

**Form 604**  
Corporations Act 2001  
Section 671B

**Notice of change of interests of substantial holder**

To: Company Name/Scheme Avalon Minerals Ltd

ACN/ARSN 123 184 412

**1. Details of substantial holder (1)**

Name Phoenix Copper Ltd

ACN/ARSN (if applicable) 127 446 271

There was a change in the interests of the substantial holder on:

18	/	11	/	2013
13	/	11	/	2013
13	/	11	/	2013

The previous notice was given to the company on

The previous notice was dated

**2. Previous and present voting power**

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

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Ordinary	58,258,096	7.04%	125,110,690	10.40

**3. Changes in relevant interests**

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

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
18/11/2013	Phoenix Copper Ltd	Off market purchase – refer Appendix A	\$70,535	6,717,594	6,717,594
18/11/2013	Phoenix Copper Ltd	Off market purchase – refer Appendix A	\$660,000	60,000,000	60,000,000
18/11/2013	Phoenix Copper Ltd	On-market purchase	\$1,710	135,000	135,000

**4. Present relevant interest**

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

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities	Person's votes
Phoenix Copper Ltd	Pershing Australia Nominees Pty Ltd <Indian Ocean A/C>	Pershing Australia Nominees Pty Ltd <Indian Ocean A/C>	Beneficial ownership through a nominee account	125,110,690 Ordinary	125,110,690

**6. Changes in association**

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

Name and ACN/ARSN (if applicable)	Nature of association
N/A	

**7. Addresses**

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

Name	Address
Phoenix Copper Ltd	1/135 Fullarton Road, Rose Park SA 5067
Pershing Australia Nominees Pty Ltd	GPO Box 5343 Sydney NSW 2000

**Signature**

print name Tim Moran capacity Company Secretary

sign here  date 19 / 11 / 2013

**Annexure A**

**This is the Annexure A of 36 pages (including this page) referred to in the Form 604 Notice of change of interests of substantial holder**

The copies of the following agreements that form part of this Annexure A and are referred to in the Form 604 'Notice of change of interests of substantial holder' are true copies of the original agreements:

- 1) 'Agreement to Acquire Shares' between Phoenix Copper Ltd and Galena Special Situations Master Fund Limited dated 11 November 2013; and
- 2) 'Agreement to Acquire Shares' between Phoenix Copper Ltd and Solequest Pty Ltd dated 11 November 2013.

Signed by me and dated 19 November 2013



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**Name: Tim Moran**

**Company Secretary**

**Phoenix Copper Ltd**

**PHOENIX COPPER LIMITED**  
ACN 127 446 271

AND

**GALENA SPECIAL SITUATIONS MASTER FUND LIMITED**  
Registered Number CT-168505

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**AGREEMENT TO ACQUIRE SHARES**

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CONFIDENTIAL

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**AGREEMENT** made this 11<sup>th</sup> day of November 2013

**BETWEEN**

**PHOENIX COPPER LIMITED** (ACN 127 446 271) of Level 1, 135 Fullarton Road, Rose Park, Australia (**Phoenix**)

**AND**

**GALENA SPECIAL SITUATIONS MASTER FUND LIMITED** (Registered Number: CT-168505) of Harbour Centre, George Town, Grand Cayman KY1-1102, Cayman Islands (**Galena**)

**BACKGROUND**

- A. Galena is the beneficial owner of 29,300,000 Shares in Avalon Minerals Limited, held through HSBC Bank Australia Ltd.
- B. Avalon re-opened a non-renounceable pro-rata Rights Issue on 28 October 2013 (**Rights Issue**) which closes at 5pm (AEST) on 11 November 2013. The Rights Issue entitles eligible shareholders to subscribe for one new fully paid ordinary share in Avalon for every one fully paid ordinary share held as of 19 August 2013 at a price of \$0.01 per Share.
- C. Under the terms of the Rights Issue, eligible shareholders are entitled to apply for Shares in addition to their entitlements if and to the extent there is any shortfall and subject to the terms and conditions of the Rights Issue.
- D. Galena is eligible to subscribe for 29,300,000 new Shares under the Rights Issue (**Pro-rata Entitlement**) and is also eligible to apply for Shortfall Shares, and has on or about the date of this Agreement (via the Custodian) made application for its Pro-rata Entitlement and 30,700,000 Shortfall Shares (**Application**).
- E. Phoenix wishes to acquire the Shares to be issued to the Custodian (as nominee for Galena) under the Rights Issue, and Galena has agreed to sell those Shares to Phoenix on the terms and conditions of this Agreement.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATIONS**

**1.1 Definitions**

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings respectively:

**Advance** has the meaning given in clause 3.2(b).

**AEST** means Australian Eastern Standard Time.

**Application** has the meaning given in paragraph D of the Background.

**Avalon** means Avalon Minerals Limited (ACN 123 184 412).

**ASX** means the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691).

**Business Day** means a day which is not a Saturday, Sunday or official public holiday in Sydney, New South Wales.

**Closing Date** means 5.00pm AEST on 11 November 2013, being the closing date for the Rights Issue.

**Completion** means completion of the obligations of the Parties pursuant to clause 4.

**Consideration** means the amount calculated in accordance with clause 0.1.

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

**Custodian** means HSBC Bank Australia Ltd in its capacity as nominee for Galena.

**Encumbrance** means a mortgage, charge, pledge, lien, hypothecation or third party security interest of any kind whatever, or any agreement to create any of them or to allow any of them to exist.

**Fee** has the meaning given in clause 3.1(b).

**Immediately Available Funds** means cash, bank cheque made payable to the payee or cleared funds telegraphically transferred or transferred by other electronic means into a bank account nominated by the payee.

**Issued Shares** has the meaning given in clause 2.1.

**Loss** means all damages, loss, liability, charges, costs and expenses (including legal costs and expenses of whatsoever nature or description), including any liability for consequential or indirect losses, economic losses, loss of profit or loss of opportunity.

