



Queensland

Clean Coal Technology Special Agreement Bill 2007



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Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Object of Act.	4
3	Definitions.	4
Part 2	Clean Coal Council	
4	Establishment of council.	4
5	Membership of council	5
6	Functions of council	5
7	Reporting to the Minister about funding requests	6
8	Conduct of council's business	6
9	Administrative support for council.	6
10	Delegation by Minister	6
Part 3	Queensland Clean Coal Agreement	
11	Premier may make agreement	7
Schedule	Queensland Clean Coal Agreement	8

2007

A Bill

for

**An Act to establish the Clean Coal Council and to authorise the
Premier to enter into the Queensland Clean Coal Agreement**

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
1 Short title	3
This Act may be cited as the <i>Clean Coal Technology Special Agreement Act 2007</i> .	4 5
2 Object of Act	6
The object of this Act is to accelerate the development, demonstration and widespread implementation and use of clean coal technology by encouraging collaborative investment, by the State and the coal industry, in research, development and demonstration.	7 8 9 10 11
3 Definitions	12
In this Act—	13
<i>ACALET</i> means ACA Low Emissions Technologies Limited ACN 123 147 240.	14 15
<i>agreement</i> means the agreement made under section 11.	16
<i>council</i> means the Clean Coal Council established under section 4.	17 18
<i>relevant project</i> means a Queensland Clean Coal Technology Project or National Clean Coal Technology Project under the agreement.	19 20 21
Part 2 Clean Coal Council	22
4 Establishment of council	23
The Clean Coal Council is established.	24

5	Membership of council	1
	(1) The council consists of at least 11 members made up of—	2
	(a) 1 person who is to be the chairperson of the council; and	3
	(b) 5 representatives of the Government of Queensland; and	4
	(c) 5 representatives of the Queensland black coal industry who are nominated by ACALET; and	5 6
	(d) other persons who the Minister is satisfied have relevant experience in, or knowledge of, any aspect of clean coal technology.	7 8 9
	(2) Members of the council are to be appointed by the Minister by gazette notice.	10 11
	(3) Members of the council hold office on the conditions, including the term of office, decided by the Minister.	12 13
	(4) The Minister may change the conditions on which a member of the council holds office.	14 15
6	Functions of council	16
	The functions of the council are—	17
	(a) advising the Minister about priorities for funding in Queensland for the development, demonstration and widespread implementation and use of clean coal technology, including the sourcing of public and private funding; and	18 19 20 21 22
	(b) assessing, and making recommendations to the Minister about, which relevant projects should be funded under the agreement, and the amount of funding that should be provided; and	23 24 25 26
	(c) considering intellectual property issues associated with relevant projects; and	27 28
	(d) reporting to the Minister under section 7 about requests for funding, received by the council, for projects relating to clean coal technology, including relevant projects; and	29 30 31 32
	(e) co-ordinating the State's involvement in international research collaborations relating to clean coal	33 34

	technology, including the project that is, immediately	1
	before the commencement of this section, known as	2
	FutureGen; and	3
	(f) if asked by the Minister in writing, advising the Minister	4
	on other matters relevant to the development of clean	5
	coal technology.	6
7	Reporting to the Minister about funding requests	7
	The council must if asked by the Minister, and may on its own	8
	initiative, report to the Minister about a request received by	9
	the council for funding for a project relating to clean coal	10
	technology, including a relevant project.	11
8	Conduct of council's business	12
	(1) The council may conduct its business, including its meetings,	13
	in the way it considers appropriate.	14
	(2) However, the council must meet at least 3 times in a year.	15
9	Administrative support for council	16
	The department may make administrative support services	17
	available to the council to enable the council to perform its	18
	functions.	19
10	Delegation by Minister	20
	(1) The Minister may delegate the Minister's functions under this	21
	part to another Minister.	22
	(2) In this section—	23
	<i>functions</i> includes powers.	24

Part 3	Queensland Clean Coal Agreement	1 2
11	Premier may make agreement	3
	The Premier is authorised to make, for the State, an agreement with ACALET substantially in the form set out in the schedule.	4 5 6

