



**ABN 61 094 380 435**

# **RIGHTS ISSUE OFFER MEMORANDUM**

**A non-renounceable pro rata rights issue of 1 New Share for every 8 Shares held at the Record Date at an issue price of \$0.55 per New Share to raise approximately \$10.9 million.**

**CLOSING DATE: 5.00pm CST on Friday 12 June, 2009**

This rights issue is partially underwritten by Lonsec Limited ACN 061 751 102

**THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND IT, OR ARE IN DOUBT AS TO HOW TO ACT, YOU SHOULD CONSULT YOUR FINANCIAL OR OTHER PROFESSIONAL ADVISER.**

## IMPORTANT NOTICES

---

### Forward Looking Statements

This Offer Memorandum includes forward looking statements that have been based on current expectations about future acts, events and circumstances. These forward looking statements are, however, subject to risks, uncertainties and assumptions that could cause those acts, events and circumstances to differ materially from the expectations described in such forward looking statements. These factors include, among other things, commercial and other risks associated with the meeting of objectives and other investment considerations, as well as other matters not yet known to the Company or not currently considered material by the Company.

### Foreign Jurisdictions

The distribution of this Offer Memorandum within jurisdictions outside Australia and New Zealand may be restricted by law and persons into whose possession this Offer Memorandum comes should inform themselves about and observe any such restrictions.

## CORPORATE DIRECTORY

---

### Directors:

Hagen Stehr AO – Chairman  
Marcus Stehr – Managing Director  
Sir Tipene O’Regan – Non Executive Director  
Ian McLachlan AO – Non Executive Director  
Paul Robinson – Alternate Director for  
Hagen Stehr

### Company Secretary:

Frank Knight

### ASX Code:

CSS

### Registered Office:

Unit 1  
7 North Quay Boulevard  
PORT LINCOLN SA 5606

Telephone: (08) 8621 2910  
Facsimile: (08) 8621 2990  
Web: [www.cleanseastuna.com.au](http://www.cleanseastuna.com.au)

### Underwriter:

Lonsec Limited  
Level 17  
15 Castlereagh Street  
SYDNEY NSW 2000

### Auditor:

Grant Thornton South Australian Partnership  
Level 1  
67 Greenhill Road  
WAYVILLE SA 5034

### Legal Adviser:

O’Loughlins Lawyers  
Level 2  
99 Frome Street  
ADELAIDE SA 5000

### Share Registrar:

Registries Limited  
Level 7  
202 Kent Street  
SYDNEY NSW 2000  
GPO Box 3993  
SYDNEY NSW 2001

Telephone: (02) 9290 9600  
Facsimile: (02) 9279 0664

### Lead Manager:

Helmsec Global Capital Limited  
Level 17  
15 Castlereagh Street  
SYDNEY NSW 2000

## CHAIRMAN'S LETTER

---

12 May 2009



Dear Shareholder,

On behalf of your Directors, I am pleased to offer you an opportunity to participate in a non-renounceable rights issue of New Shares. The Offer entitles Shareholders on the Record Date of 20 May 2009 to subscribe for 1 New Share for every 8 Shares held at a price of \$0.55 per New Share. Further, if you take up your full entitlement under the rights issue then you will also have the opportunity to apply for additional New Shares that are not subscribed for in the rights issue (**Shortfall Facility**) except that 1,625,000 New Shares of the Shortfall Facility will be issued to a client of Helmssec Global Capital Limited ACN 129 825 798 (the Lead Manager in relation to the Offer) in priority to any other issue of New Shares in the Shortfall Facility. The Offer is partially underwritten by Lonsec Limited ACN 061 751 102 (**Underwriter**), which has agreed to underwrite the number of New Shares to be issued under the Offer excluding \$5 million of the New Shares to be subscribed for by Australian Tuna referred to below.

On the date of this Offer Memorandum, there are approximately 158.5 million Shares on issue. A further approximately 43,590,281 Shares are to be issued under the rights issue and the Placement referred to below.

The holders of these existing issued 158.5 million Shares will be entitled to participate in the rights issue to the extent of approximately 19.8 million New Shares to raise up to approximately \$10.9 million. Whereas the Stehr family companies, Australian Tuna and Stehr Group, have an existing aggregate shareholding of 86,634 million Shares, Australian Tuna has agreed to participate in the rights issue for portion of its Entitlement of approximately 9.09 million New Shares to raise approximately \$5 million. The Underwriter will not underwrite these New Shares. Stehr Group and ATF will not otherwise participate in the rights issue. None of Stehr Group, Australian Tuna, the Directors of the Company and their associates will be entitled to participate in the Shortfall Facility.

Accordingly, the rights issue has the potential to result in the issue of a maximum of approximately 19.8 million New Shares to raise up to approximately \$10.9 million (before costs) under this Offer Memorandum.

Clean Seas also announced a Placement of 23,775,000 Shares to sophisticated and professional investors to raise a further approximately \$13.1 million at \$0.55 per Share. The holders of the Placement Shares will not be entitled to participate in the rights issue.

