

EXECUTION VERSION

BOND TERMS

FOR

**Pembroke Olive Downs Pty Ltd (ACN 611 674 376) 11.50% senior secured
USD 550,000,000 bonds 2025/2030**

ISIN NO0013464792

Contents

Clause	Page
1. INTERPRETATION	3
2. THE BONDS	22
3. THE BONDHOLDERS	24
4. ADMISSION TO LISTING	25
5. REGISTRATION OF THE BONDS	25
6. CONDITIONS FOR DISBURSEMENT.....	25
7. REPRESENTATIONS AND WARRANTIES	28
8. PAYMENTS IN RESPECT OF THE BONDS	30
9. INTEREST.....	32
10. REDEMPTION AND REPURCHASE OF BONDS	32
11. PURCHASE AND TRANSFER OF BONDS	35
12. INFORMATION UNDERTAKINGS	35
13. GENERAL AND FINANCIAL UNDERTAKINGS	36
14. EVENTS OF DEFAULT AND ACCELERATION OF THE BONDS	41
15. BONDHOLDERS' DECISIONS	44
16. THE BOND TRUSTEE.....	48
17. AMENDMENTS AND WAIVERS	53
18. MISCELLANEOUS	54
19. GOVERNING LAW AND JURISDICTION.....	56

ATTACHMENT 1 COMPLIANCE CERTIFICATE

ATTACHMENT 2 RELEASE NOTICE – BOND ESCROW ACCOUNT

ATTACHMENT 3 INTERCREDITOR TERMS

BOND TERMS between	
ISSUER:	Pembroke Olive Downs Pty Ltd, a proprietary limited company incorporated under the laws of Australia with Australian company number ACN 611 674 376 and LEI-code 8755007XG1B6S61ECH90; and
BOND TRUSTEE:	Nordic Trustee AS, a company existing under the laws of Norway with registration number 963 342 624 and LEI-code 549300XAKTM2BMKIPT85.
DATED:	13 February 2025
These Bond Terms shall remain in effect for so long as any Bonds remain outstanding.	

1. INTERPRETATION

1.1 Definitions

The following terms will have the following meanings:

“**AASB 16**” means Australian accounting standard AASB 16 (*Leases*).

“**Acceptable Bank**” means a commercial bank, savings bank or trust company which has a rating of BBB or higher from Standard & Poor’s Ratings Service or Baa2 or higher from Moody’s Investor Service Limited or a comparable rating from a nationally recognized credit rating agency for its long-term debt obligations.

“**Accounting Standard**” means the generally accepted accounting practices and principles in the country in which the Issuer is incorporated including, if applicable, IFRS.

“**Accounts**” means the Bond Escrow Account and the Operating Accounts.

“**Affiliate**” means, in relation to any person:

- (a) any person which is a Subsidiary of that person;
- (b) any person with Decisive Influence over that person (directly or indirectly); and
- (c) any person which is a Subsidiary of an entity with Decisive Influence (directly or indirectly) over that person.

“**Annual Financial Statements**” means in respect of the Obligors, the audited annual financial statements of the Obligors for any financial year, prepared in accordance with the Accounting Standard, such financial statements to include a profit and loss account, balance sheet, cash flow statement and report of the board of directors.

“Attachment” means any schedule, appendix or other attachment to these Bond Terms.

“Beneficiaries” means all beneficiaries of the Transaction Security, as such term is defined in the Security Trust Deed.

“Bond Currency” means the currency in which the Bonds are denominated, as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“Bond Escrow Account” means the bank account in USD to be established by the Issuer with Nordic Trustee Services AS (as escrow agent) prior to the Issue Date to which the Net Proceeds from the Bonds shall be transferred on the Issue Date, provided that all Pre-Settlement Conditions Precedent have been satisfied.

“Bond Escrow Account Pledge” means a first priority Norwegian law pledge granted by the Issuer over the Bond Escrow Account where (i) any claim against the escrow agent under the escrow arrangement for such account is granted in favour of the Bond Trustee and the Bondholders only and (ii) the bank operating the account has waived any set-off rights and (iii) the Bond Escrow Account is restricted so that no withdrawals can be made unless the Pre-Disbursement Conditions Precedent have been satisfied.

“Bond Finance Documents” means:

- (a) these Bond Terms;
- (b) the Bond Trustee Fee Agreement;
- (c) the Transaction Security Documents;
- (d) the Security Trust Deed;
- (e) the Peabody/CITIC Priority Deed;
- (f) any account control agreement;
- (g) any subordination agreement in respect of any Subordinated Loans; and
- (h) any other document designated by the Issuer and the Bond Trustee as a Bond Finance Document.

“Bond Terms” means these terms and conditions, including all Attachments which form an integrated part of these Bond Terms, in each case as amended and/or supplemented from time to time.

“Bond Trustee” means the company designated as such in the preamble to these Bond Terms, or any successor, acting for and on behalf of the Bondholders in accordance with these Bond Terms.

“Bond Trustee Fee Agreement” means the agreement entered into between the Issuer and the Bond Trustee relating among other things to the fees to be paid by the Issuer to the Bond Trustee for the services provided by the Bond Trustee relating to the Bonds.

“Bondholder” means a person who is registered in the CSD as directly registered owner or nominee holder of a Bond, subject however to Clause 3.3 (*Bondholders’ rights*).

“Bondholders’ Meeting” means a meeting of Bondholders as set out in Clause 15 (*Bondholders’ Decisions*).

“Bonds” means (i) the debt instruments issued by the Issuer pursuant to these Bond Terms, and (ii) any overdue and unpaid principal which has been issued under a separate ISIN in accordance with the regulations of the CSD from time to time.

“Business Day” means a day on which both the relevant CSD settlement system is open, and the relevant settlement system for the Bond Currency is open.

“Business Day Convention” means that if the last day of any Interest Period originally falls on a day that is not a Business Day, no adjustment will be made to the Interest Period.

“Calendar Half Year” means a period of 6 months ending on a Quarter Date in June or December.

“Call Option” has the meaning ascribed to such term in Clause 10.2 (*Voluntary early redemption – Call Option*).

“Call Option Repayment Date” means the settlement date for the Call Option determined by the Issuer pursuant to Clause 10.2 (*Voluntary early redemption – Call Option*), paragraph (d) of Clause 10.3 (*Mandatory repurchase due to a Put Option Event*) or a date agreed upon between the Bond Trustee and the Issuer in connection with such redemption of Bonds.

“Cash and Cash Equivalents” means at any time:

- (a) cash in hand or amounts standing to the credit of any current and/or on deposit accounts with a reputable bank; and
- (b) time deposits with reputable banks and certificates of deposit issued, and bills of exchange accepted, by a reputable bank,

in each case to which the relevant Obligor is beneficially entitled at the time and to which it has free and unrestricted access and which is not subject to any Security (other than any Transaction Security).

“Change of Control Event” means the occurrence of an event or series of events whereby a person or group of persons acting in concert not theretofore having Decisive Influence over an Obligor, other than the Sponsor, gain such Decisive Influence without the consent of Bondholders representing a simple majority of the Voting Bonds attending a quorate Bondholders’ Meeting.

“Common Secured Property” has the meaning given in the Peabody / CITIC Priority Deed and includes the Issuer’s mining tenements (the **“Royalty Tenements”**) and all freehold and leasehold land, fixtures and water rights, within the area subject to the Royalty Tenements (the **“Royalty Area”**), any product produced within the Royalty Area and all contracts for the sale of such product and any proceeds of sale of such product.

“Compliance Certificate” means a statement substantially in the form as set out in Attachment 1 hereto.

“CSD” means the central securities depository in which the Bonds are registered, being Verdipapirsentralen ASA (VPS).

“Cure Amount” has the meaning ascribed to such term in paragraph (a) of Clause 13.24 (*Equity cure*).

“Decisive Influence” means a person having, as a result of an agreement or through the ownership of shares or interests in another person (directly or indirectly):

- (a) a majority of the voting rights in that other person; or
- (b) a right to elect or remove a majority of the members of the board of directors of that other person.

“Default Notice” has the meaning ascribed to such term in Clause 14.2 (*Acceleration of the Bonds*).

“Default Repayment Date” means the settlement date set out by the Bond Trustee in a Default Notice requesting early redemption of the Bonds.

“Denham” means Denham Capital Management LP.

