

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt about the action you should take or the contents of this document you should consult a person authorised under the Financial Services and Markets Act 2000 who specialises in advising on the acquisition of shares and other securities.**

The Company and the Directors (whose names appear on page 1 of this document) accept responsibility for the information contained in this document. The information in this document is correct at the time of admission. To the best of the knowledge and belief of the Company and the Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this document is in accordance with the facts existing as of the date hereof.

Application will be made for all of the Company's Loan Notes to be admitted to trading on the ISDX Growth Market. The Loan Notes of the Company are not currently listed or admitted on any stock exchange. It is expected that trading in the Loan Notes will commence on the ISDX Growth Market on 29 January 2016.

**The Loan Notes comprise unsecured debt of the Company and they may not be a suitable investment for all recipients of this document. Prospective investors should consider carefully whether an investment in the Loan Notes is suitable for them in the light of their personal and financial circumstances. Prospective investors should not purchase any Loan Notes except on the basis of the information published in this document and the Loan Note Instrument.**

**The ISDX Growth Market, which is operated by ICAP Securities & Derivatives Exchange Limited (ISDX), a recognised investment exchange, is a market designed primarily for emerging or smaller companies to which a higher investment risk tends to be attached than to larger or more established companies. It is not classified as a Regulated Market under EU financial services law and ISDX Growth Market securities are not admitted to the Official List of the United Kingdom Listing Authority. A prospective investor should be aware of the risks of investing in ISDX Growth Market securities and should make the decision to invest only after careful consideration and, if appropriate, consultation with an independent financial adviser authorised under the Financial Services and Markets Act 2000 who specialises in advising on the acquisition of shares and other securities.**

This document comprises an ISDX information memorandum and has been drawn up in accordance with the ISDX Growth Market Rules for Issuers ("the Rules"). This document does not comprise an offer of transferable securities to the public within the meaning of section 102B of FSMA, does not comprise an approved prospectus within the meaning of section 85(7) of FSMA, has not been prepared in accordance with the Prospectus Rules and its contents have not been approved by the UKLA or any other competent authority for the purposes of the Prospective Directive. This document has not been delivered to the Isle of Man Financial Services Authority for registration as a prospectus. This document has not been approved by the Isle of Man Financial Services Authority or any other governmental or regulatory authority in or of the Isle of Man. The whole of this document should be read, together with any document incorporated by reference.

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## **EPE SPECIAL OPPORTUNITIES PLC**

*(Incorporated in the Isle of Man with Registered Number 008597V)*

### **Admission to ISDX Growth Market**

**of £7,975,459 7.50 per cent. Unsecured Loan Notes due 2022**

**Corporate Adviser  
Numis Securities Limited**

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EPE Special Opportunities plc is required by ICAP Securities & Derivatives Exchange Limited to appoint an ISDX Corporate Adviser to apply on its behalf for admission to the ISDX Growth Market and must retain an

ISDX Corporate Adviser at all times. The requirements for an ISDX Corporate Adviser are set out in the Corporate Adviser Handbook and the ISDX Corporate Adviser is required to make a declaration to ISDX in the form prescribed by Appendix D to that Handbook. ISDX does not approve the contents of admission documents.

Numis Securities Limited is authorised to carry out investment business under FSMA. This document is approved by Numis Securities Limited on behalf of the Company as an investment promotion pursuant to Section 21 (2) (b) of FSMA. Numis Securities Limited is acting for the Company and for no-one else and will not be responsible to any other person for providing the protections afforded to its customers or for advising any other person in connection with this document. The Company has confirmed and agreed that it has complied and will comply with all applicable provisions of FSMA with respect to anything done by it in relation to any Loan Notes in, from or otherwise involving the United Kingdom.

No person is or has been authorised by either the Company or Numis Securities Limited to give any information or to make any representation not contained in or not consistent with this document and, if given or made, such information or representation must not be relied upon as having been authorised by either the Company or Numis Securities Limited.

**This document does not constitute (in each case whether as a proposal, indication of intent or final memorandum as to) an offer to sell, or the solicitation of an offer to buy, securities in any jurisdiction in which such offer or solicitation (or proposal of such) is unlawful.**

The distribution of this document outside the UK may be restricted by laws of such other jurisdictions in which the document is distributed and therefore persons outside the UK into whose possession this document comes should inform themselves about and observe any restrictions in relation to the Loan Notes and the distribution of this document. The Loan Notes have not been, nor will be, registered in the United States under the United States Securities Act of 1933, as amended, or under the securities laws of Canada, Australia, Japan, the Republic of South Africa or the Republic of Ireland and they may not be offered or sold directly or indirectly within the United States, Canada, Australia, Japan, the Republic of South Africa or the Republic of Ireland or to, or for the account or benefit of, US persons or any national, citizen or resident of the United States, Canada, Australia, Japan, the Republic of South Africa or the Republic of Ireland.

Neither the delivery of this document nor the offering, sale or delivery of the Loan Notes shall in any circumstances imply that the information contained herein concerning the Company is correct at any time subsequent to the date hereof or that any other information supplied in connection with the offering of the Loan Notes is correct as of any time subsequent to the date indicated in the document containing the same. Numis Securities Limited will not undertake any review of the financial condition or affairs of the Company during the life of the Loan Notes or to advise any investor in the Loan Notes of any information coming to its attention.

Neither the Company nor Numis Securities Limited is providing prospective investors with any legal, business, tax or other advice in this document. Prospective investors should consult with their own advisers as needed to assist them in making their investment decision and to advise them whether they are legally permitted to purchase the Loan Notes.

Any individual wishing to buy or sell securities which are traded on the ISDX Growth Market must trade through a stockbroker (being an ISDX broker member regulated by the FCA) as the market's facilities are not available directly to the public.

**The text of this document should be read in its entirety. An investment in the Loan Notes involves a high degree of risk.**

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### EXPECTED TIMETABLE OF EVENTS

Publication of this document	26 January 2016
Admission and dealings to commence in the Loan Notes	29 January 2016
Admission to CREST	29 January 2016

### COMPANY DETAILS ON THE ISDX GROWTH MARKET

ISIN	GB00BYQDQV38
ISDX Symbol	EL.P

## **DIRECTORS, ADVISERS AND AUDITORS**

<b>Directors</b>	Geoffrey O. Vero (Non-Executive Chairman) Robert B.M. Quayle (Non-Executive Director) Clive L. Spears (Non-Executive Director) Nicholas V. Wilson (Non-Executive Director)  <i>All of:</i>  IOMA House Hope Street Douglas Isle of Man IM1 1AP
<b>Company Secretary and Registered Office</b>	Philip Scales IOMA House Hope Street Douglas Isle of Man IM1 1AP
<b>ISDX Corporate Adviser to the Company</b>	Numis Securities Limited 10 Paternoster Square London EC4M 7LT
<b>Lawyers to the Company</b>	Latham & Watkins (London) LLP 99 Bishopsgate London EC2M 3XF
<b>Manx Lawyers to the Company</b>	Cains Advocates Limited 15-19 Athol Street Douglas Isle of Man IM1 1LB
<b>Auditors</b>	KPMG Audit LLC Heritage Court 41 Athol Street Douglas Isle of Man IM99 1HN
<b>Registrars</b>	FIM Capital Limited IOMA House Hope Street Douglas Isle of Man IM1 1AP

## DEFINITIONS

The following terms apply in this document unless the context requires otherwise:

<b>“Admission”</b>	admission of the Loan Notes to trading on the ISDX Growth Market and such admission becoming effective in accordance with the ISDX Growth Market – Rules;
<b>“Articles”</b>	the articles of association of the Company;
<b>“Board”</b>	the board of directors of the Company;
<b>“Business Day”</b>	means a day (other than a Saturday or Sunday) on which banks in the City of London and the Isle of Man are open for ordinary banking business;
<b>“Company”</b>	EPE Special Opportunities plc (registered number 008597V);
<b>“Convertible Loan Notes”</b>	means the 10,000,000 unsecured convertible loan notes of £1.00 each constituted by the Company pursuant to the instrument dated 4 August 2010;
<b>“CREST”</b>	the relevant system (as defined in the Uncertified Securities Regulations 2001 (SI 2001 No. 3875)) for the paperless settlement of trades and holding of uncertificated securities, operated by Euroclear, in accordance with the same regulations;
<b>“ESO Investments (PC)”</b>	ESO Investments (PC) LLP, a limited liability partnership incorporated in England and Wales with registered number OC356809 and having its registered office at 3rd Floor Audrey House, 16-20 Ely Place, London, EC1N 6SN;
<b>“EU”</b>	the European Union;
<b>“Euroclear”</b>	means Euroclear UK & Ireland Limited, the operator of CREST;
<b>“FCA”</b>	the Financial Conduct Authority;
<b>“Financial Covenant Test Date”</b>	31 January of each year, commencing on 31 January 2016;
<b>“Financial Indebtedness”</b>	means any indebtedness for or in respect of: <ul style="list-style-type: none"><li>(a) moneys borrowed or any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;</li><li>(b) any amount raised pursuant to any note purchase facility or the issue of Loan Notes, notes, debentures, loan stock or any similar instrument or the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease;</li><li>(c) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);</li><li>(d) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;</li><li>(e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into</li></ul>