**Parties** means Galena and Phoenix and **Party** means any one of them.

**Pro-rata Entitlement** means 29,300,000 fully paid ordinary shares in Avalon.

**Rights Issue** has the meaning given in paragraph B of the Background.

**Rights Issue Offer Document** means the "Updated Offer Document, Partially Underwritten, Non-Renounceable Pro-Rata Rights Issue" and other documents in connection with it, dated 28 October 2013 and provided to the ASX and shareholders of Avalon.

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

**Shortfall Shares** means those Shares forming entitlements under the Rights Issue which are not accepted in accordance with the Rights Issue, and for the purposes of this Agreement and as the context requires, means the number of unsubscribed shares in the Rights Issue either applied for by the Custodian for the benefit of Galena pursuant to the Application or allocated and issued to the Custodian for the benefit of Galena by Avalon pursuant to the Application (as the case may be).



## 1.2 Aids to Interpretation

In this Agreement including the Background, unless the contrary intention appears:

- (a) words denoting the singular include the plural and vice versa;
- (b) a reference to any one of an individual, corporation, partnership, joint venture, association, authority, trust or government includes (as the context requires) any other of them;
- (c) the table of contents and headings are for convenience only and do not affect interpretation;
- (d) a reference to any instrument (such as an Agreement or document) is to that instrument (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time and from time to time;
- (e) a reference to a Party is a reference to a party to this Agreement and includes that Party's executors, administrators, successors and permitted assigns;
- (f) a reference to the Background or a clause, schedule or annexure is to the section of this Agreement headed "Background", or to a clause (including sub-clause, paragraph, sub-paragraph or further subdivision of a clause), schedule or annexure of or to this Agreement, and a reference to a paragraph is to a paragraph in a schedule or the Background;
- (g) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (h) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or substitution for, and any subordinate legislation under, that legislation or legislative provision;
- (i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (j) including and similar expressions are not and must not be treated as words of limitation;
- (k) a reference to a person, corporation, partnership, trust, unincorporated association or other entity includes any of the foregoing;
- (l) reference to 'A\$', '\$' or "dollars" is a reference to Australian dollars unless otherwise expressly provided;
- (m) a reference to time is AEST unless otherwise specified; and
- (n) this Agreement must not be construed adversely against a party just because that party prepared it.

### **1.3 Business Day**

Subject to clause 1.5, if the day on or by which a person must do something under this Agreement is not a Business Day the person must do it on or by the next Business Day.

### **1.4 Payments**

Any payments to be made under this Agreement must be made without deduction, set off or counterclaim in Immediately Available Funds.

### **1.5 Rights Issue Offer Document**

Where a Party must do something under this Agreement under or in connection with the Rights Issue, that thing must be done:

- (a) in accordance with the terms of the Rights Issue Offer Document; and
- (b) by the earlier of the time in clause 1.3 and the time provided for in the Rights Issue Offer Document.

## **2. AGREEMENT FOR SALE AND PURCHASE**

### **2.1 Agreement for sale and purchase**

Galena agrees to sell and procure the Custodian to sell and transfer to Phoenix, and Phoenix agrees to acquire and accept a transfer from the Custodian of, the Shares issued and allotted to the Custodian for the benefit of Galena under the Rights Issue and pursuant to the Application (**Issued Shares**), for the Consideration, free and clear of any and all Encumbrances with all rights, including dividends and voting rights, attached or accruing to them on or after the date of issue and allotment of the Issued Shares to the Custodian.

### **2.2 Title and Risk**

Title to and risk in the Issued Shares passes to Phoenix at Completion and will remain with the Custodian from issue and allotment and until Completion.

### **2.3 Notice of Issued Shares**

Galena must notify or procure that the Custodian notifies Phoenix of the number of Issued Shares promptly following the date of their issue and allotment under the Rights Issue.

## **3. CONSIDERATION**

### **3.1 Consideration**

The consideration to be paid by Phoenix to Galena for the Issued Shares is:

- (a) an amount equal to A\$0.01 per Issued Share (**Share Price**); plus
- (b) an amount equal to 10% of the Share Price (the **Fee**).

### 3.2 Advance

- (1) For reasons of practicality having regard to the Parties' agreement pursuant to clause 2.1, Phoenix agrees to advance \$300,000 (the **Advance**) to Galena to be applied in payment of the subscription monies payable for the Shares applied for pursuant to the Application by paying such amount to Galena by no later than 10am AEST on the Closing Date in Immediately Available Funds. Payment of the Advance shall, notwithstanding clause 1.4, be applied towards the Consideration to be paid by Phoenix in accordance with clause 4.
- (2) If Phoenix pays the Advance in accordance with clause 3.2(1), Galena must procure that the Custodian makes the Application by the Closing Date and that the Application is a valid application in accordance with the terms and conditions of the Rights Issue.
- (3) If Phoenix fails to pay the Advance in accordance with clause 3.2(2)3.2(3), and unless the Parties otherwise agree, the Parties agree that Galena may elect to
  - (a) apply for the whole or part of its Pro-rata Entitlement and Shortfall Shares by the Closing Date; or
  - (b) terminate the Agreement in accordance with clause 8.
- (4) Galena shall give written notice of its election under clause 3.2(3) within one Business Day of the Closing Date.

## 4. COMPLETION

### 4.1 Galena's Completion Obligations

Within 2 Business Days of the date of issue and allotment of the Issued Shares, Galena must:

- (a) procure the Custodian to deliver to Phoenix:
  - (i) an instrument of transfer for the Issued Shares, in the form required by Avalon's share registry for off-market transfers, duly executed by the Custodian and naming Phoenix as transferee ;
  - (ii) the identification documentation (if any) required by Avalon's share registry to be provided by the transferor of the Issued Shares as a precondition to registration of the instrument of transfer, in the form required by Avalon's share registry; and
  - (iii) evidence, in a form satisfactory to Phoenix, that the number of Issued Shares specified in the instrument of transfer is the total number of Issued Shares issued and allotted to the Custodian pursuant to the Rights Issue in its capacity as nominee for Galena; and
- (b) do and procure the Custodian to do all other things necessary or desirable to transfer the Issued Shares to Phoenix and to place Phoenix in effective control of the Issued Shares on and from Completion.

