

**BIOMEBANK CONVERTIBLE NOTE AGREEMENT - KEY TERMS**

<b>1.</b>	<b>Date of Agreement:</b>	11 October 2021
<b>2.</b>	<b>Company Name:</b>	Cost-Bry Pty Ltd ACN 630 632 610 trading as BiomeBank
<b>3.</b>	<b>Holder Name:</b>	Name: Adam Gamble and Lisa Gamble ATF Adam Gamble Super Fund ACN: N/A Contact person: Adam Gamble Address: Level 1, 139 Frome Street, Adelaide, SA 5000 Email: agamble@crawfordlegal.com.au
<b>4.</b>	<b>Holder Notes (number of) (minimum 25,000):</b>	50,000
<b>5.</b>	<b>Face Value (each):</b>	\$1 each
<b>6.</b>	<b>Issue Date:</b>	11 October 2021
<b>7.</b>	<b>Repayment Date:</b>	11 October 2022
<b>8.</b>	<b>Interest Rate:</b>	10% per annum
<b>9.</b>	<b>Conversion Discount:</b>	15%

## **BIOMEBANK CONVERTIBLE NOTE AGREEMENT**

### **Background**

The Company will issue convertible loan notes to secure interim funding for the Company, which may be either converted into shares in the Company, or be repaid in accordance with this Agreement.

## **I LOAN NOTES**

### **1. Creation and issue of notes**

- 1.1. The Company now creates the Notes, as unsecured convertible notes.
- 1.2. The Notes will be issued on the Issue Date in the form of certificates in the form set out in the Schedule.
- 1.3. The Notes are issued subject to the terms and conditions of this Agreement.

### **2. Payment**

The Holder will pay to the Company on the Issue Date the Face Value of the Holder Notes by bank transfer to the account notified by the Company to the Holder.

### **3. Interest**

- 3.1. The Company will pay interest on the Notes at the Interest Rate. Interest is payable on the first to occur of the Repayment Date or the date of conversion of Notes to Conversion Shares.
- 3.2. Interest runs from and including the Issue Date up to but excluding the relevant date in clause 4.1 or the date of issue of Conversion Shares under clause 5 (as applicable), and accrues on a simple basis, without compounding.

### **4. Repayment**

- 4.1. The Face Value and accrued interest of all unconverted Notes will be paid on the Repayment Date.
- 4.2. Any repayment of unconverted Notes and accrued interest must be made on the Repayment Date in immediately available funds, without any set-off, charge or deduction, but if the relevant date is not a Business Day, payment will be made on the next succeeding Business Day and the extension of time will be included in the calculation of interest payable.

## II CONVERSION

### 5. Conversion

5.1. In the event of an Equity Placement agreed by the Board that complies with clause 5.2, all unconverted Notes and accrued interest will be converted to Shares (“**Conversion Shares**”) at a discount of the Conversion Discount to the lowest issue price of securities issued to the investors under the Equity Placement (“**Conversion Price**”).

5.2. The minimum Equity Placement required for the conversion of Notes to Shares will be \$5,000,000.

5.3. The number of Conversion Shares to be issued to the Holder is calculated in accordance with the following formula:

$$\text{No. of Conversion Shares} = \text{FV} / \text{CP}$$

where:

FV = Face Value of the total number of Notes held by the Holder together with any accrued interest

CP = Conversion Price in accordance with clause 5.1.

5.4. Immediately prior to the completion of the Equity Placement, the Company will issue and allot the required number of Conversion Shares to the Holder. If the total number of Conversion Shares to be issued to the Holder in accordance with the formula in clause 5.2 is not a whole number, the relevant fraction shall be rounded up to the nearest whole number of Shares.

5.5. The rights of the Holder and the obligations of the Company under this Agreement shall cease at such time as the Face Value of the Notes together with accrued interest has been repaid in full, or converted to Conversion Shares.

5.6. As soon as practicable following the conversion of the Notes, and in any event within seven (7) Business Days thereafter, but subject to the Holder having executed all Transaction Documents as requested by the Board, the Company at its expense (including the payment by it of any applicable issue taxes) will issue and deliver to the Holder, or as the Holder may direct, a certificate or certificates for the Conversion Shares.

