



CONGLIN INVESTMENT GROUP

AUSTRALIA CONGLIN INTERNATIONAL INVESTMENT GROUP PTY. LTD.



31 May 2012

Recommended cash offer for Orion Metals Limited

Australia Conglin International Investment Group Pty Limited ("Conglin") and Orion Metals Limited ("Orion") announce that Conglin will make a cash offer of 16 cents per share, via an off-market takeover offer, for all of Orion's issued shares with the intention of acquiring a controlling interest in Orion. Conglin is Orion's largest shareholder with a shareholding in Orion of 19.8%. Orion and Conglin have entered into a Bid Implementation Agreement that sets out the understandings and obligations of the parties, a copy of which is attached as **Appendix 1** to this announcement.

Conglin's offer is compelling, providing significant premia to the recent trading prices of Orion's shares. The offer represents a premium of:

- 122.2% to the closing share price of Orion of 7.2 cents on 30 May 2012, being the day prior to this announcement of Conglin's Offer;
- 83.7% to Orion's one month volume weighted average price ("VWAP") to 30 May 2012; and
- 80.6% to Orion's three month VWAP to 30 May 2012.

Orion shareholders may accept this offer for all or part of their holding of Orion shares.

The directors of Orion recommend unanimously that Orion shareholders accept Conglin's offer and intend to accept the offer for at least a substantial proportion of their shareholdings, in the absence of a superior proposal. In addition, Metallica Minerals, Orion's third largest shareholder, which has a 15.6% shareholding in Orion, intends to accept the offer for all of its shareholding in the absence of a superior proposal.

Mr David Barwick, Chairman of Orion said "we believe this is a compelling offer for Orion shareholders, providing a highly attractive premium to Orion's recent trading prices."

Conglin Chairman, Conglin Yue, said "Conglin is committed to expanding Orion's exploration programme and believes that Orion would benefit significantly from Conglin Group's operational expertise in the gold and rare earths sectors as well as access to a secure source of funding. Conglin is providing Orion shareholders the opportunity to participate in this future upside, by allowing shareholders to accept the offer for all or part of their Orion shares."

Bid conditions and other matters

Conglin's offer is conditional upon a number of conditions, including Conglin becoming entitled to at least 50% of Orion's issued share capital, no decline in the S&P ASX 200 Index by 15% or more for three or more consecutive trading days and no prescribed occurrences arising during the offer period. Orion and Conglin have also agreed on appropriate break fees and exclusivity provisions. Further details of the conditions and other matters relating to the offer are set out in the Bid Implementation Agreement attached as **Appendix 1** to this announcement.

Conglin intends to fund the offer from Conglin Group's existing cash reserves and funding to be provided by Conglin's Chairman, Mr Conglin Yue.

Indicative timetable

Set out below is a summary of the key proposed dates with respect to Conglin's offer. These dates are subject to change:

Date	Step
31 May 2012	Announcement of agreed takeover offer by Conglin
31 May 2012	Conglin lodges Bidder's Statement with ASIC and serves it on Orion
8 June 2012	Despatch of Bidder's Statement to Orion shareholders
8 June 2012	Offer opens
15 June 2012	Orion lodges Target's Statement with ASIC and ASX and serves it on Conglin
15 June 2012	Despatch of Target's Statement to Orion shareholders
9 July 2012	Offer closes (unless extended)

Resignation of Orion Director

On 1 May 2012, Orion announced that a director of Conglin, Mr Bin Cai, had been appointed to the Orion Board. Mr Cai has not been involved in the deliberations of the Orion Board in respect of the Conglin offer. To ensure that no conflict of interest arises, Mr Cai has today resigned from the Orion Board.

Orion shareholder information

To obtain further information, Orion shareholders can contact the Offer Information Line on 1800 206 847 (toll free within Australia) or +61 2 8280 7219 (from outside Australia).

Conglin is being advised by KPMG Corporate Finance, a division of KPMG Financial Advisory Services (Australia) Pty Ltd and Ashurst Australia.

Orion is being advised by Hopgood Ganim Lawyers.

About Conglin

Conglin is a trading and investment company, established in Australia to invest in small-to-medium sized mining companies listed on ASX. Conglin's mission is to deliver the best quality coking coal, iron ore and other assets to major Chinese steel mills and manufacturers as efficiently as possible. The Company also provides communication and negotiation support for entities in Australia seeking to conduct business in China.