	account);
	(f) any counter indemnity obligation in respect of a guarantee, indemnity, Loan Note, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
	(g) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (f) above;
<b>“FSMA”</b>	the Financial Services and Markets Act 2000 (as amended);
<b>“Fund”</b>	ESO Investments 1 LP, a limited partnership registered in England with registered number LP014043 and whose registered office is at 16-20 Audrey House, Ely Place, London, EC1N 6SN;
<b>“Fund General Partners”</b>	EPE GP Limited, a limited company incorporated in England & Wales with registered number 07324310 whose registered office is at 16-20 Audrey House, Ely Place, London, EC1N 6SN, and EPE General Partner LLP, a limited liability partnership incorporated in Scotland with registered number SO304743 and whose registered address is at 50 Lothian Road, Festival Square, Edinburgh EH3 9WJ;
<b>“Gross Assets Ratio”</b>	the Gross Asset Value divided by the principal amount of all Financial Indebtedness of the Company (together with any interest accrued but unpaid thereon);
<b>“Gross Asset Value”</b>	the aggregate of: (a) the Net Asset Value of the Company; and (b) all Financial Indebtedness and other financial liabilities of the Company determined in accordance with IFRS, in each case as at 31 January of the relevant year;
<b>“IFRS”</b>	the International Financial Reporting Standards;
<b>“Interest Coverage Amount”</b>	the aggregate of cash and cash equivalents held by or on behalf of the Company or any limited partnership or other entity in which the Company holds a majority of the economic interests (except any portfolio company);
<b>“Interest Coverage Ratio”</b>	the Interest Coverage Amount divided by interest payable on any Financial Indebtedness of the Company in respect of the period commencing on the Financial Covenant Test Date and ending on the immediately succeeding Interest Payment Date;
<b>“Interest Payment Date”</b>	31 January and 31 July of each year, commencing on 31 January 2016;
<b>“Investment Adviser”</b>	EPIC Private Equity LLP, a limited liability partnership incorporated in England & Wales with registered number OC318938 and having its registered office at Audrey House, 16-20 Ely Place, London, EC1N 6SN;
<b>“Investment Funds”</b>	ESO Investments (PC) and the Fund;
<b>“ISDX Growth Market”</b>	the ISDX primary market segment operated by ISDX for dealings in unlisted securities admitted to trading in accordance with the ISDX Growth Market – Rules for Issuers;
<b>“ISDX Growth Market Rules” or “The Rules”</b>	the rules for issuers containing application requirements for admission to the ISDX Growth Market and requirements as to the continuing obligations of Issuers once admitted and guidance notes;
<b>“Limited Partnership Agreement”</b>	the agreement constituting the Fund dated 4 August 2010 and amended and restated on 23 July 2015, between, among others, the Company, the Fund General Partners and EPE Carry LP;

<b>“Loan Note” or “Loan Notes”</b>	the Pounds Sterling denominated unsecured 7.50% loan notes issued by the Company pursuant to the Loan Note Instrument;
<b>“Loan Note Instrument”</b>	the loan note instrument constituted by the Company on 23 July 2015, a copy of which is set out in Appendix I to this document;
<b>“Majority of Noteholders”</b>	the Noteholder(s) holding in aggregate more than 50% in principal amount of the Loan Notes in issue and outstanding;
<b>“Net Asset Value”</b>	the amount designated as the “Net Asset Value” or “NAV” of the Company in the audited report and accounts of the Company for the relevant year ending on 31 January;
<b>“Noteholder”</b>	any holder of the Loan Notes;
<b>“Ordinary Shares”</b>	ordinary shares of the Company of £0.05 each; and
<b>“£”</b>	Pounds Sterling.

Capitalised terms used herein but not otherwise defined herein shall have the relevant meaning set out in the Loan Note Instrument (Appendix).

## PART I

### TERMS AND CONDITIONS OF THE LOAN NOTES

The principal terms of the Loan Notes are summarised below:

<b>Issuer:</b>	EPE Special Opportunities plc
<b>Denomination:</b>	The nominal amount of each of the Loan Notes is £1.00.
<b>Issue Amount:</b>	£7,975,459
<b>Ranking:</b>	All of the Loan Notes rank <i>pari passu</i> , equally and rateably, without discrimination or preference, alongside all unsecured creditors of the Company.
<b>Interest:</b>	7.50% interest per annum (to be calculated on the basis of a 365 day year and actual days elapsed), payable semi-annually in arrears in equal instalments on 31 January and 31 July, commencing on 31 January 2016. Interest will be pro-rated in respect of any period less than 6 months.
<b>Security:</b>	Unsecured
<b>Transferability:</b>	The Loan Notes are freely transferable in whole units of £1.00 and multiples thereof.
<b>Meeting of Noteholders</b>	<p>Within seven days of receipt of a request signed by Noteholders holding in aggregate more than 50 per cent. in principal amount of the Loan Notes in issue and outstanding, the Company will, and the Company may at any time (by giving not less than 14 days' notice) convene a meeting of the Noteholders.</p> <p>Any such meeting will be held as nearly as possible in the same way as is provided in the provisions of the Company's articles of association with regards to general meetings, provided that:</p> <ul style="list-style-type: none"><li>(a) no member of the Company not being a director shall be entitled to notice of the meeting or to attend unless he/she is a Noteholder;</li><li>(b) the quorum at any such meeting shall be Noteholders holding or representing by proxy at least 20 per cent. of the principal amount of the Loan Notes for the time being outstanding; and</li></ul> <p>if a poll is demanded each Noteholder shall have one vote for each £1.00 in nominal amount of Loan Notes held.</p>
<b>Final Redemption Date</b>	The Loan Notes will be redeemed in full on 23 July 2022, provided that the Company may, if it is in compliance with the terms of the Loan Note Instrument on 23 July 2022, extend the Final Redemption Date to 23 July 2023 by giving written notice of such extension to Noteholders on or prior to 31 January 2022.
<b>Early Voluntary Redemption:</b>	The Company may voluntarily elect to redeem, on a <i>pro rata</i> basis and at par: (i) on or after 31 July 2018, up to 50% of the aggregate principal amount of the Loan Notes; and (ii) on or after 31 July 2020, up to 75% of the aggregate principal amount of the Loan Notes.
<b>Mandatory Redemption:</b>	The Company will, within 90 Business Days of written demand by any Noteholder, repay all of the Loan Notes (together with accrued but unpaid interest thereon) held by such Noteholder if:



- (a) any of the customary events of default set out in the Loan Note Instrument occurs, being:
  - (i) the winding up of the Company, other than a solvent winding up for the purposes of amalgamation or reconstruction or a member's voluntary winding up approved by an Extraordinary Resolution;
  - (ii) the Company stopping or threatening to stop payment of its debts;
  - (iii) the Company ceases its business or threatens to cease its business;
  - (iv) an administrator being appointed, or documents being filed with the Court for the appointment of an administrator, or notice being given of an intention to appoint an administrator by the Company or the directors;
  - (v) a receiver, administrative receiver or similar official being appointed in respect of the whole or a substantial part of the undertaking and assets of the Company;
  - (vi) any distress or execution being levied or enforced against all or a substantial part of the assets or property of the Company which is not fully discharged within 90 Business Days;
  - (vii) any process or event with an effect analogous to any of those referred to in (a)(i) to (a)(vi) above.
- (b) a breach of the Financial Covenants occurs, but only if the breach is not remedied within 90 Business Days of the Financial Covenant Test Date to which the breach relates; or
- (c) a material breach of the Loan Note Instrument occurs, but only if the breach is not remedied within 90 Business Days of written notice by a Majority of Noteholders.

**Financial Covenants:**

The Company must satisfy the following financial covenants on each Financial Covenant Test Date:

- (a) the Interest Coverage Ratio of the Company must be equal to or greater than 6:1;
- (b) for so long as at least 50% of the principal amount of the Loan Notes issued on or around 23 July 2015 remains outstanding, the Gross Assets Ratio must be equal to or greater than 2:1.

**Concentration Covenant:**

The Company needs prior approval of a Majority of Noteholders to make, after 23 July 2015, any investment in any single portfolio company which comprises more than 25% of the Gross Asset Value of the Company (calculated as of the Financial Covenant Test Date immediately preceding the date on which the Company made its initial investment in that portfolio company) provided that the Company may invest up to an additional 10% of such Gross Asset Value in such a portfolio company in the form of bridge financing repayable within 12 months.

**Negative Pledge:**

The Company is not permitted to grant any security over any of its assets, save for customary exceptions specified in the Loan Note Instrument, any security listed in Schedule 3 to the Loan Note Instrument or any security granted to secure the debt of a principal

amount which, when aggregated with the principal amount of any other debt which has the benefit of security (but excluding any security granted under the customary exceptions), does not exceed £5,000,000.

**Market Purchases by Company:** There are no restrictions on the Company purchasing the Loan Notes in the market.

**Withholding Taxes:** All payments to be made by the Company under or in respect of the Loan Notes will be made free and clear of and without deduction or withholding for or on account of tax, save as required by law.

**Governing Law:** The Loan Note Instrument is governed by English law.

**INFORMATION CONTAINED IN THIS DOCUMENT MUST BE CONSIDERED IN CONJUNCTION WITH THE LOAN NOTE INSTRUMENT.**

## PART II

### RISK FACTORS

*The Company believes that the following factors may affect its ability to fulfil its obligations under the Loan Notes. All of these factors are contingencies which may or may not occur and the Company is not in a position to express a view on the likelihood of any such contingency occurring. In addition, factors which are material for the purpose of assessing the market risks associated with the Loan Notes are described below.*

*The Company believes that the factors described below represent the principal risks inherent in investing in the Loan Notes, but the inability of the Company to pay interest, principal or other amounts on or in connection with the Loan Notes may occur for other reasons which may not be considered significant risks by the Company based on information currently available to it or which it may not currently be able to anticipate. Prospective investors should also read the detailed information set out elsewhere in this information memorandum and reach their own views prior to making any investment decision.*

#### **1. Factors that may affect the Company's ability to fulfil its obligations under the Loan Notes**

##### **a. The Company's objectives may not be fulfilled**

The value of an investment in the Company is dependent upon the Company achieving its investment objectives. There can be no guarantee that the Company will achieve the level of success that Board expects in respect of its own investments and there is no guarantee or assurance or certainty that the investment objectives of the Company will be met.

##### **b. The Company's investments**

As at the date of this document, the Company has an investment portfolio comprising equity interests in, and debt owed by, unquoted private companies which may be difficult to value and/or realise.

The future success of the Company is dependent upon the performance of its investment portfolio and the identification and acquisition of suitable investment opportunities. There can be no guarantees that such investments can or will be acquired or that its current or future investments will be successful.

##### **c. The Company's investments in distressed businesses could subject the Company to an increased risk of loss**

In addition to targeting growth and buyout opportunities, the Company has invested and may invest in distressed and insolvent companies which have experienced significant operating issues and may have associated financial distress, including companies involved in insolvency proceedings. Although such purchases may result in significant returns, they involve a substantial degree of risk and may not show any return for a considerable period of time.