Schedule	Queensland Clean Coal Agreement	1
		2
	section 11	3
Details		4
Date		5
Parties		6
Name	ACA Low Emissions Technologies Limited ACN	7
	123 147 240	8
ABN	90 123 147 240	9
Short form name	ACALET	10
Notice details	PO Box 9115	11
	Deakin ACT 2600	12
		13
	Facsimile 02 6273 6060	14
	Attention: Mark O'Neill, Executive Director	15
		16
Name	The State of Queensland	17
ABN		18
Short form name	State	19
Notice details	PO Box 15185	20
	City East Qld 4002	21
		22
	Facsimile 07 3227 7433	23
	Attention Director-General, Department of the	24
	Premier and Cabinet	25

Schedule (continued)

Background	1	
A	The purpose of this Deed is to give effect to the agreement between ACALET and the State to work together on developing and implementing Queensland Clean Coal Technology Projects that have the potential to facilitate substantial reductions in greenhouse gas emissions from the use of coal in Queensland and Australia, and in the overseas markets for Queensland coal.	2 3 4 5 6 7
B	The black coal mining industry has established a voluntary fund which will be managed by ACALET, and which is commonly known as the COAL21 Fund, to support research, development and demonstration aimed at developing Clean Coal Technologies.	8 9 10 11
C	Participating coal producers have agreed to pay a voluntary levy of 10 cents per tonne of saleable coal to the COAL21 Fund, commencing with effect from 1 April 2007, increasing to 20 cents per tonne with effect from 1 July 2007. ACALET has applied to the Australian Taxation Office for a Class Ruling. The term of the levy is indefinite, but, subject to clauses 2.5 and 2.6, it will be maintained for a minimum of 10 years.	12 13 14 15 16 17 18
D	ACALET will use its best endeavours to ensure that all Queensland Coal Producers commit to paying the levy in respect of their Queensland Production.	19 20 21
E	ACALET intends to contribute to approved Queensland Clean Coal Technology Projects or National Clean Coal Technology Projects, an amount equivalent to the total amount of the voluntary levy raised in respect of Queensland Production. It is estimated that this will raise approximately \$600 million over 10 years based on estimates of future tonnages in Queensland.	22 23 24 25 26 27
F	Terms used above have the meanings ascribed to them in this Deed.	28

Schedule (continued)

Agreed terms	1
1. Defined terms & interpretation	2
1.1 Defined terms	3
In this Deed:	4
Business Day means:	5
(a) for receiving a notice under clause 5, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and	6 7 8
(b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in Queensland, Australia.	9 10 11
Business Hours means from 9.00am to 5.00pm on a Business Day.	12 13
Carbon Tax means:	14
(a) any tax, impost, surcharge, levy or penalty, the imposition of which, or the rate of which, is dependent upon, or calculated by reference to or in relation to the production or emission of Greenhouse Gas; and	15 16 17 18
(b) any emissions trading or other scheme which has the purpose or effect of limiting or reducing by any means whatsoever, including, without limitation, by:	19 20 21
(i) issue of capping permits in respect of;	22
(ii) imposing a tax, impost, surcharge, levy or penalty upon; or	23 24
(iii) requiring payment in any form, whether to the State, or to the Commonwealth of Australia or to another person, for the right to undertake, or to acquire the right to undertake,	25 26 27 28
the production or emission of Greenhouse Gas; and	29

Schedule (continued)