“Disbursement” has the meaning ascribed to such term in paragraph (b) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

“Distribution” means any:

- (a) declaration, making or payment of dividend or other distribution on or in respect of shares or preferred equity;
- (b) repayment, prepayment, service or any payment of any Subordinated Loans or any payment of any interest, fee, charge or premium accrued in respect thereof (other than through adding such amounts to the principal amount);
- (c) repurchase of shares, redemption of share capital or other restricted equity with repayment to shareholders; or
- (d) other similar distribution by a person to its shareholders (including but not limited to total return swaps involving any shares issued). For the avoidance of doubt, it does not include payments made pursuant to any arm’s length administrative services agreement for the provision of corporate and support services (the scope of which is consistent with agreements of that nature), including out-of-pocket expenses.

“Dormant Obligor” means an Obligor which does not trade and does not own, legally or beneficially, assets (including indebtedness owed to it) other than of nominal value.

“EBITDA” means, for a period, the aggregated net profit of the Obligors for such period and (in all cases without double counting):

- (a) after adding back net finance charges of the Issuer in respect of such period (other than finance charges in respect of leases that would not be classified as leases other than for the application of AASB 16 paragraph 9);
- (b) after adding back corporate tax or tax on income or gains in respect of such period;
- (c) after adding back any depreciation on fixed assets and any amortisation or impairment of assets in respect of that period (other than depreciation, amortisation or impairment in respect of leased assets recognised due to the application of AASB 16 paragraph 9);
- (d) after excluding costs, expenses and income resulting from any one-off, non-recurring, extraordinary, unusual or exceptional items (including significant items or abandonments) not exceeding 10% of EBITDA for the relevant period (calculated without any such cap); and
- (e) for the purposes of calculating the Interest Coverage Ratio, after adding any Cure Amount received during that period.

“Eco Village” means the proposed mining camp accommodation village for the Olive Downs Coking Coal Complex.

“Event of Default” means any of the events or circumstances specified in Clause 14.1 (*Events of Default*).

“Exchange” means:

- (a) Nordic ABM, a self-regulated marketplace organised and operated by Oslo Børs; or
- (b) any regulated market as such term is understood in accordance with the Markets in Financial Instruments Directive 2014/65/EU (MiFID II) and Regulation (EU) No. 600/2014 on markets in financial instruments (MiFIR).

“Excluded Accounts” means any bank accounts established to hold cash collateral as permitted under paragraph (h) or (i) of the definition of Permitted Security.

“Existing Bond Issue” means the bond issue with the Issuer as issuer and Nordic Trustee as bond trustee, with ISIN NO0011173536, with an existing outstanding amount of approximately USD 90,516,000.

“Existing Cost Overrun Facility” means a syndicated facility entered into by and between the Issuer as borrower, National Australia Bank Limited as facility agent and National Australia Bank Limited and Sumitomo Mitsui Banking Corporation (Sydney Branch) as original lenders, with an existing outstanding amount of approximately AUD 30,000,000.

“Existing NAIF Facility” means a facility entered into by and between the Issuer as borrower, and the State of Queensland as lender, with an existing outstanding amount of approximately AUD 159,980,036.

“Existing Term Facility” means a syndicated facility entered into by and between the Issuer as borrower, National Australia Bank Limited as facility agent and National Australia Bank Limited and Sumitomo Mitsui Banking Corporation (Sydney Branch) as original lenders, with an existing outstanding amount of approximately AUD 37,365,244.

“Final Stage Completion Certificate” means a written statement from the Issuer (signed by an authorised signatory) to the Bond Trustee where the Issuer represents to the Bond Trustee that, based on the Issuer’s best estimate, the Stage 2 Expansion is reasonably expected to be completed within 12 months from the issuance of such statement.

“Finance Documents” has the meaning ascribed to such term in the Security Trust Deed.

“Finance Lease” means a lease constituting or accounted for in or in a similar way to a finance lease or a capitalised lease under the Accounting Standard and includes any hire purchase agreement but excludes:

- (a) any indebtedness in respect of any lease or hire purchase contract which, in accordance with the Accounting Standard prior to 1 January 2019 were treated as an operating lease; and
- (b) lease liabilities that would not otherwise be classified as leases other than for the application of AASB 16 paragraph 9.

“Financial Indebtedness” means any present or future, actual or contingent liability in connection with any:

- (a) money borrowed or raised;
- (b) amount raised in connection with any note purchase facility or the issue of bonds, notes, debentures, units, loan stock or similar instruments;
- (c) reimbursement obligation or counter-indemnity with respect to a letter of credit, guarantee or similar instrument issued by a bank or financial institution;
- (d) derivative transaction (and, when calculating the liability in connection with any derivative transaction, only the mark to market value is taken into account unless the derivative transaction has been terminated or closed-out, in which case the liability is the termination amount or close out amount for the derivative transaction);
- (e) redeemable share or other redeemable security where the holder has the right, or the right in certain circumstances, to require redemption before the Maturity Date;
- (f) deferred purchase price of property or services (including securities repurchase agreements but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business which are not more than 120 days overdue or which are being contested in good faith);
- (g) any Finance Lease;

- (h) obligation to deliver assets or services paid for in advance by a financier or otherwise relating to a financing transaction;
- (i) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (j) amount raised under any other transaction (including any forward sale or purchase agreement, stream, royalty or similar arrangement) having the commercial effect of a borrowing; and
- (k) any guarantee or indemnity of any of the above.

“Financial Reports” means the Annual Financial Statements and the Interim Accounts.

“First Call Date” means 18 August 2027.

“First Stage Production Certificate” means a written statement from the Issuer (signed by an authorised signatory) to the Bond Trustee where the Issuer represents to the Bond Trustee that it has achieved production of 400 000 t ROM or higher for 6 individual calendar months counting from no earlier than January 2025.

“Funds From Operation” means, for a period, if positive, EBITDA for that period less Net Interest Costs less Payable Tax, in each case, for that period (with a minimum value of zero).

“General Security Deed” means, except in relation to the Common Secured Property over which the security will be second ranking pursuant to the Peabody / CITIC Priority Deed, a first priority Australian law all asset security over all of the assets of the Obligors granted in favour of the Security Trustee.

“Group” means the Issuer and its Subsidiaries from time to time.

“Group Company” means any person which is a member of the Group.

“Guarantee” means the joint and several unconditional and irrevocable guarantee and indemnity in respect of the Secured Money from each Guarantor in the Security Trust Deed, governed by Australian law.

“Guarantee Facility” means a bank guarantee facility or facilities of up to an aggregate principle amount of (i) prior to the issuance of a Final Stage Completion Certificate, AUD 100,000,000 and (ii) on and from the issuance of a Final Stage Completion Certificate, AUD 160,000,000, in each case entered into by and between the Issuer as borrower and certain financial institutions (as amended, restated or refinanced from time to time provided that the principal amount is not increased beyond the applicable threshold).

“Guarantor” means:

- (a) Pembroke Resources Mining Pty Limited (ACN 628 002 237);
- (b) Pembroke Resources Nominee Pty Limited (ACN 169 037 236) in its personal capacity and as trustee for the Pembroke Resources Australian Unit Trust;

- (c) Pembroke Pastoral Pty Ltd (ACN 611 674 401); and
- (d) any New Obligor from time to time,

in each case to the extent it has not been released as a Guarantor in accordance with Clause 2.5 (*Transaction Security*).

“IFRS” means the International Financial Reporting Standards and guidelines and interpretations issued by the International Accounting Standards Board (or any predecessor and successor thereof) in force from time to time and to the extent applicable to the relevant financial statement.

“Initial Nominal Amount” means the Nominal Amount of each Bond on the Issue Date as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“Insolvency Event of Default” has the meaning ascribed to such term in the Security Trust Deed.

“Insolvent” means that a person:

- (a) is unable or admits inability to pay its debts as they fall due;
- (b) suspends making payments on any of its debts generally; or
- (c) is otherwise considered insolvent or bankrupt within the meaning of the relevant bankruptcy legislation of the jurisdiction which can be regarded as its centre of main interest as such term is understood pursuant to Regulation (EU) 2015/848 on insolvency proceedings (as amended from time to time).

“Intercreditor Terms” means the intercreditor terms included in the Security Trust Deed, a summary of which are set out in Attachment 3 (*Intercreditor Terms*).

“Interest Coverage Ratio” means, in relation to a Relevant Period, the ratio of EBITDA to Net Interest Cost, in each case, for that Relevant Period.

“Interest Payment Date” means the last day of each Interest Period, the first Interest Payment Date being 18 August 2025 and the last Interest Payment Date being the Maturity Date.

“Interest Period” means, subject to adjustment in accordance with the Business Day Convention, the periods between 18 February and 18 August each year, provided however that an Interest Period shall not extend beyond the Maturity Date.

“Interest Rate” means 11.50 percentage points per annum.

“Interim Accounts” means in respect of an Obligor, the unaudited financial statements of that Obligor for the half year period ending on each 30 June, in each case prepared in accordance with the Accounting Standard.