Distressed companies generally have less predictable operating results and may have highly indebted capital structures that make them more vulnerable to adverse financial or business developments than less highly indebted companies and accordingly they may be at a heightened risk of breaching financial covenants under any financing arrangements to which they are party.

Distressed companies may also be exposed to substantial litigation with less resources to contest claims than more stable companies.

Such risks could lead to the partial or total loss of the Company's investment in an investee company and there can be no assurance that any such losses will be offset by gains realised on the Company's other investments.

##### **d. The Company's investments in small and medium sized companies may result in dependence on a small group of persons**

The size of the companies in which the Company invests means that they may be dependent on the management talents and efforts of a small group of persons. The death, disability, incapacity or resignation of one or more of those persons could have a material adverse impact on their business and prospects and the investment made.

**e. Due diligence processes may not reveal all material facts or circumstances**

Before the Company makes any investment, the Investment Adviser may undertake an information gathering exercise. The objective of this exercise is to enable the Investment Adviser to identify attractive investment opportunities based on the facts and circumstances surrounding an investment. When making an assessment regarding an investment, the Investment Adviser will rely on resources available to it, the target of the investment or, in the case of co-investments, the party with whom the Company is co-investing. Accordingly, there can be no assurance that any research and information gathering exercise carried out with respect to any investment opportunity will reveal or highlight all relevant facts that may be necessary or helpful to the Investment Adviser in evaluating such investment opportunity. This could lead to an acquisition being materially overvalued, which could have a significant adverse effect on the performance of the Company and its ability to pay the principal, interest or other amounts on or in connection with the Loan Notes.

Additionally, the due diligence undertaken in respect of these investments may be insufficient to reveal all of the past and future liabilities relating to the operations of such investee companies. Such liabilities could include liabilities arising from litigation, breach of environmental regulations, government fines, contractual liabilities and pensions deficits, amongst others. Furthermore, in some unusual circumstances the limited liability status of investee companies and/or their subsidiaries might not be upheld, and the Company could lose some or all of its investment in such companies, which could have a material adverse effect on the performance of the Company. The Company will, however, typically seek to avoid exposure to such liabilities.

**f. Illiquidity of underlying investments**

The majority of investments made by the Company are expected to comprise unquoted interests in companies which are not publicly traded or freely marketable and for which a sale may occasionally require the consent of other interested parties. Such investments may therefore be difficult to value and/or realise, and their management and realisation may involve significant time and cost. The illiquidity of these investments may make it difficult to sell investments if the need arises or if the Investment Adviser determines such sale would be in the Company's best interests. In addition, if the Company were to be required to liquidate all or a portion of an investment quickly, the Company may realise significantly less than the value at which the investment was previously recorded.

**g. The Company's investments may, directly or indirectly, be in companies that are highly indebted**

The Company may invest in companies whose capital structures have a significant degree of debt. In addition, companies that are not or do not become highly leveraged at the time an investment is made may increase their leverage after the time of investment. Investments in highly indebted companies are inherently more sensitive to declines in revenues, increases in expenses and interest rates and adverse economic, market and industry developments. In addition, the incurrence of a significant amount of indebtedness by a company may, among other things:

- (i) limit the company's ability to respond to changing market conditions to the extent additional cash is needed for the response, to make necessary capital expenditures or to take advantage of growth opportunities;
- (ii) limit such company's ability to adjust to changing market conditions, thereby placing it at a competitive disadvantage compared to its competitors who have relatively less debt;
- (iii) limit the company's ability to engage in strategic acquisitions that may be desirable to generate attractive returns or further growth; and
- (iv) limit the company's ability to refinance its debt and/or obtain additional financing on attractive terms or at all.

Additionally, if any investee company breaches any covenants under its financing arrangements and the relevant lender declares the entire amount of such company's indebtedness due and payable or forecloses on any assets pledged as collateral, the Company may lose some or all of its investment in such company, which could have a material adverse effect on the performance of the Company.

**h. Concentration of investments**

The Company and/or the Investment Funds may at certain times hold a relatively concentrated investment portfolio. The Company could be subject to significant losses if it, for example, holds a large position in a particular investment that declines in value. Such losses could have a material adverse effect on the performance of and returns achieved by the Company.

**i. Appropriate valuation of investments by the Investment Adviser**

It is expected that most of the investments that the Company makes will be in the form of investments for which market quotations are not available. Decisions by the Investment Adviser as to whether to make particular investments and when to exit such investments will be based to a significant extent on an analysis and assessment of both the present value and the expected future value of the relevant investment. Estimates of the future value of investments are inherently uncertain and may not reflect the value the Company is eventually able to realise on such investments due to various factors, including a deterioration in an investee company's trading position or reputation in the market, poor implementation of an investee company's corporate and management strategies, subsequent illiquidity in the market for an investee company's securities or a deterioration in the overall economic climate. The Company's performance could be adversely affected if the value estimates made by the Investment Adviser at the time of investment are materially higher than the values that are ultimately realised on the disposal of such investments.

**j. Ongoing effects of uncertain economic climate**

It remains difficult to forecast what impact the uncertain economic climate will have on the performance of the Company's portfolio companies.

**k. The Company has very limited ability to redeem or transfer its investment in the Investment Funds**

A significant portion of the Company's funds are invested in the Investment Funds. Pursuant to the terms of the Limited Partnership Agreement, without the consent of the Fund General Partners the Company may not transfer or redeem its interest in, or otherwise withdraw from, the Fund. Additionally, pursuant to the terms of the limited liability partnership agreement relating to ESO Investments (PC) between (amongst others) the Company and the Investment Adviser, without the consent of the other members of ESO Investments (PC), the Company may not sell, assign, transfer, exchange, pledge, encumber, grant options over or otherwise dispose of its legal or beneficial interest in ESO Investment (PC). If a material adverse event occurs in relation to the Company or the market generally, the ability of the Company to avoid or mitigate further adverse exposure is limited by its limited ability to redeem its interest in, or otherwise withdraw from, the Investment Funds. This could have a materially adverse effect on the ability of the Company to pay the principal, the interest or other amounts payable in respect of or in connection with the Loan Notes.

**l. Failure by service providers to the Company and the Investment Funds to perform their obligations could materially disrupt or damage the business of the Company with adverse effects on its business or performance**

The Company and the Investment Funds have no employees and rely upon the performance of third-party service providers to perform their executive functions. In particular, the Company and ESO Investments (PC) are reliant on advice provided by the Investment Adviser and the Fund is reliant on the Fund General Partners and the Investment Adviser. In particular, the Company's performance is likely to be dependent on the effectiveness of the Fund General Partners' management of the Fund's investments, on the effectiveness of the Investment Adviser in the provision of the investment management services to the Fund General Partners and advisory services to the Company and ESO Investments (PC). Failure by any service provider to carry out its obligations to the Investment Funds in accordance with the terms of its appointment without exercising due care and skill, or to perform its obligations to the Investment Funds at all as a result of insolvency or other causes could have a material adverse effect on the Investment Funds' performance and returns to the Company. The termination of any relationship between any of the Investment Funds and any third-party service provider, or any delay in appointing a replacement for such service provider, could materially disrupt the business of the relevant Investment Fund and could have a material adverse effect on such Investment Fund's performance.

**m. The Company's performance may be adversely affected should certain individuals cease to provide their services to the Investment Funds and/or the Company**

The success of the Investment Funds and, in turn, the Company depend on the diligence, skill and business contacts of the Fund General Partners, in particular, of Giles Brand and other key individuals from the Investment Advisor.

**n. Difficulty and cost of terminating the Fund General Partners' appointment**

The Company and Fund may only terminate the appointment of the Fund General Partners under the Limited Partnership Agreement in very limited circumstances. Such termination may be difficult to obtain in practice. In certain circumstances, if the Fund is unable to terminate the appointment of the Fund General Partners, the market price of the Loan Notes could suffer. If the Fund General Partners' appointment is terminated, it may be difficult (or impossible) to appoint a replacement general partner and, in such circumstances, the Fund may be dissolved.

**o. Historical returns may not be indicative of future performance**

No guarantee is made in relation to the performance of the Company, the Investment Funds or the Loan Notes. There can be no assurances that an investment in the Company and/or by any of the Investment Funds will have a return on invested capital that is similar to the historical returns of accounts or funds managed or advised by any directors of the Company or by the Investment Adviser. Past performance may not be an accurate predictor of future performance or returns, nor is there any guarantee that future market conditions will allow for similar performance. An investment in the Company is subject to all of the risks and uncertainties associated with an investment business of the Company's type, including the risk that the Company will not achieve its investment objectives.

**p. Changes in law or regulations**

For regulatory, tax and other purposes, the Company and the Loan Notes may be treated differently in different jurisdictions. In certain jurisdictions, the status of the Company and/or the Loan Notes may be uncertain or subject to change, or it may differ depending on the availability of certain information or disclosures by the Company. Changes in the status or treatment of the Company or the Loan Notes may have unforeseen effects on the ability of investors to hold the Loan Notes or the consequences of so doing.

The regulatory environment for funds that are similar to the Company and for the managers of similar funds is evolving. The Company is subject to laws and regulations enacted by national and local governments. Additional laws may apply to the portfolio companies in which the Company makes investments. Compliance with, and monitoring of, applicable laws and regulations may be difficult, time consuming and costly. Any change in the laws and regulations affecting the Company or any change in the regulations affecting similar funds or private equity fund managers generally, or any failure by the Company to comply with such laws or regulations, may have a material adverse effect on the Company's ability to carry on its activity of investing, which in turn could have a material adverse effect on the Company's performance and its ability to pay the principal, interest or other amounts on or in connection with the Loan Notes.

**q. Risks relating to taxation**

***Adverse changes in the tax position of the Company***

The structure under which the Company holds its investments is based on current tax law and the practice of the tax authorities of the UK (where the Company's assets are expected to be predominantly located) and the Isle of Man (where the Company is incorporated). Such law (including applicable rates of taxation) or tax authority practice is subject to change, possibly with retrospective effect. Any change in the Company's tax position or status or in tax legislation or proposed legislation, or in the interpretation of tax legislation or proposed legislation by tax authorities or courts, or tax rates could adversely affect the value of investments held by the Company or affect the Company's ability to achieve its investment objective.