Conglin believes that Orion would benefit significantly from Conglin Group's operational expertise in the gold and rare earths sector. In addition, Conglin believes its strong business relationships within the Chinese rare earths industry, which accounts for 95 per cent of global supply, will be invaluable as Orion makes the transition from explorer to producer. Conglin's business relationships with the Chinese rare earths industry, includes long-standing relationships with the Inner Mongolia Baotou Steel Rare-Earth Hi-Tech Co ("Baotou"), the world's largest rare earth producer.

Conglin is a wholly-owned subsidiary of Inner Mongolia Huachen Industry Company ("Huachen"), one of the major coking coal and iron ore resource suppliers for BaoSteel and AnSteel (two major Chinese iron and steel conglomerates). Huachen employs over 200 staff and had coal and iron ore sales of \$180 million in 2011.

APPENDIX 1

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Bid Implementation Agreement

Orion Metals Limited

ACN 096 142 737

and

Australia Conglin International Investment Group Pty
Ltd

ACN 133 767 665

2012

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BID IMPLEMENTATION AGREEMENT

BETWEEN:

- (1) **Orion Metals Limited** ACN 096 142 737 ("**Orion**"); and
- (2) **Australia Conglin International Investment Group Pty Ltd** ACN 133 767 665 ("**Conglin**").

RECITALS

- (A) Conglin is proposing to make the Bid and the Orion Board proposes to recommend the Bid in the absence of a superior proposal.
- (B) Conglin has represented to Orion that it is a prerequisite to it making the Bid that Orion give the undertakings contained in this document.
- (C) The parties have entered into this document to agree on certain matters in relation to the conduct of the Bid.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

"Agreed Announcement" means an announcement made by each of Conglin and Orion in respect of the transactions contemplated by this document in the form set out in Schedule 2.

"Agreed Bid Terms" means the terms set out in Schedule 1.

"ASIC" means the Australian Securities and Investments Commission.

"Bid" means a takeover bid under Chapters 6 to 6C of the Corporations Act under which Conglin offers to acquire all Orion Shares that it does not already hold on terms no less favourable than the Agreed Bid Terms.

"Bidder's Statement" means the bidder's statement prepared by Conglin in relation to the Bid under Part 6.5 of the Corporations Act.

"Business Day" means a day (other than Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane.

"Confidentiality Deed" means the document titled Confidentiality and Exclusivity Deed between Conglin and Orion, dated 23 May 2012.

"Compensating Amount" means an amount of \$250,000.

"Competing Proposal" means any proposal (including a scheme of arrangement) or offer that would, if completed substantially in accordance with its terms, result in:

- (a) any person or persons other than Conglin acquiring:
 - (i) an interest in all or a substantial part of the assets of Orion, including, but not limited to, any proposal that may require shareholder approval in accordance with ASX listing rule 11.1 or 11.2; or

- (ii) a relevant interest in more than 50% of the voting shares of Orion; or
- (b) Orion and another person or persons operating under a dual listed company, or similar structure.

"Condition" means a condition to the Bid.

"Condition Period" means the period beginning on the date of this document and ending on the date that is 4 months from the date of this document, except where the term is used in the Agreed Bid Terms, in which case it means the period beginning on the date of the Agreed Announcement and ending at the end of the Offer Period.

"Corporations Act" means the *Corporations Act 2001* (Cth) as modified by any relevant exemption or declaration by ASIC.

"Law" means all statutes, regulations, statutory rules, orders, and terms and conditions of any grant of approval, permission, authority or license of any Public Authority.

"Listing Rules" means the listing rules of ASX.

"Offer" means each offer to acquire Orion Shares to be made by Conglin to Orion shareholders in connection with the Bid.

"Offer Period" means the period during which Offers are open for acceptance, as specified in Schedule 1.

"Orion Board" means the board of directors of Orion.

"Orion Director" means a member of the Orion Board.

"Orion Share" means an ordinary share in the capital of Orion.

"Public Authority" means any federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, administrative, statutory or judicial entity, arbitral body, commission, board, bureau or authority or agency.

"Target's Statement" means the target's statement prepared by Orion in response to the Bid and the Bidder's Statement under Part 6.5 of the Corporations Act.

"Unacceptable Circumstances" has the meaning given in section 657A of the Corporations Act.

1.2 **Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) Words and phrases which are defined by the Corporations Act have the same meaning in this document. If a special meaning is given for the purposes of Chapter 6 or 6A or a provision of Chapter 6 or 6A of the Corporations Act the word or phrase has that meaning.
- (b) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

- (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (c) A singular word includes the plural, and vice versa.
 - (d) A word which suggests one gender includes the other genders.
 - (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
 - (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (g) The expression **"this document"** includes the agreement recorded in this document.