“ISIN” means International Securities Identification Number.

“Issue Date” means 18 February 2025.

“Issuer” means the company designated as such in the preamble to these Bond Terms.

“Issuer’s Bonds” means any Bonds which are owned by the Issuer or any Affiliate of the Issuer.

“Liquidity” means the aggregate of:

- (a) the Cash and Cash Equivalents of any Obligor; and
- (b) any undrawn and committed amount under the Revolving Credit Facility.

“Listing Failure Event” means:

- (a) the Bonds have not been admitted to listing on an Exchange within 6 months following the Issue Date, or
- (b) in the case of a successful admission to listing, the Bonds have ceased to be admitted to listing on an Exchange.

“Longstop Date” means 60 Business Days after the Issue Date.

“Make Whole Amount” means an amount equal to the sum of the present value on the Call Option Repayment Date of:

- (a) the Nominal Amount of the redeemed Bonds at the price set out in paragraph (a)(ii) of Clause 10.2 (*Voluntary early redemption – Call Option*) as if such payment originally had taken place on the First Call Date; and
- (b) the remaining interest payments of the redeemed Bonds, less any accrued and unpaid interest on the redeemed Bonds as at the Call Option Repayment Date, to the First Call Date,

where the present value shall be calculated by using a discount rate of 4.74%.

“Manager” means Clarksons Securities AS, Munkedamsveien 62C, NO-0270 Oslo, Norway.

“Mandatory Redemption Event” means in the event that the conditions precedent set out in paragraph (b) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*) have not been fulfilled within the Longstop Date.

“Mandatory Redemption Repayment Date” means the settlement date for the Mandatory Redemption Event pursuant to Clause 10.5 (*Mandatory early redemption due to a Mandatory Redemption Event*).

“Material Adverse Effect” means a material adverse effect on:

- (a) the ability of the Obligors (taken as a whole) to perform and comply with their obligations under any Finance Document; or

(b) the validity or enforceability of any Finance Document.

“Maturity Date” means 18 February 2030, adjusted according to the Business Day Convention.

“Minimum Cash” has the meaning ascribed to such term in paragraph (a)(i) of Clause 13.23 (*Financial covenants*).

“Mining Interest” has the meaning given to “mining interest” in the Mineral Resources Act 1989 (Queensland) or if that definition is repealed, means a mining claim, exploration permit, mineral development license, mining lease or water monitoring authority and any other analogue tenement.

“Mining Tenements” means:

- (a) the mining leases 700032, 700035 and 700036;
- (b) any present or future renewals, extensions, modifications, substitutions, amalgamations, subdivisions and variations of any such tenement; and
- (c) any interests granted in place of or into which any of the Mining Interests or other interests referred to in paragraphs (a) to (b) above convert.

“Net Interest Costs” means, for any period, the aggregate finance charges of the Obligors (to the extent paid in cash, and not including any capitalised finance charges or payments between Obligors) less:

- (a) any interest earned by the Obligors; and
- (b) interest on leases that would not be classified as leases other than for the application of AASB 16 paragraph 9,

in each case, for that period.

“Net Proceeds” means the proceeds from the issuance of the Bonds (net of fees and legal cost of the Manager and, if required by the Bond Trustee, the Bond Trustee fee, and any other cost and expenses incurred in connection with the issuance of the Bonds)

“New Obligor” means a person becoming an obligor by inter alia acceding to the Security Trust Deed and providing relevant Security in favour of the Security Trustee.

“Nominal Amount” means the nominal value of each Bond at any time. The Nominal Amount may be amended pursuant to paragraph (j) of Clause 16.2 (*The duties and authority of the Bond Trustee*).

“Obligor” means the Issuer and any Guarantor.

“Olive Downs Coking Coal Complex” means the steelmaking coal mine, including adjacent facilities and infrastructure, located in the Bowen Basin of Queensland approximately 40

kilometres south east of Moranbah, which term shall include all assets related to Stage 1 operation and the Stage 2 Expansion.

“Operating Account” has the meaning ascribed to such term in paragraph (a) of Clause 13.26 (*Operating Accounts*).

“Outstanding Bonds” means any Bonds not redeemed or otherwise discharged.

“Overdue Amount” means any amount required to be paid by an Obligor under the Bond Finance Documents but not made available to the Bondholders on the relevant Payment Date or otherwise not paid on its applicable due date.

“Partial Payment” means a payment that is insufficient to discharge all amounts then due and payable under the Bond Finance Documents.

“Payable Tax” means, for a period, corporate tax or tax on income or gains paid in cash for that period in aggregate for the Obligor.

“Paying Agent” means Nordic Trustee Services AS, P.O. Box 1470 Vika, NO-0116 Oslo, Norway.

“Payment Date” means any Interest Payment Date or any Repayment Date.

“Peabody / CITIC Priority Deed” means the document entitled “Priority Deed Olive Downs Coking Coal Project” original entered into between Peabody BB Interests Pty Ltd (ABN 86 116 402 352), CITIC Bowen Basin Pty Ltd (ABN 75 117 281 606), the Issuer and the Security Trustee.

“Permitted Disposal” means a transfer, lease, sale or other disposal of:

- (a) a disposal by one Obligor to another Obligor, excluding the disposal by Pembroke Resources Nominee Pty Limited as trustee for the Pembroke Resources Australian Unit Trust of its interest in any other Obligor;
- (b) a disposal of Product or other trading stock in the ordinary course of trading;
- (c) a disposal by an Obligor of any asset at arm’s length on ordinary commercial terms (or better):
 - (i) in exchange for comparable assets or assets which are superior in value or utility;
or
 - (ii) where an asset is non-performing, non-strategic, surplus to requirements or no longer required for the proper and efficient operation of the Olive Downs Coking Coal Complex;
- (d) the expenditure of cash by an Obligor in payment for assets and services acquired in the ordinary course of its business;
- (e) realisation of short term investments;

- (f) a disposal by an Obligor being the grant of any Permitted Security, any Permitted Guarantee or the provision of Permitted Loan;
- (g) a payment or distribution of cash or any other asset by an Obligor which is permitted (or not restricted) under the Bond Finance Documents;
- (h) a disposal by an Obligor of any asset under a sale and lease back arrangement where that arrangement constitutes Permitted Financial Indebtedness;
- (i) a disposal by an Obligor required by law or a government agency (including any assets compulsorily acquired by a government agency);
- (j) a disposal by an Obligor being the grant of lease or licence of land where the lease or licence does not adversely affect the proper and efficient operation of the Olive Downs Coking Coal Complex; or
- (k) any other disposal (not otherwise referred to in this definition) at arm's length on ordinary commercial terms (or better) provided that the total consideration for all disposals by all Obligors under this paragraph (k) in any financial year does not exceed AUD 20,000,000.

“Permitted Distribution” means any Distribution:

- (a) where there has been or will simultaneously be, one or more cash (or non-cash if the Distribution is also non-cash) subscriptions for new units, partnership interests, shares or Subordinated Loans in an Obligor and the subscription is for an amount at least equal to such Distribution;
- (b) made by one Obligor to another Obligor;
- (c) made by the Issuer towards any Series B Units Redemption; or
- (d) made by the Issuer after 30 September 2025, subject to:
 - (i) such Distribution being no higher than 50% of the Funds From Operation for the preceding Calendar Half Year (no carry forward and no carry back);
 - (ii) such Distribution being no higher than AUD 50,000,000 for the last financial quarter of 2025 and for any Calendar Half Year thereafter (no carry forward and no carry back); and
 - (iii) the aggregate Cash and Cash Equivalents of the Obligors immediately following such Distribution is no lower than AUD 45,000,000.