The proceeds of the Offer and Placement will be used as follows:

- |                |   |                             |               |
|----------------|---|-----------------------------|---------------|
| • Rights Issue | - | infrastructure improvement  | \$5.4 million |
|                | - | working capital/issue costs | \$5.5 million |
| • Placement    | - | infrastructure improvement  | \$6.6 million |
|                | - | working capital/issue costs | \$6.5 million |

The above assumes that each of the Offer and the Placement will be fully subscribed. Should this not be the case, this will result first in a reduction in the available working capital.

The rights issue Offer will be conducted without a prospectus in accordance with the streamlined offering provisions of section 708AA of the Corporations Act.

Please read this document carefully before you make your decision to invest. An investment in Clean Seas and the aquaculture sector contains risks which are referred to in Section 5 and which you should consider before making that decision.

I look forward to your support of the rights issue.

Yours sincerely,



**Hagen Stehr AO**  
Chairman

## KEY DATES

---

The indicative timetable for the Offer is as follows:

EVENT	DATE
<b>Announcement of Rights Issue</b> – Announcement of Rights Issue, Offer Memorandum, ASX Appendix 3B and Cleansing Notice lodged with ASX	Tuesday, 12 May 2009 (before commencement of trading)
<b>Notice Date</b> – Notice sent to shareholders containing Appendix 3B details, and indicative timetable	Wednesday, 13 May 2009
<b>Ex date</b> – The date on which Shares commence trading without the entitlement to participate in the Offer	Thursday, 14 May 2009
<b>Record date</b> – The date for determining entitlements of Shareholders to participate in the Offer	Wednesday, 20 May 2009
<b>Issue of Placement Shares</b>	Thursday, 21 May 2009
<b>Offer Memorandum sent to Shareholders</b> – Dispatch of Offer Memorandum and Entitlement and Acceptance Forms – Offer opens	Monday, 25 May 2009
<b>Closing Date</b> – The last day for receipt of Entitlement and Acceptance forms and payment (5.00pm CST)	Friday, 12 June 2009
<b>Deferred settlement period</b> – Securities are quoted on a deferred settlement basis	Monday, 15 June 2009
<b>Shortfall notification date</b> – Notify ASX of under subscriptions	Wednesday, 17 June 2009
<b>Dispatch date</b> – Allotment of New Shares under the Offer and despatch of holding statements	Monday, 22 June 2009
<b>Expected commencement of normal trading in New Shares on ASX</b> – New Shares issued under rights issue commence trading on a normal settlement basis	Tuesday, 23 June 2009

*Subject to the Listing Rules, the Directors reserve the right to extend the Closing Date of the Offer at their discretion. Should this occur, then the extension will have a consequential effect on the anticipated date of issue and normal trading of the New Shares.*

## SECTION 1: Details of the Offer

---

### 1.1 Offer

Clean Seas offers New Shares in Clean Seas to each of its Eligible Shareholders under a non-renounceable rights issue. Each Eligible Shareholder is entitled to subscribe for one 1 New Share for every 8 Shares held by that Shareholder on the Record Date (ie 5.00 pm CST on 20 May 2009) at an issue price of \$0.55 per New Share.

If a Shareholder becomes entitled to a fraction of a New Share, then the Entitlement will be rounded up to the nearest whole number.

The issue price of the New Shares represents a discount of 29% to the volume weighted average price of Clean Seas Shares during the 14 trading day period to and including 6 May 2009.

The New Shares will be fully paid and will rank equally in all respects with Clean Seas' existing Shares on issue. Application has been made for the New Shares to be admitted to quotation on the official list of ASX.

### 1.2 What is my entitlement?

The number of New Shares to which you are entitled is shown in the accompanying Entitlement and Acceptance Form.

You can elect:

- to subscribe for all of your Entitlement;
- to subscribe for additional New Shares under the Shortfall Facility, if you subscribe for your maximum Entitlement;
- to subscribe for part of your Entitlement; or
- to not take up any of your Entitlement.

Detailed instructions on how to accept all, part or none of your Entitlement are set out in Section 3.

If you choose not to take up all your Entitlement, your shareholding in the Company will be diluted to the extent that the Offer is taken up by other Shareholders.

### 1.3 Shortfall Facility – Additional New Shares

In addition to being able to apply for New Shares in the manner described above, Shareholders who subscribe for their full Entitlement will also have the opportunity to apply for additional New Shares that are not subscribed for in the Offer (**Shortfall Facility**), subject to the limitations set out in Section 4.

## 1.4 Australian Tuna and Stehr Group

Australian Tuna and its holding company, Stehr Group, hold in the aggregate 54.65% of the issued share capital of Clean Seas. Australian Tuna has entered into an agreement with the Company pursuant to which it has committed to subscribe for a total of 9,090,909 New Shares being portion of its full Entitlement of 10,688,625 New Shares. Australian Tuna has advised Clean Seas that it will not apply for the balance of its Entitlement and Stehr Group has advised that it will not apply for any of its Entitlement. Stehr Group and Australian Tuna will not be entitled to participate in the Shortfall Facility.

Further to the above and having regard to the Underwriting Agreement, on completion of the Offer and the issue of the Placement Shares, the combined holding of Australian Tuna and Stehr Group will decrease from 54.65% to 47.36% of the undiluted issued share capital of Clean Seas.

Further disclosure in relation to the potential effect on the control of Clean Seas for Australian Tuna and Stehr Group as well as the Underwriter, and the consequences of that effect is contained in the Cleansing Notice released to the ASX on 12 May 2009.

