

LEAD ABATEMENT STRATEGY DEED ('Deed')

**PASMINCO COCKLE CREEK SMELTER PTY LTD
(SUBJECT TO DEED OF COMPANY ARRANGEMENT)
ACN 000 083 670**

[Note: to be sent with Participation Letter]

ACCEPTANCE FORM

If you want to participate in the Lead Abatement Strategy, please read the attached terms and conditions and fill out the form below together with your contact details.

I/We *[delete as appropriate]*: _____
[Insert names of all property owners]

own the property located at: _____
[Insert address of the property]

I/We *[delete as appropriate]* have read, understood and agree to be bound by, the terms and conditions of this Deed.

Signed, sealed and delivered by: _____
[all owners stated above are required to sign]

Signed, sealed and delivered by: _____
[all tenants are required to sign and print names]

Date: _____

Executed as a deed.

CONTACT DETAILS

Daytime Telephone No: _____

Evening Telephone No: _____

Mobile No: _____

Email Address: _____

Preferred Method of Contact: *Please circle as appropriate – Mail / Telephone / Email*

REJECTION FORM

If you do not want to participate in the Lead Abatement Strategy, please indicate below.

I/We *[delete as appropriate]*: _____
[Insert names of all property owners]

own the property located at: _____
[Insert address of the property]

I/We *[delete as appropriate]* do not want to participate in the Lead Abatement Strategy. I/We *[delete as appropriate]* understand that I/we *[delete as appropriate]* am/are *[delete as appropriate]* no longer entitled to participate in and forfeit all my/our *[delete as appropriate]* rights in respect of, the Lead Abatement Strategy and I/we *[delete as appropriate]* agree to be bound by clause 11 of this Deed.

Signed, sealed and delivered by: _____
[all owners stated above are required to sign]

Date: _____

Executed as a deed.

Please send the completed Acceptance Form or Rejection Form and any notice specified under the terms and conditions of this Deed to:

Pasminco Cockle Creek Smelter Pty Ltd (Subject to Deed of Company Arrangement)
PO Box 16110
Collins Street West
Melbourne Victoria 8007

by [Drafting Note: Please insert date being a date 30 days after the date you send out the Participation letter].

For all other queries or inquiries, please call 1300 992342, visit our website at www.pasminco.com.au or send us an email at LAS@fh.com.au.

**PASMINCO COCKLE CREEK SMELTER PTY LTD
(SUBJECT TO DEED OF COMPANY ARRANGEMENT)
ACN 000 083 670**

**LEAD ABATEMENT STRATEGY DEED
TERMS AND CONDITIONS**

GLOSSARY OF TERMS

In this Deed:

Abatement Team means any contractor or subcontractor tasked with carrying out the Works on the Nominated Property;
Acceptance Form means the acceptance form set out under the heading 'Acceptance Form' in this Deed;
Claim includes without limitation any claim, demand, remedy, injury, damage, cost, loss, expense, liability, suit, action, proceeding, verdict, judgement, or right of action or debt relating to this Deed or any fact, matter or thing arising out of or in connection with this Deed or the Works on any ground whatsoever including (without limitation) on a quantum meruit, pursuant to quasi-contract, for unjust enrichment, in tort, in equity, under statute or otherwise and insofar as is permitted by law pursuant to any other principle of law;
DECCW means the Department of Environment, Climate Change & Water (NSW);
Deed Administrators means Peter Damien McCluskey and John Ross Lidholm in their capacity as administrators of the Deed of Company Arrangement;
Deed of Company Arrangement means the deed of company arrangement dated 4 October 2002 in respect of PCCS pursuant to Part 3A of the *Corporations Act 2001* (Cth);
Development Consent means the development consent issued by the Minister for Urban Affairs and Planning in relation to PCCS' operations, dated 14 November 1995;
LAS means the lead abatement strategy in respect of the Pasminco Cockle Creek Smelter dated October 2007, as amended, and produced under/pursuant to the Planning Consent;
LAS Manager means a person nominated by PCCS to oversee and administer the LAS from time to time;
Eligible Property means a residential property identified by the Deed Administrators, being a property having a right to participate in the LAS after successfully meeting all eligibility and participation criteria and having the specific section 149 certificate notation on its certificate of title indicating that the