2. **ANNOUNCEMENT OF THE BID**

- (a) As soon as is reasonably practicable after execution of this document, each of Orion and Conglin must issue an announcement in the form of the Agreed Announcement to the ASX.
- (b) The parties agree that upon the Agreed Announcement being issued under clause 2(a), clauses 5, 6, 9 and 10 of the Confidentiality Deed no longer apply between the parties (except in relation to any rights that have arisen before such time).

3. **MAKING THE BID**

3.1 **Conglin agrees to make the Bid**

- (a) Conglin agrees to make the Bid.
- (b) Conglin must, in accordance with the Corporations Act:
 - (i) lodge an Offer together with the Bidder's Statement with ASIC under section 633 of the Corporations Act; and
 - (ii) give a copy of an Offer and the Bidder's Statement to Orion.

3.2 **Conglin may use subsidiary**

- (a) Conglin may satisfy its obligations under clause 3.1 by causing a wholly owned subsidiary ("**Subsidiary**") to do the things referred to in clause 3.1. If Conglin does that, references to:
 - (i) the Bid are references to the takeover bid by the Subsidiary; and

- (ii) Conglin making the Bid are references to Conglin causing the Subsidiary to make the Bid.
- (b) If clause 3.2(a) applies, Conglin:
 - (i) must procure that the Subsidiary performs Conglin's obligations under this document; and
 - (ii) unconditionally and irrevocably guarantees to Orion the performance of those obligations by the Subsidiary.

4. **ORION'S ASSESSMENT OF THE BID**

4.1 **Meeting of the Orion Board**

Orion represents and warrants to Conglin that the Orion Board has met and considered the possibility of Conglin agreeing to make the Bid.

4.2 **Orion recommendation**

Orion agrees to state in the Agreed Announcement (and in any other public statements made after execution of this document and relating to the Bid):

- (a) that the Orion Board recommends that Orion shareholders accept the Offer in the absence of a superior proposal; and
- (b) in relation to those Orion Directors that hold Orion Shares, include a statement that such Orion Directors intend to accept the Offer in relation to at least a substantial proportion of the Orion Shares that they hold in the absence of a superior proposal.

4.3 **Maintenance of recommendation**

During the Condition Period, neither an Orion Director nor the Orion Board may make any public statement or take any action that qualifies their support of the Bid or contradicts, or subsequently change, withdraw or modify, the recommendation referred to in clause 4.2(a) unless that Orion Director or the Orion Board, acting in good faith, determines in their reasonable opinion that they must change, withdraw or modify their recommendation by virtue of his, her or their fiduciary or statutory the duties. The reasonable opinion of an Orion Director or the Orion Board must be based on specific legal, and any other appropriate, advice.

4.4 **Warranty**

Orion represents and warrants to Conglin that each Orion Director has informed Orion that he or she supports the Offer and will act in accordance with clause 4.2 (as applicable).

4.5 **Procurement of Orion Directors**

Orion must procure that each Orion Director acts in a manner in accordance with clauses 4.2 and 4.3.

5. FACILITATING THE BID

5.1 Timetable

Each party agrees to use its best endeavours to comply with the following timetable:

Date	Step
31 May 2012	Agreed Announcement made
31 May 2012	Conglin lodges Bidder's Statement with ASIC and serves it on Orion
8 June 2012	Despatch of Bidder's Statement to Orion shareholders
8 June 2012	Offer opens
15 June 2012	Orion lodges Target's Statement with ASIC and ASX and serves it on Conglin
15 June 2012	Despatch of Target's Statement to Orion shareholders
9 July 2012	Offer closes (unless extended)

5.2 Reasonable access

- (a) To facilitate the Bid, Orion will use its reasonable endeavours to provide Conglin with reasonable access to:
- (i) the books and records of Orion;
 - (ii) Orion's senior management, external auditors and accountants and other advisers; and
 - (iii) any other information reasonably requested by Conglin.
- (b) Nothing in this clause obliges Orion to take any action if to do so would involve a breach of the fiduciary or other legal duties of any of the Orion Directors.

5.3 Conduct of business

From the date of this document until the end of the Offer Period, Orion must carry on its business in accordance with normal and prudent business practice and in the ordinary course.

5.4 Bidder's Statement

- (a) Conglin must prepare the Bidder's Statement in compliance with the Corporations Act.
- (b) Orion must provide on a timely basis any assistance and information reasonably requested by Conglin to enable Conglin to prepare and finalise the Bidder's Statement.