## 1.5 Underwriter

The Offer is partially underwritten by Lonsec Limited (**Underwriter**) which has agreed to underwrite the number of New Shares to be issued under the Offer excluding the New Shares to be subscribed for by Australian Tuna referred to in section 1.4 above.

Refer to section 6.3 of this Offer Memorandum for further details of the terms of the Underwriting Agreement.

## 1.6 Opening and Closing Dates

The Offer opens for receipt of acceptances on 25 May 2009. The Closing Date and time for acceptances and payments is 5.00pm CST on 12 June 2009, subject to the Directors varying the closing date in accordance with the Listing Rules.

## 1.7 Effect of Offer on share capital of Clean Seas

The effect of the Offer on the capital structure of Clean Seas will be as follows:

Shares	Number
Number of Shares on issue as at 11 May 2009, the day immediately prior to announcement of the Offer	158,522,253
Number of Placement Shares to be issued	23,775,000
Maximum number of New Shares to be issued under the rights issue	19,815,281
Maximum number of Shares on issue following the Placement and the rights issue	202,112,534

## 1.8 Issue of New Shares

The Company expects that the New Shares will be issued by no later than 23 June 2009. The issue of New Shares will only be made after permission for their quotation on ASX has been

granted. If permission is not granted, application monies received will be refunded as soon as practicable. No interest will be paid on application monies held and returned.

## SECTION 2: Purpose of the Offer

---

On completion, the Offer will raise approximately \$10.9 million (before costs). The funds raised will be applied as follows:

• upgrade of water supply and SBT larval rearing system	\$1.8 million
• SBT and Kingfish nets and cages	\$0.9 million
• capitalised SBT propagation costs	\$1.8 million
• additional automated feed systems	\$0.9 million
• working capital	\$4.9 million
• costs of Offer	<u>\$0.6 million</u>
total	<u>\$10.9 million</u>

The Placement will raise approximately \$13.1 million which will be applied as follows:

• upgrade of water supply and SBT larval rearing system	\$2.2 million
• SBT and Kingfish nets and cages	\$1.1 million
• capitalised SBT propagation costs	\$2.2 million
• additional automated feed systems	\$1.1 million
• working capital	\$5.7 million
• costs of Placement	<u>\$0.8 million</u>
total	<u>\$13.1 million</u>

The above assumes that each of the Offer and the Placement will be fully subscribed. Should this not be the case, this will result first in a reduction in the available working capital.

## **SECTION 3: Actions Required by Shareholders**

---

The following alternatives are available to Shareholders.

### **3.1 Taking up all of your Entitlement**

If you wish to take up all of your Entitlement, complete the accompanying Entitlement and Acceptance Form for New Shares in accordance with the instructions set out in that form.

You should then forward your completed Entitlement and Acceptance Form together with your application money or alternatively make your payment via BPay in accordance with sections 3.5 and 3.6 to reach the Company's Share Registrar no later than 5:00pm CST on 12 June 2009.

### **3.2 Taking up all of your Entitlement and applying for additional New Shares under the Shortfall Facility**

If you wish to apply for New Shares in addition to your Entitlement, complete the accompanying Entitlement and Acceptance Form for additional New Shares under the Shortfall Facility as detailed in section 4, and follow the other steps required in section 3.1.

### **3.3 Taking up part of your Entitlement and allowing the balance to lapse**

If you wish to take up only part of your Entitlement, follow the instructions on the accompanying Entitlement and Acceptance Form to apply for the number of New Shares you wish to take up and follow the steps detailed in section 3.1. The balance of your Entitlement will lapse.

### **3.4 Lapse of Entitlement**

If you decide not to accept all of your Entitlement or fail to do so by the Closing Date, your Entitlement will lapse.

### **3.5 Payment**

Entitlement and Acceptance Forms must be accompanied by payment in full of \$0.55 per New Share subscribed for.

Payments must be made by 5.00pm CST on 12 June 2009 and must be in Australian currency and by:

- cheque drawn on and payable at any Australian bank; or
- bank draft drawn on and payable at any Australian bank.

Cheques or bank drafts must be made payable to 'Clean Seas Tuna Limited – Rights Issue Account' and crossed 'Not Negotiable'. Cash payments and money orders will not be accepted and receipts for payment will not be provided.

Alternatively, payment can be made via BPay by following the instructions on the enclosed Entitlement and Acceptance Form.

Please note that should you choose to pay by BPay:

- you do not need to submit the enclosed Entitlement and Acceptance Form but are taken to make the declarations, warranties, representations and agreements on that Form; and
- if you do not pay for your full Entitlement, you are deemed to have taken up your Entitlement in respect of such whole number of New Shares which is covered in full by your payment.

It is the responsibility of the applicant to ensure funds submitted through BPay are received by 5.00pm CST on 12 June 2009. You should be aware that your financial institution may implement earlier cut off times with regards to electronic payment, and you should therefore take this into consideration when making payment.

### **3.6 Send To**

Completed Entitlement and Acceptance Forms and accompanying payments must be returned to the Share Registrar at the following address and received no later than 5.00pm CST on 12 June 2009.