“Permitted Financial Indebtedness” means:

- (a) any Financial Indebtedness incurred under the Finance Documents;
- (b) any Financial Indebtedness incurred under the Guarantee Facility;

- (c) any Financial Indebtedness incurred under the Revolving Credit Facility;
- (d) until Disbursement, any Financial Indebtedness incurred under the Refinanced Existing Debt;
- (e) any Financial Indebtedness between any Obligor;
- (f) any Financial Indebtedness incurred under any Coal prepayment agreement(s) not exceeding USD 20,000,000 (or the equivalent in any other currency) in aggregate for the Obligors at any time;
- (g) the royalty being the subject of the Peabody/CITIC Priority Deed;
- (h) any trade credit incurred by an Obligor in the ordinary course of business (including the provision, in the ordinary course of business, of deferred payment terms not exceeding 365 days);
- (i) any Financial Indebtedness arising under any Permitted Hedging;
- (j) any Financial Indebtedness arising under any netting or set-off arrangements entered into by any Obligor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of the Obligors or otherwise arising under cash pooling or cash management arrangements;
- (k) any liability of an Obligor arising under or pursuant to any Permitted Guarantee or Permitted Security;
- (l) any Subordinated Loans incurred by an Obligor;
- (m) any Finance Lease and/or hire purchase arrangement where the aggregate principal or capital amount of those agreements does not exceed AUD 5,000,000 (or the equivalent in any other currency) in aggregate at any time for the Obligors;
- (n) any Financial Indebtedness incurred for the purpose of acquiring equipment related to the Solar Park and/or the Eco Village (including any camp accommodation buildings or assets), where the aggregate principal amount of those agreements does not exceed (i) in respect of the Solar Park, AUD 25,000,000 and (ii) in respect of the Eco Village, AUD 60,000,000 (or the equivalent in any other currency) in aggregate at any time for the Obligors;
- (o) any Financial Indebtedness arising under any insurance premium funding arrangements to fund insurances maintained by the Obligors;
- (p) any Financial Indebtedness arising under or in connection with transactional banking facilities where the aggregate principal amount of those agreements does not exceed AUD 4,000,000 (or the equivalent in any other currency) in aggregate at any time for the Obligors; or

- (q) any Financial Indebtedness not permitted by the preceding paragraphs in an outstanding principal amount which does not exceed USD 10,000,000 (or the equivalent in any other currency) in aggregate for the Obligor at any time.

“Permitted Guarantees” means:

- (a) any guarantee provided by an Obligor to another Obligor;
- (b) any guarantee or indemnity granted by an Obligor under the Finance Documents;
- (c) any guarantee or indemnity granted by an Obligor under the Guarantee Facility;
- (d) any unsecured guarantee, indemnity or similar bond granted by an Obligor in relation to its or another Obligor’s obligations (other than Financial Indebtedness) under any contract, lease or other arrangement entered into in the ordinary course of business or as permitted or not otherwise prohibited by the Bond Finance Documents;
- (e) a class order guarantee in accordance with the Corporations Act where the only members of the class order are the Obligors;
- (f) any guarantee or indemnity granted by an Obligor in connection with Permitted Financial Indebtedness;
- (g) any guarantee or indemnity granted by an Obligor on customary terms in favour of any director or officer of the Obligors in relation to their function in that capacity; or
- (h) any guarantee or indemnity granted by an Obligor (not otherwise referred to in this definition) provided that the aggregate amount which may be demanded from all the Obligors pursuant to a claim under all guarantees or indemnities under this paragraph (h) does not exceed AUD 20,000,000 (or the equivalent in any other currency) at any time.

“Permitted Hedging” means hedging of currency, interest rates and product prices on a non-speculative basis in accordance with the Obligors’ hedging policy.

“Permitted Loan” means:

- (a) any trade credit provided by an Obligor in the ordinary course of business and on normal commercial terms;
- (b) any loan provided by an Obligor to another Obligor;
- (c) deposits by an Obligor into an Account;
- (d) cash deposits paid by an Obligor to:
 - (i) any suppliers of goods and services as an advance payment for the provision of those goods and services to that Obligor; or
 - (ii) landlords as a deposit for the lease obligations of that Obligor,

in each case on normal commercial terms and in the ordinary course of business; and

- (e) any Financial Indebtedness in respect of which an Obligor is a creditor (not otherwise referred to in this definition) provided that the maximum aggregate Permitted Loan made available by the Obligors under this paragraph (e) does not exceed AUD 5,000,000 (or the equivalent in any other currency) at any time.

“Permitted Security” means any Security:

- (a) held by the Security Trustee under the Security Trust Deed;
- (b) in respect of the Refinanced Existing Debt that is released on or before the Disbursement (provided such security does not extend to any of the property the subject of the Pre-Settlement Security);
- (c) under any bankers’ liens, rights of set-off or other netting arrangements arising in respect of any banking facilities in the ordinary course of an Obligor’s banking arrangements or other rights of set-off arising under commercial contracts entered into by an Obligor in the ordinary course of business;
- (d) under any payment or close out netting or set-off arrangement arising under or pursuant to Permitted Hedging;
- (e) arising by operation of law in the ordinary course of business;
- (f) under any retention of title arrangement in connection with the acquisition of goods in the ordinary course of business;
- (g) granted by an Obligor to another Obligor;
- (h) in the form of any cash collateral deposited or otherwise provided in respect of any Permitted Hedging not exceeding an aggregate amount of USD 20,000,000 in aggregate for the Obligors at any time;
- (i) at any time on or before 31 December 2025, in the form of any cash collateral deposited or otherwise provided (and any Security granted in respect of such cash collateral) in relation to an indemnity or other payment obligation in respect of a bank guarantee or letter of credit permitted pursuant to the Bond Finance Documents, provided in each case that such cash collateral is not provided due to, to avoid or repair or in connection with an actual or potential default under the relevant guarantee or letter of credit arrangement;
- (j) in the form of any cash deposits paid by an Obligor to:
 - (i) any suppliers of goods and services as an advance payment for the provision of those goods and services to that Obligor; or
 - (ii) landlords as a deposit for the lease obligations of that Obligor,

in each case on normal commercial terms and in the ordinary course of business;

- (k) provided by one of the following transactions if the transaction does not secure payment or performance of an obligation:
 - (i) a transfer of an account or chattel paper;
 - (ii) a commercial consignment; or
 - (iii) a PPS Lease which is not a Finance Lease,
 where the terms “account”, “chattel paper”, “commercial consignment” and “PPS Lease” have the respective meanings given in the Personal Property Securities Act 2009 (Cth);
- (l) granted to the financier or supplier of any equipment or assets where the Financial Indebtedness is permitted under paragraph (n) of the definition of Permitted Financial Indebtedness and the Security is only over the equipment or assets financed or supplied by that financier or supplier and its proceeds (including any insurance proceeds);
- (m) granted to the financier of any insurance premiums where the Financial Indebtedness is permitted under paragraph (o) of the definition of Permitted Financial Indebtedness and the Security is only over the insurances financed by that financier and their proceeds;
- (n) existing under a lease or hire purchase arrangement permitted or not otherwise prohibited by the Bond Finance Documents;
- (o) consented to under the Peabody / CITIC Priority Deed; and
- (p) granted by an Obligor securing Financial Indebtedness, the principal amount of which (when aggregated with the principal amount of all other Financial Indebtedness which has the benefit of a Security granted by the Obligors under this paragraph (p)) at any time does not exceed USD 10,000,000.

“Pre-Disbursement Conditions Precedent” has the meaning ascribed to such term in paragraph (b) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

“Pre-Disbursement Security” means the Transaction Security listed in sub-paragraph (ii) to (v) of paragraph (a) of Clause 2.5 (*Transaction Security*).

“Pre-Settlement Conditions Precedent” has the meaning ascribed to such term in paragraph (a) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

“Pre-Settlement Security” means the Transaction Security listed in sub-paragraph (i) of paragraph (a) of Clause 2.5 (*Transaction Security*).

“Product” means coal produced, derived, processed, treated or handled from, at or by the Olive Downs Coking Coal Complex.

“Put Option” has the meaning ascribed to such term in Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

“Put Option Event” means a Change of Control Event.

“Put Option Repayment Date” means the settlement date for the Put Option pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

“Quarter Date” means 31 March, 30 June, 30 September and 31 December each year.

“Real Property Mortgage” means, except in relation to the Common Secured Property over which the security will be second ranking pursuant to the Peabody / CITIC Priority Deed, a first priority Australian law real property mortgage over the land on which the Olive Downs Coking Coal Complex is undertaken granted in favour of the Security Trustee.

“Refinanced Existing Debt” means:

- (a) the Existing Bond Issue;
- (b) the Existing Cost Overrun Facility;
- (c) the Existing NAIF Facility; and
- (d) the Existing Term Facility.

“Relevant Jurisdiction” means the country in which the Bonds are issued, being Norway.

“Relevant Period” means a period of 12 months ending on a Quarter Date.

“Relevant Record Date” means the date on which a Bondholder’s ownership of Bonds shall be recorded in the CSD as follows:

- (a) in relation to payments pursuant to these Bond Terms, the date designated as the Relevant Record Date in accordance with the rules of the CSD from time to time; or
- (b) for the purpose of casting a vote with regard to Clause 15 (*Bondholders’ Decisions*), the date falling on the immediate preceding Business Day to the date of that Bondholders’ decision being made, or another date as accepted by the Bond Trustee.

“Repayment Date” means any date for payment of instalments in accordance with Clause 10.1 (*Redemption of Bonds*), any Call Option Repayment Date, the Default Repayment Date, any Put Option Repayment Date, the Tax Event Repayment Date, the Mandatory Redemption Repayment Date or the Maturity Date.