- (c) a levy, tax or other impost mentioned in clause 2.5(c) 1
 which has the purpose or effect set out in clause 2.5 is 2
 enacted as complementary legislation to any legislation 3
 of the Commonwealth of Australia. 4
- Class Ruling** means the Class Ruling to be obtained from the 5
 Australian Taxation Office by ACALET on behalf of 6
 Contributors, which confirms that Contributors are entitled to 7
 claim income tax deductions for their payments of the Levy to 8
 ACALET, and that, to the extent that ACALET's expenditure 9
 in any period includes R&D Expenditure, the Contributors 10
 will be entitled to claim a deduction for 125% of their 11
 payments to ACALET under section 73B(13) of the Income 12
 Tax Assessment Act 1936. 13
- Clean Coal Council** means the council established under the 14
Clean Coal Technology Special Agreement Act 2007 (Qld). 15
- Clean Coal Technologies** means technologies that have 16
 potential to facilitate substantial reduction of emissions of 17
 Greenhouse Gas to the atmosphere from the use of coal. 18
- Clean Coal Technology Project** means a project that has as 19
 its purpose either or both of, the conduct of research and 20
 development associated with the demonstration of, and the 21
 demonstration of, Clean Coal Technologies. 22
- Contributors** means entities which pay the Levy to 23
 ACALET. 24
- Corporations Act** means the *Corporations Act 2001* (Cth). 25
- CS Energy Oxy-fuel Project** means the project to 26
 demonstrate a technology for capturing carbon dioxide to be 27
 carried out at Callide A power station. 28
- Greenhouse Gas** means any or all of carbon dioxide, 29
 methane, nitrous oxide, hydroflourocarbons, perflourocarbons 30
 and sulphur hexafluoride. 31
- Levy** means the voluntary levy to be collected by ACALET 32
 from coal producers in Australia as described in paragraph C 33
 of the Background. 34
- National Clean Coal Technology Projects** means those 35
 Clean Coal Technology Projects that form part of a national 36

Schedule (continued)

portfolio of such projects which are identified through a nationally agreed action plan endorsed by the State, and in respect of which the State agrees that Queensland Contribution may be used to fund those projects.	1 2 3 4
Premier means the Premier of the State of Queensland or such other Minister of the State of Queensland designated in writing by the Premier from time to time.	5 6 7
Project Funding Agreement means an agreement entered into by ACALET, in accordance with clause 3.3, with the parties involved in, or the proponents of, a Clean Coal Technology Project, which sets out the terms on which ACALET will fund the project, whether by direct expenditure on the acquisition of goods or services which are necessary for the project, or by the making of payments to the proponents of the project, or the parties involved with the project or a company or entity established for the purpose of carrying on the project, whether that expenditure or payment occurs with or without consideration on the part of the proponent of the project, or any other person.	8 9 10 11 12 13 14 15 16 17 18 19
Queensland Coal Producer means a person who is liable to pay royalty in respect of coal under section 320 of the Mineral Resources Act 1989, Queensland.	20 21 22
Queensland Contribution means that part of the Levy (Queensland Levy Proceeds) which is calculated and paid by Contributors to ACALET in relation to Queensland Production, as advised by Contributors in accordance with clause 2.2, net of ACALET reasonable administration costs associated with that part of the Levy, the aggregate of which administration costs over the first ten years of the term of this Deed must not exceed 2% of the aggregate Queensland Levy Proceeds over that period, unless otherwise agreed in writing by the parties.	23 24 25 26 27 28 29 30 31 32
Queensland Clean Coal Technology Projects means Clean Coal Technology Projects that are, or are to be, physically based in Queensland.	33 34 35
Queensland Production means the amount of saleable coal that is produced in Queensland in a period.	36 37

Schedule (continued)

	R&D Expenditure means ‘research and development expenditure’, as that term is defined in section 73B(1) of the Income Tax Assessment Act 1936.	1 2 3
	Tax Exemption Ruling means the private ruling dated 18 May 2007 which was received by ACALET from the Australian Taxation Office which confirmed that ACALET is exempt from income tax for the year of income ended 30 June 2007 until the year of income ended 30 June 2010, or any subsequent private ruling which may be issued dealing with the same subject matter for future years.	4 5 6 7 8 9 10
1.2	Interpretation	11
	In this Deed, except where the context otherwise requires:	12
	(a) the singular includes the plural and vice versa, and a gender includes other genders;	13 14
	(b) another grammatical form of a defined word or expression has a corresponding meaning;	15 16
	(c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Deed, and a reference to this Deed includes any schedule or annexure;	17 18 19 20
	(d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;	21 22 23
	(e) a reference to A\$, \$A, dollar or \$ is to Australian currency;	24 25
	(f) a reference to time is to Queensland, Australia time;	26
	(g) a reference to a year is to a 12-month period ended 30 June;	27 28
	(h) a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;	29 30 31 32