5.7. The Conversion Shares will rank equally in all respects with all other ordinary shares in the Company. The Conversion Shares will be governed by the terms of the Company’s Constitution and the Transaction Documents.

5.8. Failure by a Holder to execute any Transaction Document as requested by the Board in a timely fashion will constitute a breach of this Agreement

5.9. The Holder unconditionally and irrevocably appoints the Chair for the time being of the Board as their lawful attorney to prepare, complete, execute and deliver all and any Transaction Documents, and all other reasonably necessary or related documents, for the purpose of effecting or giving effect to the conversion of the Holder’s Notes in accordance with this clause 5.

- 5.10. If the Equity Placement is such that a single entity or person is to acquire, or offers to acquire, all of the Shares in the Company (including Conversion Shares), then the Board may, in its discretion, determine that instead of the conversion of the Notes (and accrued interest) to Shares, the Holder will receive repayment of its Notes (and accrued interest) together with an additional payment so as to amount to a single aggregate payment calculated as follows –

Amount to be paid (\$) =

$$\frac{\text{Face Value of Notes} + \text{accrued interest}}{(1 - CD)} \text{ where CD is the Conversion Discount expressed as a simple fraction (for example 0.15 rather than 15\%).}$$

- 5.11. Under no circumstances will any Transaction Document require a Holder to give any warranty to new investors involved in the Equity Placement.

### **III GENERAL**

#### **6. Covenants by the Company**

The Company hereby covenants and agrees with the Holder that it will:

- (a) execute and do all such assurances and things as will be reasonably required to give effect to this Agreement and conferring the full benefit of this Agreement upon the Holder;
- (b) ensure that while the Notes are outstanding the voting and other rights attached to the ordinary shares in the capital of the Company will not be altered in a manner which is in the reasonable opinion of the Company materially prejudicial to the Holder;
- (c) duly and punctually observe, fulfil, perform and comply with all the covenants, terms, conditions and obligations imposed upon it under this Agreement;
- (d) not without the prior consent in writing of the Holder:
  - (i) declare or pay any dividend before the Notes have been repaid or redeemed (as the case may be) in accordance with this Agreement; or
  - (ii) reduce or attempt to reduce its capital.

#### **7. Representations by the Company**

The Company represents and warrants that each of the following statements are true and accurate at the date of this Agreement and will be true and accurate on the relevant date in clause 4.1:

- (a) it is validly existing under the laws of South Australia;
- (b) it has the power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement;

- (c) it has taken all necessary action to authorise its entry into and performance of this Agreement and to carry out the transactions contemplated by this Agreement; and
- (d) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms.

## **8. Notices**

- 8.1. Notice to be given under or pursuant to this Agreement must be in writing and be deemed duly given or made if delivered or sent by email transmission as follows:

(a) **The Company**

Attention: CEO, Thomas Mitchell  
Address: Level 1, 2 Ann Nelson Drive, Thebarton SA 5000  
Email: [tmitchell@biomebank.com](mailto:tmitchell@biomebank.com) and copy to [registry@biomebank.com](mailto:registry@biomebank.com)

(b) **The Holder**

As per contact details for the Holder set out in the Key Terms

A party may change its address and contact details for the purpose of this Agreement by giving notice of such changes to the other party.

- 8.2. Any notice, demand or other communication shall be deemed, in the absence of proof to the contrary, to have been received by the person to whom it was sent:
- (a) in the case of hand delivery, upon such delivery;
  - (b) in the case of mail, on the 5<sup>th</sup> Business Day after posting; and
  - (c) in the case of email transmission, 24 hours after the time of despatch.

## **9. Basis of Notes, Costs and Stamp Duty**

- 9.1. The Notes are issued in accordance with and subject to section 708 *Corporations Act 2001*. Neither the Notes nor this Agreement or any rights, entitlements, benefits or obligations may be assigned, transferred or delegated in any manner except with the approval of the Board. The Holder warrants and confirms that they are a sophisticated investor for the purposes of section 708(8) *Corporations Act 2001*.
- 9.2. The Holder has made its own assessment of the Company and has decided to invest in Notes based on this and not in reliance upon any act, recommendation or representation made by the Company, other than as set out in clause 7. The Holder acknowledges and confirms that the Company has not provided any recommendation or financial product advice, nor had regard to the Holder's particular financial situation and needs, and the Holder is solely responsible for obtaining its own advice, including tax advice, regarding investment in the Notes.