5.5 **Early dispatch of offers**

For the purposes of item 6 in section 633(1) of the Corporations Act, Orion will agree that offers under the Bid may be sent to holders of Orion Shares within the period of five and 28 days after the Bidder's Statement is sent to Orion.

5.6 **Target's Statement**

- (a) Orion must prepare the Target's Statement in compliance with the Corporations Act.
- (b) Conglin must provide on a timely basis any assistance and information reasonably requested by Orion to enable Orion to prepare and finalise the Target's Statement.

5.7 **Promotion of the Bid**

During the Condition Period, Orion will:

- (a) support, and procure that all Orion Directors will, support the Bid;
- (b) use its reasonable endeavours to procure that Orion senior executives as reasonably requested by Orion will support the Bid; and
- (c) participate in efforts reasonably required by Conglin to promote the merits of the Bid, including meeting with key Orion shareholders, analysts, management, press and other parties mutually agreed if reasonably requested to do so by Conglin,

provided that Orion will not be required to comply with this provision if in the reasonable opinion of the Orion Board, taking such actions would constitute a breach of the duties of the Orion Directors. The reasonable opinion of the Orion Board must be based on specific legal, and any other appropriate, advice.

5.8 **Public announcements**

- (a) Subject to clause 5.8(b), each party must use its best endeavours to consult with the other party prior to making any public announcements or communications to shareholders in connection with the Bid (other than the Agreed Announcement).
- (b) Where a party is required to make an announcement by applicable Law or the Listing Rules or make any disclosure relating to the Bid (including any supplementary Bidder's Statement or supplementary Target's Statement) it may do so only after it has:
 - (i) given the other party as much notice as is reasonably practicable; and
 - (ii) consulted with the other party as to the content of that announcement or disclosure.

5.9 **Conditions**

- (a) Orion agrees not to do (or omit to do) anything which will, or is likely to, result in any of the Conditions being breached.
- (b) Nothing in this clause 5.9 prevents Orion or the Orion Board from taking, or failing to take, action where to do otherwise would, in the reasonable opinion of the Orion Board, constitute a breach of the duties of the Orion Directors. The reasonable opinion of the Orion Board must be based on specific legal, and any other appropriate, advice.

- (c) To avoid any doubt, in this document, a reference to a Condition being breached includes a reference to a Condition not being, or not being capable of being, satisfied.

6. **UNDERTAKING TO PAY COMPENSATING AMOUNT**

6.1 **Undertaking**

Orion undertakes to pay the Compensating Amount to Conglin if during the Offer Period:

- (a) the Orion Board, or any Orion director, approves or recommends a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid, or makes an announcement in support of a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid; or
- (b) Orion accepts or enters into or offers to accept or enter into, any agreement, arrangement or understanding regarding a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid;
- (c) any Orion Director:
 - (i) does not recommend that Orion shareholders accept the Offer in the absence of a superior proposal;
 - (ii) withdraws or adversely modifies an earlier recommendation;
 - (iii) approves or recommends or makes an announcement in support of a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid;
 - (iv) who holds Orion Shares does not make, or consent to the making of, an announcement that they intend to accept the Offer for at least a substantial proportion of their Orion Shares in the absence of a superior proposal or withdraws or adversely modifies an earlier announcement; or
 - (v) announces an intention to do any of these acts;
- (d) Orion or any of the Orion Directors does (or omits to do) anything (whether or not it may be permitted by the terms of this document) which results in any of the Conditions being breached and Conglin does not declare the Bid free of the breached Condition. For the avoidance of doubt, Conglin is under no obligation to declare the Bid free of the breached Condition; or
- (e) there is a breach of clause 7 of this document by Orion.

6.2 **Orion acknowledgment**

Based on the recommendations made to it by Conglin, Orion acknowledges that:

- (a) the Compensating Amount is reasonable in the context of the Bid; and
- (b) benefits may flow to Orion and holders of Orion Shares from Conglin making the Bid.

6.3 **Conglin warranty**

Conglin warrants that Orion's entering into this document is necessary to induce Conglin to make the Bid.

6.4 **Demand for payment**

Any demand by Conglin for payment of the Compensating Amount must be in writing and Orion must pay the Compensating Amount to Conglin within five Business Days of receipt of the demand.

6.5 **Repayment**

Despite any event in clause 6.1 occurring, if Conglin ultimately acquires beneficial ownership of over 50% of Orion Shares within 4 months of the payment of any amount under clause 6.1, Conglin must repay to Orion any amount received which has not already been refunded.