Schedule (continued)

(i)	a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;	1 2 3
(j)	a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;	4 5 6 7
(k)	the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;	8 9 10
(l)	a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Deed or any part of it; and	11 12 13
(m)	if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.	14 15 16 17
1.3	Headings	18
	Headings are for ease of reference only and do not affect interpretation.	19 20
2.	Queensland Clean Coal Technology Projects	21
2.1	Expenditure in Queensland	22
	ACALET agrees that the Queensland Contribution will be spent on Queensland Clean Coal Technology Projects or on National Clean Coal Technology Projects approved or determined by the Premier under clause 3.2, in accordance with the provisions of this Deed, and will not be spent or used for any other purpose.	23 24 25 26 27 28

Schedule (continued)

2.2	Allocation of Levy	1
	ACALET will require Contributors to provide, each time they	2
	make a payment of Levy to ACALET, a record showing how	3
	much, if any, of the Levy which is paid relates to Queensland	4
	Production.	5
2.3	Commitment of funds	6
	ACALET will enter into Project Funding Agreements with	7
	proponents of Queensland Clean Coal Technology Projects or	8
	National Clean Coal Technology Projects, in accordance with	9
	clause 3.3.	10
2.4	Rate of expenditure	11
	(a) ACALET will endeavour to procure that, to the extent to	12
	which it is practical, the amount of Queensland	13
	Contribution which is collected by ACALET in each	14
	year will be expended on Queensland Clean Coal	15
	Technology Projects or National Clean Coal Technology	16
	Projects in that year in accordance with Project Funding	17
	Agreements relating to those projects.	18
	(b) If, in any year, a greater or lesser amount of Queensland	19
	Contribution is collected than is expended in that year	20
	on Queensland Clean Coal Technology Projects or	21
	National Clean Coal Technology Projects, the	22
	difference, which will be added to or subtracted from	23
	any cumulative difference from the previous years, will	24
	be carried over to the following year and added to, or	25
	subtracted from, as the case may be, the amount which	26
	ACALET will endeavour to expend on Queensland	27
	Clean Coal Technology Projects or National Clean Coal	28
	Technology Projects in the subsequent year in	29
	accordance with clause 2.4(a).	30
2.5	No increase in coal royalty rates	31
	Despite any other provision of this Deed, the State agrees that	32
	this Deed will be terminated, and ACALET will have no	33

Schedule (continued)

further obligations under this Deed, if any of the following occurs: 1
2

(a) the rate of coal royalties in Queensland is increased above the rate applying at the date of this Deed; 3
4

(b) the basis of application or method of calculation of coal royalties in Queensland is changed from that applying at the date of this Deed, so as to have the effect of increasing the aggregate amount of coal royalty paid by Queensland Coal Producers in relation to their Queensland Production; or 5
6
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9
10

(c) the State introduces or enforces any new levy, tax, or other impost on Queensland Coal Producers, whether payable to the State or otherwise, unless it is enacted as complementary legislation to any legislation of the Commonwealth of Australia; 11
12
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with the purpose, whether directly or indirectly, or effect of funding the development or demonstration of technology which will assist in reducing the production or emission of Greenhouse Gas from the use of coal. The parties acknowledge that the Project Funding Agreements then in existence will continue to operate in accordance with their terms notwithstanding termination of this Deed. 16
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2.6 Introduction of Carbon Tax 23

The parties agree that if a Carbon Tax is introduced, either by the Commonwealth of Australia or by the State, then: 24
25

- (a) the operation of the Levy will be reviewed by the parties to ensure that the purpose of this Deed set out in paragraph (a) of the Background continues to be met; 26
27
28
- (b) unless otherwise agreed in writing by the parties, any such review will not affect ACALET's obligations under this Deed, including its obligations under clauses 2.1 and 3.5, nor its obligations under the terms of any Project Funding Agreement to which it is a party at that time; and 29
30
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Schedule (continued)