The Company is currently liable to Isle of Man taxation at a standard rate of tax of zero per cent. save in certain limited circumstances that are not expected to arise.

If the Company were to be considered to be resident for taxation purposes in any jurisdiction other than Isle of Man or otherwise subject to taxation in another jurisdiction, its total income or capital gains or those attributable

to or effectively connected with such other jurisdiction may be subject to tax in that other jurisdiction and this could have a material adverse effect on the Company's results of operations, financial condition or business prospects.

***Non-UK tax residence or non-trading status of the Company could be challenged or transactions could be taxed under certain UK anti-avoidance rules***

The Company must conduct its operations in a manner that ensures that it is not treated as being tax resident or as having a taxable presence outside Isle of Man. Given the location of the assets is expected to be predominantly in the UK, the most likely alternative jurisdiction in which the Company may be tax resident is the UK. It is intended that the affairs of the Company will continue to be conducted so that the central management and control of the Company is not exercised in the UK and, consequently, so that the Company is not UK tax resident. However, it cannot be guaranteed that HMRC will not challenge the position. In order to maintain its non-UK tax residence status, the Company is required to be centrally managed and controlled outside the UK. The composition of the Board, the manner in which the Board conducts its business and the location(s) in which the Board makes decisions will be important in determining and maintaining the non-UK tax residence of the Company. While the Company is incorporated and administered in Isle of Man and a majority of its directors are resident outside the UK, continued attention must be paid to ensure that major decisions by the Company are not made in the UK, to avoid the risk that the Company may lose its non-UK tax residence status.

There is a risk that management errors could potentially lead to the Company being considered UK tax resident. If so, this is likely to result in the Company paying more UK tax than is anticipated, which would negatively affect its financial and operating results. In addition, even where a company maintains its non-UK tax residence status, it will potentially be subject to UK corporation tax if it is carrying on a trade in the UK, in which case the relevant company will be subject to UK income or corporation tax on the income profits and capital gains attributable to its UK trade. It is intended that the Company will not undertake any UK trading activities. It cannot be guaranteed that HMRC will not seek to contend that the Company has acquired one or more of its assets as trading stock and, consequently, is carrying on a trade in the UK. If any such contention were correct, this is likely to result in the Company paying more UK tax than is anticipated, which would negatively affect its financial results and ability to pay the principal, interest or other amounts owed in respect of or in connection with the Loan Notes.

**2. Factors which are material for the purpose of assessing the risks associated with the Loan Notes**

**a. The Loan Notes may not be a suitable investment for all investors**

Each potential investor in the Loan Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (i) have sufficient knowledge and experience to make a meaningful evaluation of the Loan Notes, the merits and risks of investing in the Loan Notes and the information contained or incorporated by reference in this information memorandum or any applicable supplement;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Loan Notes and the impact the Loan Notes will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Loan Notes, including where the currency for principal and interest payments is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the Loan Notes and be familiar with the behaviour of any relevant financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

Accordingly, the Loan Notes may not be a suitable investment for all recipients of this document. Before making a decision, investors are advised to consult an appropriate independent investment adviser authorised through FSMA who specialises in advising on investments of this nature.

The Loan Notes are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured, appropriate addition of risk to their overall portfolios. A potential investor should not invest in the Loan Notes unless it has the expertise (either alone or with a financial adviser) to evaluate how the Loan Notes will perform under changing conditions, the resulting effects on the value of the Loan Notes and the impact this investment will have on the potential investor's overall investment portfolio.

**b. Modification, waivers and substitution**

The Loan Notes contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Noteholders including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

**c. Change of law**

The conditions of the Loan Notes are based on English law in effect as at the date of this information memorandum. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of this information memorandum.

**3. Risks related to the market generally**

Set out below is a brief description of the principal market risks:

**a. The ISDX Growth Market**

Although the Company intends to apply for the Loan Notes to be admitted to trading on the ISDX Growth Market, there is no guarantee that the application will be successful. The fact that application will be made for the Loan Notes to be admitted to trading on the ISDX Growth Market should not be taken as implying that there will be a "liquid" market in the Loan Notes if the application is successful. The ISDX Growth Market is not the AIM market operated by London Stock Exchange plc or the Official List of the UK Listing Authority. An investment in the Loan Notes may therefore be difficult to realise. Continued admission to the ISDX Growth Market is entirely at the discretion of ISDX. Any changes to the regulatory environment, in particular the ISDX Growth Market - Rules for Issuers could, for example, affect the ability of the Company to maintain a trading facility for the Loan Notes on the ISDX Growth Market.

**b. The secondary market generally**

The Loan Notes may have no established trading market when issued, and one may never develop. If a market does develop, it may not be very liquid. Therefore, investors may not be able to sell their Loan Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. The Loan Notes are designed for specific investment objectives or strategies. As such, the Loan Notes generally will have a more limited secondary market and more price volatility than conventional debt securities. Illiquidity may have a severely adverse effect on the market value of the Loan Notes.

**c. Exchange rate risks and exchange controls**

The Company will pay principal and interest on the Loan Notes in Pounds Sterling. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than Pounds Sterling. These include the risk that exchange rates may significantly change (including changes due to devaluation of Pounds Sterling or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to Pound Sterling would decrease (i) the Investor's Currency-equivalent yield on the Loan Notes, (ii) the Investor's Currency-equivalent value of the principal payable on the Loan Notes and (iii) the Investor's Currency-equivalent market value of the Loan Notes. Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.



**d. Interest rate risks**

Investment in the Loan Notes involves the risk that subsequent changes in market interest rates may adversely affect the value of them.

**e. Legal investment considerations may restrict certain investments**

The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (i) the Loan Notes are legal investments for it, (ii) the Loan Notes can be used as collateral for various types of borrowing and (iii) other restrictions apply to its purchase or pledge of the Loan Notes. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of the Loan Notes under any applicable risk-based capital or similar rules.

**f. Financial Services Compensation Scheme**

The Loan Notes will not have the status of bank deposits under English law and are not within the scope of the Financial Services Compensation Scheme operated by the FCA.

**PROSPECTIVE INVESTORS SHOULD THEREFORE CONSIDER CAREFULLY WHETHER INVESTMENT IN THE LOAN NOTES IS SUITABLE FOR THEM, IN LIGHT OF THE RISK FACTORS OUTLINED ABOVE, THEIR PERSONAL CIRCUMSTANCES AND THE FINANCIAL RESOURCES AVAILABLE TO THEM.**

## PART III

### DETAILS OF THE LOAN NOTES

The issue of the Loan Notes was authorised by a resolution of the Board of Directors of the Company passed on 20 July 2015. The Loan Notes are constituted by the Loan Note Instrument and these terms and conditions include summaries of, and are subject to, the detailed provisions of the Loan Note Instrument. A copy of the Loan Note Instrument is available for inspection during usual business hours at the registered office of the Company. The Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Loan Note Instrument.

#### 1. Form, Denomination and Title

##### (a) Form and denomination

The Loan Notes have been issued in registered form and in the denomination of £1.00 each. If and for so long as the Loan Notes are admitted to trading on the ISDX Growth Market and admitted to CREST (or other applicable Central Securities Depository), the Loan Notes will be held in de-materialised form or, at the request of the relevant Noteholder, a certificate will be issued.

##### (b) Title

A register of the Loan Notes will be kept by the Registrar wherein there will be entered the names and addresses of the Noteholders and particulars of the Loan Notes held by them respectively and a copy of such register will at all reasonable times during business hours be available for inspection by the Noteholders. If and for as long as the Loan Notes are admitted to trading on the ISDX Growth Market and are admitted to CREST, a register shall also be maintained by Euroclear in respect of Noteholders who hold their Loan Notes in paperless form. Title to Loan Notes shall pass by registration in the register maintained by the Registrar or, in the case of Loan Notes in paperless form, the register maintained by Euroclear and a person in whose name a Loan Note shall be registered shall (to the fullest extent permitted by law) be treated at all times and for all purposes as the absolute owner of such Loan Note regardless of any notice of ownership or trust.

#### 2. Status

The Loan Notes will constitute direct and unsecured obligations of the Company.

The payment obligations of the Company under the Loan Notes will, save for such exceptions as may be provided by mandatory provisions of applicable law, rank *pari passu*, equally and rateably, without discrimination or preference, alongside all unsecured creditors of the Company.

#### 3. Issue Size

The issue will be limited to 10,000,000 Loan Notes of nominal value of £1.00 each.

#### 4. Further issues

The Company may from time to time without the consent of Noteholders create and issue further loan notes having the same terms and conditions as the Loan Notes and ranking *pari passu* with the Loan Notes in all respects, so that the same will be consolidated with the existing Loan Notes constituted by the Loan Note Instrument.

#### 5. Issue Price

The issue price of the Loan Notes will be 100 per cent. of the total principal amount of the Loan Notes.

#### 6. Interest Rate

Until all of the Loan Notes have been redeemed, interest on the principal amount of each outstanding Loan Note in issue (and on any accrued and outstanding interest that is compounded) will accrue on a daily basis from the date of issue of such Loan Note to the date of redemption of such Loan Note (both days inclusive). The Loan Notes bear interest at the rate of 7.50 per cent. per annum (the “**Interest Rate**”), payable semi-annually in

arrears in equal instalments on 31 January and 31 July (each an “**Interest Payment Date**”), provided that the first Interest Payment Date will be 31 January 2016, and such interest will be pro rated in respect of any period that is less than six months. Any interest which falls for calculation will be calculated on the basis of a 365 day year and actual days elapsed.

If any interest amount becomes payable under the Loan Note Instrument but is not paid, such interest amount will accrue interest at a rate of 2 per cent. above the Interest Rate (compounding on a semi-annual basis on each Interest Payment Date) between the date upon which such amount became payable and the date of actual payment (both days inclusive).

## **7. Meeting of Noteholders**

The Loan Notes contain provisions for convening meetings of Noteholders to consider matters affecting their interests, including the sanctioning by a resolution passed by the Majority of Noteholders of a modification, compromise waiver or release in respect of any obligation of the Company arising under or in connection with the Financial Covenants and the Concentration Covenant and Negative Pledge provisions summarised below or by Extraordinary Resolution of a modification of any other provision of the Loan Note Instrument.