6.6 **Compliance with Law**

- (a) **Unlawful Amount** means all or any part of the payment required to be made under clause 6.1 that is found by the Takeovers Panel or a Court to be unlawful, involve a breach of director's duties or to constitute Unacceptable Circumstances.
- (b) If the Takeovers Panel or a Court finds an Unlawful Amount and the period for lodging an application for review or a notice of appeal of that decision has expired without such application or notice having been lodged or if an application for review or a notice of appeal has been lodged with the Takeovers Panel or a Court within the prescribed period and the relevant review Panel or Court finds an Unlawful Amount then:
 - (i) the undertaking under clause 6.1 does not apply to the extent of the Unlawful Amount; and
 - (ii) Conglin must refund any Unlawful Amount paid to Conglin under this document.

7. **NO SOLICITATION**

7.1 **No solicitation, no talk and no information**

Subject to clause 7.3, during the Condition Period Orion must not and must ensure that its employees, officers and (to the extent it is reasonably able to influence them), its associates, do not and Orion must not require any adviser or agent to:

- (a) directly or indirectly solicit, initiate or encourage any inquiries, proposals or discussions regarding any Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid (whether from a person with whom Orion has previously been in discussions or not). For the avoidance of doubt, the obligations in this clause 7.1(a) do not prevent Orion from making market announcements or investor presentations that are in the ordinary course of business and not designed for the purpose of soliciting any Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid;
- (b) directly or indirectly participate in any discussions or negotiations regarding a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid;
- (c) accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding regarding a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid;
- (d) approve or recommend a Competing Proposal or any other transaction that may reduce the likelihood of success of the Bid or announce an intention to do so; or

- (e) disclose any information about the businesses or affairs of Orion to a third party (other than a government agency or auditors) other than in the ordinary course of business or as required under Orion's existing contractual obligations to the extent those obligations have been disclosed by Orion to Conglin and cannot be terminated by Orion.

7.2 **Cease existing discussions**

Orion must cease any existing discussions or negotiations relating to:

- (a) any Competing Proposal; or
- (b) any transaction that may reduce the likelihood of the success of the Bid.

7.3 **Orion to notify Conglin**

During the Condition Period, Orion must immediately notify Conglin of any approach or attempt to initiate discussions or negotiations regarding a Competing Proposal. For the avoidance of doubt, Conglin agrees that Orion is under no obligation to disclose the details or nature of discussions or negotiations regarding a Competing Proposal once notified.

7.4 **Fiduciary exception**

- (a) Nothing in clauses 7.1(b), 7.1(c), 7.1(d), 7.1(e) or 7.3 requires Orion or the Orion Board to do or refrain from doing anything where doing or refraining from doing that thing would, in the reasonable opinion of the Orion Board, be likely to involve a breach of the duties of the Orion Directors. The reasonable opinion of the Orion Board must be based on specific legal and any other appropriate advice.
- (b) This clause 7.4 does not apply in respect of a Competing Proposal resulting from a breach of clause 7.1(a).

8. **TAKEOVER OFFER**

8.1 **Variation**

Conglin may vary the terms of the Bid in any manner permitted by the Corporations Act as long as the varied terms are not less favourable to holders of Orion Shares than those set out in the Agreed Bid Terms.

8.2 **Waiver of conditions and extension**

Subject to the Corporations Act, Conglin may declare the Bid to be free from any condition or extend the Bid at any time.

8.3 **Appointment of directors**

If Conglin acquires a relevant interest in more than 50% of the voting shares of Orion, and the Offer has become wholly unconditional, Orion must use its best endeavours to procure the resignation and appointment of such Orion Directors as are nominated by Conglin in writing.

9. **WARRANTIES**

Each party represents and warrants that:

- (a) it is a company limited by shares under the Corporations Act;

- (b) it has the power and authority to enter into this document and perform and observe all its terms;
- (c) this document constitutes its legal, valid and binding agreement enforceable against it in accordance with its terms;
- (d) it is not bound by any contract which may restrict its right or ability to enter into or perform the agreement contained in this document; and
- (e) no resolutions have been passed and no other step has been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets and no regulatory action has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this document.