## 4.2 Phoenix's Completion Obligations

Upon receipt of the documentation required to be delivered to Phoenix in accordance with clause 4.1(a), Phoenix must pay to Galena in Immediately Available Funds the Consideration less the Advance (to the extent paid by Phoenix).

## 4.3 Interdependency

It is intended that, for Completion to occur, each of the events contemplated in clauses 4.1 and 4.2 occur contemporaneously with each other so that:

- (a) if any of the events contemplated in clause 4.1 or clause 4.2 do not occur, they shall all be taken not to have occurred; and
- (b) if any of the events contemplated in clause 4.1 or clause 4.2 has actually occurred and all of those events do not all occur, the Parties shall cooperate in the prompt reversal of the event contemplated in clause 4.1 or clause 4.2 which has occurred.

## 4.4 Notice to complete

- (1) If Phoenix or Galena (**Defaulting Party**) fails to satisfy its obligations under clause 4.1 or clause 4.2 (as the case requires) at the time at which they are to be satisfied, then Phoenix, where the Defaulting Party is Galena or Galena, where the Defaulting party is Phoenix, (**Notifying Party**) may give the Defaulting Party a notice requiring the Defaulting Party to satisfy those obligations within a period of 2 Business Days from the date of the notice.
- (2) If the Defaulting Party fails to satisfy the obligations referred to in clause 4.4(1) within those 2 Business Days, then the Notifying Party may, without limitation to any other rights it may have, terminate this Agreement by giving written notice to the Defaulting Party.
- (3) Termination of this Agreement under clause 4.4(2) will not prejudice the rights or liabilities of a Party in respect of a prior breach of this Agreement, including a breach giving rise to that termination, and clauses 1, 9, 10, 14.8 [and 15] and, where Phoenix is the Defaulting Party, 16, remain binding on the Parties notwithstanding that termination.

## 5. REFUND OF ADVANCE

- (1) If this Agreement is terminated pursuant to clause 4.4(2) or clause 8, then the Advance shall become immediately due and payable by Galena and must be repaid in Immediately Available Funds within 2 Business Days of the date of termination of this Agreement.
- (2) Repayment of the Advance in accordance with clause 5(1) is without prejudice to the rights or liabilities of a Party in respect of the default (if any) that gave rise to termination of the Agreement.

## 6. POST COMPLETION CONDUCT

From the date of issue and allotment of the Issued Shares and until the Issued Shares are registered in the name of Phoenix, Galena must:

- (a) not give any direction to the Custodian in respect to the exercise of any rights attaching to the Issued Shares other than at the written direction of or with the written consent of Phoenix;
- (b) procure the Custodian to act in accordance with any lawful and written direction given by Phoenix to Galena in respect to the Issued Shares;
- (c) from the date of Completion, account or procure that the Custodian accounts to Phoenix for any dividend or other entitlement paid or credited to it in respect of the Issued Shares.

## 7. REPRESENTATIONS AND WARRANTIES

### 7.1 Warranties by Galena

Galena represents and warrants in favour of Phoenix (in a manner so as to survive, and not merge in, Completion) that each of the following statements is true and accurate on the date of this Agreement and separately as at Completion:

- (a) the Custodian is the sole registered holder of 29,300,000 Shares, which it holds free of Encumbrances as bare trustee for Galena, and Galena is the sole beneficial owner of those Shares, free of Encumbrances;
- (b) Galena's pro rata entitlement (held for it by the Custodian) under the Rights Issue is the Pro Rata Entitlement;
- (c) Subject to Phoenix's compliance with clause 3.2, the application made or to be made (as the case requires) by the Custodian for Shares under the Rights Issue was an application for the Pro-rata Entitlement and 30,700,000 Shortfall Shares only;
- (d) upon issue and allotment of the Issued Shares the Custodian will be the sole registered holder of the Issued Shares, which it will hold free of Encumbrances as bare trustee for Galena, and Galena will be the sole beneficial owner of the Issued Shares, free of Encumbrances;
- (e) the Issued Shares will, at Completion, be transferred to Phoenix free and clear of all Encumbrances;
- (f) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;
- (g) it has taken all necessary action to authorise its entry into and performance of this Agreement and to carry out the transactions contemplated by this Agreement;
- (h) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms subject to the discretions of courts



regarding the granting of equitable remedies and laws relating to creditors rights generally;

- (i) it enters into this Agreement on its own behalf and does not enter into this Agreement as trustee for and on behalf of any trust;
- (j) this Agreement does not conflict with or constitute or result in a material breach of or default under any provision of its constituent documents or under any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound; and
- (k) it is not insolvent or otherwise unable to pay its debts as and when they fall due

## **7.2 Warranties by Phoenix**

Phoenix represents and warrants in favour of Galena (in a manner so as to survive, and not merge in, Completion) that each of the following statements is true and accurate on the date of this Agreement and separately as at Completion:

- (a) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;
- (b) it has taken all necessary action to authorise its entry into and performance of this Agreement and to carry out the transactions contemplated by this Agreement;
- (c) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms subject to the discretions of courts regarding the granting of equitable remedies and laws relating to creditors rights generally;
- (d) it is not insolvent or otherwise unable to pay its debts as and when they fall due;
- (e) it enters into this Agreement on its own behalf and does not enter into this Agreement as trustee for and on behalf of any trust; and
- (f) this Agreement does not conflict with or constitute or result in a material breach of or default under any provision of its constituent documents or under any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound.