Such a meeting may be convened by the Company or by Noteholders holding in aggregate more than 50 per cent. in principal amount of the Loan Notes in issue and outstanding.

Any such meeting shall be held in all respects as nearly as possible in the same way as is provided by the Company’s articles of association with regards to general meetings, provided that:

- (a) no member of the Company not being a director will be entitled to notice of the meeting or to attend unless he/she is a Noteholder;
- (b) the quorum at any such meeting shall be Noteholders holding or representing by proxy at least 20 per cent. of the principal amount of the Loan Notes for the time being outstanding; and
- (c) if a poll is demanded each Noteholder shall have one vote for each £1.00 in nominal amount of Loan Notes held.

The Loan Note Instrument provides that a resolution whether in one or more documents signed by or on behalf of the Majority of Noteholders will be as valid and effectual as if it had been passed at a meeting of the Noteholders duly convened and held and a resolution whether in one or more documents signed by or on behalf of seventy five per cent. of the principal amount of the outstanding Loan Notes will, for all purposes, be as valid and effectual as an Extraordinary Resolution passed at a meeting duly convened and held.

## **8. Final Redemption**

The Loan Notes will be redeemed in full on 23 July 2022, provided that the Company may extend the Final Redemption Date to 23 July 2023 by giving written notice of such extension to Noteholders on or prior to 31 January 2022, subject to the Company being in compliance with the terms of the Loan Note Instrument on 23 July 2022.

## **9. Early Voluntary Redemption**

The Company may elect, on any one or more occasions, to redeem on a *pro rata* basis:

- (a) on or after 31 July 2018, at par up to 50 per cent. of the aggregate principal amount of Loan Notes issued under the Loan Note Instrument (together with unpaid accrued interest thereon up to (and including) the relevant date fixed for redemption); and
- (b) on or after 31 July 2020, at par up to 75 per cent. of the aggregate principal amount of Loan Notes issued under the Loan Note Instrument (together with unpaid accrued interest thereon up to (and including) the relevant date fixed for redemption).

The Company is required to give Noteholders not less than 30 days’ written notice prior to the redemption of the Loan Notes.

## **10. Mandatory Redemption**

If any of the following events occurs then the Company will, within 90 Business Days of written demand by any Noteholder, repay all of the Loan Notes (together with accrued but unpaid interest thereon) held by such Noteholder:

- (a) the winding up of the Company, other than a solvent winding up for the purposes of amalgamation or reconstruction under which a successor entity undertakes the obligations of the Company under the Loan Note Instrument or a member's voluntary winding up on terms approved by an Extraordinary Resolution;
- (b) the Company stops or threatens to stop payment of its debts;
- (c) the Company ceases its business or threatens to cease its business;
- (d) an administrator of the Company is appointed, or documents filed with the Court for the appointment of an administrator, or notice is given of an intention to appoint an administrator by the Company or the directors;
- (e) a receiver, administrative receiver or similar official is appointed in respect of the whole or a substantial part of the undertaking and assets of the Company;
- (f) any distress or execution is levied or enforced against all or a substantial part of the assets or property of the Company and is not fully discharged within 90 days;
- (g) any process or event with an effect analogous to any of those referred to in (a) to (f) happens;
- (h) a breach of the Financial Covenants occurs, but only if the breach is not remedied within 90 Business Days of the Financial Covenant Test Date to which the breach relates; or
- (i) the Company commits a material breach of the Loan Note Instrument, but only if the breach is not remedied within 90 Business Days of written notice by the Majority of Noteholders requiring such remedy.

## **11. Financial Covenants**

The Company must satisfy the following financial covenants on each Financial Covenant Test Date:

- (a) the Interest Coverage Ratio of the Company must be equal to or greater than 6:1. For the purposes of calculating the Interest Coverage Ratio, any amounts in a currency other than GBP will be converted at the rate of exchange at which the Company would be able, in good faith and using commercially reasonable efforts, to purchase the relevant amount of GBP; and
- (b) for so long as at least 50 per cent. of the principal amount of the Loan Notes issued on or around 23 July 2015 remains outstanding, the Gross Assets Ratio must be equal to or greater than 2:1.

For the purposes of calculating the Interest Coverage Ratio and the Gross Asset Ratio, any principal in respect of, and any interest on, any debt securities purchased (or otherwise held) by the Company will be excluded in its entirety.

## **12. Concentration Covenant**

Without the prior approval of a Majority of Noteholders, the Company will not, after 23 July 2015, make any investment in any single portfolio company (whether in one transaction or a series of transactions), together with any related guarantees or other types of credit support, comprising more than 25 per cent. of the Gross Asset Value of the Company (calculated as of the Financial Covenant Test Date immediately preceding the date on which the Company makes its initial investment in such portfolio company) ("GAV"), except that the Company may invest up to an additional 10 per cent. of GAV in such portfolio company in the form of bridge financing which is repayable within a period of 12 months from the date of such investment.

### **13. Negative Pledge**

The Company is not permitted to grant any security over any of its assets, save for:

- (a) any security granted by the Company in relation to any overdraft facility of the Company or any limited partnership or other entity in which the Company holds a majority of the economic interests (except any portfolio company);
- (b) any security granted to DES Holdings IV(A) LLC (and/or any of its affiliates) in connection with the Company's purchase of any interests of DES Holdings IV (A) LLC in the Fund;
- (c) any netting or set-off arrangement entered into by the Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (d) any lien arising by operation of law and in the ordinary course of trading, including (without limitation) statutory liens;
- (e) any security over or affecting any asset acquired by the Company after the date of this Agreement if the security was not created in contemplation of the acquisition of that asset by the Company and the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by the Company;
- (f) any security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Company and on the supplier's standard or usual terms and not arising as a result of any default or omission by the Company; and
- (g) any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of security given by Company other than any permitted under sub-clauses (c) to (f) above) does not exceed £5,000,000 (or its equivalent in another currency or currencies).

### **14. Withholding Taxes**

All payments to be made by the Company under or in respect of the Loan Notes will be made free and clear of and without deduction or withholding for or on account of tax, save as required by law. If at any time the Company is required by law to make any deduction or withholding for or on account of tax from any payment to a Noteholder it is obliged to promptly notify each of the Noteholders of the amount which it is required to deduct or withhold and to pay such amount in full to the relevant authority within the time allowed for such payment under applicable law.

### **15. Governing Law**

The Loan Notes (and any non-contractual obligations arising out of or in connection with them) are governed by English law.

## PART IV

### DESCRIPTION OF THE COMPANY

#### 1. Overview of the Company

The Company is a private equity investment company advised by the Investment Adviser and focused on investing in small and medium sized companies in the United Kingdom. The Company is incorporated in the Isle of Man with registered number 008597V and its ordinary shares are traded on the AIM market of the London Stock Exchange and the ISDX Growth Market.

The Company seeks to make investments in growth and buyout opportunities, as well as special situations and distressed transactions, making investments where it believes pricing to be attractive and the potential for value creation strong. The Company has the flexibility to invest in both public and private companies.

The Company will consider investments in most industry sectors including consumer, retail, manufacturing, financial services, healthcare and support services. The Company seeks to partner with management teams and entrepreneurs to maximise value by combining financial and operational expertise.

The Company aims to make investments of between £2 million and £10 million in a range of debt and equity instruments with a view to generating returns through both yield and capital gain.

Whilst in general the Company aims to take controlling equity positions, it may seek to develop companies as a minority investor.

The Company looks to invest in businesses with strong fundamentals, including defensible competitive advantage, opportunity for strong future cashflow and outstanding management teams.

The Company aims to maintain a concentrated portfolio of between two and 10 assets.

#### 2. Current portfolio

The Company currently holds investments in the following businesses through the Investment Funds.

(a) ESO Investments 1 LP

*Nexus Industries*

Nexus Industries (“**Nexus**”) is a manufacturer and distributor of electrical accessories in the UK, operating under the brand names British General, Masterplug and Luceco, supplying both the retail and wholesale markets. The development of its Luceco LED lighting ranges is currently a major focus for the business. The gathering momentum behind the lighting technology switch to LED provides Nexus with an opportunity to enter and build market share in the category at a point of disruptive transition as traditional solutions are superseded. Nexus is differentiated by its positioning as a Chinese manufacturer, where Nexus has built a 38,000 square metre wholly-owned production facility in Jiaying, with British product quality, brand and service standards supplying into a global market. Nexus achieved £11.2 million of EBITDA in 2014 and growth continues to be strong. The Investment Adviser is exploring exit options, including a potential initial public offering.

*Whittard of Chelsea*

Whittard of Chelsea (“**Whittard**”) is a retailer of specialty tea, coffee and hot chocolate. Established in 1886, Whittard commands both strong brand recognition and customer loyalty in the UK and abroad. The main sales channel for Whittard is its portfolio of 51 stores across the UK. These stores are positioned in prime locations on the high street, in tourist centres and outlets, with sales generated from both gifting and regular self-purchases. Other channels include the online, wholesale and franchise channels. The Investment Adviser has focused on developing the Whittard brand towards a more premium stance, which should broaden its appeal both in the UK home market and abroad.

*Pharmacy2U*

Pharmacy2U (“**P2U**”) is an online pharmacy business, delivering the National Health Service and private prescriptions direct to the home using technology developed in conjunction with the National Health Service,

the Electronic Prescription Service (known as “**EPSr2**”). In June 2012, Andy Hornby became Chairman of P2U, bringing with him a strong background in healthcare and of operating FTSE 100 companies via his experience at Alliance Boots. He is mandated to drive the sales and marketing effort necessary to capitalise on the potential growth offered by EPSr2 roll-out.

(b) ESO Investments (PC) LLP

*Process Components*

Process Components is an engineering parts and equipment supplier to the powder processing industries, primarily food, agriculture and pharmaceuticals. Customers are blue chip global manufacturers, and the business has been growing its international supply operations.