Clean Seas Tuna Limited  
c/- Registries Limited  
GPO Box 3993  
SYDNEY NSW 2001

A reply paid envelope is enclosed for your convenience. If mailed in Australia, no postage stamp is required.

## **SECTION 4: Shortfall Facility**

---

### **4.1 How to apply for additional New Shares under the Shortfall Facility**

The Directors reserve the right to issue New Shares pursuant to applications under the Shortfall Facility at their discretion as set out below in accordance with Exception 3 in ASX Listing Rule 7.2.

In addition to an Eligible Shareholder being able to apply for New Shares under their Entitlement in the manner described in section 3 above, Shareholders (excluding Australian Tuna, Stehr Group, the Directors of the Company and their associates) who take up their Entitlement in full will also have the opportunity to apply for additional New Shares.

Shares issued under the Shortfall Facility will be issued at the same price and on the same terms as the New Shares offered under a Shareholder's Entitlement and a Shareholder (excluding Australian Tuna, Stehr Group, the Directors of the Company and their associates) may only make an application for additional Shares under the Shortfall Facility if it applies for its maximum Entitlement.

Shares will only be issued under the Shortfall Facility if the Offer is undersubscribed and will only be issued to the extent necessary to make up any shortfall in subscriptions. 1,625,000 New Shares of the Shortfall Facility will be issued to a client of Helmsec in priority to any other issue of New Shares in the Shortfall Facility and subject thereto, if the Company receives applications for Shares under the Shortfall Facility that would result in the Offer being oversubscribed then the Company will scale back applications for additional Shares in the Directors' discretion.

There is no guarantee that Shareholders will be successful in being allocated any additional Shares that they may apply for under the Shortfall Facility.

The Directors reserve the right to reject any application for additional Shares under the Shortfall Facility or to allot a lesser number of Shares than applied for under the Shortfall Facility. Application monies received but not applied towards subscriptions for Shares under the Shortfall Facility will be refunded as soon as practicable. No interest will be paid on application monies held and returned. Furthermore, the Company will not issue Shares under the Shortfall Facility where to do so would result in a breach of the Corporations Act or the Listing Rules.

Any Entitlement not taken up pursuant to the Offer will form the shortfall and will be dealt with, firstly, in accordance with the Shortfall Facility and then in accordance with the Underwriting Agreement.

### **4.2 Completion of Entitlement and Acceptance Form**

All acceptances for New Shares and Shares under the Shortfall Facility offered under this Offer Memorandum must be either made on the enclosed personalised Entitlement and Acceptance Form or submitted via BPay, in accordance with instructions set out in the Form. A Shareholder may only make an application for Shares under the Shortfall Facility if the Shareholder applies for their maximum Entitlement of New Shares under the Offer.

## **SECTION 5: Risk Factors**

---

Activities in the Company and its controlled entities, as in any business, are subject to risks which may impact on the Company's future performance.

Prior to deciding whether to take up their Entitlement, Shareholders should read the entire Offer Memorandum and review announcements made by the Company to the ASX in order to gain an appreciation of the Company, its activities, operations, financial position and prospects.

Shareholders should also consider the following summary of risk factors which the Directors believe represent some of the general and specific risks that Shareholders should be aware of when evaluating the Company and deciding whether to increase their shareholding in the Company. The following risk factors are not intended to be an exhaustive list of all of the risk factors to which the Company is exposed.

### **5.1 General Market**

Investors should recognise that the price of Shares might fall as well as rise. In particular, the trading price of Shares at any given time may be higher or lower than the price paid to acquire Shares under this Offer. Further, there can be no assurance that an active trading market will develop in the Shares.

The market for securities in aquaculture companies has typically been more volatile than other share investments. Such securities have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. A significant decline in the stockmarket performance of aquaculture businesses is likely to have a material adverse effect on the price and liquidity of the Shares.

Many other factors will also affect the price of the Shares, including general fluctuations in the performance of local and international stock markets, movements in interest rates and exchange rates, general economic conditions and investor sentiment.

### **5.2 Product Prices**

Southern Bluefin Tuna (SBT), Mulloway and Kingfish prices have varied significantly over recent years and are difficult to predict. Developments in the aquaculture industry, competitor behaviour or the behaviour of new entrants in combination with the price of substitute products and other contractual terms may influence SBT, Mulloway and Kingfish prices. As such, potential decreases in the market price of SBT, Mulloway and Kingfish could cause occasions where Clean Seas may not be able to sell its products at an economic profit.

### **5.3 Currency**

Clean Seas currently produces and sells Kingfish and Mulloway in commercial quantities and seeks to commence production of SBT in FY2010. Kingfish and Mulloway prices are largely denominated in Australian dollars but selling into foreign markets exposes the Company to exchange rate fluctuations associated with the Euro, British pound and US dollar currencies. SBT revenues may be largely denominated in Japanese Yen, while the majority of expenses are paid in Australian dollars. Currency exchange rate fluctuations may have an impact on the performance of the Company.

As part of an ongoing risk management strategy the Company has taken foreign exchange hedge cover for proposed Mulloway and Kingfish sales for FY2009. This effectively removes the risk from currency fluctuations for sales denominated in currencies other than Australian dollars. This is an ongoing strategy to lock in returns from sales denominated in foreign currencies.