10. **ADDITIONAL WARRANTIES BY ORION**

10.1 **Warranty**

Orion represents and warrants to Conglin:

- (a) so far as the Orion Board and Orion senior management are aware, the information provided to Conglin in relation to Orion is accurate in all material respects. None of the information is misleading in any material particular whether by inclusion of misleading information or the omission of material information or both;
- (b) Orion has complied with ASX Listing Rule 3.1 in relation to continuous disclosure and has (to the extent necessary to date) and will continue to comply with Division 4 of Part 6.5 and Chapter 6B of the Corporations Act; and
- (c) Orion is not aware of any act, omission, event or fact that would result in one or more of the Conditions (as they are set out in Schedule 1) being triggered, except as disclosed by Orion to Conglin in writing on the date of this document.

10.2 **Release of Orion Directors**

Conglin agrees to release all rights against, and agrees that it will not make any Claim against, any officer, employee or adviser of Orion in connection with:

- (a) the execution or delivery of this deed by Orion;
- (b) any breach of any representation, covenant or warranty given by Orion in this deed; or
- (c) any disclosure, communication or other step made or taken by any officer, employee or adviser of Orion in connection with this deed (including without limitation any statement which is false or misleading whether in content or by omission),

except to the extent that the relevant person has not acted in good faith or has engaged in wilful misconduct.

This clause 10.2 is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.

11. **TERMINATION**

11.1 **Termination for material breach**

A party (the **Terminating Party**) may terminate this document at any time by notice to the other party if:

- (a) the other party is in material breach of any clause of this document;
- (b) the Terminating Party has given notice to the other party setting out full details of the material breach and stating an intention to terminate this document; and
- (c) the material breach has continued to exist for 5 Business Days from the time such notice was given.

11.2 **Other termination rights**

- (a) Orion may terminate this document at any time by notice to Conglin if Conglin fails to lodge the Bidder's Statement with ASIC or dispatch offers under the Bid to holders of Orion Shares in accordance with the Corporations Act, or withdraws the Offer for any reason including non-satisfaction of a Condition.
- (b) Conglin may terminate this document at any time by notice to Orion if Orion recommends a Competing Proposal.

11.3 **Effect of termination**

Termination of this document will not affect:

- (a) clauses 1, 9, 12 and 15 which survive termination;
- (b) provided that the document was not terminated by Orion due to the action or inaction of Conglin, clause 6; and
- (c) any liability of a party arising under or for breach of this document prior to its termination.

12. **NOTICES**

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or fax. If it is sent by mail, it is taken to have been received 3 working days after it is posted. If it is sent by fax, it is taken to have been received when the addressee actually receives it in full and in legible form.
- (b) A person's address and fax number are those set out below, or as the person notifies the sender:

Orion

Address: 71 Lytton Road, East Brisbane, Queensland
Fax number: +61 7 3249 3061
Attention: Mr David Barwick (Chairman)

Conglin

Address: Level 24, 71 Eagle Street, Brisbane, Queensland 4001
Fax number: +61 7 3020 0002
Attention: Mr Bin Cai (Director)

13. **CONFIDENTIALITY DEED**

The parties agree that upon execution of this document, clauses 5, 6, 9 and 10 of the Confidentiality Deed no longer apply between the parties (except in relation to any rights that arise before the date of this document).

14. **AMENDMENT AND ASSIGNMENT**

14.1 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

14.2 **Assignment**

A party may only assign, declare a trust over or otherwise deal with its rights under this document with the written consent of the other party.

15. **GENERAL**

15.1 **Governing law**

- (a) This document is governed by the law of Queensland.
- (b) Each party submits to the jurisdiction of the courts of Queensland, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document.

15.2 **Giving effect to this document**

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 effect to this document.

15.3 **Liability for expenses**

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

15.4 **GST on claims**

- (a) Words defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.
- (b) If Orion pays Conglin the Compensating Amount under this document and that gives rise to a liability for GST, Orion must pay and indemnify Conglin on demand against the amount of that GST.
- (c) If a party provides a payment for or any satisfaction of a claim or a right to claim under or in connection with this document (for example, for a breach of any warranty or under an indemnity) that gives rise to a liability for GST, the provider must pay, and indemnify the recipient against, the amount of that GST.
- (d) If a party has a claim under or in connection with this document for a cost on which that party must pay an amount for GST, the claim is for the cost plus the amount for GST (except any amount for GST for which that party is entitled to an input tax credit).

15.5 **Giving effect to this document**

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 effect to this document.

15.6 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

15.7 **Operation of this document**

Any provision of this document which is unenforceable or partly unenforceable, or which is found by the Takeovers Panel or a Court to be unlawful or to constitute Unacceptable Circumstances is, where possible, to be severed unless this would materially change the intended effect of this document.

