit of the Agri shareholders and those persons only who are entitled to receive a copy for the purposes of Section 611 (Item 7) of the Corporations Act and ASX Listing Rule 10.11 and does not provide a general expression of Stantons International Securities Pty Ltd's opinion as to the longer term value of Agri or the Australian Ethanol Business. Stantons International Securities Pty Ltd does not imply, and it should not be construed, that it has carried out any form of audit on the accounting or other records of Agri or any of its subsidiaries. Neither the whole, nor any part of this report, nor any reference thereto may be included in or with or attached to any document, circular, resolution, letter or statement, without the prior written consent of Stantons International Securities to the form and context in which it appears.

## DISCLAIMER

This report has been prepared by Stantons International Securities with due care and diligence. However, except for those responsibilities which, by law cannot be excluded, no responsibility arising in any way whatsoever for errors or omission (including responsibility to any person for negligence) is assumed by Stantons International Securities Pty Ltd, Stantons International Pty Ltd, Stanton Partners Corporate Pty Ltd, their directors, employees or consultants for the preparation of this report.

## DECLARATION AND INDEMNITY

Recognising that Stantons International Securities may rely on information provided by Ascent and its officers (save whether it would not be reasonable to rely on the information having regard to Stantons International Securities experience and qualifications), Ascent has agreed:

- a) to make no claim by it or its officers against Stantons International Securities to recover any loss or damage which Agri may suffer as a result of reasonable reliance by Stantons International Securities on the information provided by Ascent; and
- (b) to indemnify Stantons International Securities against any claim arising (wholly or in part) from Ascent or any of its officers providing Stantons International Securities any false or misleading information or in the failure of Ascent or its officers in providing material information, except where the claim has arisen as a result of wilful misconduct or negligence by Stantons International Securities.

A draft of this report was presented to Ascent for a review of factual information contained in the report. Comments received relating to factual matters were taken into account, however the valuation methodologies and conclusions did not alter. Whilst the Deed Administrator has viewed a draft of this report, neither the Deed Administrator, its professional advisers, Boutique Corporate Advisers or its employees are responsible for comments in this report. The Deed Administrator does not accept any responsibility for any disclosures in or failure to include any disclosures in this report. The information contained in this report has not been verified independently by the Deed Administrator, its professional advisers and Boutique Corporate Advisers or its employees who expressly disclaim responsibility for the accuracy or completeness of the information in the report.

**FINANCIAL SERVICES GUIDE  
FOR STANTONS INTERNATIONAL PTY LTD  
(Trading as Stantons International Securities)  
Dated 23 July 2009**

1. Stantons International Securities ACN 103 088 697 (“SIS” or “we” or “us” or “ours” as appropriate) has been engaged to issue general financial product advice in the form of a report to be provided to you.

2. Financial Services Guide

In the above circumstances we are required to issue to you, as a retail client a Financial Services Guide (“FSG”). This FSG is designed to help retail clients make a decision as to their use of the general financial product advice and to ensure that we comply with our obligations as financial services licensees.

This FSG includes information about:

- who we are and how we can be contacted;
- the services we are authorised to provide under our Australian Financial Services Licence, Licence No: 319600;
- remuneration that we and/or our staff and any associated receive in connection with the general financial product advice;
- any relevant associations or relationships we have; and
- our complaints handling procedures and how you may access them.

3. Financial services we are licensed to provide

We hold an Australian Financial Services Licence which authorises us to provide financial product advice in relation to:

- Securities (such as shares, options and notes)

We provide financial product advice by virtue of an engagement to issue a report in connection with a financial product of another person. Our report will include a description of the circumstances of our engagement and identify the person who has engaged us. You will not have engaged us directly but will be provided with a copy of the report as a retail client because of your connection to the matters in respect of which we have been engaged to report.

Any report we provide is provided on our own behalf as a financial services licensee authorised to provide the financial product advice contained in the report.

For personal use only

#### 4. General Financial Product Advice

In our report we provide general financial product advice, not personal financial product advice, because it has been prepared without taking into account your personal objectives, financial situation or needs. You should consider the appropriateness of this general advice having regard to your own objectives, financial situation and needs before you act on the advice. Where the advice relates to the acquisition or possible acquisition of a financial product, you should also obtain a product disclosure statement relating to the product and consider that statement before making any decision about whether to acquire the product.

#### 5. Benefits that we may receive

We charge fees for providing reports. These fees will be agreed with, and paid by, the person who engages us to provide the report. Fees will be agreed on either a fixed fee or time cost basis.

Except for the fees referred to above, neither SIS, nor any of its directors, employees or related entities, receive any pecuniary benefit or other benefit, directly or indirectly, for or in connection with the provision of the report.

#### 6. Remuneration or other benefits received by our employees

All our employees receive a salary. Our employees are eligible for bonuses based on overall productivity but not directly in connection with any engagement for the provision of a report.

#### 7. Referrals

We do not pay commissions or provide any other benefits to any person for referring customers to us in connection with the reports that we are licensed to provide.

#### 8. Associations and relationships

SIS is ultimately a wholly division of Stantons International Pty Ltd a professional advisory and accounting practice. Our directors may be directors in Stantons International Pty Ltd and Stantons International Services Pty Ltd.

From time to time, SIS, Stantons International Pty Ltd and Stantons International Services Pty Ltd and/or their related entities may provide professional services, including audit, tax and financial advisory services, to financial product issuers in the ordinary course of its business.

9. Complaints resolution

9.1 Internal complaints resolution process

As the holder of an Australian Financial Services Licence, we are required to have a system for handling complaints from persons to whom we provide financial product advice. All complaints must be in writing, addressed to:

The Complaints Officer  
Stantons International Securities  
Level 1  
1 Havelock Street  
WEST PERTH WA 6005

When we receive a written complaint we will record the complaint, acknowledge receipt of the complaints within 15 days and investigate the issues raised. As soon as practical, and not more than 45 days after receiving the written complaint, we will advise the complainant in writing of our determination.