## **5.4 Operating History**

The Stehr family's operations commenced at Arno Bay in 2000. Clean Seas was listed on the ASX in December 2005. Clean Seas' operations at Fitzgerald Bay and Port Augusta were only acquired in October 2006 through the acquisition of South Australian Aquaculture Management's ("SAAM") Kingfish business. Clean Seas was successful in breeding SBT fingerlings in the second quarter of FY2009 and expects SBT production from FY2010. Accordingly, investors can only evaluate Clean Seas business based on a limited operating history. Investors should consider Clean Seas' prospects for revenue growth in light of the risks, technical and operational challenges, expenses and difficulties typically encountered by companies in their early stages of operation.

## **5.5 Reliance on Key Personnel**

Clean Seas' business development has been, and is likely to continue to be, largely dependent upon the commitment and expertise of its key personnel. Clean Seas has entered into employment agreements with the majority of its senior management team.

While Clean Seas has ensured sufficient senior aquaculture staff are employed, the loss of, or significant interruption to, the continued full-time services of any key personnel may have a material adverse effect on Clean Seas' future operation and financial performance.

## **5.6 Operating Risks**

In addition to the technical risks associated with breeding and growing out SBT, Mulloway and Kingfish, Clean Seas could be adversely affected by disruptions to operations caused by (among other things) adverse climatic conditions, labour disputes and port delays.

The occurrence of operating risks can result in increased production costs for Clean Seas and may materially affect Clean Seas' competitive position or ability to derive profits. In particular, operating costs may be materially impacted by adverse conditions. Processing costs and yields may be impacted by the quality of and operating costs of the grow-out phase.

Additionally, investors should be aware of the risks involved when operating a business at sea. Adverse weather conditions may affect fish health, fishing regularity, containment of fish, fishing net integrity and general operations.

Clean Seas announced to the ASX on 6 April 2009 that the Company is seeking greater profitability from the operations and targeting a farmgate margin of A\$3/kg by FY2010 for Kingfish and A\$10/kg for SBT by FY2015 respectively. It is entirely possible that the Company may not achieve its target operational improvements due to the abovementioned operating risks.

## **5.7 Desalination Plant**

If approved, construction and operation of a desalination plant at Point Lowly near Fitzgerald Bay by BHP Billiton Ltd may have the potential to increase the salinity level of the water in the upper end of the Spencer Gulf where Clean Seas' Fitzgerald Bay operations are located.

BHP Billiton Ltd has released to the public a draft Environmental Impact Statement.

The operation of such a desalination plant would be subject to strict environmental controls.

BHP Billiton Ltd has advised Clean Seas that the operation of such a desalination plant will not have any material adverse impact on the business operations of Clean Seas.

Clean Seas continues to monitor the salinity levels of all growout sites.

## **5.8 Management of Growth**

Implementation of Clean Seas' growth strategy will require additional infrastructure, staffing, management, operations and systems resources. There is also the risk that Clean Seas may not be able to deploy suitable resources (including staff) to take advantage of the growth opportunities to the extent expected within expected time frames.

Specifically, the milestone of successful SBT fingerling production in the second quarter of FY2009 will require additional infrastructure improvements in order to achieve sustainable SBT production in FY2010. Such investments in infrastructure will be designed to expand the SBT breeding and grow out program, however the possibility exists that Clean Seas will be unable to replicate its FY2009 SBT fingerling success in producing fertilised eggs and larvae in future years.

Furthermore, initial SBT production in FY2010 is contingent on the successful grow out of the SBT fingerling stock. Investors should be aware of the possibility that the proposed SBT grow out may not be successful. Such examples of an unsuccessful grow out could be substandard size, quality or quantity of the SBT post-grow out or higher than expected SBT mortality rates. Such events could therefore delay commercial SBT production beyond FY2010.

## **5.9 Competition**

Clean Seas can provide no assurance that Clean Seas will be able to compete effectively with existing or new competitors or that increased competition will not have a material and adverse effect on Clean Seas future operating and financial performance. In particular, increased competition may have an adverse effect on Clean Seas' margins.

## **5.10 Regulation of Activities**

While significant amounts of regulation currently applies to Clean Seas production activities (as well as other laws applicable to businesses generally), it is possible that new specific laws will be introduced in Australia and/or overseas which may have a material adverse effect on Clean Seas business. For example, laws may be established to address concerns relating to the breeding and growing out of SBT, Mulloway and Kingfish, or the processing or transport of fish.

## **5.11 Marketing**

Clean Seas is required to meet technical specifications on the quality of its products and variations from specification may result in financial penalties being imposed by customers. Customer demands may change over time and no assurance can be given that product will always meet specification or that future customer demands regarding product specifications will be able to be met. Similarly, no assurance can be given that future demand for Clean Seas' products will continue to grow.

## **5.12 Environmental**

There are a number of environmental conditions attached to the water use licences of Clean Seas. Failure to meet such conditions could lead to forfeiture of these licences.

Future legislative and regulatory changes may have a possible adverse impact on Clean Seas' profitability. The Directors can provide no guarantee as to the possible effect of any change, if it occurs.

## **5.13 Water**

Although Clean Seas currently has secure access to adequate sources of water for Clean Seas' hatcheries at Arno Bay, Fitzgerald Bay and Port Augusta, no assurance can be given that sufficient water will be available for future projects, or that such access will be uninterrupted in all circumstances.