15.8 **Operation of indemnities**

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment for which that indemnity is given.

15.9 **Counterparts**

- (a) This document may be executed in counterparts.
- (b) This document is not binding upon a party until all executed counterparts have been exchanged.
- (c) Executed counterparts may be exchanged by email or facsimile. Without effecting the validity of any counterparts exchanged, the party effecting exchange by email or facsimile must deliver the original executed counterpart document as soon as is practicable after the time of exchange.

SCHEDULE 1

Agreed Bid Terms

Capitalised terms used in this schedule, which are not otherwise defined in this schedule, have the same meaning given in the Bidder's Statement to be lodged with ASIC on or about the date of this document.

1. Consideration

The Offer consideration will be 16 cents cash for each Orion Share.

2. Offer

2.1 Shares subject to the Offer

The Offer will relate to all Orion Shares:

- (a) which exist (or will exist) as at the date set by Conglin under section 633(2) of the Corporations Act ("**Register Date**"); and
- (b) that are issued during the period from the Register Date to the end of the Offer Period.

2.2 Offer Period

Unless withdrawn earlier, the Offer will remain open for acceptance from the date of the Offer until the period that is one month from such time (unless extended).

3. Conditions

3.1 Minimum acceptance condition

At the end of the Offer Period, Conglin has a relevant interest in more than 50% (by number) of the Orion Shares on issue at that time.

3.2 No prescribed occurrences

None of the following events happen during the Condition Period:

- (a) Orion converts all or any of its shares into a larger or smaller number of shares;
- (b) Orion or a subsidiary of Orion resolves to reduce its share capital in any way;
- (c) Orion or a subsidiary of Orion:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (d) Orion or a subsidiary of Orion issues shares other than Orion Shares issued as a result of exercise of Orion Options or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (e) Orion or a subsidiary of Orion issues, or agrees to issue, convertible notes;
- (f) Orion or a subsidiary of Orion disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;

- (g) Orion or a subsidiary of Orion charges, or agrees to charge, the whole, or a substantial part, of its business or property;
- (h) Orion or a subsidiary of Orion resolves to be wound up;
- (i) a liquidator or provisional liquidator of Orion or of a subsidiary of Orion is appointed;
- (j) a court makes an order for the winding up of Orion or of a subsidiary of Orion;
- (k) an administrator of Orion, or of a subsidiary of Orion, is appointed under section 436A, 436B or 436C of the Corporations Act;
- (l) Orion or a subsidiary of Orion executes a deed of company arrangement; or
- (m) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of Orion or of a subsidiary of Orion.

3.3 No Orion scheme of arrangement

During the Condition Period, Orion does not enter into an agreement under which Orion agrees to propose a scheme of arrangement.

3.4 No action by Public Authority adversely affecting the Takeover Bid

During the Condition Period:

- (a) there is not in effect any preliminary or final decision, order or decree issued by a Public Authority;
- (b) no action or investigation is instituted, or any communication received in relation to any potential action or investigation, by any Public Authority with respect to Orion or any subsidiary of Orion; or
- (c) no application is made to any Public Authority (other than an application by Conglin or any company within the Conglin Group, an application under section 657G of the Corporations Act or an application commenced by a person specified in section 659B(1) of the Corporations Act in relation to the Takeover Bid),

in consequence of, or in conjunction with, the Takeover Bid, which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, or may otherwise materially adversely impact upon, the making of the Takeover Bid or the completion of any transaction contemplated by this Bidder's Statement (including implementing the intentions expressed in section [insert]) or seeks to require the divestiture by Conglin of any Orion Shares, or the divestiture of any assets by Orion or by any subsidiary of Orion or by any company within the Conglin Group.

3.5 S&P ASX200 Index

During the Condition Period, the S&P ASX200 Index does not decline by 15% or more and remain at that level for a period of three or more consecutive trading days.

3.6 No material acquisitions, disposals and commitments

Except for any proposed transaction publicly announced and fully disclosed by Orion before the Announcement Date, during the Condition Period, neither Orion, nor any company within the Orion Group:

- (a) acquires or disposes of any assets, or agrees to acquire or dispose of any assets; or
- (b) enters into any joint venture, partnership or other agreement,

relating to any transaction or series of transactions for an amount greater than, or relating to a commitment by any party greater than \$100,000.

3.7 No material failings in filings

Conglin does not become aware, that any document filed by or on behalf of Orion with ASX or ASIC during the Condition Period and ending at the end of the Offer Period contains a statement which is incorrect or misleading in any material particular or from which there is a material omission.