“Revolving Credit Facility” means a revolving credit facility or facilities of up to an aggregate principle amount of (i) prior to the issuance of a Final Stage Completion Certificate, AUD 50,000,000 and (ii) on and from the issuance of a Final Stage Completion Certificate, AUD 100,000,000, in each case to be used for the general business and working capital needs of the Obligor, entered into by and between the Issuer as borrower and certain financial institutions (as amended, restated or refinanced from time to time provided that the principal amount is not increased beyond the applicable threshold).

“Secured Money” means all debts and monetary liabilities which an Obligor (whether alone or with another person) is or at any time may become actually or contingently liable to pay to or for the account of a Beneficiary (whether alone or with another person) for any reason whatsoever under or in connection with a Bond Finance Document or Finance Document and in any capacity, as further set out in the Security Trust Deed from time to time.

“Securities Trading Act” means the Securities Trading Act of 2007 no.75 of the Relevant Jurisdiction.

“Security” means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement (including but not limited to set-off rights) having a similar effect.

“Security Agent” means the Bond Trustee or any successor Security Agent, acting for and on behalf of the Secured Parties in accordance with any Security Agent Agreement or any other Bond Finance Document.

“Security Agent Agreement” means any agreement other than these Bond Terms whereby the Security Agent is appointed to act as such in the interest of the Bond Trustee (on behalf of itself and the Bondholders).

“Security Provider” means any person granting Transaction Security.

“Security Trust Deed” means the security trust deed between, among others, the Obligors, the Bond Trustee, the lenders under the Guarantee Facility and the Revolving Credit Facility, and the Security Trustee, pursuant to which all the Transaction Security is held on trust for the Beneficiaries (with the exception of the Pre-Settlement Security) and which regulates inter alia the enforcement rights and right of payments pursuant to certain waterfall provisions in accordance with the Intercreditor Terms (being the existing security trust deed dated 22 December 2021 and originally made between inter alia the financiers for the Refinanced Existing Debt (with any necessary amendment and accessions)).

“Security Trustee” means National Australia Bank Limited.

“Series B Units Redemption” means the redemption of the existing Series B units issued by Pembroke Resources Nominee Pty Limited (ACN 169 037 236) in its personal capacity and as trustee for the Pembroke Resources Australian Unit Trust currently held by founders and management of the Group in (A) an initial amount of USD 25,000,000 and (B) a subsequent amount of USD 25,000,000.

“Solar Park” means the proposed solar farm for the Olive Downs Coking Coal Complex.

“Sponsor” means:

- (a) Denham Commodity Partners Fund VI LP, a Delaware limited partnership;
- (b) Denham Commodity Partners VI-A LP, a Delaware limited partnership;
- (c) any fund whose manager is Denham or an Affiliate or related body corporate of Denham; and/or

- (d) any Affiliate or related body corporate of Denham or any entity set out under (a) and (b) above.

“Stage 1” means the existing Olive Downs facility with 6 Mtpa ROM capacity.

“Stage 2 Expansion” means the expansion of the Olive Downs facility to 12 Mtpa ROM capacity.

“Subordinated Loans” means debt financing that:

- (a) is provided to the Issuer by a person or entity (the **“Subordinated Lender”**) which is not an Obligor;
- (b) is subject to the terms of a subordination agreement between the Issuer, the Security Trustee and the Subordinated Lender whereby the Subordinated Loan is fully subordinated to the Secured Money; and
- (c) falls due after the Maturity Date, and where (i) no amortization is scheduled prior to the Maturity Date, (ii) no interest or fees on such loan shall be paid in cash, (iii) no principal may be paid, repaid, re-purchased, netted, set off, reduced through the payment of other amounts or settled in kind, and (iv) no acceleration or declaration of default may occur, in each case prior to all amounts outstanding under the Bond Finance Documents have been repaid in full (other than by way of Permitted Distributions).

“Subsidiary” means a person over which another person has Decisive Influence.

“Summons” means the call for a Bondholders’ Meeting or a Written Resolution as the case may be.

“Tax Event Repayment Date” means the date set out in a notice from the Issuer to the Bondholders pursuant to Clause 10.4 (*Early redemption option due to a tax event*).

“Tenement Mortgage” means, except in relation to the Common Secured Property over which the security will be second ranking pursuant to the Peabody / CITIC Priority Deed, a first priority Australian law mortgage over the Mining Tenements for the Complex granted in favour of the Security Trustee.

“Transaction Security” means the Security created or expressed to be created in favour of the Bond Trustee (in the case of the Pre-Settlement Security) and the Security Trustee (on behalf of the Beneficiaries) (in the case of the Pre-Disbursement Security) pursuant to the Transaction Security Documents.

“Transaction Security Documents” means, collectively, the Bond Escrow Account Pledge and all of the documents which shall be executed or delivered pursuant to Clause 2.5 (*Transaction Security*).

“Voting Bonds” means the Outstanding Bonds less the Issuer’s Bonds.

“Written Resolution” means a written (or electronic) solution for a decision making among the Bondholders, as set out in Clause 15.5 (*Written Resolutions*).

1.2 Construction

In these Bond Terms, unless the context otherwise requires:

- (a) headings are for ease of reference only;
- (b) words denoting the singular number will include the plural and vice versa;
- (c) references to Clauses are references to the Clauses of these Bond Terms;
- (d) references to a time are references to Central European Time unless otherwise stated;
- (e) references to a provision of “**law**” are a reference to that provision as amended or re-enacted, and to any regulations made by the appropriate authority pursuant to such law;
- (f) references to a “**regulation**” includes any regulation, rule, official directive, request or guideline by any official body;
- (g) references to a “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality;
- (h) references to Bonds being “**redeemed**” means that such Bonds are cancelled and discharged in the CSD in a corresponding amount, and that any amounts so redeemed may not be subsequently re-issued under these Bond Terms;
- (i) references to Bonds being “**purchased**” or “**repurchased**” by the Issuer means that such Bonds may be dealt with by the Issuer as set out in Clause 11.1 (*Issuer’s purchase of Bonds*);
- (j) references to persons “**acting in concert**” shall be interpreted pursuant to the relevant provisions of the Securities Trading Act; and
- (k) an Event of Default is “**continuing**” if it has not been remedied or waived.

2. THE BONDS

2.1 Amount, denomination and ISIN of the Bonds

- (a) The Issuer has resolved to issue a series of Bonds in the amount of USD 550,000,000.
- (b) The Bonds are denominated in US Dollars (USD), being the legal currency of the United States of America.
- (c) The Initial Nominal Amount of each Bond is USD 1.
- (d) The ISIN of the Bonds is set out on the front page. These Bond Terms apply with identical terms and conditions to (i) all Bonds issued under this ISIN (ii) any Overdue Amounts issued under one or more separate ISIN in accordance with the regulations of the CSD from time to time.

- (e) Holders of Overdue Amounts related to interest claims will not have any other rights under these Bond Terms than their claim for payment of such interest claim which claim shall be subject to paragraph (b) of Clause 15.1 (*Authority of the Bondholders' Meeting*).

2.2 Tenor of the Bonds

The tenor of the Bonds is from and including the Issue Date to but excluding the Maturity Date.

2.3 Use of proceeds

The Issuer will use the Net Proceeds from the issuance of the Bonds for:

- (a) repayment or redemption (as applicable) in full of the Refinanced Existing Debt, including accrued interest and applicable repayment or redemption premium thereon; and
- (b) general corporate purposes of the Obligors, including Stage 2 Expansion project costs.

2.4 Status of the Bonds

- (a) The Bonds and all present and future obligations and liabilities under or in relation to the Bond Finance Documents shall constitute senior debt obligations of the Issuer and the relevant Obligor, and shall be;

- (i) secured on a first priority basis in the Pre-Settlement Security; and

- (ii) secured on a joint first priority *pari passu* basis (other than the Common Secured Property over which the security will be second ranking pursuant to the Peabody / CITIC Priority Deed) in the Pre-Disbursement Security with the other Secured Money, subject to the waterfall provisions of the Security Trust Deed,

and otherwise rank at least *pari passu* with the claims of the Obligors' other unsecured creditors, except for obligations which are mandatorily preferred by law.

- (b) All payment obligations under or in relation to the Bond Finance Documents and the Finance Documents shall rank ahead of any subordinated capital.