#### **5.14 Insurance Risks**

Although insurance is maintained within ranges of coverage consistent with industry practice no assurance can be given that such insurance will be available in the future on commercially reasonable terms or that any cover will be adequate and available to cover any or all claims.

If Clean Seas incurs uninsured losses or liabilities, its assets, profits and prospects may be adversely affected.

Currently insurance cover is not available at commercially acceptable rates for the broodstock fish and at-sea Kingfish and Mulloway inventory. The Directors have chosen to proactively manage the risks as a preferred alternative. The Spencer Gulf provides good quality water and relatively benign weather conditions which allows the Company to focus on the other areas of risk reduction;

- high quality health practices with regular fish inspection;
- high quality equipment and equipment management practices;
- active management of the at-sea farming environment;
- regular dive inspections of fish and fish cages;
- multiple growout and hatchery sites at diverse geographical locations; and
- maintaining a Purse Seiner vessel on standby for recapture of escaped fish.

The Directors are still pursuing a commercially acceptable insurance solution.

#### **5.15 Dependence on Third Party Infrastructure**

The port, road and rail infrastructure used by Clean Seas has experienced, and is expected to continue to experience, significant growth in terms of the volume of traffic. Clean Seas business prospects depend on the ability of that infrastructure to support its sale of kingfish and mulloway. There can be no assurance that the infrastructure will continue to be able to support the demands placed on it or that the performance or reliability of the infrastructure will not be adversely affected.

#### **5.16 Uncertainty of Future Capital Needs and Additional Funding**

The future capital requirements of Clean Seas will depend on many factors, including the pace and magnitude of its development of its business. Clean Seas believes that its available cash, the net proceeds of this Offer and its finance facilities with its banker will be adequate to satisfy its anticipated current working capital and other capital requirements for the period beyond FY2009. Should Clean Seas require additional funding, there can be no assurance that additional financing will be available on acceptable terms or at all.

Any inability to obtain additional financing, if required, would have a material adverse effect on Clean Seas business, financial condition and results of operations.

#### **5.17 Industrial Relations Risk**

There is a risk that the industrial relations management at Clean Seas operations will be unsatisfactory leading to strikes or the re-opening of award negotiations that result in higher labour costs, higher employee numbers and higher redundancy costs. This would cause a loss of revenue due to lower than planned operating levels and/or higher operations and maintenance costs than planned due to incurring additional labour costs.

## SECTION 6: Further information

---

### 6.1 Reliance on Offer Memorandum

This Offer Memorandum has been prepared in connection with section 708AA of the Corporations Act. In general terms, section 708AA relates to rights issues by certain companies that do not require the provision of a Offer Memorandum or other disclosure document and accordingly, the level of disclosure in this Offer Memorandum is considerably less than the level of disclosure required in a Offer Memorandum. Section 708AA requires companies to lodge with the ASX a “cleansing notice”. Among other things, the cleansing notice is required to:

- set out certain price sensitive information about the Company (if any) which the Company has not previously disclosed to the ASX, and
- state the potential effect the issue of New Shares under the Offer will have on the control of the Company, and the consequences of that effect.

Clean Seas lodged a Cleansing Notice with the ASX on 12 May 2009.

In deciding whether or not to accept the Offer, you should rely on your own knowledge of Clean Seas, refer to the disclosures made and other documents lodged by Clean Seas with the ASX (which are available for inspection on the ASX website at [www.asx.com.au](http://www.asx.com.au) and on Clean Seas’s website at [www.cleaneastuna.com.au](http://www.cleaneastuna.com.au)) and seek the advice of your stockbroker or professional adviser.

### 6.2 Further information

If you have any questions about your entitlement to New Shares, please contact:

- Registries Limited, on 1300 737 760 (within Australia) or +61 2 9290 9600 (outside Australia).

If you have any questions in regard to participating in the Offer, please contact either:

- The Company; or
- Your stockbroker or professional adviser.

### 6.3 Underwriting Agreement

By an agreement between the Company and Lonsec Limited (**Underwriter**) dated 11 May 2009 (**the Underwriting Agreement**), the Underwriter agreed to partially underwrite the Offer for approximately 10.7 million Shares at the Issue Price. The number of underwritten Shares represents the number of New Shares to be issued under the Offer excluding the \$5 million of New Shares to be subscribed for by Australian Tuna referred to in section 1.4.

Pursuant to the Underwriting Agreement, the Company has agreed to pay Helmsec a management fee of 1.5% of the underwritten amount and an equity raising fee of 3.5% of the underwritten amount. The underwritten amount is approximately \$5.9 million. In addition, the Company will pay certain costs and expenses of the Underwriter. The Underwriter confirms

that it has made its own separate arrangement with Helmsec as to its entitlement to part of the equity raising fee.

The Underwriter is free to arrange sub-underwriters at its discretion.

The underwriting obligation of the Underwriter is subject to certain conditions precedent being satisfied, including:

- the Company giving the ASX the Offer Memorandum prior to commencement of trading on the ASX on the day on which the Offer is announced to the ASX;
- the Underwriter approving the form of the Offer Memorandum;
- Australian Tuna taking up its entitlement under the Offer to the value of \$5 million;
- the Company allots the Placement Shares by 21 May 2009;

If any condition precedent is not satisfied, the Underwriter has the right to terminate the Agreement.