property is possibly contaminated by lead (or per the terms required by the Deed Administrators);
Participant means the registered proprietor(s) of the Eligible Property, as identified on the Acceptance Form;
Pasminco Group means the consolidated entity of which Pasminco Limited is the ultimate holding company at the date of this Deed;
PCCS means Pasminco Cockle Creek Smelter Pty Ltd (subject to Deed of Company Arrangement);
Planning Consent means the Project Approval for the 'Remediation of Pasminco Cockle Creek Smelter Site' dated 27 February 2007, issued under Part 3A of the *Environmental Planning and Assessment Act 1979*;
Rejection Form means the rejection form set out under the heading 'Rejection Form' in this Deed;
Sampling Team means any person nominated by PCCS to carry out the sampling procedure on the Eligible Property; and
Works means the works to be undertaken by PCCS as determined under clauses 5 and 7.

BACKGROUND

The LAS was approved and endorsed by the Director Generals of the NSW Department of Environment, Climate Change & Water ("DECCW") and the Department of Planning ("DoP") in 2007.

The LAS was subsequently amended and updated during July 2010 and has received the approval of the DECCW and the Department of Planning ("DoP").

Upon satisfactory completion of the Works, the Lake Macquarie City Council may modify the section 149 certificate notation from the Eligible Properties' titles which indicate that they are potentially affected by lead dust.

TERMS AND CONDITIONS

1. ACCEPTANCE OF THE LAS

- 1.1. If the Participant wants to participate in the LAS, the Participant must have signed the Acceptance Form and returned it to PCCS within 30 days from the date of the attached participation letter.
- 1.2. If the Participant provides the Lead Abatement Strategy Deed Form under clause 2.1:
 - (a) PCCS will execute and complete the Works in accordance with the provisions of this Deed; and
 - (b) the Participant will be bound by, and must fully comply with this Deed.
- 1.3. The Participant must provide at the same time as providing the Lead Abatement Strategy Deed, all necessary contact details to PCCS and must indicate its preferred method of contact.
- 1.4. The Participant must provide on the Acceptance form (where applicable) the approval of any tenants residing at the Participant's property by obtaining their signature on the Acceptance form.
- 1.5. a. The participant agrees that PCCS is not liable for:
 - (i) any loss or damage suffered by the Participant other than as provided for by clause 1.5(ii) and (iii) arising out of any work by PCCS, its contractors or agents in implementing the LAS or around the Participant's Eligible Property. However, PCCS will be liable if any such loss or damage referred to in this clause 1.5(i) arises from the gross negligence of PCCS or its contractors or agents;
 - (ii) any loss or damages suffered by the Participant arising from any damage to any utilities or any services to the Participant's Eligible Property or in the vicinity of that property caused by PCCS, its contractors or agents. However, PCCS will be liable to repair or arrange at its cost the repair of the damaged utilities or services; and
 - (iii) any damage to any footpaths or land on or surrounding the Participant's Eligible Property caused by PCCS, its contractors or agents.
- 1.6. The Participant must comply with any timeframes set out by the LAS manager (which may be subject to change without notice) to accommodate LAS Samplers and Contractors (if required) to conduct any works on the Eligible property.
- 1.7. PCCS reserve the right to exclude a participant's property from the LAS, should any evidence of slag material be located at the property during any stage of the LAS process.

2. LEAD ABATEMENT STRATEGY DEED NOT PROVIDED

- 2.1. If the Lead Abatement Strategy Deed Form is not provided within the specified timeframe, the Participant will no longer be eligible for, and cannot participate in the LAS.
- 2.2. In consideration of PCCS inviting the Participant to participate in the LAS, the Participant will be bound by the terms and conditions contained in clause 11.

3. WITHDRAWAL FROM THE LAS

- 3.1. The Participant can withdraw from the LAS at any time by:
 - (a) signing the Rejection Form and returning it to PCCS; or
 - (b) by notice in writing to PCCS.

- 3.2. Upon withdrawal, clause 4 will apply.

4. LOSE RIGHT TO PARTICIPATE IN LAS

If under this Deed clause 4 applies, the Participant can no longer participate in the LAS and this Deed is terminated except for clause 11 which will still apply.