3.8 No break fees

- (a) Subject to section 3.8(b), during the Condition Period none of Orion, and any body corporate which is or becomes a subsidiary of Orion, pays or provides or agrees (whether conditionally or contingently) to pay or provide any benefit to any person, or foregoes or otherwise reduces any payment or benefit or agrees to forgo or reduce any payment or benefit to which it would otherwise be entitled, in connection with any person making or agreeing to participate in, or enter into negotiations concerning:
 - (i) a takeover offer for Orion or any body corporate which is or becomes a subsidiary of Orion; or
 - (ii) any other proposal to acquire any interest (whether equitable, legal, beneficial or economic) in shares in, or assets of, Orion or any body corporate which is or becomes a subsidiary of Orion, or to operate Orion as a single economic entity with another body corporate.
- (b) Section 3.8(a) does not apply to a payment, benefit or agreement:
 - (i) for providing professional advisory services to Orion;
 - (ii) which is approved in writing by Conglin;
 - (iii) which is approved by a resolution passed at a general meeting of Orion; or
 - (iv) which is made to, provided to, owed by or made with Conglin.

3.9 Non-existence of certain rights

No person has any right (whether subject to conditions or not) as a result of Conglin acquiring Orion Shares to:

- (a) acquire, or require Orion or a subsidiary of Orion to dispose of, or offer to dispose of, any material asset of Orion or a subsidiary of Orion; or
- (b) terminate or vary any material agreement with Orion or a subsidiary of Orion.

3.10 Conduct of Orion's business

During the Condition Period, none of Orion, or any body corporate which is or becomes a subsidiary of Orion, without the written consent of Conglin:

- (a) declares, or distributes any dividend, bonus or other share of its profits or assets;
- (b) issues or grants options over, or agrees to issue or grant options over, or otherwise makes any commitments regarding any shares or other securities, or alters its capital structure or the rights attached to any of its shares or other securities, or issues or agrees to issue any convertible notes except that Orion may without the consent of Conglin:
 - (i) issue shares to the shareholders of Ultimate Resources Pty Ltd in accordance with the terms for the acquisition of Ultimate Resources Pty Ltd by Orion; and
 - (ii) issue of shares pursuant to the exercise of any option or conversion of any convertible notes in issue as at the date of this agreement.
- (c) makes any changes in its constitution or passes any special resolution;
- (d) gives or agrees to give any Encumbrance over any of its assets otherwise than in the ordinary course of business;
- (e) borrows or agrees to borrow any money (except for temporary borrowing from its bankers in the ordinary course of business);
- (f) releases, discharges or modifies any substantial obligation to it of any person, firm or corporation or agrees to do so;
- (g) has appointed any additional director to its board of directors whether to fill a casual vacancy or otherwise;
- (h) enters or agrees to enter into any contract of service or varies or agrees to vary any existing contract of service with any director or manager, or pays or agrees to pay any retirement benefit or allowance to any director, manager or other employee, or makes or agrees to make any substantial change in the basis or amount of remuneration of any director, manager or other employee (except as required by law or provided under any superannuation, provident or retirement scheme as in effect on the Announcement Date);
- (i) conducts its business otherwise than in the ordinary course;
- (j) has threatened or commenced against it any material claims or proceedings in any court or tribunal (including a petition for winding up or an application for appointment of a receiver or receiver and manager); or
- (k) executes a deed of company arrangement or passes any resolution for liquidation, or has appointed or becomes susceptible to the appointment of an administrator, a receiver, a receiver and manager or a liquidator, or becomes subject to investigation under the *Australian Securities and Investments Commission Act 2001* (Cth) or any corresponding legislation.

3.11 No force majeure event

During the Condition Period no act of war (whether declared or not) or terrorism, mobilisation of armed forces, civil commotion or labour disturbance, fire or natural disaster, or other event beyond the control of Orion or any company within the Orion

Group occurs which affects or is likely to affect the assets, liabilities, financial position, performance, profitability or prospects of Orion or any of its subsidiaries.

SCHEDULE 2

Agreed Announcement

EXECUTED as an agreement.

EXECUTED by **ORION METALS LIMITED ACN 096 142 737:**

Signature of director

Signature of director/secretary

Name

Name

EXECUTED by **AUSTRALIA CONGLIN INTERNATIONAL INVESTMENT GROUP PTY LTD ACN 133 767 665:**

Signature of director

Signature of director/secretary

Name

Name