	(c) the parties will use reasonable endeavours to have the Queensland Contribution paid to ACALET by Contributors which is expended by ACALET under those Project Funding Agreements, recognised in relation to, and as an offset against those Contributors' obligations, if any, under, that Carbon Tax, regardless of whether the contributions have been made before or after the introduction of the Carbon Tax.	1 2 3 4 5 6 7 8
2.7	Commitment to payment of Levy	9
	ACALET will use its best endeavours to ensure that all Queensland Coal Producers commit to paying the Levy.	10 11
3.	Selection of Projects	12
3.1	Advice of Clean Coal Council	13
	It is acknowledged that the Clean Coal Council will be making recommendations to the Premier on which Queensland Clean Coal Technology Projects or National Clean Coal Technology Projects should be funded and the amount of funding which should be provided by ACALET.	14 15 16 17 18
3.2	Decisions by Premier	19
	(a) The Premier, having received a recommendation from the Clean Coal Council, will advise ACALET if the recommendation is accepted or, if it is not acceptable to the Premier, what further action (if any) is required of either the Clean Coal Council or ACALET.	20 21 22 23 24
	(b) If the Premier wishes to consider another Queensland Clean Coal Technology Project or National Clean Coal Technology Project then the Premier will refer it to the Clean Coal Council for its consideration, and the Clean Coal Council must make a recommendation in relation	25 26 27 28 29

Schedule (continued)

	to that project within a timeframe which is nominated by the Premier.	1 2
(c)	If the Clean Coal Council fails to reach agreement or the Premier rejects its recommendation in relation to a particular Queensland Clean Coal Technology Project or National Clean Coal Technology Project, the Premier retains the right to make the final decision in relation to the funding of that project, including the amount of funding to be provided by ACALET to that project.	3 4 5 6 7 8 9
3.3	Negotiation of Project Funding Agreements	10
(a)	Subject to clause 4, ACALET agrees to negotiate in good faith with the intention of executing a Project Funding Agreement within 3 months after the relevant decision of the Premier (or such longer period as may be agreed by the State) with the proponents of each project accepted or determined by the Premier under clause 3.2 in respect of the contribution to the project of the amount of funding accepted or determined by the Premier under clause 3.2, but only to the extent that ACALET is satisfied, acting reasonably, that there will be a sufficient balance of the Queensland Contribution in the years to which the Project Funding Agreement is proposed to relate, having regard to any commitments arising under other Project Funding Agreements.	11 12 13 14 15 16 17 18 19 20 21 22 23 24
(b)	ACALET will comply with its funding and other obligations under the Project Funding Agreements.	25 26
(c)	ACALET will provide the State with a copy of each Project Funding Agreement and of any amendment to a Project Funding Agreement upon its execution.	27 28 29
3.4	Matching of contributions	30
	The parties agree that they will seek to ensure that every dollar of Queensland Contribution which is expended on Queensland Clean Coal Technology Projects or National Clean Coal Technology Projects under Project Funding	31 32 33 34

Schedule (continued)

	Agreements is matched by at least two dollars from other project participants including power generators, other private sector partners, the Commonwealth of Australia, the State, and other States and Territories of Australia.	1 2 3 4
3.5	IGCC Plant	5
	The parties acknowledge and agree that, notwithstanding anything to the contrary in this Deed (other than clauses 2.5 and 4.1):	6 7 8
	(a) one of the Queensland Clean Coal Technology Projects which the Clean Coal Council will review and recommend to the Premier is an integrated gasification combined cycle (IGCC) plant;	9 10 11 12
	(b) the amount of \$300 million is to be provided by ACALET as funding for that project; and	13 14
	(c) subject to clause 3.5(b), the Premier will make the final decision in accordance with clause 3.2 on the IGCC project which is to be funded, including the scale and configuration of that project.	15 16 17 18
3.6	CS Energy Oxy-fuel Project	19
	The parties acknowledge and agree that the CS Energy Oxy-fuel Project is a Queensland Clean Coal Technology Project which will be funded from the Queensland Contribution.	20 21 22 23
3.7	Collaboration	24
	The parties acknowledge that ACALET and proponents of Queensland Clean Coal Technology Projects which are the subject of Project Funding Agreements may, in the pursuance of, and as part of their expenditure on, such Queensland Clean Coal Technology Projects enter into alliances, exchanges of information, research agreements and collaborations with other organisations pursuing projects with similar objectives whether in Queensland or elsewhere, provided they are	25 26 27 28 29 30 31 32

