

26 July 2013

ASX Release

ASX Code: CXX

---

## TERMS OF PERFORMANCE SHARES

---

### 1. Definitions

In these terms and conditions, unless the context otherwise requires:

**ASX** means ASX Limited and where the context permits the Australian Securities Exchange operated by ASX Limited.

**Change in Control Event** means:

- (a) the occurrence of:
  - (i) the offeror under a takeover offer in respect of Shares announcing that it has achieved acceptances in respect of 50.1% or more of the Shares; and
  - (ii) that takeover bid has become unconditional; or
- (b) the announcement by the Company that:
  - (i) shareholders of the Company have at a Court convened meeting of shareholders voted in favour, by the necessary majority, of a proposed scheme of arrangement under which all Shares are to be either:
    - (A) cancelled; or
    - (B) transferred to a third party; and
  - (ii) the Court, by order, approves the proposed scheme of arrangement,

but shall not include a scheme of arrangement for the purposes of a corporate restructure (including change of domicile, consolidation, sub-division, reduction or return) of the issued capital of the Company.

**Cradle Resources Limited**

Level 21, Allendale Square  
77 St Georges Terrace  
Perth WA 6000

T +61 8 9320 4700  
F +61 8 9320 4750  
E [admin@cradleresources.com.au](mailto:admin@cradleresources.com.au)

[www.cradleresources.com.au](http://www.cradleresources.com.au)

For personal use only

**Class A Performance Share** means a Class A Performance Share issued as part of the consideration under the Share Sale Agreement.

**Class A Milestone** means the completion of a Scoping Study, including metallurgical work and confirmatory drilling, to the reasonable satisfaction of the independent directors of the Company as evidenced by a decision to proceed with work on the Project.

**Class B Performance Share** means a Class B Performance Share issued as part of the consideration under the Share Sale Agreement.

**Class B Milestone** means the completion of a Definitive Feasibility Study on the Project which demonstrates an NPV of at least US\$400 million (assuming a 10% discount rate and long term market contract price).

**Company** means Cradle Resources Limited ACN 149 637 016.

- (a) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (b) **Definitive Feasibility Study** means a formal technical, resource and project development study which assesses the viability of developing and mining a deposit identified within the area comprising the Project Licences reasonably sufficient to support a decision to mine and project finance.
- (c) **Expiry Date** means the date that is four (4) years from the date of issue of the Performance Shares.

**Inferred Mineral Resource** has the meaning given in the JORC Code.

**JORC Code** means the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (2004) as amended from time to time.

**Mineral Resource** has the meaning given in the JORC Code.

**NPV** means net present value.

**Panda Hill** means Panda Hill Mining Pty Ltd ACN 160 217 069.

**Performance Share** means a Class A Performance Share or a Class B Performance Share.

**Performance Shareholder** means the holder of a Performance Share.

**Project** means the niobium project located in Tanzania and contained within the Project Licences.

**Project Licences** means:

- (a) mining licences ML237/2006, ML238/2006 and ML239/2006 issued for niobium in Panda Hill, Mbeya District, Tanzania;
- (b) any other mineral right or mineral rights which may be granted in lieu or relate to the same ground as the mineral rights referred to in paragraph (a); and
- (c) includes all rights to mine and other privileges appurtenant to the mineral rights referred to in paragraph (a) as conferred by law.

**Scoping Study** means a preliminary assessment of the technical and economic viability of the exploitation of a Mineral Resource, based on the delineation of an Inferred Mineral Resource.

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

**Shareholder** means a holder of Shares.

**Share Sale Agreement** means the share sale agreement between the Company, Panda Hill and all of the holders of shares in Panda Hill.

## **2. Dividend**

Performance Shareholders are not entitled to a dividend.

## **3. Conversion**

- (a) Conversion

The Performance Shares will convert into Shares in accordance with this clause 3.

- (b) Conversion of Class A Performance Share

Subject to clause 3(f), each Class A Performance Share will convert into one (1) Share upon the satisfaction, prior to the Expiry Date, of the Class A Milestone.

- (c) Conversion of Class B Performance Share

Subject to clause 3(f):

- (i) Where the Class B Milestone is satisfied each Class B Performance Share will convert into one (1) Share upon the satisfaction, prior to the Expiry Date, of the Class B Milestone.
- (ii) If the Class B Milestone is not met, but the NPV produced by the Definitive Feasibility Study is equal to or greater than US\$300 million (assuming a 10% discount rate and long term market contract price) the number of Class B

Performance Shares which will convert to Shares will be reduced pro rata such that no Class B Performance Shares convert at an NPV of less than US\$300 million and all convert at an NPV of US\$400 million or more.