- 9.3. Each party will pay its own costs in connection with this Agreement and all transactions contemplated by this Agreement.
- 9.4. Any stamp duty payable on this document is payable by the Company.

## **10. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of South Australia. Each party submits to the non-exclusive jurisdiction of the Courts of South Australia.

## **11. Alterations to Terms**

The terms of this Agreement may be varied with the consent of the Board and Holders holding together not less than 75% of the total aggregate Face Value of all outstanding Notes if the Board reasonably determines that any such variation is not unduly prejudicial to the rights of any non-consenting Holder.

## **12. Definitions and Interpretation**

- 12.1. In this Agreement (which includes the 'Key Terms' on page 1), unless the context otherwise requires:
- (a) a word denoting the singular number includes the plural and vice versa;
  - (b) a reference to a person includes individuals, corporations, partnerships, limited partnerships, joint ventures, associations, companies, trusts or other organisations, whether or not legal entities;
  - (c) a heading and a cross reference to a heading is for convenience only and does not affect interpretation; and
  - (d) words or phrases used or set out in the Key Terms have the meaning ascribed to them there.
- 12.2. **Australian Dollars and AU\$** means the lawful currency of Australia.
- 12.3. **Board** means the board of the Company
- 12.4. **Company** means Cost-Bry Pty Ltd
- 12.5. **Business Day** means a day on which banks are open for business in Adelaide, South Australia, excluding any Saturday, Sunday or public holiday.
- 12.6. **Conversion Shares** means the Shares into which the Notes may be converted in accordance with clause 5 of this Agreement.
- 12.7. **Conversion Price** means the price per share at which a Note is converted into Shares calculated in accordance with clause 5 of this Agreement.
- 12.8. **Equity Placement** means the placement of equity securities to any third party individuals or entities for an aggregate price of at least \$5M in one or a series of related transactions.

12.9. **Note** means the unsecured convertible notes created and issued pursuant to this Agreement.

12.10. **Shares** means fully paid ordinary shares in the Company.

12.11. **Transaction Documents** means all documents required to complete the Equity Placement and may include a new shareholder agreement negotiated between the Board and the new investors in the Equity Placement.

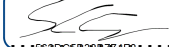
**EXECUTED** as an Agreement

**EXECUTED for and on behalf of**

**COST-BRY PTY LTD**

in accordance with its constitution

DocuSigned by:



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Signature of authorised person

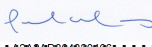
DIRECTOR

Office held

SAMUEL PAUL COSTELLO

Name of authorised person  
(block letters)

DocuSigned by:



A25LAD6B4520406

Signature of authorised person

COMPANY SECRETARY

Office held

PETER MANOS

Name of authorised person  
(block letters)

**Adam Gamble and Lisa Gamble ATF Adam Gamble Super Fund**

DocuSigned by:



D623B698EAB8418

Signature of authorised person


Trustee

Office held

Adam Gamble

Name of authorised person  
(block letters)

DocuSigned by:



7B2916A86F7440B

Signature of authorised person

Trustee

Office held

Lisa Gamble

Name of authorised person  
(block letters)

**SCHEDULE**

**CONVERTIBLE NOTE CERTIFICATE No. 39**

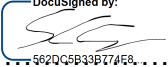
**COST-BRY PTY LTD (TRADING AS BIOMEBANK)**

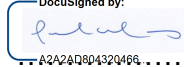
**ACN 630 632 610**

This is to certify that Adam Gamble and Lisa Gamble as trustees for Adam Gamble Super Fund are the registered holder of 50,000 unsecured convertible notes in the total amount of AU\$50,000 issued in accordance with the Convertible Note Agreement dated 11 October 2021 between Cost-Bry Pty Ltd and Adam Gamble and Lisa Gamble.

Date: 11 October 2021

**Executed by COST-BRY PTY LTD**

DocuSigned by:  
  
562D65B33B774F8.....  
Signature of director

DocuSigned by:  
  
A2A24D8D432Q466.....  
Signature of company secretary

SAMUEL PAUL COSTELLO  
.....  
Name of director (print)

PETER MANOS  
.....  
Name of company secretary (print)