The Company has given certain representations, warranties and undertakings to the Underwriter regarding the position of the Company, the Offer Memorandum and the Offer; they are considered standard for an agreement of this type. The Company indemnifies the Underwriter and its directors, employees, advisers and Helmsec and its employees and advisers (Indemnified Parties) against each action, demand, claim, suit, proceeding, judgment, damage, loss, expense or liability incurred or suffered by or brought or made or recovered against the Indemnified Parties in connection with:

- the Offer Memorandum, its content, publication and issue including any misleading or deceptive statement in or any material omission from the Offer Memorandum;
- any statement in or any omission from any information, announcement, advertisement or publicity in relation to the Offer Memorandum or the Offer:
  - made or distributed by the Company; or
  - made or distributed by the Underwriter with the consent or knowledge of the Company;

including where that statement or omission is found to be misleading or deceptive;

- any non-compliance by the Company with the Corporations Act, the Listing Rules or any other legal obligation in relation to the Offer or the Offer Memorandum; or
- any breach by the Company of its representations, warranties and undertakings in the Underwriting Agreement.

The Underwriter may, without prejudice to any other right or remedy available to it, terminate its obligations under the Agreement if any of the following events occur before the New Shares are allotted under the Offer:

- ASIC gives notice of intention to hold a hearing in relation to the Offer Memorandum or indicates an intention to issue an order or makes an order under the Corporations Act.

- there is an omission from, or a statement which is, or has become, false or misleading in the Offer Memorandum and such omission or statement is or is likely to be materially adverse from the point of view of an investor;
- the Company chooses to or comes under an obligation, including in accordance with the Corporations Act, to issue a supplementary or replacement Offer Memorandum or to repay any moneys received by the Company from any applicant, where the Underwriter is of the opinion that the extension has, or could reasonably be expected to have, a material adverse effect on the willingness of persons to apply for Shares at the Issue Price or on the number of shortfall Shares.
- ASIC gives notice of intention to hold a hearing examination, inspection, investigation, or it requires information to be disclosed, in connection with the Company, the Offer Memorandum or the Offer;
- if a new circumstance has arisen since the Offer Memorandum was lodged with ASX and would have been required under Chapter 6D of the Corporations Act to be included in the Offer Memorandum if it had arisen before the Offer Memorandum was lodged and is, or is likely to be, materially adverse from the point of view of an investor;
- the Company or any of its related bodies corporate fails to comply with:
  - a clause of its constitution;
  - a statute;
  - any policy or guideline of the ASIC or any other requirement, order or request made by or on behalf of the ASIC or any governmental agency;
  - the Listing Rules;

where such failure will have a material adverse effect on the Offer;

- ASX does not, or states that it will not, permit official quotation of Shares comprised in the Offer;
- any event specified in the timetable set out in Schedule 1 to the Underwriting Agreement (as it may be varied) (Timetable) is delayed for more than three business days;
- if for 2 consecutive days at any time after the date of this Agreement the ASX Small Ordinaries Index is 10% or more below the Index immediately before the signing of the Agreement;
- the ASX Consumer Staples Index of the ASX falls to a level which is more than 10% below the Consumer Staples Index as at close of business of the ASX on the business day immediately before the date of the Agreement;
- any No Default Certificate (being a letter to the Underwriter signed by 2 directors of the Company in or substantially in the form of Schedule 2 to the Agreement) is not delivered to the Underwriter in accordance with the Agreement;
- the Company materially defaults under any provision of the Agreement, including any representation, warranty or undertaking;
- the Company or any of its related bodies corporate charges or agrees to charge (or grant any other form of security over) the whole or a substantial part of its business or property to any third party;
- if a significant or material contract is, without the prior written consent of the Underwriter:

- breached by the Company or any of its related bodies corporate;
- terminated (whether by breach or otherwise);
- altered or amended in any way; or
- found to be void or voidable.

In respect of the following events, the Underwriter may terminate its obligations only if, in the opinion of the Underwriter acting reasonably, it has, or could reasonably be expected to have, a material adverse effect on the willingness of persons to apply for Shares in the Company at the Issue Price or on the number of shortfall Shares, or could reasonably be expected to give rise to a liability of the Underwriter under the Corporations Act:

- after the date of the Agreement there is any:
  - material adverse change; or
  - any act, omission or thing which could reasonably be expected to result in a material adverse change,

in the financial position or prospects (including profitability) of the Company.