9.2 Referral to External Dispute Resolution Scheme

A complainant not satisfied with the outcome of the above process, or our determination, has the right to refer the matter to the Financial Ombudsman Service Limited ("FOSL"). FOSL is an independent company that has been established to provide free advice and assistance to consumers to help in resolving complaints relating to the financial services industry.

Further details about FOSL are available at the FOSL website [www.fos.org.au](http://www.fos.org.au) or by contacting them directly via the details set out below.

Financial Ombudsman Service Limited  
PO Box 3  
MELBOURNE VIC 8007

Toll Free: 1300 78 08 08  
Facsimile: (03) 9613 6399

10. Contact details

You may contact us using the details set out at the top of our letterhead on page 1 of this FSG.





# AGRI ENERGY LIMITED

ABN 83 061 375 442

000001 000 AAE  
MR SAM SAMPLE  
FLAT 123  
123 SAMPLE STREET  
THE SAMPLE HILL  
SAMPLE ESTATE  
SAMPLEVILLE VIC 3030

## Lodge your vote:



### By Mail:

Ascent Capital Holdings Pty Ltd,  
Level 1 33 Ord Street,  
West Perth WA 6005

Alternatively you can fax your form to  
(within Australia) 08 9481 2690  
(outside Australia) +61 8 9481 2690

### For all enquiries call:

(within Australia) 08 9420 9300  
(outside Australia) +61 8 9420 9300

## Proxy Form

For your vote to be effective it must be received by 4:00 pm (AEST) on Tuesday, 29 September 2009

### How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

#### Appointment of Proxy

**Voting 100% of your holding:** Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote as they choose. If you mark more than one box on an item your vote will be invalid on that item.

**Voting a portion of your holding:** Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

**Appointing a second proxy:** You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

**A proxy need not be a securityholder of the Company.**

### Signing Instructions

**Individual:** Where the holding is in one name, the securityholder must sign.

**Joint Holding:** Where the holding is in more than one name, all of the securityholders should sign.

**Power of Attorney:** If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** Where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please sign in the appropriate place to indicate the office held.

### Attending the Meeting

Bring this form to assist registration. If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Certificate of Appointment of Corporate Representative" prior to admission. A form of the certificate may be obtained from Computershare or online at [www.computershare.com](http://www.computershare.com).

**Comments & Questions:** If you have any comments or questions for the company, please write them on a separate sheet of paper and return with this form.

**Turn over to complete the form** →



View your securityholder information, 24 hours a day, 7 days a week:

**[www.investorcentre.com](http://www.investorcentre.com)**

- Review your securityholding
- Update your securityholding

#### Your secure access information is:

SRN/HIN: I999999999



**PLEASE NOTE:** For security reasons it is important that you keep your SRN/HIN confidential.

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MR SAM SAMPLE  
 FLAT 123  
 123 SAMPLE STREET  
 THE SAMPLE HILL  
 SAMPLE ESTATE  
 SAMPLEVILLE VIC 3030

**Change of address.** If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.



I 9999999999 I ND

# Proxy Form

Please mark  to indicate your directions

## STEP 1 Appoint a Proxy to Vote on Your Behalf

XX

I/We being a member/s of Agri Energy Limited hereby appoint

the Chairman of the Meeting **OR**

**PLEASE NOTE:** Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, as the proxy sees fit) at the General Meeting of Agri Energy Limited to be held at the Institute of Chartered Accountants, Level 3, 600 Bourke Street, Melbourne, Victoria, 3000 on Thursday, 1 October 2009 at 4:00 pm (AEST) and at any adjournment of that meeting.

**Important for Resolutions 2, 3, 8 & 11:** If the Chairman of the Meeting is your proxy and you have not directed him/her how to vote on Resolutions 2, 3, 8 & 11 below, please mark the box in this section. If you do not mark this box and you have not directed your proxy how to vote, the Chairman of the Meeting will not cast your votes on Resolutions 2, 3, 8 & 11 and your votes will not be counted in computing the required majority if a poll is called on this Item. The Chairman of the Meeting intends to vote undirected proxies in favour of Resolutions 2, 3, 8 & 11.

I/We acknowledge that the Chairman of the Meeting may exercise my proxy even if he/she has an interest in the outcome of that Item and that votes cast by him/her, other than as proxy holder, would be disregarded because of that interest.

## STEP 2 Items of Business

**PLEASE NOTE:** If you mark the **Abstain** box for an item, you are directing your proxy not to vote on your behalf on a show of hands or a poll and your votes will not be counted in computing the required majority.

Ordinary Resolutions		For	Against	Abstain	Special Resolutions		For	Against	Abstain
Resolution 1	Consolidation of Capital	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Resolution 9	Adoption of New Constitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Allotment and Issue of Shares and Grant of Options	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Resolution 10	Change of Name to Viva Resources Limited	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Disposal of Assets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Ordinary Resolution</b>				
Resolution 4	Re-election of Mr Patrick Burke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Resolution 11	Ratification of Allotment and Issue of Shares - Convertible Loan Agreement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5	Re-election of Mr Gary Steinepreis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
Resolution 6	Re-election of Mr Bevan Tarratt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
Resolution 7	Section 195 Approval	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
Resolution 8	Grant of Options - Trustee for Creditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.

## SIGN Signature of Securityholder(s) *This section must be completed.*

Individual or Securityholder 1  Securityholder 2  Securityholder 3   
 Sole Director and Sole Company Secretary Director Director/Company Secretary

Contact Name \_\_\_\_\_ Contact Daytime Telephone \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_