## PART V

### ADDITIONAL INFORMATION

#### 1. INCORPORATION OF THE COMPANY

The Company was incorporated on 25 July 2003 in the Isle of Man as a public company limited by shares under the Isle of Man Companies Act 1931 to 2004. The Company was re-registered on 23 July 2012 as a public company limited by shares under the Isle of Man Companies Act 2006. On incorporation the name of the Company was EPIC Reconstruction plc, which was changed to EPE Special Opportunities plc on 17 September 2008.

The Company's registered office is at IOMA House, Hope Street, Douglas, Isle of Man IM1 1AP.

The Company's website address is <http://www.epicprivateequity.com/our-business/capital/epe-special-opportunities-plc>.

#### 2. SHARE AND LOAN CAPITAL OF THE COMPANY

The following table shows the issued share and loan capital of the Company as the date hereof and following the issue of the Loan Notes:

	Issued (£)	Number
<b>Ordinary Shares</b>	1,543,205.85	30,864,117
- of which held in treasury	185,047.20	3,700,944
<b>Convertible Loan Notes</b>	10,000,000	10,000,000
- of which held in treasury	8,119,953	8,119,953
<b>Loan Notes</b>	7,975,459	7,975,459

The Ordinary Shares rank *pari passu* in all respects and rank in full for all dividends and other distributions thereafter declared, made or paid on the ordinary share capital of the Company.

#### 3. MEMORANDUM AND ARTICLES OF ASSOCIATION

The Company has authority to issue and allot the Loan Notes pursuant to its Articles and the Loan Notes are duly constituted pursuant to the Loan Note Instrument.

#### 4. AVAILABILITY OF DOCUMENTS

This document is available for review on the Company's website. In addition, hard copies of this document may be collected from the Company's registered office and the offices of Numis Securities Limited.

#### 5. AUTHORISATION OF LOAN NOTES

The issue of the Loan Notes was duly authorised by a resolution of the Board passed on 20 July 2015.

#### 6. USE OF PROCEEDS BY COMPANY

The Loan Notes will be used by the Company to repay some or all of the Convertible Loan Notes or for its general corporate purposes, in particular in pursuit of its stated strategy (as described in Part IV (*Description of the Company*) of this Information Memorandum).

#### 7. SIGNIFICANT CHANGES SINCE 31 JULY 2015



The following significant changes in the financial or trading position of the Company have occurred since 31 July 2015, the date to which the most recent financial information is available:

- (a) the Company has issued £3,475,459 in principal amount of Loan Notes taking the total principal amount of Loan Notes issued since the first issuance date of 23 July 2015 to £7,975,459;
- (b) the Company has re-financed £2,950,459 in principal amount of Convertible Loan Notes by the issuance of an equivalent amount of Loan Notes; and
- (c) the Company has additionally re-purchased £1,231,984 in principal amount of Convertible Loan Notes.

Consequently, the principal amount of the Convertible Loan Notes held by third parties has reduced from £6,062,490 to £1,880,047 since 31 July 2015.

## **8. LITIGATION**

None of the Company or its subsidiaries is or has been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Company is aware) in the 12 months preceding the date of this document which may have or have in such period had a significant effect on the financial position or profitability of the Company.

## **9. CLEARING SYSTEMS**

Application has been made to Euroclear for the Loan Notes to be admitted to CREST. It is expected that the admission to CREST will take effect on 29 January 2016. Accordingly, following such admission, transfers of Loan Notes may take place within the CREST system. The ISIN for the Loan Notes is GB00BYQDQV38.

## **PART VI**

### **DOCUMENTS INCORPORATED BY REFERENCE**

The following documents shall be incorporated in, and form part of, this document:

1. the auditor's report and audited financial statements of the Company for the financial years ended on 31 January 2015, 31 January 2014 and 31 January 2013, which have been published;
2. the AIM admission document published by the Company on 4 August 2010; and
3. all regulatory news announcements released by the Company through the ISDX Growth Market and AIM market of the London Stock Exchange since admission to the date of this document.

Copies of the documents incorporated by reference in this document can be obtained from the registered office of the Company and are published on the Company's website at: <http://www.epicprivateequity.com/our-business/capital/epe-special-opportunities-plc>.

**26 January 2016**

**APPENDIX**  
**LOAN NOTE INSTRUMENT**

23 July

2015

**EPE SPECIAL OPPORTUNITIES PLC**

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**LOAN NOTE INSTRUMENT**

constituting

**£10,000,000 UNSECURED LOAN NOTES DUE 2022**

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THIS INSTRUMENT is made on 23 July 2015

**BY**

**EPE SPECIAL OPPORTUNITIES PLC**, a company incorporated in the Isle of Man with registered number 008597V and having its registered office at IOMA House, Hope Street, Douglas, Isle of Man IM1 1AP (the "Company").

**WHEREAS**

By a resolution of its board of directors the Company has authorised the creation and issue of up to £10,000,000 unsecured loan notes due 2022 to be constituted by this Instrument.

**IT IS AGREED THAT**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Instrument and the schedules hereto unless the contrary intention appears:

"**AIM**" means the market of that name operated by the London Stock Exchange;

"**Articles**" means the articles of association of the Company as altered from time to time;

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks in the City of London and the Isle of Man are open for ordinary banking business;

"**Certificate**" has the meaning given to such term in clause 3.1;

"**Certificated Form**" means any Note which is for the time being evidenced by a Certificate;

"**Financial Covenant Default**" has the meaning given to such term in clause 5.3(b);

"**Financial Covenant Test Date**" means 31 January of each year, commencing on 31 January 2016;

"**CREST**" means the dematerialised securities trading system operated by Euroclear UK and Ireland Limited;

"**Extraordinary Resolution**" means a resolution passed at a meeting of the Noteholders duly convened and held by a majority consisting of not less than 75 per cent. of the persons voting at the meeting upon a show of hands and if a poll is demanded then by a majority consisting of not less than 75 per cent. of the votes given on such poll;

"**Final Repayment Date**" means the seventh anniversary of the date of this Instrument (or if such day is not a Business Day, the succeeding Business Day), as the same may be extended in accordance with clause 5.1(b);

"**Financial Indebtedness**" means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above;

**"Gross Asset Value"** means the aggregate of: (a) the Net Asset Value of the Company; and (b) all Financial Indebtedness and other financial liabilities of the Company determined in accordance with IFRS, in each case as at 31 January of the relevant year;

**"IFRS"** means the International Financial Reporting Standards and International Accounting Standards;

**"Interest Period"** means the period from and including the first date of issue of the Notes to (but excluding) the first Interest Payment Date or any subsequent Interest Payment Date to (but excluding) the next following Interest Payment Date;

**"Interest Payment Date"** has the meaning given to such term in clause 4.3;

**"Interest Rate"** means 7.50 per cent. per annum;

**"Laws"** means all applicable legislation, statutes, directives, regulations, judgments, decisions, decrees, orders, instruments, by-laws, and other legislative measures or decisions having the force of law, treaties, conventions and other agreements between states, or between states and the European Union or other supranational bodies, rules of common law, customary law and equity and all civil or other codes and all other laws of, or having effect in, any jurisdiction from time to time;

**"Majority of Noteholders"** means Noteholder(s) holding in aggregate more than 50 per cent. in principal amount of the Notes in issue and outstanding;

**"Net Asset Value"** means the amount designated as the "Net Asset Value" or "NAV" of the Company in the audited report and accounts of the Company for the relevant year ending on 31 January;

**"Noteholder"** means a person whose name is entered and appears in the Register as a holder of any Notes;

**"Notes"** means the loan notes constituted by this Instrument or, as the case may be, those loan notes for the time being outstanding;







- (ii) the Company is in compliance with the terms of this Instrument on the seventh anniversary of the date of this Instrument.

## 5.2 Early voluntary redemption

The Company may elect, on any one or more occasions, to redeem:

- (a) on or after 31 July 2018, at par up to 50 per cent. of the aggregate principal amount of Notes issued under this Instrument (together with unpaid accrued interest thereon up to (and including) the relevant date fixed for redemption); and
- (b) on or after 31 July 2020, at par up to 75 per cent. of the aggregate principal amount of Notes issued under this Instrument (together with unpaid accrued interest thereon up to (and including) the relevant date fixed for redemption),

provided that:

- (i) if the Company elects to exercise its early redemption right under this clause 5.2, such redemption shall be effected on a *pro rata* basis (as at the date of redemption) in respect of all Noteholders; and
- (ii) the Company shall give the Noteholders not less than 30 days' written notice prior to the redemption of the Notes under this clause 5.2.

## 5.3 Mandatory redemption

If any of the events set out in this clause 5.3 shall occur, the Company shall, within 90 Business Days of written demand by any Noteholder, repay all of the Notes held by such Noteholder (together with all interest accrued thereon but unpaid up to the date of redemption):

- (a) the Company commits any material breach of this Instrument (including, without limitation, any breach of clause 10) which is not remedied within 90 Business Days of service of written notice by the Majority of Noteholders requiring such remedy;
- (b) the Interest Coverage Test (as set out in clause 9.4) or the Gross Asset Test (as set out in clause 9.5) is not satisfied on a Financial Covenant Test Date in accordance with clauses 9.1 and 9.2, respectively (a "**Financial Covenant Default**") and such Financial Covenant Default is not remedied within 90 Business Days following the Financial Covenant Test Date on which the Financial Covenant Default occurred;
- (c) an order is made or an effective resolution is passed for the winding up of the Company other than:
  - (i) a solvent winding up for the purposes of amalgamation or reconstruction under which a successor or successors undertake(s) the obligations of the Company under the Notes; or
  - (ii) a members' voluntary winding up on terms previously approved by an Extraordinary Resolution;
- (d) the Company stops or threatens to stop payment of its debts, or the Company ceases or threatens to cease to carry on its business;
- (e) an administrator of the Company is appointed, or documents are filed with the Court for the appointment of an administrator, or notice is given of an intention to appoint an administrator by the Company or the directors;

- (f) a receiver, administrative receiver or similar official is appointed in respect of the whole or a substantial part of the undertaking and assets of the Company;
- (g) any distress or execution (or other similar process) is levied on or enforced against all or a substantial part of the assets or property of the Company and is not fully paid out or discharged within 90 days; or
- (h) any process or event with an effect analogous to any of those referred to in sub-clauses (d) to (g) above happens to the Company in a jurisdiction outside the Isle of Man.