Schedule (continued)

	entered into on an arms length basis and will materially benefit and support those Queensland Clean Coal Technology Projects.	1 2 3
3.8	Reporting by ACALET	4
	ACALET shall provide a written report to the State on at least a six-monthly basis in relation to such matters as may reasonably be required by the State including:	5 6 7
	(a) the unexpended balance of the Queensland Contribution;	8 9
	(b) the forecast amounts of the Queensland Contribution for each of the subsequent ten years;	10 11
	(c) the status of projects the subject of Project Funding Agreements;	12 13
	(d) the status of projects which have been approved or determined by the Premier under clause 3.2 but in respect of which Project Funding Agreements have not yet been executed;	14 15 16 17
	(e) the administrative expenses of ACALET; and	18
	(f) the expenditure made and forecast to be made by ACALET under Project Funding Agreements on an individual project basis and in aggregate.	19 20 21
4.	Class Ruling and Tax Exemption Ruling	22
4.1	Consistency with Class Ruling and Tax Exemption Ruling	23 24
	The State agrees that ACALET will only enter into a Project Funding Agreement in relation to any Queensland Clean Coal Technology Project or National Clean Coal Technology Project, where entry into that Project Funding Agreement is consistent with the basis upon which the Australian Taxation	25 26 27 28 29

Schedule (continued)

Office prepared the Class Ruling and the Tax Exemption Ruling. The parties acknowledge and agree that this clause does not derogate from the obligation of ACALET under clause 2.1 to ensure that the Queensland Contribution is spent on Queensland Clean Coal Technology Projects or National Clean Coal Technology Projects nor the obligation of ACALET under clause 3.5(b) to spend the amount of \$300 million of the Queensland Contribution on an IGCC project.

4.2 Nature of Project Funding Agreements

The parties agree that ACALET will use its best endeavours to negotiate the terms of each Project Funding Agreement to ensure that to the greatest extent possible, the Project Funding Agreement is consistent with the basis upon which the Australian Taxation Office prepared the Class Ruling and the Tax Exemption Ruling. Without limiting the foregoing, ACALET will have discretion in relation to the following, provided such discretion is exercised in good faith and in order to ensure such consistency:

- (a) whether it funds a particular part of a Queensland Clean Coal Technology Project or National Clean Coal Technology Project, or the entire project;
- (b) whether or not ACALET is entitled to any consideration for its contribution, and the nature of that consideration;
- (c) whether ACALET contributes funds directly to the proponents of the Queensland Clean Coal Technology Project or National Clean Coal Technology Project, or whether it pays for the acquisition of goods and services related to, or required by, the project.

ACALET will keep the State fully informed regarding the basis upon which the Australian Taxation Office prepared the Class Ruling and the Tax Exemption Ruling and of all negotiations regarding Project Funding Agreements.