2.5 Transaction Security

- (a) As security for the due and punctual fulfilment of all present and future obligations and liabilities under or in connection with the Bonds and the Bond Finance Documents and the other Secured Money, the Obligors shall procure that the following Security is granted in favour of the Bond Trustee (in the case of the Pre-Settlement Security) and the Security Trustee (in the case of the Pre-Disbursement Security) within the times agreed in Clause 6 (*Conditions for disbursement*):

Pre-Settlement Security

- (i) the Bond Escrow Account Pledge.

Pre-Disbursement Security

- (ii) the General Security Deed;

- (iii) the Real Property Mortgage;
 - (iv) the Tenement Mortgage; and
 - (v) the Guarantees.
- (b) The Pre-Settlement Security shall be established in due time (as determined by the Bond Trustee) prior to the Issue Date, in favour of the Bond Trustee (on behalf of the Bondholders) only.
 - (c) The Pre-Disbursement Security shall be established in connection with the Disbursement in favour of the Security Trustee (on behalf of all Beneficiaries and *pari passu* between them as further set out in the Intercreditor Terms).
 - (d) The Bond Trustee and the Security Trustee will be irrevocably authorised to release the Transaction Security (including any guarantee) over assets which are sold or otherwise disposed of (directly or indirectly) (i) in any merger, demerger or disposal permitted in compliance with Clause 13.4 (*Mergers*), Clause 13.5 (*De-mergers*) or Clause 13.7 (*Disposals*), (ii) as part of enforcement of the Transaction Security and (iii) in respect of any Dormant Obligor.

3. THE BONDHOLDERS

3.1 Bond Terms binding on all Bondholders

- (a) By virtue of being registered as a Bondholder (directly or indirectly) with the CSD, the Bondholders are bound by these Bond Terms and any other Bond Finance Document, without any further action required to be taken or formalities to be complied with by the Bond Trustee, the Bondholders, the Issuer or any other party.
- (b) The Bond Trustee is always acting with binding effect on behalf of all the Bondholders.

3.2 Limitation of rights of action

- (a) No Bondholder is entitled to take any enforcement action, instigate any insolvency procedures or take other legal action against the Issuer or any other party in relation to any of the liabilities of the Issuer or any other party under or in connection with the Bond Finance Documents, other than through the Bond Trustee and in accordance with these Bond Terms, provided, however, that the Bondholders shall not be restricted from exercising any of their individual rights derived from these Bond Terms, including the right to exercise the Put Option.
- (b) Each Bondholder shall immediately upon request by the Bond Trustee provide the Bond Trustee with any such documents, including a written power of attorney (in form and substance satisfactory to the Bond Trustee), as the Bond Trustee deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Bond Finance Documents. The Bond Trustee is under no obligation to represent a Bondholder which does not comply with such request.

3.3 Bondholders' rights

- (a) If a beneficial owner of a Bond not being registered as a Bondholder wishes to exercise any rights under the Bond Finance Documents, it must obtain proof of ownership of the Bonds, acceptable to the Bond Trustee.
- (b) A Bondholder (whether registered as such or proven to the Bond Trustee's satisfaction to be the beneficial owner of the Bond as set out in paragraph (a) above) may issue one or more powers of attorney to third parties to represent it in relation to some or all of the Bonds held or beneficially owned by such Bondholder. The Bond Trustee shall only have to examine the face of a power of attorney or similar evidence of authorisation that has been provided to it pursuant to this Clause 3.3 and may assume that it is in full force and effect, unless otherwise is apparent from its face or the Bond Trustee has actual knowledge to the contrary.

4. ADMISSION TO LISTING

The Issuer shall use its reasonable endeavours to ensure that the Bonds are listed on an Exchange within 6 months of the Issue Date and thereafter remain listed on an Exchange until the Bonds have been redeemed in full.

5. REGISTRATION OF THE BONDS

5.1 Registration in the CSD

The Bonds shall be registered in dematerialised form in the CSD according to the relevant securities registration legislation and the requirements of the CSD.

5.2 Obligation to ensure correct registration

The Issuer will at all times ensure that the registration of the Bonds in the CSD is correct and shall immediately upon any amendment or variation of these Bond Terms give notice to the CSD of any such amendment or variation.

5.3 Country of issuance

The Bonds have not been issued under any other country's legislation than that of the Relevant Jurisdiction. Save for the registration of the Bonds in the CSD, the Issuer is under no obligation to register, or cause the registration of, the Bonds in any other registry or under any other legislation than that of the Relevant Jurisdiction.

6. CONDITIONS FOR DISBURSEMENT

6.1 Conditions precedent for disbursement to the Issuer

- (a) Payment of the Net Proceeds from the issuance of the Bonds to the Bond Escrow Account shall be conditional on the Bond Trustee having received in due time (as determined by the Bond Trustee) prior to the Issue Date each of the following documents, in form and substance satisfactory to the Bond Trustee (in consultation with its advisors) (the "**Pre-Settlement Conditions Precedent**"):
 - (i) these Bond Terms duly executed by all parties hereto;
 - (ii) evidence that the Bond Escrow Account has been established on the terms and conditions set forth herein;

- (iii) the Transaction Security Documents for the Pre-Settlement Security duly executed by all parties thereto and evidence of the establishment and perfection thereof;
 - (iv) confirmation that no potential or actual Event of Default exists;
 - (v) copies of extracts of board resolutions of the Issuer approving the issuance of the Bonds and the execution of the Bond Finance Documents to which it is a party;
 - (vi) copies of the Issuer's constitution and certificate of incorporation;
 - (vii) a group structure diagram of the Obligors and the Sponsor;
 - (viii) copies of the Issuer's latest Financial Reports;
 - (ix) confirmation that the applicable prospectus requirements (ref the EU prospectus regulation ((EU) 2017/1129)) concerning the issuance of the Bonds have been fulfilled;
 - (x) copies of any necessary governmental approval, consent or waiver (as the case may be) required at such time to issue the Bonds;
 - (xi) copies of any other consent or waiver required from any third parties to issue the Bonds or establish the Pre-Settlement Security;
 - (xii) confirmation that the Bonds are registered in the CSD (by obtaining an ISIN for the Bonds);
 - (xiii) confirmation of acceptance from any service of process agent;
 - (xiv) copies of any written documentation used in marketing the Bonds or made public by the Issuer or any Manager in connection with the issuance of the Bonds;
 - (xv) the Bond Trustee Fee Agreement duly executed by the parties thereto; and
 - (xvi) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer and the legality, validity and enforceability of these Bond Terms and the Bond Finance Documents).
- (b) The disbursement from the Bond Escrow Account (the “**Disbursement**”), shall be conditional on the Bond Trustee having received or being satisfied that it will receive in due time (as determined by the Bond Trustee) prior to the Disbursement, each of the following documents, in form and substance satisfactory to the Bond Trustee (in consultation with its advisors) (the “**Pre-Disbursement Conditions Precedent**”):
- (i) a duly executed release notice from the Issuer, as set out in Attachment 2 (*Release Notice – Bond Escrow Account*);

- (ii) copies of extracts of board resolutions of each Guarantor approving the execution of the Bond Finance Documents to which it is a party;
 - (iii) copies of each Guarantor's constitution and certificate of incorporation;
 - (iv) the Transaction Security Documents for the Pre-Disbursement Security duly executed by all parties thereto and evidence of the establishment and perfection of the Transaction Security against all of the assets of the Obligors;
 - (v) the Security Trust Deed and the Peabody/CITIC Priority Deed duly signed by the parties thereto;
 - (vi) a copy of the agreement for the Guarantee Facility duly signed by the parties thereto;
 - (vii) a copy of the agreement for the Revolving Credit Facility (if any), duly signed by the parties thereto;
 - (viii) evidence that the Refinanced Existing Debt will be repaid from the Disbursement and that the financiers for the Refinanced Existing Debt (if applicable) resign from the Security Trust Deed (subject to a Closing Procedure);
 - (ix) a certificate from the Issuer addressed to the Bond Trustee confirming that Stage 1 has been completed and operates to its designed capacity and that no potential or actual Event of Default exists;
 - (x) copy of certificates of currency for the insurance together with an undertaking from the Issuer confirming that insurances have been obtained in accordance with the requirements set forth herein;
 - (xi) details of the Operating Accounts;
 - (xii) evidence that any relevant taxes and fees relating to the Bond Finance Documents have been paid;
 - (xiii) evidence of a renewal of the management agreement between the Issuer and Pembroke Resources Pty Ltd or a binding employment agreement with the current chairman and CEO of Pembroke Resources Nominees Pty Limited, and its subsidiaries including the Issuer and renewing his engagements as such; and
 - (xiv) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to each of the Issuer, the Guarantors and any Security Provider and the legality, validity and enforceability of the Bond Finance Documents (unless delivered in connection with the Pre-Settlement Conditions Precedent)).
- (c) The Bond Trustee, acting in its sole discretion, shall have authority to, regarding this Clause 6.1, waive the requirements for documentation or decide that delivery of certain documents shall be made subject to an agreed closing procedure (a “**Closing Procedure**”) between (as relevant) the Security Trustee, the trustee, agent and/or the

secured parties in respect of the Refinanced Existing Debt and/or the Issuer to allow for additional time to complete the refinancing and/or that certain matters are handled post disbursement, as customary or required for practical reasons (including time zones).