#### 5.4 Mechanics of redemption

- (a) Every Noteholder whose Notes are in Certificated Form and are due to be repaid or redeemed shall, not later than the due date for such redemption or repayment, deliver the Certificate representing such Notes to the Company or a form of indemnity in respect of any lost certificate satisfactory to the Company (acting reasonably) as the Company shall direct. In respect of any part repayment of such Notes comprised in a Certificate, the Company shall issue a fresh certificate in respect of the Notes not repaid.
- (b) Subject to sub-clause (c) below, on or before the date upon which any Note in Uncertificated Form is to be redeemed, the Company shall send, or procure that a sponsoring system-participant sends on its behalf, an issuer-instruction to the Operator of the relevant system requesting or requiring the cancellation and deletion of any computer-based entries that relate to the relevant Note (being or including entries that caused or could cause CREST to generate an Operator-instruction to the Company or to a sponsoring system-participant acting on its behalf to register such cancellation or deletion). If necessary to obtain the same, the Company, or a sponsoring system-participant on its behalf, shall seek, by means of the relevant system (or by such other means as the Company shall see fit subject always to such other means being possible having regard to the facilities and requirements of the relevant system) confirmation of such cancellation or deletion and, on receipt of such confirmation in a form satisfactory to it, the Company shall repay the Notes.
- (c) In relation to any Notes that are to be redeemed, the Company shall be entitled to determine and/or alter the procedure for effecting the repayment in such reasonable manner as it shall, in its reasonable discretion, see fit, subject always to the facilities and requirements of the relevant system concerned. In particular, but without limiting the generality of the foregoing:
  - (i) the issuer-instruction referred to in sub-clause (b) above may be given in such form as the Company may from time to time determine and may have such effect, and/or cause the Operator to take such action, in relation to the relevant system and the Notes concerned as the Company may from time to time determine (consistent always with the facilities and requirements of the relevant system concerned and with the repayment, on the relevant date, of the Notes concerned);
  - (ii) if, at any relevant time prior to the relevant date for redemption, the Company or any sponsoring system-participant acting on behalf of the Company is unable, for any reason, to send or receive properly authenticated dematerialised instructions, or alternatively if the Company so determines for any other reason, the Company may, so far as it is able having regard to the facilities and requirements of the relevant system concerned, require or request the Operator of the relevant system concerned to take the action referred to in

sub-clause (b) (subject always as provided in sub-clause (c)(i) above) by some means other than by means of an issuer-instruction.

**6. PURCHASE OF NOTES BY THE COMPANY**

The Company may at any time by agreement with the relevant Noteholder(s) purchase Notes at any price by tender, private treaty or otherwise.

**7. CANCELLATION**

All Notes purchased or redeemed or otherwise repaid by the Company shall be cancelled and the Company shall not be at liberty to reissue the same.

**8. FORM AND TRANSFER**

8.1 In relation to the Notes (or as the case may be) each part of the Notes which is, for the time being, a participating security, and for so long as it or that part remains a participating security, no provision of this Instrument shall (notwithstanding anything contained therein) apply or have effect to the extent that it is in any respect inconsistent with:

- (a) the holding of title to the Notes in Uncertificated Form;
- (b) the transfer of title to the Notes by means of a relevant systems; or
- (c) the Regulations.

8.2 Each Note shall be freely transferable in accordance with the provisions of this clause 8.

8.3 The Notes are only transferable in whole units of £1.00 and multiples thereof.

8.4 Subject to clause 8.3, any Notes in Certificated Form are transferable by an instrument in writing in the usual form. Every instrument of transfer must be signed by the transferor or where the transferor is a corporation given under its common seal or signed on its behalf by a duly authorised officer or agent and the transferor shall remain the owner of the Notes to be transferred until the name of the transferee is entered in the Register in respect thereof. Every instrument of transfer must be lodged for registration at the place where the Register shall for the time being be kept accompanied by the Certificate for the Notes all or part of which are to be transferred and such other evidence as the Company may require to prove the title of the transferor or his right to transfer the Notes or the authority of the person signing the same.

8.5 Subject to clause 8.3, the transfer of any Notes in Uncertificated Form shall be effected by means of a relevant system in the manner provided for, and subject as provided, in the Regulations.

8.6 The Company shall not be entitled to assign or transfer all or any of its rights, benefits or obligations hereunder.

**9. FINANCIAL COVENANTS**

9.1 The Company shall ensure that, on each Financial Covenant Test Date, the Interest Coverage Test is satisfied.

9.2 For so long as at least 50 per cent. of the principal amount of Notes issued on or around the date hereof remains outstanding, the Company shall ensure that, on each Financial Covenant Test Date, the Gross Asset Test is satisfied.

9.3 The Company shall calculate each of the Interest Coverage Test and the Gross Asset Test as at each Financial Covenant Test Date as soon as reasonably practicable after the relevant Financial Covenant Test Date and if either the Interest Coverage Test or the Gross Asset Test is not satisfied, the Company shall promptly:

- (a) notify the Noteholders of the same; and
- (b) provide the Noteholders reasonable details of its calculations.

9.4 Interest Coverage Test

- (a) The Interest Coverage Test shall be satisfied on any date if the Interest Coverage Ratio is equal to or greater than 6:1.
- (b) For the purposes of the above:

*Interest Coverage Ratio=*

*Interest Coverage Amount*

*Interest payable on any Financial Indebtedness of the Company in respect of the period commencing on the Financial Covenant Test Date and ending on the immediately succeeding Interest Payment Date*

Where:

- (i) “**Interest Coverage Amount**” means the aggregate of cash and cash equivalents held by or on behalf of the Company or any limited partnership or other entity in which the Company holds a majority of the economic interests (except any portfolio company); and
- (ii) for the purposes of calculating the Interest Coverage Ratio:
  - (A) the Company may convert all amounts into GBP, if any such amount is not already in GBP, at the rate of exchange at which the Company would be able, in good faith and using commercially reasonable procedures, to purchase the relevant amount of GBP;
  - (B) any interest on any debt securities purchased (or otherwise held) by the Company shall be excluded in its entirety; and
  - (C) any interest payable on any Financial Indebtedness of the Company shall be calculated using then current interest rates applicable thereto.

9.5 Gross Asset Test

- (a) The Gross Asset Test shall be satisfied on any date if the Gross Asset Ratio is equal to or greater than 2:1.
- (b) For the purposes of the above:

*Gross Asset Ratio=*

*Gross Asset Value*

*Principal amount of all Financial Indebtedness of the Company (together with any interest accrued but unpaid thereon)*

Where, for the purposes of calculating the Gross Asset Ratio, the principal amount of any debt securities purchased (or otherwise held) by the Company (together with any interest thereon) shall be excluded in its entirety.

## **10. CONCENTRATION COVENANT**

- 10.1 Without the prior approval of a Majority of Noteholders, the Company will not, after the date hereof, make any investment in any single portfolio company (whether in one transaction or a series of transactions), together with any related guarantees or other types of credit support, comprising more than 25 per cent. of the Gross Asset Value of the Company (calculated as of the Financial Covenant Test Date immediately preceding the date on which the Company makes its initial investment in such portfolio company) ("GAV"), except that the Company may invest up to an additional 10 per cent. of GAV in such portfolio company in the form of bridge financing which is repayable within a period of 12 months from the date of such investment.

## **11. NEGATIVE PLEDGE**

- 11.1 The Company shall not create or permit to subsist any Security over any of its assets.

- 11.2 Clause 11.1 above does not apply to any Security listed below or in Schedule 3:

- (a) any netting or set-off arrangement entered into by the Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (b) any lien arising by operation of law and in the ordinary course of trading, including (without limitation) statutory liens;
- (c) any Security over or affecting any asset acquired by the Company after the date of this Agreement if:
  - (i) the Security was not created in contemplation of the acquisition of that asset by the Company; and
  - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by the Company;
- (d) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Company and on the supplier's standard or usual terms and not arising as a result of any default or omission by the Company; and
- (e) any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security given by Company other than any permitted under sub-clauses (a) to (d) above) does not exceed £5,000,000 (or its equivalent in another currency or currencies).

## **12. REGISTER**

- 12.1 The Company shall cause the Register to be maintained showing the principal amount of Notes for the time being issued, the date of issue and all subsequent transfers or changes of ownership of the Notes, the names and addresses of the Noteholders and the persons deriving title under them. A Noteholder and any person authorised in writing by it may at all reasonable times during office hours inspect the Register and take copies of or extracts from the Register or any part of it. The Register may be closed at such times and for such periods as the Company may think fit provided that it shall not be closed for more than ten Business Days in any one calendar year.

- 12.2 The Company will recognise the registered holder of any Notes as the absolute owner thereof and (except as required by Law) shall not be bound to take notice or see to the execution of any trust whether express, implied or constructive to which any Notes may be subject and the Company may accept the receipt of the registered holder for the time being of any Notes for the interest from time to time accruing due in respect thereof or for any other moneys payable in respect thereof as a good discharge to the Company notwithstanding any notice it may have whether express or otherwise of the right, title, interest or claim of any other person to or in any such Notes, interest or moneys.
- 12.3 No notice of any trust, express, implied or constructive, shall (except as provided by Law or as required by order of a court of competent jurisdiction) be entered in the Register in respect of any Notes.
- 12.4 The Company will recognise every registered holder of any Notes as entitled to those Notes free from any equity, right of set-off (whether arising by operation of Law or otherwise) or counter-claim on the part of the Company against the original or any intermediate holder of those Notes or against any amounts payable to such holders of those Notes (including interest accrued thereon).
- 12.5 Any change of name or address on the part of any holder of Notes shall forthwith be notified by the Noteholder to the Company and the Company shall alter the Register accordingly.
- 12.6 If several persons are entered in the Register as joint registered holders of any Notes then the receipt of any one of such persons for any interest or principal or other monies payable in respect of such Notes shall be as effective a discharge to the Company as if the person signing such receipt were the sole registered holder of such Notes.
- 12.7 The Company shall only recognise the personal representatives of a deceased Noteholder (not being one of several joint holders) as having any title to or interest in a Note held by that Noteholder. In the case of the death of any of the joint holders of a Note the Company shall only recognise the survivors or survivor as having any title to or interest in such Note.