## **8. TERMINATION**

This Agreement will, unless the Parties otherwise agree, automatically terminate if:

- (a) Phoenix does not pay the Advance by the time required under clause 3.2(1) and Galena elects to terminate this Agreement under clause 3.2(3); or
- (b) Phoenix pays the Advance in accordance with clause 3.2(1) but the Custodian does not make the Application by the Closing Date and otherwise in accordance with clause 3.2(2); or



- (c) the Custodian is not, for whatever other reason, issued any Shares under the Rights Issue and Galena must notify Phoenix promptly on it becoming aware that is the case.

Termination of this Agreement does not affect the rights and remedies of the Parties accrued prior to the time of termination and clauses 1, 8, 9, 10, 14.8, 15 and 16 shall survive termination and continue in full force and effect.

## **9. CONFIDENTIALITY AND DISCLOSURE**

The terms of the Confidentiality Agreement entered into by the Parties on or about the date of this Agreement will apply to the existence and terms of this Agreement and the negotiations which resulted in this Agreement, all of which will be deemed to be 'Confidential Information' for the purposes of that Confidentiality Agreement.

## **10. GOODS AND SERVICES TAX**

### **10.1 Consideration is GST Exclusive**

Unless specifically described in this Agreement as '**GST inclusive**', the consideration to be paid or provided for any supply made under or in connection with this Agreement does not include any amount on account of GST.

### **10.2 Gross Up of Consideration**

Where any supply to be made by one Party (**Supplier**) to another Party (**Recipient**) under or in connection with this Agreement is subject to GST:

- (a) the consideration payable or to be provided for that supply but for the application of this clause (**GST Exclusive Consideration**) shall be increased by, and the Recipient shall pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and
- (b) the Recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply.

### **10.3 Party is member of GST group**

If a Party is a member of a GST group, references to GST which the Party must pay and to input tax credits to which the Party is entitled include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.

### **10.4 Reimbursements**

If any payment to be made to a Party under or in connection with this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that Party, then the amount of the payment must be reduced by the amount of any input tax credit to which that Party is entitled for that expense or other liability.

## **10.5 Adjustments**

If an adjustment event has occurred in respect of a taxable supply made under or in connection with this Agreement, any Party that becomes aware of the occurrence of that adjustment event must notify the other Parties as soon as practicable, and the Parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the Supplier first becomes aware that the adjustment event has occurred.

## **10.6 Interpretation**

In this clause 10, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

## **11. COSTS AND STAMP DUTY**

### **11.1 Costs generally**

Subject to clause 11.2 and except as otherwise expressly provided in this Agreement, each party must pay its own expenses incurred in negotiating, preparing, executing, completing and carrying into effect this Agreement.

### **11.2 Stamp duty generally**

Phoenix must pay any and all stamp duty that is payable on or in relation to this Agreement and the transactions that it contemplates.

## **12. NOTICES**

Schedule 1 applies to notices, requests, consents and other communications under or connected with this Agreement.

## **13. DISPUTE RESOLUTION**

The Parties agree to endeavour to resolve any dispute or difference arising between them concerning this Agreement by good faith negotiations between senior representatives of each of them.

## **14. MISCELLANEOUS**

### **14.1 Entire Agreement**

This Agreement constitutes the entire agreement between the parties in relation to its subject matter. No understanding, arrangement or provision not expressly set out in this Agreement will bind the parties and no obligation, binding on any party is to be implied in this Agreement. Accordingly, all correspondence, negotiations and other communications between the parties in relation to the subject matter of this Agreement, which precede this Agreement, are superseded by and merged in it.

## **14.2 Assignment**

Neither party may assign or otherwise transfer any of its rights arising under this Agreement without the prior written consent of the other party.

## **14.3 Amendment**

This Agreement may only be amended in writing signed by both parties and not in any other manner.

## **14.4 Waiver**

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

## **14.5 Severance**

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

## **14.6 Giving effect to this Agreement**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document) that the other party may reasonably require to give full effect to this Agreement.

## **14.7 Counterparts**

This Agreement may be executed in any number of counterparts and all of those counterparts, taken together, will be deemed to constitute the same instrument. The sending of a signed counterpart of this Agreement by facsimile or electronic mail shall be as effective as if the originally signed documents had been physically delivered. A party who sends a signed copy of this Agreement to another party by facsimile or electronic mail must promptly deliver or send by mail or courier the originally signed document to the other party.

## **14.8 Governing Law**

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

#### **14.9 Persons Signing Agreement**

Each person who signs this Agreement on behalf of a party warrants that they are duly authorised by that party to do so and so that the party concerned is bound by this Agreement.

#### **14.10 Power of attorney**

- (1) Phoenix appoints Galena as its attorney to do, in the name of Phoenix and on its behalf, everything necessary or expedient and lawful, in Galena's sole discretion, to transfer the Issued Shares to Phoenix for the purposes of and in accordance with this Agreement.
- (2) Phoenix declares that:
  - (a) all acts and things done by Galena in exercising powers under this power of attorney will be as good and valid as if they had been done by Phoenix and agrees to ratify and confirm whatever Galena does in exercising powers under this power of attorney; and
  - (b) this power of attorney is given for valuable consideration and is irrevocable for the duration of this Agreement.
- (3) Phoenix unconditionally and irrevocably releases Galena from all Loss suffered or incurred by it in connection with the exercise by Galena of the powers granted by Phoenix in accordance with this clause 14.10.

#### **15. INDEMNITY**

Each Party indemnifies the other Party against any Loss that other Party may incur to the extent caused by any breach of this Agreement by that Party, including a breach of the warranties in clause 7.