5. SAMPLING

- 5.1. The Sampling Team will take samples of surface soil and undertake any other relevant actions as may be required, including without limitation taking photographs and making diagrams of the participating Eligible Property in accordance with this clause 5.
- 5.2. The Participant consents to any person connected with the activities undertaken in accordance with this Deed collecting and using any information relating to the Eligible Property required to undertake the Works.
- 5.3. The Participant must liaise with the Sampling Team to agree on a mutually beneficial time for the Sampling Team to undertake sampling activities on the Eligible Property.
- 5.4. If the Participant cannot agree on a mutually beneficial time with the Sampling Team (both parties acting reasonably) within 7 days of receipt of a written request from the Sampling Team, clause 4 will apply.
- 5.5. The Participant must provide the Sampling Team with access to the Eligible Property at the agreed time.
- 5.6. If the Participant cancels or fails to provide access to the Sampling Team at the agreed time more than once, clause 4 will apply.
- 5.7. The method of sampling undertaken by the Sampling Team will comply with the procedure in use at the Pasminco Cockle Creek Smelter site since 1995 and endorsed by the DECCW.
- 5.8. PCCS will notify the Participant of the results of samples taken by the Sampling Team from the Eligible Property.
- 5.9. The Participant must notify PCCS in writing within 7 days of receipt of the notice under clause 5.8 stating whether the Participant agrees or does not agree with the results notified by PCCS.
- 5.10. If the Participant does not provide a notice in accordance with clause 5.9, clause 4 will apply.
- 5.11. If the Participant notifies PCCS that it does not agree with the results in accordance with clause 5.9, a second sample will be taken by the Sampling Team and clauses 5.1 to 5.8 will apply.
- 5.12. The results of the sampling undertaken under clause 5.11 will be final and binding on the parties.

6. SCHEDULE OF WORKS

- 6.1. If the results accepted under clause 5.8 or determined under clause 5.11 (as the case may require) show lead levels less than 300 parts per million, the Participant agrees that no Works are necessary.
- 6.2. If the results accepted under clause 5.8 or determined under clause 5.11 (as the case may require) show lead levels above 300 parts per million, PCCS will in the notice under clause 5.8 include a schedule of the Works which will be undertaken by the Abatement Team at the Eligible Property in accordance with the categories contained

in the attached Annexure 1. . The schedule will also include that material extracted from the Eligible Property as part of the Works will be removed by an independent contractor nominated by PCCS.

- 6.3. If PCCS provides a notice under clause 6.2, the Participant must provide a notice in writing to PCCS within 7 days from receipt of PCCS' notice that it consents to the Works identified in the schedule of Works provided under clause 6.2 being performed.
- 6.4. If the Participant does not provide a notice to PCCS in accordance with clause 6.3, clause 4 will apply.

7. ACCESS AND TIMING FOR WORKS

- 7.1. The Participant must liaise with the LAS Manager and the Abatement Team to agree on a mutually beneficial time or times for the Abatement Team to undertake the Works.
- 7.2. If the Participant cannot agree on a mutually beneficial time with the LAS Manager and the Abatement Team (all parties acting reasonably) within [7] days of receipt of a written request from the LAS Manager or the Abatement Team, clause 4 will apply.
- 7.3. The Participant must provide the Abatement Team with access to the Eligible Property at the agreed time or times.
- 7.4. If the Participant cancels or fails to provide access to the Abatement Team at an agreed time more than once, clause 4 will apply.

8. ADDITIONAL WORKS

- 8.1. Without prejudice to PCCS' rights under this Deed, the Participant may elect to undertake additional works on the Eligible Property at its own cost while PCCS undertakes the Works.
- 8.2. If the Participant elects to undertake additional works:
- (a) the Participant must include a description of the additional works in its notice to PCCS under clause 6.3; and
 - (b) PCCS will use reasonable endeavours to cooperate with the Participant.
- 8.3. PCCS will not have to cooperate with the Participant if such cooperation may delay or increase the cost of the Works.

9. SAFETY

The Participant must cooperate and comply with all reasonable requirements and directions of PCCS relating to the safety and/or protection of people and/or property.

10. COMPLETION

- 10.1. Once the Works have been completed, the LAS Manager or any other person nominated by PCCS from time to time will notify the Participant in writing that the Works are complete and may also request that the Participant provide access to the Independent Certifier and the LAS Manager or any other person nominated by PCCS from time to time to undertake an inspection of the Works.
- 10.2. Upon receipt of the notice in clause 10.1, the Participant must provide the Independent Certifier and the LAS Manager or any other person

nominated by PCCS from time to time access to the Eligible Property for the purposes of undertaking the inspection of the Works.