Schedule (continued)

4.3	Further ruling	1
	If the State and ACALET are unable to agree as to whether or not entering into a Project Funding Agreement with a Queensland Clean Coal Technology Project or National Clean Coal Technology Project is consistent with the basis upon which the Australian Taxation Office prepared the Class Ruling or the Tax Exemption Ruling, then:	2 3 4 5 6 7
	(a) ACALET will seek in a timely manner either or both of a further Class Ruling and Tax Exemption Ruling from the Australian Taxation Office, based upon the assumption that ACALET will enter into such a Project Funding Agreement; and	8 9 10 11 12
	(b) ACALET is not required to enter into that Project Funding Agreement unless and until it receives a further Class Ruling or Tax Exemption Ruling in terms which ACALET reasonably believes are favourable.	13 14 15 16
5.	Notices and other communications	17
5.1	Service of notices	18
	A notice, demand, consent, approval or communication under this Deed (Notice) must be:	19 20
	(a) in writing, in English and signed by a person duly authorised by the sender; and	21 22
	(b) hand delivered or sent by prepaid post or facsimile to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.	23 24 25 26
5.2	Effective on receipt	27
	A Notice given in accordance with clause 5.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:	28 29 30

Schedule (continued)

(a)	if hand delivered, on delivery;	1
(b)	if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);	2 3 4 5
(c)	if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,	6 7 8 9 10
	but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.	11 12 13
6.	Miscellaneous	14
6.1	Alterations	15
	This Deed may be altered only in writing signed by each party.	16 17
6.2	Approvals and consents	18
	Except where this Deed expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Deed.	19 20 21
6.3	Assignment	22
	A party may only assign this Deed or a right under this Deed with the prior written consent of the other party.	23 24

Schedule (continued)

6.4	Costs	1
	Each party must pay its own costs of negotiating, preparing and executing this Deed.	2 3
6.5	Stamp duty	4
	Any stamp duty, duties or other taxes of a similar nature (including fines, penalties and interest) in connection with this Deed or any transaction contemplated by this Deed must be paid by the State.	5 6 7 8
6.6	Survival	9
	Any indemnity or any obligation of confidence under this Deed is independent and survives termination of this Deed. Any other term by its nature intended to survive termination of this Deed survives termination of this Deed.	10 11 12 13
6.7	Counterparts	14
	This Deed may be executed in counterparts. All executed counterparts constitute one document.	15 16
6.8	No merger	17
	The rights and obligations of the parties under this Deed do not merge on completion of any transaction contemplated by this Deed.	18 19 20
6.9	Entire agreement	21
	This Deed constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.	22 23 24 25

Schedule (continued)

6.10	Further action	1
	Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Deed and any transaction contemplated by it.	2 3 4
6.11	Severability	5
	A term or part of a term of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining terms or parts of the terms of this Deed continue in force.	6 7 8 9
6.12	Waiver	10
	A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.	11 12 13 14 15 16
6.13	Relationship	17
	Except where this Deed expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.	18 19 20
6.14	Confidentiality	21
	A party may only use confidential information of another party for the purposes of this Deed, and must keep any confidential information of another party confidential except where:	22 23 24 25
	(a) the information is public knowledge (but not because of a breach of this Deed) or the party has independently created the information;	26 27 28
	(b) disclosure is required by law or a regulatory body (including a relevant stock exchange); or	29 30

Schedule (continued)

	(c) disclosure is made to a person who must know for the purposes of this Deed on the basis that the person keeps the information confidential.	1 2 3
6.15	Governing law and jurisdiction	4
	This Deed is governed by the law of Queensland and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland.	5 6 7
6.16	Term	8
	Subject to clause 2.5, this Deed commences with effect from 1 July 2007 and will be reviewed by the parties during the three month period expiring on 30 June 2017, and will continue unless the parties otherwise agree.	9 10 11 12

Signing page		1
		2
		3
EXECUTED as a Deed.		4
		5
The common seal of		6
ACA Low Emissions Technologies		7
Limited is affixed to this document		8
in accordance with its constitution		9
in the presence of		10
		11
		12
_____	_____	13
Signature of director	Signature of director/company secretary	14
	(Please delete as applicable)	15
		16
_____	_____	17
Name of director (print)	Name of director/company secretary (print)	18
		19
		20
Signed by the Premier of the State		21
of Queensland for and on behalf of		22
the State of Queensland in the		23
presence of		24
		25
		26
_____	_____	27
Signature of witness	The Premier of the State of Queensland for	28
	and on behalf of the State of Queensland	29
		30
_____		31
Name of witness (print)		32