- (d) Conversion on Change in Control
- (i) Subject to clauses 3 and 3(f), if prior to the Expiry Date a Change in Control Event occurs then each Performance Share will convert into one (1) Share.
  - (ii) The maximum number of Performance Shares that can be converted into Shares and issued under this clause 3 upon a Change of Control Event must not exceed 10% of the issued Share capital of the Company (as at the date of the Change of Control Event). The Company shall ensure a pro-rata allocation of Shares issued under this clause 3 to all Performance Shareholders. Performance Shares that are not converted into Shares will continue to be held by the Performance Shareholder on the same terms and conditions.
- (e) Conversion after Expiry Date
- (i) If the Class A Milestone is not met by 5.00pm (WST) on the Expiry Date the Company will, as soon as reasonably practical and in any event no later than ninety (90) days after the Expiry Date, convert the total number of Class A Performance Shares on issue into seven (7) Shares (one for each holder of the Performance Shares). For the avoidance of doubt, the Class B Performance Shares are independent and will not convert in such circumstances.
  - (ii) If the Class B Milestone is not met and clause 3(c)(ii) does not apply by 5.00pm (WST) on the Expiry Date the Company will, as soon as reasonably practical and in any event no later than ninety (90) days after the Expiry Date, convert the total number of Class B Performance Share on issue into seven (7) Shares (being one Share for each holder of the Performance Shares). For the avoidance of doubt, the Class A Performance Shares are independent and will not convert in such circumstances.
- (f) Takeover Provisions
- (i) If the conversion of Performance Shares (or part thereof) under clauses 3(b) to 3(e) would result in any person being in contravention of section 606(1) of the Corporations Act then the conversion of each Performance Share that would cause the contravention shall be deferred until such time or times thereafter that the conversion would not result in a contravention of section 606(1). Following a deferment under this clause 3(f)(i), the Company shall at all times

- (ii) be required to convert that number of Performance Shares that would not result in a contravention of section 606(1).
- (iii) The Performance Shareholders shall give notification to the Company in writing if they consider that the conversion of Performance Shares (or part thereof) under clauses 3(b) to 3(e) may result in the contravention of section 606(1) failing which the Company shall assume that the conversion of Performance Shares (or part thereof) under clauses 3(b) and 3(e) will not result in any person being in contravention of section 606(1).
- (iv) The Company may (but is not obliged to) by written notice request the Performance Shareholders to give notification to the Company in writing within seven (7) days if they consider that the conversion of Performance Shares (or part thereof) under clauses 3(b) to 3(e) may result in the contravention of section 606(1). If the Performance Shareholders do not give notification to the Company within seven (7) days that they consider the conversion of Performance Shares (or part thereof) under clauses 3(b) to 3(e) may result in the contravention of section 606(1) then the Company shall assume that the conversion of Performance Shares (or part thereof) under clauses 3(b) to 3(e) will not result in any person being in contravention of section 606(1).

(g) **After Conversion**

The Shares issued on conversion of any Performance Share will as and from 5.00pm (WST) on the date of allotment rank equally with and confer rights identical with all other Shares then on issue and application will be made by the Company to ASX for official quotation of the Shares upon the date of conversion. Shares issued on conversion of the Performance Share must be free from all encumbrances, securities and third party interests. The Company must ensure that Shares issued on conversion of the Performance Shares are freely tradeable, without being subject to on-sale restrictions under section 707 of the Corporations Act, on and from their date of issue.

**4. Issue of Shares for No Consideration**

The Company shall allot and issue Shares immediately upon conversion of the Performance Shares for no consideration and shall record the allotment and issue in the manner required by the Corporations Act.

**5. Reconstruction**

In the event of any reconstruction, consolidation or division into (respectively) a lesser or greater number of securities of the Shares and the Performance Shares shall be reconstructed, consolidated or divided in the same proportion as the Shares are reconstructed, consolidated

or divided and, in any event, in a manner which will not result in any additional benefits being conferred on the Performance Shareholders which are not conferred on the Shareholders.

**6. Winding Up**

If the Company is wound up prior to conversion of all of the Performance Shares into Shares then the Performance Shareholders will have:

- (a) no right to be paid cash for the Performance Shares; and
- (b) no right to participate in surplus assets or profits of the Company on winding up.

**7. Non-transferable**

The Performance Shares are not transferable.

**8. Copies of Notices and Reports**

The Performance Shareholders have the same right as Shareholders to receive notices, reports and audited accounts and to attend general meetings of the Company but are only entitled to vote in the circumstances referred to in clause 9.

**9. Voting Rights**

The Performance Shareholders shall have no right to vote, subject to the Corporations Act.

**10. Participation in new issues**

There are no participation rights or entitlements inherent in the Performance Shares and holders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Performance Shares.

**11. Quotation**

The Performance Shares are unquoted. No application for quotation of the Performance Shares will be made by the Company.

*Grant Davey*  
*Managing Director*