- 10.3. The LAS Manager or any other person nominated by PCCS from time to time, will schedule a time to visit the Eligible Property to ensure that there are no immediate problems with the Works and to provide education materials on how to maintain the Eligible Property following lead abatement.
- 10.4. Provided no objection is raised by:
- (a) the Independent Certifier; or
 - (b) the Participant,
- 10.5. within 14 days of the notice provided by the LAS Manager or any other person nominated by PCCS from time to time under clause 10.1, the Works are deemed to have been completed and clause 11 will apply.
- 10.6. Following completion of the LAS, the Participant will not be entitled to continual sampling by PCCS, per condition 42 and 43 of the Development Consent.

11. LIABILITY

- 11.1. Upon completion of the Works under clause 10, or if clause 4 applies, the Participant releases and waives any entitlement it may have now and in the future to any Claim (the Participant undertakes to advise future owners they no longer have rights to make any claim for future works under the LAS) and will be absolutely barred from making any Claim at any time, against PCCS and its employees, contractors, subcontractors, consultants and authorised representatives arising out of or in connection with any lead contaminant, including but not limited to lead dust, in connection with the Pasminco Cockle Creek Smelter or the Eligible Property.
- 11.2. The Participant
- (a) acknowledges that PCCS is subject to the Deed of Company Arrangement and party to or bound by other deeds of company arrangement executed on or about 4 October 2002 by other companies in the Pasminco Group pursuant to Part 5.3A of the *Corporations Act 2001* (Cth); and
 - (b) agrees that it will not terminate this Deed, take any action, make any Claim or exercise any right under this Deed as a result of or in relation to:
 - (i) PCCS being subject to the Deed of Company Arrangement or the other deeds of company arrangement; or
 - (ii) any event, act, matter, circumstance or arrangement, compromise or transaction provided for, permitted or contemplated by the Deed of Company Arrangement or the other deeds of company arrangement that occurs or may occur after the date of this Deed including without limitation any winding up of PCCS.
 - (c) The Participant acknowledges that:
 - (i) this Deed is entered into with the authority of the Deed Administrators on behalf of PCCS solely in their capacity as agents of PCCS; and
 - (ii) the Deed Administrators will bear no liability whatsoever, personal or otherwise, in respect of this Deed.

12. SURVIVAL

The rights and obligations of the parties set out in clause 11 survive the expiry, or earlier termination, of this Deed.

13. SEVERABILITY

If a provision (in part or whole) of this Deed is voidable or unenforceable, that provision (in part or whole) will be severed and the rest of this Deed will remain in full force and effect.

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Strategy Category	Measured Lead Concentration Parts Per Million ("PPM")	Abatement Required
1	<300 ppm	No abatement required
2	>300 ppm but <1,000 ppm	Option A - if grass covered, then barrier exists and no remediation necessary Option B - if not covered by grass but can be, till and apply turf maintaining practical grounds levels for particular site Option C - if in shady area with low grass cover, add 25 mm topsoil and mulch cover
3	>1,000 ppm but <1,500 ppm	Option A - for already grassed areas, add additional 25 mm of top soil Option B - if not covered by grass but can be, add 25 mm of top soil and apply turf maintaining practical ground levels for particular site - Option C - when in shady spot with low grass cover add 40 mm of top soil and mulch cover
4	>1,500 ppm but <2,500 ppm	Option A - for already grassed areas, add additional 50 mm of topsoil as barrier Option B - if not covered by grass but can be, add 50 mm of topsoil and apply turf Option C - when in shady spot with low grass, add 50 mm of topsoil and mulch cover
5	>2,500 ppm but <5,000 ppm	Option A - for already grassed areas, excavate 50 mm of topsoil and replace with 50 mm of new topsoil as barrier - replace grass cover (if suitable lead content) or otherwise apply new turf Option B - if not covered by grass but can be, excavate 50mm of topsoil and replace with 50 mm of new topsoil and apply new turf Option C - when in shady spot with low grass cover, excavate 50 mm of top soil and replace with 50 mm of new topsoil and mulch cover
6	>5,000 ppm	Investigate soil profile vertically to determine level of excavation required up to a maximum depth of 100 mm, excavate, reinstate with new topsoil and apply new turf or mulch, maintaining practical levels for particular site