#### **16. FEE IN THE EVENT OF PHOENIX DEFAULT**

Without limiting the indemnity in clause 15, Phoenix agrees that the Fee must be paid to Galena and is not refundable by Galena if this Agreement is terminated pursuant to clause 4.4(2) or clause 8 as a consequence of a default by Phoenix in the performance of its obligations under this Agreement, provided that Galena has otherwise complied with its obligations under this Agreement. The Parties acknowledge the Fee is a genuine pre-estimate of the Loss to Galena in this event and constitutes not more than fair and reasonable compensation for the occurrence of such event.

## SCHEDULE 1 - NOTICES

### 1. Delivery

A notice, consent, request or other communication under or for the purpose of the Agreement to which this document is Schedule 1 ("**Notice**") must be in writing and delivered on a Business Day, sent by prepaid mail (airmail if overseas) or by facsimile to the address or facsimile number of the recipient Party set out in paragraph 3 or to such other address or facsimile number as that Party may from time to time notify the other Parties for the purposes of this schedule.

### 2. Receipt

A Notice given in accordance with paragraph 1 will be treated as having been received:

- (a) if it is delivered before 5.00 pm on a Business Day, at the time of delivery otherwise at 9.00 am on the next following Business Day;
- (b) on the third Business Day (or seventh Business Day if sent overseas) after posting;
- (c) if sent by facsimile, upon production of a correct and complete transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purposes of this paragraph (but if the communication is not completed by 5.00 pm on a Business Day, at 9.00 am on the next following Business Day); and
- (d) if sent by email, at the time shown in the delivery confirmation report generated by the sender's email system unless such time is after 5.00 pm on a Business Day, in which case the Notice is taken to be received at 9.00 am on the next Business Day.

### 3. Addresses for Notices

For the purposes of this schedule, the address and facsimile details of each Party are as follows:

#### Phoenix

Attention: Mr James Fox, Chief Executive Officer  
Address: Level 1, 135 Fullarton Road  
Rose Park SA 5067  
Facsimile: +61 8 8364 4288  
Email:

#### Galena

Attention: Mr Duncan Hay  
Address: c/o Galena Asset Management

London W1H 6DU,  
Facsimile: +41 (0) 207 495 2570  
Email:

4. In this Schedule, "Business Day" means a day which is not a Saturday, Sunday or public holiday in the place to which a Notice is sent.



EXECUTED for and on behalf of PHOENIX  
COPPER LIMITED (ACN 127 446 271) in  
accordance with section 127(1) of the  
Corporations Act: )  
)  
)  
)  
)

  
\_\_\_\_\_  
Signature of Director

Graham Ascoug  
\_\_\_\_\_  
Name of Director

  
\_\_\_\_\_  
Signature of Director/Secretary

PAUL J DOWD  
\_\_\_\_\_  
Name of Director/Secretary

EXECUTED for and on behalf of GALENA  
SPECIAL SITUATIONS MASTER FUND  
LIMITED (Registered Number: CT-  
168505) in the presence of: )  
)  
)  
)  
)

  
\_\_\_\_\_  
Signature of Director

JEREMY WEIR  
\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Name of Director/Secretary

**PHOENIX COPPER LIMITED**

ACN 127 446 271

**AND**

**SOLEQUEST PTY LTD**

ACN 110 713 132

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**AGREEMENT TO ACQUIRE SHARES**

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**AGREEMENT** made this 11<sup>th</sup> day of November 2013

**BETWEEN**

**PHOENIX COPPER LIMITED** (ACN 127 446 271) of Level 1, 135 Fullarton Road, Rose Park, Australia (**Phoenix**)

**AND**

**SOLEQUEST PTY LTD** (ACN 110 713 132) of 49 North Street, Mt Lawley, Western Australia (**Solequest**)

**BACKGROUND**

- A. Solequest is the beneficial owner of 1,352,360 Shares in Avalon Minerals Limited
- B. Avalon re-opened a non-renounceable pro-rata Rights Issue on 28 October 2013 (**Rights Issue**) which closes at 5pm (AEST) on 11 November 2013. The Rights Issue entitles eligible shareholders to subscribe for one new fully paid ordinary share in Avalon for every one fully paid ordinary share held as of 19 August 2013 at a price of \$0.01 per Share.
- C. Under the terms of the Rights Issue, eligible shareholders are entitled to apply for Shares in addition to their entitlements if and to the extent there is any shortfall and subject to the terms and conditions of the Rights Issue.
- D. Solequest is eligible to subscribe for 1,352,360 new Shares under the Rights Issue (**Pro-rata Entitlement**) and is also eligible to apply for Shortfall Shares, and has made application for its Pro-rata Entitlement and 58,647,640 Shortfall Shares (**Application**).
- E. Phoenix wishes to acquire the Shares issued to Solequest under the Rights Issue, and Solequest has agreed to sell those Shares to Phoenix on the terms and conditions of this Agreement.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATIONS**

**1.1 Definitions**

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings respectively:

**AEST** means Australian Eastern Standard Time.

**Application** has the meaning given in paragraph D of the Background.

**Avalon** means Avalon Minerals Limited (ACN 123 184 412).

**ASX** means the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691).

**Business Day** means a day which is not a Saturday, Sunday or official public holiday in Adelaide, South Australia.

**Closing Date** means 5.00pm AEST on 11 November 2013, being the closing date for the Rights Issue.

**Completion** means completion of the obligations of the Parties pursuant to clause 4.

**Consideration** means the amount calculated in accordance with clause 3.

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

**Encumbrance** means a mortgage, charge, pledge, lien, hypothecation or third party security interest of any kind whatever, or any Agreement to create any of them or to allow any of them to exist.

**Immediately Available Funds** means cash, bank cheque made payable to the payee or cleared funds telegraphically transferred or transferred by other electronic means into a bank account nominated by the payee.