6.2 Disbursement of the proceeds

Disbursement of the proceeds from the issuance of the Bonds is conditional on the Bond Trustee's confirmation to the Paying Agent that the conditions in Clause 6.1 (*Conditions precedent for disbursement to the Issuer*) have been either satisfied in the Bond Trustee's discretion or waived by the Bond Trustee pursuant to paragraph (c) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

7. REPRESENTATIONS AND WARRANTIES

The Issuer makes the representations and warranties set out in this Clause 7 (*Representations and Warranties*), in respect of itself and in respect of each Obligor to the Bond Trustee (on behalf of the Bondholders) at the following times and with reference to the facts and circumstances then existing:

- (a) on the date of these Bond Terms;
- (b) on the Issue Date; and
- (c) on the date of disbursement of proceeds from the Bond Escrow Account.

7.1 Status

It is a proprietary limited company, duly incorporated and validly existing and registered under the laws of its jurisdiction of incorporation, and has the power to own its assets and carry on its business as it is being conducted.

7.2 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, these Bond Terms and any other Bond Finance Document to which it is a party and the transactions contemplated by those Bond Finance Documents.

7.3 Valid, binding and enforceable obligations

These Bond Terms and each other Bond Finance Document to which it is a party constitutes (or will constitute, when executed by the respective parties thereto) its legal, valid and binding obligations, enforceable in accordance with their respective terms, and (save as provided for therein) no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render the said documents enforceable against it.

7.4 Non-conflict with other obligations

The entry into and performance by it of these Bond Terms and any other Bond Finance Document to which it is a party and the transactions contemplated thereby do not and will not conflict with (i) any law or regulation or judicial or official order; (ii) its constitutional documents; or (iii) any agreement or instrument which is binding upon it or any of its assets.

7.5 No Event of Default

- (a) No Event of Default exists or is likely to result from the making of any disbursement of proceeds or the entry into, the performance of, or any transaction contemplated by, any Bond Finance Document.
- (b) No other event or circumstance has occurred which constitutes (or with the expiry of any grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is likely to have a Material Adverse Effect.

7.6 Authorisations and consents

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations or registrations required:

- (a) to enable it to enter into, exercise its rights and comply with its obligations under these Bond Terms or any other Bond Finance Document to which it is a party; and
- (b) to carry on its business as presently conducted and as contemplated by these Bond Terms,

have been obtained or effected and are in full force and effect.

7.7 Litigation

No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or agency which, if adversely determined, is likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

7.8 Financial Reports

Its most recent Financial Reports fairly and accurately represent the assets and liabilities and financial condition as at their respective dates, and have been prepared in accordance with the Accounting Standard, consistently applied.

7.9 No Material Adverse Effect

Since the date of the most recent Financial Reports, there has been no change in its business, assets or financial condition that is likely to have a Material Adverse Effect.

7.10 No misleading information

Any factual information provided by it to the Bondholders or the Bond Trustee for the purposes of the issuance of the Bonds was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

7.11 No withholdings

The Issuer is not required to make any deduction or withholding from any payment which it may become obliged to make to the Bond Trustee or the Bondholders under the Bond Finance Documents.

7.12 Pari passu ranking

Its payment obligations under these Bond Terms or any other Bond Finance Document to which it is a party ranks as set out in Clause 2.4 (*Status of the Bonds*).

7.13 Security

No Security exists over any of the present assets of any Group Company in conflict with these Bond Terms.

8. PAYMENTS IN RESPECT OF THE BONDS

8.1 Covenant to pay

- (a) The Issuer will unconditionally make available to or to the order of the Bond Trustee and/or the Paying Agent all amounts due on each Payment Date pursuant to the terms of these Bond Terms at such times and to such accounts as specified by the Bond Trustee and/or the Paying Agent in advance of each Payment Date or when other payments are due and payable pursuant to these Bond Terms.
- (b) All payments to the Bondholders in relation to the Bonds shall be made to each Bondholder registered as such in the CSD on the Relevant Record Date, by, if no specific order is made by the Bond Trustee, crediting the relevant amount to the bank account nominated by such Bondholder in connection with its securities account in the CSD.
- (c) Payment constituting good discharge of the Issuer's payment obligations to the Bondholders under these Bond Terms will be deemed to have been made to each Bondholder once the amount has been credited to the bank holding the bank account nominated by the Bondholder in connection with its securities account in the CSD. If the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Bondholder in question.
- (d) If a Payment Date or a date for other payments to the Bondholders pursuant to the Bond Finance Documents falls on a day on which either of the relevant CSD settlement system or the relevant currency settlement system for the Bonds are not open, the payment shall be made on the first following possible day on which both of the said systems are open, unless any provision to the contrary has been set out for such payment in the relevant Bond Finance Document.

8.2 Default interest

- (a) Default interest will accrue on any Overdue Amount from and including the Payment Date on which it was first due to and excluding the date on which the payment is made at the Interest Rate plus 2 percentage points per annum.
- (b) Default interest accrued on any Overdue Amount pursuant to this Clause 8.2 will be added to the Overdue Amount on each Interest Payment Date until the Overdue Amount and default interest accrued thereon have been repaid in full.
- (c) Upon the occurrence of a Listing Failure Event and for as long as such Listing Failure Event is continuing, the interest on any principal amount outstanding under these Bond Terms will accrue at the Interest Rate plus 1 percentage point per annum.

8.3 Partial Payments

- (a) If the Paying Agent or the Bond Trustee receives a Partial Payment, such Partial Payment shall, in respect of the Issuer's debt under the Bond Finance Documents be considered made for discharge of the debt of the Issuer in the following order of priority:
 - (i) firstly, towards any outstanding fees, liabilities and expenses of the Bond Trustee (and the Security Trustee);
 - (ii) secondly, towards accrued interest due but unpaid; and
 - (iii) thirdly, towards any other outstanding amounts due but unpaid under the Bond Finance Documents.
- (b) Notwithstanding paragraph (a) above, any Partial Payment which is distributed to the Bondholders, shall, after the above mentioned deduction of outstanding fees, liabilities and expenses, be applied (i) firstly towards any principal amount due but unpaid and (ii) secondly, towards accrued interest due but unpaid, in the following situations;
 - (i) if the Bond Trustee has served a Default Notice in accordance with Clause 14.2 (*Acceleration of the Bonds*); or
 - (ii) if a resolution according to Clause 15 (*Bondholders' Decisions*) has been made.

8.4 Taxation

- (a) The Issuer is responsible for withholding any withholding tax imposed by applicable law on any payments to be made by it in relation to the Bond Finance Documents and any other relevant Finance Documents.
- (b) The Issuer shall, if any tax is withheld in respect of the Bonds under the Bond Finance Documents and any other relevant Finance Documents:
 - (i) gross up the amount of the payment due from it up to such amount which is necessary to ensure that the Bondholders or the Bond Trustee, as the case may be, receive a net amount which is (after making the required withholding) equal to the payment which would have been received if no withholding had been required; and
 - (ii) at the request of the Bond Trustee, deliver to the Bond Trustee evidence that the required tax deduction or withholding has been made.
- (c) The Issuer shall pay any stamp duty and other public fees accruing in connection with the Bonds, but not in respect of trading in the secondary market (except to the extent required by applicable laws).
- (d) The Bond Trustee shall not have any responsibility to obtain information about the Bondholders relevant for the tax obligations pursuant to these Bond Terms.

8.5 Currency

- (a) All amounts payable under the Bond Finance Documents shall be payable in the Bond Currency. If, however, the Bond Currency differs from the currency of the bank account connected to the Bondholder's account in the CSD, any cash settlement may be exchanged and credited to this bank account.
- (b) Any specific payment instructions, including foreign exchange bank account details, to be connected to the Bondholder's account in the CSD must be provided by the relevant Bondholder to the Paying Agent (either directly or through its account manager in the CSD) within 5 Business Days prior to a Payment Date. Depending on any currency exchange settlement agreements between each Bondholder's bank and the Paying Agent, and opening hours of the receiving bank, cash settlement may be delayed, and payment shall be deemed to have been made once the cash settlement has taken place, provided, however, that no default interest or other penalty shall accrue for the account of the Issuer for such delay.