### **13. NO WITHHOLDING ETC.**

- 13.1 All payments to be made by the Company under or in respect of the Notes shall be made free and clear of and without deduction or withholding for or on account of Tax, save as required by Law.
- 13.2 If at any time the Company is required by Law to make any deduction or withholding for or on account of Tax from any payment to a Noteholder it shall promptly notify each of the Noteholders of the amount which it is required to deduct or withhold.
- 13.3 If, as a result of a payment being made by or on behalf of the Company under the Notes, the Company is required to deduct or withhold any amount for or on account of Tax, the Company shall pay such amount in full to the relevant authority within the time allowed for such payment under applicable law.

### **14. PAYMENT BY COMPANY**

- 14.1 Whenever any payment in respect of the Notes becomes due on a day which is not a Business Day, it shall be postponed to the next day which is a Business Day.
- 14.2 Subject to clause 14.3, any payment to be made by the Company in respect of any interest or principal or other monies payable in respect of any Notes may be made by cheque, or if any Noteholder shall so request in writing to the Company, by banker's draft or bank transfer to a specified account, made payable to the Noteholder and sent (at the risk of the Noteholder) to its registered address or in the case of joint holders made payable to and sent to that one of the

joint holders who is first named on the Register at its registered address or made payable to such person or persons and sent to such address as the holder or all the joint holders may in writing direct. Due payment of such cheque or banker's draft or by bank transfer shall be a satisfaction of the principal amount and interest represented thereby.

- 14.3 The Company may or may procure the payment of the principal amount, all accrued interest on the Notes and/or any other amount payable by the Company to the Noteholders by means of a relevant system concerned (subject always to the facilities and requirements of that relevant system). Such payment may include the sending by the Company or by any person on its behalf an instruction to the Operator of the relevant system concerned to credit the account of the relevant Noteholder or of such person as the Noteholder in writing directs, in either case being an account designated by the Operator of such relevant system as the cash memorandum account of the Noteholder or, as the case may be, of such person. The making of such payment in accordance with the facilities and requirements of the relevant system concerned shall constitute good discharge to the Company.
- 14.4 If any Noteholder (or the personal representatives of a deceased Noteholder or the trustee in bankruptcy of a bankrupt Noteholder) to whom any payment in respect of any interest or principal or other monies payable in respect of Notes is made or to be made, shall fail or refuse to accept payment of the moneys payable or to give a receipt for the same, such moneys shall be set aside by the Company and paid into a separate bank account and held by the Company in trust for such Noteholder, and such setting aside shall be deemed for all the purposes to be a payment to such Noteholder and the Company shall then be discharged from all obligations in connection therewith. If the Company shall place the said moneys into a separate bank account as aforesaid, the Company shall not be responsible for the safe custody of such moneys or for interest thereon (which shall be for the credit of the Noteholder), and if unclaimed, such moneys shall revert to the Company as set out in clause 14.5.
- 14.5 Amounts in respect of interest on any Notes which remain unclaimed by the Noteholder for a period of five years and amounts due in respect of principal which remain unclaimed for a period of ten years, in each case from the date on which the relevant payment first becomes due, shall revert to the Company and the Noteholder shall cease to be entitled to such amounts notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

## **15. MEETINGS OF NOTEHOLDERS**

The provisions for meetings of holders of the Notes set out in Schedule 2 shall be deemed to be incorporated in this Instrument and shall be binding on the Company and the Noteholders and on all persons claiming through or under them respectively.

## **16. DEALINGS**

The Notes shall be capable of being listed and/or dealt in on any relevant stock exchange, whether in the United Kingdom or elsewhere.

## **17. NOTICES**

- 17.1 Any notice required to be given for any purpose of this Instrument shall unless otherwise provided be given by sending the notice by prepaid post addressed, in the case of a notice to the Noteholders, to each Noteholder at his registered address or, in the case of joint registered Noteholders, addressed to the Noteholder whose name stands first in the Register at his registered address and, in the case of a notice to the Company, at its registered office.
- 17.2 Any notice served by post shall be deemed to have been served on the day following that on which it is posted and in proving such service it shall be sufficient to prove that the notice was



properly addressed stamped and posted (by first class post if available) subject to proof of delivery having been obtained.

**18. INVALIDITY OF ANY PROVISIONS**

If any of the provisions of this Instrument shall become illegal, invalid or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be impaired.

**19. GOVERNING LAW & JURISDICTION**

19.1 This Instrument (including any non-contractual disputes in relation thereto) shall be construed in accordance with and be subject to the law of England and Wales.

19.2 The Company irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any Disputes, and waives any objection to proceedings before such courts on the grounds of venue or on the grounds that such proceedings have been brought in an inappropriate forum. For the purposes of this clause 19.2, "Dispute" means any dispute, controversy, claim or difference of whatever nature arising out of, relating to, or having any connection with this Instrument, including a dispute regarding the existence, formation, validity, interpretation, performance or termination of this Instrument or the consequences of its nullity and also including any dispute relating to any non-contractual rights or obligations arising out of, relating to, or having any connection with this Instrument.

**SCHEDULE 1**  
**FORM OF CERTIFICATE**

Certificate No. [   ]

Principal Amount £[   ]

**EPE SPECIAL OPPORTUNITIES PLC (the "Company")**

Incorporated in the Isle of Man with company number 008597V

£10,000,000 unsecured loan notes due 2022

THIS IS TO CERTIFY THAT

[*Noteholder name*]

is the registered holder of the above principal amount of the £\_\_\_\_\_ unsecured loan notes due 2022 (the "Notes") constituted by an Instrument entered into by the Company on \_\_\_\_\_ 2015 (the "Instrument") and issued with the benefit of, and subject to, the provisions contained in the Instrument.

The Notes and the Instrument are governed by and shall be construed in accordance with the law of England and Wales.

IN WITNESS whereof EPE SPECIAL OPPORTUNITIES PLC has executed this Certificate on

\_\_\_\_\_.

**EXECUTED and DELIVERED**  
as a DEED by  
**EPE SPECIAL OPPORTUNITIES PLC:**

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

Note: The Notes are only transferable in whole units of £1.00 and multiples thereof. No transfer of the Notes represented by this Certificate will be registered unless it is conducted in accordance with the terms of the Instrument and accompanied by this Certificate and lodged with the Company at its registered office.

## SCHEDULE 2

### MEETINGS OF NOTEHOLDERS

1. Subject to the remaining provisions of this Schedule 2, the Company may at any time, and within 7 days of receipt of a request signed by a Majority of Noteholders shall, convene a meeting of the Noteholders by giving not less than fourteen days' notice to the Noteholders and such meeting shall have power by:
  - (a) a resolution passed by the Majority of Noteholders present and voting upon a show of hands or if a poll is demanded by the Chairman of the meeting on such poll:
    - (i) to sanction any scheme for the reconstruction of the Company or for the amalgamation of the Company with any other company;
    - (ii) to give any written approval hereunder required to be given by the Majority of the Noteholders;
    - (iii) to appoint any persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and to confer upon such committee any powers or discretions which the Noteholders could themselves exercise;
    - (iv) to sanction any modification, compromise, waiver or release in respect of any obligation of the Company arising under or in connection with clauses 9, 10 or 11; and
  - (b) subject to paragraph 1(a) of this Schedule 2, an Extraordinary Resolution:
    - (i) to sanction any modification or compromise or any arrangement proposed by the Company in respect of the rights of the Noteholders against the Company or against its property whether such rights shall arise under this Instrument or the Certificates or otherwise;
    - (ii) to assent to any modification of the provisions contained in this Instrument proposed or agreed to by the Company and to agree to any supplemental instrument proposed by the Company embodying any such modification;
    - (iii) to sanction any agreement proposed by the Company for postponing or advancing the time for the payment of principal moneys or interest payable in respect of the Notes;
    - (iv) to release the Company from all or part of its obligations in respect of the Notes or for the exchange of the Notes for, or conversion of Notes into, other securities of the Company or any other company formed or hereafter to be formed; and
    - (v) to give any approval otherwise requiring approval by a unanimous decision of the Noteholders hereunder.
2. A resolution whether in one or more documents signed by or on behalf of the Majority of Noteholders shall be as valid and effectual as if it had been passed at a meeting of the Noteholders duly convened and held and a resolution whether in one or more documents signed by or on behalf of seventy five per cent. of the principal amount of the outstanding Notes shall, for all purposes, be as valid and effectual as an Extraordinary Resolution passed at a meeting duly convened and held.
3. Any meeting for the above purposes shall be convened, conducted and held in all respects as near as possible in the same way as shall be provided by the Articles with regard to general meetings of the Company, provided that:

- (a) no member of the Company not being a director shall be entitled to notice thereof or to attend unless he is a Noteholder;
  - (b) the quorum at any such meeting shall be Noteholders holding or representing by proxy at least 20 per cent. of the principal amount of the Notes for the time being outstanding; and
  - (c) if a poll is demanded each Noteholder shall have one vote for each £1.00 in nominal amount of Notes held.
4. If within thirty minutes (or such longer time not exceeding one hour as the chairman of the meeting may determine to wait) from the time appointed for holding any meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same time and place or at such time and place as the chairman of the meeting may determine and at the adjourned meeting the Noteholder(s) present shall form a quorum. Notice of an adjourned meeting shall be given in like manner as for the original meeting and such notice shall state that the Noteholder(s) present at such meeting whatever the number of Notes held or represented by them will constitute a quorum for all purposes.

### **SCHEDULE 3 PERMITTED SECURITY**

1. Any Security granted by the Company in relation to any overdraft facility of the Company or any limited partnership or other entity in which the Company holds a majority of the economic interests (except any portfolio company).
2. Any Security granted to DES Holdings IV(A) LLC (and/or any of its affiliates) in connection with the Company's purchase of any interests of DES Holdings IV (A) LLC in ESO Investments 1 LP.

**IN WITNESS WHEREOF** this Instrument has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**EXECUTED and DELIVERED**  
as a **DEED** by  
**EPE SPECIAL OPPORTUNITIES PLC:**

Director   
  
~~Director/Secretary~~