**Issued Shares** has the meaning given in clause 2.1.

**Parties** means Solequest and Phoenix and **Party** means any one of them.

**Pro-rata Entitlement** means 1,352,360 fully paid ordinary shares in Avalon.

**Rights Issue** has the meaning given in paragraph B of the Background.

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

**Shortfall Shares** means those Shares forming entitlements under the Rights Issue which are not accepted in accordance with the Rights Issue.

**Subscription Monies** means the aggregate subscription monies payable for the Pro Rata Entitlement and the 58,647,640 Shortfall Shares applied for by Solequest under the Rights Issue, being A\$600,000.

## 1.2 Aids to Interpretation

In this Agreement including the Background, unless the contrary intention appears:

- (a) words denoting the singular include the plural and vice versa;
- (b) a reference to any one of an individual, corporation, partnership, joint venture, association, authority, trust or government includes (as the context requires) any other of them;
- (c) the table of contents and headings are for convenience only and do not affect interpretation;
- (d) a reference to any instrument (such as an Agreement or document) is to that instrument (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time and from time to time;



- (e) a reference to a Party is a reference to a party to this Agreement and includes that Party's executors, administrators, successors and permitted assigns;
- (f) a reference to the Background or a clause, schedule or annexure is to the section of this Agreement headed "Background", or to a clause (including sub-clause, paragraph, sub-paragraph or further subdivision of a clause), schedule or annexure of or to this Agreement, and a reference to a paragraph is to a paragraph in a schedule or the Background;
- (g) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (h) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or substitution for, and any subordinate legislation under, that legislation or legislative provision;
- (i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (j) including and similar expressions are not and must not be treated as words of limitation;
- (k) a reference to a person, corporation, partnership, trust, unincorporated association or other entity includes any of the foregoing;
- (l) reference to 'A\$', '\$' or "dollars" is a reference to Australian dollars unless otherwise expressly provided;
- (m) a reference to time is to AEST time unless otherwise specified; and
- (n) this Agreement must not be construed adversely against a party just because that party prepared it.

### **1.3 Business Day**

If the day on or by which a person must do something under this Agreement is not a Business Day the person must do it on or by the next Business Day.

### **1.4 Payments**

Any payments to be made under this Agreement must be made without deduction, set off or counterclaim in Immediately Available Funds.

## **2. AGREEMENT FOR SALE AND PURCHASE**

### **2.1 Agreement for sale and purchase**

Solequest agrees to sell and transfer to Phoenix, and Phoenix agrees to acquire and accept a transfer from Solequest of, the Shares issued and allotted to Solequest under the Rights Issue and pursuant to the Application (**Issued Shares**), for the Consideration, free and clear of any and all Encumbrances with all rights, including dividends and voting rights, attached or accruing to them on or after the date of issue and allotment of the Issued Shares to Solequest.

## **2.2 Title and Risk**

Title to and risk in the Issued Shares passes to Phoenix at Completion and will remain with Solequest from issue and allotment and until Completion.

## **2.3 Notice of Issued Shares**

Solequest must notify Phoenix of the number of Issued Shares issued and allotted to Solequest promptly following the date for issue and allotment of Shares under the Rights Issue.

## **3. CONSIDERATION**

### **3.1 Consideration**

The consideration to be paid by Phoenix to Solequest for the Issued Shares is:

- (a) an amount equal to A\$0.01 per Issued Share (**Share Price**); plus
- (b) an amount equal to 5% of the Share Price.

### **3.2 Payment of Consideration**

- (1) The Parties acknowledge that Phoenix has, for reasons of practicality having regard to the Parties' agreement pursuant to clause 2.1, paid the Subscription Monies on Solequest's behalf direct to Avalon's share registry and in satisfaction of the Subscription Monies payable by Solequest.
- (2) The Subscription Monies paid by Phoenix shall:
  - (a) notwithstanding clause 1.4, be applied towards payment of the Consideration to be paid by Phoenix in accordance with clause 4 with any excess Subscription Monies to be refunded to Phoenix in accordance with clause 5; or
  - (b) where clause 5(1)(a) applies, refunded in full to Phoenix in accordance with clause 5.

## **4. COMPLETION**

### **4.1 Solequest's Completion Obligations**

Within 2 Business Days of the date of issue and allotment of the Issued Shares, Solequest must:

- (a) deliver to Phoenix:
  - (i) an instrument of transfer for the Issued Shares, in the form required by Avalon's share registry for off-market transfers, duly executed by the Solequest and naming Phoenix as transferee ;
  - (ii) the identification documentation (if any) required by Avalon's share registry to be provided by the transferor of the Issued Shares as a

precondition to registration of the instrument of transfer, in the form required by Avalon's share registry; and

- (iii) evidence, in a form satisfactory to Phoenix, that the number of Issued Shares specified in the instrument of transfer is the total number of Issued Shares issued and allotted to Solequest pursuant to the Rights Issue in its capacity as a shareholder; and
- (b) do all other things necessary or desirable to transfer the Issued Shares to Phoenix and to place Phoenix in effective control of the Issued Shares on and from Completion.

#### 4.2 Phoenix's Completion Obligations

Upon receipt of the documentation required to be delivered to Phoenix in accordance with clause 4.1(a), Phoenix must pay to Solequest in Immediately Available Funds the Consideration less the Subscription Monies paid in accordance with clause 3.2(1).

#### 4.3 Interdependency

It is intended that, for Completion to occur, each of the events contemplated in clauses 4.1 and 4.2 occur contemporaneously with each other so that:

- (a) if any of the events contemplated in clause 4.1 or clause 4.2 do not occur, they shall all be taken not to have occurred; and
- (b) if any of the events contemplated in clause 4.1 or clause 4.2 has actually occurred and all of those events do not all occur, the Parties shall cooperate in the prompt reversal of the event contemplated in clause 4.1 or clause 4.2 which has occurred.