- there is introduced into the Parliament of the Commonwealth of Australia or of an Australian State or Territory a law intended to come into effect within 12 months;
  - the Reserve Bank of Australia adopts a policy; or
  - there is any official announcement on behalf of the Government of the Commonwealth of Australia or of the Government of an Australian State or Territory, the Reserve Bank of Australia or any Commonwealth financial authority that a law will be introduced or policy adopted (as the case may be) with effect from the date of the announcement or within three months afterwards;

which has altered adversely or could reasonably be expected to alter adversely:

- any condition or circumstance relating to the rights attaching to Shares, the Offer or the Offer Memorandum existing at the time of execution of this Agreement; or
- the income tax position of the Company including, without limitation, the distributable income of the Company or the tax position of shareholders in the Company;
- ASIC gives notice of an intention to prosecute the Company or any director or general manager of the Company;
- an order is made in connection with the Offer Memorandum or the Offer including under Sections 1324 and 1325 of the Corporations Act;
- any director or general manager of the Company is prosecuted for a criminal offence;
- the Company or any related body corporate of the Company without the written prior approval of the Underwriter makes any statement or publishes or issues by any means any notice, circular or advertisements relating to the Company or any related body corporate of the Company or its activities or the Offer which is prejudicial in any manner whatever to the prospects of the Offer being fully subscribed by persons other than the Underwriter;
- the Offer Memorandum is withdrawn by the Company at any time prior to all the Shares having been allotted;

- the Company or a related body corporate of the Company alters its capital structure without the prior written consent of the Underwriter (except for an alteration referred to in this Offer Memorandum) or issues or agrees to issue any shares, options or equity securities (as that term is defined in the Listing Rules) since the date of the Agreement other than as set out in the Agreement;
- there are any changes to the Board of Directors of the Company after the date of the Agreement without the prior written consent of the Underwriter;
- the due diligence investigations undertaken in relation to this Offer Memorandum reveal information that is not satisfactory to the Underwriter acting reasonably;
- the Company acquires any major asset or enters into any major expenditure;
- the Company:
  - suspends payment of its debts generally; or
  - suffers an Insolvency Event (being defined to include an order made or resolution passed for the winding up of the Company, a liquidator, administrator or official manager is appointed, the Company enters into a scheme of arrangement with or an assignment for the benefit of its creditors or is unable to pay its debts when they fall due);
- the Company or any of its related parties:
  - dispose or agree to dispose of the whole or a substantial part of its business or property;
  - ceases or threatens to cease to carry on business;
  - changes or agrees to change the whole or a substantial part of its business or property (except for a charge referred to in this Offer Memorandum),

without the prior written consent of the Underwriter.

## SECTION 7: Defined terms

---

In this Offer Memorandum, the following words have the following meanings unless the context requires otherwise:

<b>ASIC</b>	Australian Securities and Investments Commission
<b>ASX</b>	ASX Limited ACN 008 624 691.
<b>Australian Tuna</b>	Australian Tuna Fisheries Pty Ltd ACN 101 149 062.
<b>Clean Seas</b>	Clean Seas Tuna Limited ABN 61 094 380 435.
<b>Cleansing Notice</b>	the cleansing notice lodged by Clean Seas on 12 May 2009 pursuant to section 708AA(2)(f) of the Corporations Act.
<b>Closing Date</b>	the last date for accepting the Offer, being 5.00pm CST on 12 June 2009 (subject to variation by the Directors).
<b>Company</b>	Clean Seas Tuna Limited ABN 61 094 380 435.
<b>Corporations Act</b>	Corporations Act 2001 (Cth).
<b>CST</b>	Australian Central Standard Time.
<b>Directors</b>	the directors of Clean Seas.
<b>Eligible Shareholder</b>	a holder of Shares who is registered as a holder of Shares as at 5.00 pm on 20 May 2009 (Record Date).
<b>Entitlement</b>	the right of a Shareholder to receive New Shares under the Offer.
<b>Entitlement and Acceptance Form</b>	the form accompanying this Offer Memorandum, which is particularised for each Shareholder.
<b>FY</b>	financial year ended 30 June.
<b>Helmsec</b>	Helmsec Global Capital Limited ACN 129 825 798, the Lead Manager in relation to the Offer.
<b>Listing Rules</b>	the official listing rules of ASX.
<b>New Share</b>	a Share to be issued pursuant to this Offer Memorandum at \$0.55 per Share.
<b>Offer</b>	the offer made under this Offer Memorandum of one 1 New Share for every 8 Shares held by a Shareholder on the Record Date.
<b>Offer Memorandum</b>	this memorandum under which the Offer is being made.
<b>Placement</b>	the offer of 23.775 million Placement Shares at an issue price of \$0.55 each to sophisticated and professional investors referred to in this Offer Memorandum.
<b>Placement Shares</b>	the 23.775 million new Shares to be issued to investors pursuant to the Placement.
<b>Record Date</b>	5.00pm CST on 20 May 2009.
<b>SBT</b>	Southern Bluefin Tuna.

<b>Share</b>	a fully paid ordinary share in the capital of Clean Seas.
<b>Shareholder</b>	a registered holder of Shares.
<b>Share Register</b>	Registries Limited ABN 14 003 209 836.
<b>Shortfall Facility</b>	the facility described in section 4 of this Offer Memorandum, entitling certain Shareholders to apply for additional New Shares that are not subscribed for by other Shareholders under their Entitlements under the Offer.
<b>Stehr Group</b>	Stehr Group Pty Ltd ACN 007 628 542.
<b>Underwriter</b>	Lonsec Limited ACN 061 751 102.
<b>Underwriting Agreement</b>	The underwriting agreement between the Company and the Underwriter, described in section 6.3 of this Offer Memorandum.

References in this Offer Memorandum to **sections** are to sections of this Offer Memorandum.

The postal acceptance rule does not apply to the Offer.