#### 4.4 Notice to complete

- (1) If Phoenix or Solequest (**Defaulting Party**) fails to satisfy its obligations under clause 4.1 or clause 4.2 (as the case requires) at the time at which they are to be satisfied, then Phoenix, where the Defaulting Party is Solequest or Solequest, where the Defaulting party is Phoenix, (**Notifying Party**) may give the Defaulting Party a notice requiring the Defaulting Party to satisfy those obligations within a period of 2 Business Days from the date of the notice and declaring time to be of the essence.
- (2) If the Defaulting Party fails to satisfy those obligations within those 2 Business Days, then the Notifying Party may, without limitation to any other rights it may have, terminate this Agreement by giving written notice to the Defaulting Party.
- (3) Termination of this Agreement under clause 4.4(2) will not prejudice the rights or liabilities of a Party in respect of a prior breach of this Agreement, including a breach giving rise to that termination, and clauses 1, 5, 9, 10 and 14.8 remain binding on the Parties notwithstanding that termination.

### 5. REFUND OF SUBSCRIPTION MONIES

- (1) If:
-

- (a) this Agreement is terminated pursuant to clause 4.4(2) or clause 8; or
- (b) the number of Issued Shares issued and allotted to Solequest is less than the number of Shares applied for pursuant to the Application,

then, Solequest must pay to Phoenix in Immediately Available Funds:

- (i) in the case where paragraph (a) applies, the Subscription Monies in full;
- (ii) in the case where paragraph (b) applies, the amount (if any) by which the Subscription Monies exceeds the Consideration,

within 2 Business Days of the later of the date on which Solequest receives a refund of the relevant Subscription Monies from Avalon or its share registry and date on which Solequest's obligations pursuant to clause 4.1 fall due for performance, or, if this Agreement is terminated pursuant to clause 4.4(2), within 2 Business Days of the date of termination of this Agreement.

- (2) Clause 5(1) does not apply if and to the extent the refund of the Subscription Monies is made to Phoenix directly.
- (3) Payment of the Subscription Monies in accordance with clause 5(1) and as a consequence of this Agreement terminating pursuant to clause 4.4(2) is without prejudice to any rights or claims any Party may have against the other in respect of the default(s) that gave rise to termination of the Agreement.

## **6. POST COMPLETION CONDUCT**

From the date of issue and allotment of the Issued Shares and until the Issued Shares are registered in the name of Phoenix, Solequest must:

- (a) not give any direction to Solequest in respect to the exercise of any rights attaching to the Issued Shares other than at the written direction of or with the written consent of Phoenix;
- (b) procure that Solequest acts in accordance with any lawful and written direction given by Phoenix to Solequest in respect to the Issued Shares;
- (c) account or procure that Solequest accounts to Phoenix for any dividend or other entitlement paid or credited to it in respect of the Issued Shares.

## **7. REPRESENTATIONS AND WARRANTIES**

### **7.1 Warranties by Solequest**

Solequest represents and warrants in favour of Phoenix (in a manner so as to survive, and not merge in, Completion) that each of the following statements is true and accurate on the date of this Agreement and separately as at Completion:

- (a) Solequest is the sole registered holder of 1,352,360 Shares, which it holds free of Encumbrances, and Solequest is the sole beneficial owner of those Shares, free of Encumbrances;
- (b) Solequest's pro rata entitlement under the Rights Issue is the Pro Rata Entitlement;
- (c) Subject to Phoenix having paid the Subscription Monies as contemplated by clause 3.2(1), Solequest applied for the Pro-rata Entitlement and 60,000,000 Shortfall Shares only before the Closing Date and in accordance with the terms and conditions of the Rights Issue;
- (d) upon issue and allotment of the Issued Shares Solequest will be the sole registered holder of the Issued Shares, which it will hold free of Encumbrances, and Solequest will be the sole beneficial owner of the Issued Shares, free of Encumbrances;
- (e) the Issued Shares will, at Completion, be transferred to Phoenix free and clear of all Encumbrances;
- (f) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;
- (g) it has taken all necessary action to authorise its entry into and performance of this Agreement and to carry out the transactions contemplated by this Agreement;
- (h) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms subject to the discretions of courts regarding the granting of equitable remedies and laws relating to creditors rights generally;
- (i) it enters into this Agreement on its own behalf and does not enter into this Agreement as trustee for and on behalf of any trust; and
- (j) this Agreement does not conflict with or constitute or result in a material breach of or default under any provision of its constituent documents or under any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound.

## **7.2 Warranties by Phoenix**

Phoenix represents and warrants in favour of Solequest (in a manner so as to survive, and not merge in, Completion) that each of the following statements is true and accurate on the date of this Agreement and separately as at Completion:

- (a) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;
- (b) it has taken all necessary action to authorise its entry into and performance of this Agreement and to carry out the transactions contemplated by this Agreement;



- (c) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms subject to the discretions of courts regarding the granting of equitable remedies and laws relating to creditors rights generally;
- (d) it enters into this Agreement on its own behalf and does not enter into this Agreement as trustee for and on behalf of any trust; and
- (e) this Agreement does not conflict with or constitute or result in a material breach of or default under any provision of its constituent documents or under any agreement, deed, writ, order, injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound.

## 8. TERMINATION

This Agreement will automatically terminate if Solequest is not, for whatever reason, issued any Shares under the Rights Issue and Solequest must promptly notify Phoenix if that is the case. Termination of this Agreement does not affect the rights and remedies of the Parties accrued prior to the time of termination and clauses 1, 5, 8, 9, 10 and 14.8 shall survive termination and continue in full force and effect.

## 9. CONFIDENTIALITY AND DISCLOSURE

The terms of the Confidentiality Agreement entered into by the Parties on or about the date of this Agreement will apply to the existence and terms of this Agreement and the negotiations which resulted in this Agreement, all of which will be deemed to be 'Confidential Information' for the purposes of that Confidentiality Agreement.

## 10. GOODS AND SERVICES TAX

### 10.1 Consideration is GST Exclusive

Unless specifically described in this Agreement as '**GST inclusive**', the consideration to be paid or provided for any supply made under or in connection with this Agreement does not include any amount on account of GST.

### 10.2 Gross Up of Consideration

Where any supply to be made by one Party (**Supplier**) to another Party (**Recipient**) under or in connection with this Agreement is subject to GST:

- (a) the consideration payable or to be provided for that supply but for the application of this clause (**GST Exclusive Consideration**) shall be increased by, and the Recipient shall pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and
- (b) the Recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply.



### **10.3 Party is member of GST group**

If a Party is a member of a GST group, references to GST which the Party must pay and to input tax credits to which the Party is entitled include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.

### **10.4 Reimbursements**

If any payment to be made to a Party under or in connection with this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that Party, then the amount of the payment must be reduced by the amount of any input tax credit to which that Party is entitled for that expense or other liability.

### **10.5 Adjustments**

If an adjustment event has occurred in respect of a taxable supply made under or in connection with this Agreement, any Party that becomes aware of the occurrence of that adjustment event must notify the other Parties as soon as practicable, and the Parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the Supplier first becomes aware that the adjustment event has occurred.

### **10.6 Interpretation**

In this clause 10, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

## **11. COSTS AND STAMP DUTY**

### **11.1 Costs generally**

Subject to clause 11.2 and except as otherwise expressly provided in this Agreement, each party must pay its own expenses incurred in negotiating, preparing, executing, completing and carrying into effect this Agreement.

### **11.2 Stamp duty generally**

Phoenix must pay any and all stamp duty that is payable on or in relation to this Agreement and the transactions that it contemplates.

## **12. NOTICES**

Schedule 1 applies to notices, requests, consents and other communications under or connected with this Agreement.

### **13. DISPUTE RESOLUTION**

The Parties agree to endeavour to resolve any dispute or difference arising between them concerning this Agreement by good faith negotiations between senior representatives of each of them.

### **14. MISCELLANEOUS**

#### **14.1 Entire Agreement**

This Agreement constitutes the entire agreement between the parties in relation to its subject matter. No understanding, arrangement or provision not expressly set out in this Agreement will bind the parties and no obligation, binding on any party is to be implied in this Agreement. Accordingly, all correspondence, negotiations and other communications between the parties in relation to the subject matter of this Agreement, which precede this Agreement, are superseded by and merged in it.

#### **14.2 Assignment**

Neither party may assign or otherwise transfer any of its rights arising under this Agreement without the prior written consent of the other party.

#### **14.3 Amendment**

This Agreement may only be amended in writing signed by both parties and not in any other manner.

#### **14.4 Waiver**

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

#### **14.5 Severance**

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

#### **14.6 Giving effect to this Agreement**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document) that the other party may reasonably require to give full effect to this Agreement.

#### **14.7 Counterparts**

This Agreement may be executed in any number of counterparts and all of those counterparts, taken together, will be deemed to constitute the same instrument. The sending of a signed counterpart of this Agreement by facsimile or electronic mail shall be as effective as if the originally signed documents had been physically delivered. A party who sends a signed copy of this Agreement to another party by facsimile or electronic mail must promptly deliver or send by mail or courier the originally signed document to the other party.

#### **14.8 Governing Law**

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

#### **14.9 Persons Signing Agreement**

Each person who signs this Agreement on behalf of a party warrants that they are duly authorised by that party to do so and so that the party concerned is bound by this Agreement.

## SCHEDULE 1 - NOTICES

### 1. Delivery

A notice, consent, request or other communication under or for the purpose of the Agreement to which this document is Schedule 1 ("**Notice**") must be in writing and delivered on a Business Day, sent by prepaid mail (airmail if overseas) or by facsimile to the address or facsimile number of the recipient Party set out in paragraph 3 or to such other address or facsimile number as that Party may from time to time notify the other Parties for the purposes of this schedule.

### 2. Receipt

A Notice given in accordance with paragraph 1 will be treated as having been received:

- (a) if it is delivered before 5.00 pm on a Business Day, at the time of delivery otherwise at 9.00 am on the next following Business Day;
- (b) on the third Business Day (or seventh Business Day if sent overseas) after posting;
- (c) if sent by facsimile, upon production of a correct and complete transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purposes of this paragraph (but if the communication is not completed by 5.00 pm on a Business Day, at 9.00 am on the next following Business Day); and
- (d) if sent by email, at the time shown in the delivery confirmation report generated by the sender's email system unless such time is after 5.00 pm on a Business Day, in which case the Notice is taken to be received at 9.00 am on the next Business Day.

### 3. Addresses for Notices

For the purposes of this schedule, the address and facsimile details of each Party are as follows:

#### Phoenix

Attention: Mr James Fox, Chief Executive Officer  
Address: Level 1, 135 Fullarton Road  
Rose Park SA 5067  
Facsimile: +61 8 8364 4288  
Email:

#### Solequest

Attention: Rohan Edmondson  
Address:

Mt Lawley  
Western Australia, 6050  
Facsimile: 08 9223 2211  
Email:

4. In this Schedule, "Business Day" means a day which is not a Saturday, Sunday or public holiday in the place to which a Notice is sent.

EXECUTED for and on behalf of PHOENIX )  
COPPER LIMITED (ACN 127 446 271) in )  
accordance with section 127(1) of the )  
Corporations Act: )

  
\_\_\_\_\_  
Signature of Director

Graham Ascouff  
\_\_\_\_\_  
Name of Director

  
\_\_\_\_\_  
Signature of Director/Secretary

Paul J. Downton  
\_\_\_\_\_  
Name of Director/Secretary

EXECUTED for and on behalf of )  
SOLEQUEST PTY LTD (ACN 110 713 132) )  
in the presence of: )

  
\_\_\_\_\_  
Signature of Director

Rohan EDMONDSON  
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Name of Director