8.6 Set-off and counterclaims

No Obligor apply or perform any counterclaims or set-off against any payment obligations pursuant to these Bond Terms or any other Bond Finance Document.

9. INTEREST

9.1 Calculation of interest

- (a) Each Outstanding Bond will accrue interest at the Interest Rate on the Nominal Amount for each Interest Period, commencing on and including the first date of the Interest Period, and ending on but excluding the last date of the Interest Period.
- (b) Interest shall be calculated on the basis of a 360-day year comprised of twelve months of 30 days each (30/360-days basis), unless:
 - (i) the last day in the relevant Interest Period is the 31st calendar day but the first day of that Interest Period is a day other than the 30th or the 31st day of a month, in which case the month that includes that last day shall not be shortened to a 30-day month; or
 - (ii) the last day of the relevant Interest Period is the last calendar day in February, in which case February shall not be lengthened to a 30-day month.

9.2 Payment of interest

Interest shall fall due on each Interest Payment Date for the corresponding preceding Interest Period and, with respect to accrued interest on the principal amount then due and payable, on each Repayment Date.

10. REDEMPTION AND REPURCHASE OF BONDS

10.1 Redemption of Bonds

- (a) The Bonds will be repaid by the Issuer in instalments commencing on the Interest Payment Date falling 42 months after the Issue Date, with an amount equal to USD 27,500,000 to be amortised on each Interest Payment Date.

- (b) Instalment payments will be made pro rata in accordance with the applicable regulations of the CSD.
- (c) Any remaining Outstanding Bonds will be redeemed in full on the Maturity Date at a price of 100% of the Nominal Amount.

10.2 Voluntary early redemption - Call Option

- (a) The Issuer may redeem all or some of the Outstanding Bonds (the “**Call Option**”) on any Business Day from and including:
 - (i) the Issue Date to, but not including, the First Call Date at a price equal to the Make Whole Amount;
 - (ii) the First Call Date to, but not including, the Interest Payment Date in February 2028 at a price equal to 105.75% of the Nominal Amount for each redeemed Bond;
 - (iii) the Interest Payment Date the Interest Payment Date in February 2028 to, but not including, the Interest Payment Date in August 2028 at a price equal to 104.31% of the Nominal Amount for each redeemed Bond;
 - (iv) the Interest Payment Date in August 2028 to, but not including, the Interest Payment Date in February 2029 at a price equal to 102.88% of the Nominal Amount for each redeemed Bond;
 - (v) the Interest Payment Date in February 2029 to, but not including, the Interest Payment Date in August 2029 at a price equal to 101.44% of the Nominal Amount for each redeemed Bond;
 - (vi) the Interest Payment Date in August 2029 to, but not including, the Maturity Date at a price equal to 100.00% of the Nominal Amount for each redeemed Bond.
- (b) Any redemption of Bonds pursuant to paragraph (a) above shall be determined based upon the redemption prices applicable on the Call Option Repayment Date.
- (c) Call Option may be exercised by the Issuer by written notice to the Bond Trustee at least 10 Business Days prior to the proposed Call Option Repayment Date. Such notice sent by the Issuer is (subject to paragraph (d) of this Clause 10.2) irrevocable and shall specify the Call Option Repayment Date.
- (d) Any call notice may, at the Issuer’s discretion, be subject to the satisfaction of one or more conditions precedent, in which case the call notice will be automatically cancelled unless such conditions precedent have been satisfied or waived at least 3 Business Days prior to such Call Option Repayment Date.
- (e) Any Call Option exercised in part will be used for pro rata payment to the Bondholders in accordance with the applicable regulations of the CSD.

10.3 Mandatory repurchase due to a Put Option Event

- (a) Upon the occurrence of a Put Option Event, each Bondholder will have the right (the “**Put Option**”) to require that the Issuer purchases all or some of the Bonds held by that Bondholder at a price equal to 101% of the Nominal Amount.
- (b) The Put Option must be exercised within a period of 20 Business Days after the Issuer has given notice to the Bond Trustee and the Bondholders that a Put Option Event has occurred pursuant to Clause 12.3 (*Put Option Event*). Once notified, the Bondholders’ right to exercise the Put Option is irrevocable.
- (c) Each Bondholder may exercise its Put Option by written notice to its account manager for the CSD, who will notify the Paying Agent of the exercise of the Put Option. The Put Option Repayment Date will be the 10th Business Day after the end of 20 Business Days exercise period referred to in paragraph (b) above. However, the settlement of the Put Option will be based on each Bondholders holding of Bonds at the Put Option Repayment Date.
- (d) If Bonds representing more than 90 per cent. of the Outstanding Bonds have been repurchased pursuant to this Clause 10.3, the Issuer is entitled to repurchase all the remaining Outstanding Bonds at the price stated in paragraph (a) above by notifying the remaining Bondholders of its intention to do so no later than 10 Business Days after the Put Option Repayment Date. Such notice sent by the Issuer is irrevocable and shall specify the Call Option Repayment Date.

10.4 Early redemption option due to a tax event

If the Issuer is or will be required to gross up any withheld tax imposed by law from any payment in respect of the Bonds under the Finance Documents pursuant to Clause 8.4 (*Taxation*) as a result of a change in applicable law implemented after the date of these Bond Terms, the Issuer will have the right to redeem all, but not only some, of the Outstanding Bonds at a price equal to 100 per cent. of the Nominal Amount. The Issuer shall give written notice of such redemption to the Bond Trustee and the Bondholders at least 20 Business Days prior to the Tax Event Repayment Date, provided that no such notice shall be given earlier than 40 Business Days prior to the earliest date on which the Issuer would be obliged to withhold such tax were a payment in respect of the Bonds then due.

10.5 Mandatory early redemption due to a Mandatory Redemption Event

- (a) Upon a Mandatory Redemption Event, the Issuer shall, within 5 Business Days after the Mandatory Redemption Event, redeem all of the Outstanding Bonds at a price of 100.00% of the Nominal Amount plus accrued interest.
- (b) Any redemption in part will be used for pro rata payment to the Bondholders in accordance with the applicable regulations of the CSD.
- (c) The Bond Trustee shall be authorised to apply all amounts credited to the Bond Escrow Account towards any amount payable by the Issuer under any Bond Finance Document until all obligations and liabilities under or in relation to the Bond Finance Documents are repaid and discharged in full.

11. PURCHASE AND TRANSFER OF BONDS

11.1 Issuer's purchase of Bonds

The Issuer may purchase and hold Bonds and such Bonds may be retained or sold, but not cancelled, in the Issuer's sole discretion, including with respect to Bonds purchased pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

For clarity, the Issuer may not use funds from the Bond Escrow Account, to repurchase Bonds.

11.2 Restrictions

- (a) Certain purchase or selling restrictions may apply to Bondholders under applicable local laws and regulations from time to time. Neither the Issuer nor the Bond Trustee shall be responsible for ensuring compliance with such laws and regulations and each Bondholder is responsible for ensuring compliance with the relevant laws and regulations at its own cost and expense.
- (b) A Bondholder who has purchased Bonds in breach of applicable restrictions may, notwithstanding such breach, benefit from the rights attached to the Bonds pursuant to these Bond Terms (including, but not limited to, voting rights), provided that the Issuer shall not incur any additional liability by complying with its obligations to such Bondholder.

12. INFORMATION UNDERTAKINGS

12.1 Financial Reports

- (a) The Issuer shall prepare Annual Financial Statements in the English language and make them available on its website (alternatively on another relevant information platform) as soon as they become available, and not later than four (4) months after the end of the financial year.
- (b) The Issuer shall prepare Interim Accounts in the English language and make them available on its website (alternatively on another relevant information platform) as soon as they become available, and not later than two (2) months after the end of the relevant interim period.
- (c) The Issuer shall prepare management accounts for the Obligors and make them available to the Bond Trustee no later than two (2) months after the Quarter Date ending in March and September each year.
- (d) The Issuer shall for each financial quarter, procure that the management of the Issuer hosts investor calls.

12.2 Requirements as to Financial Reports

- (a) The Issuer shall supply to the Bond Trustee, in connection with the publication of its Financial Reports pursuant to Clause 12.1 (*Financial Reports*), a Compliance Certificate with a copy of the Financial Reports attached thereto. The Compliance Certificate shall be duly signed by the chief executive officer or the chief financial officer of the Issuer, certifying inter alia that the Financial Reports fairly represent its financial condition as at the date of the relevant Financial Report.

- (b) The Issuer shall procure that the Financial Reports delivered pursuant to Clause 12.1 (*Financial Reports*) are prepared using the Accounting Standard consistently applied.

12.3 Put Option Event

The Issuer shall promptly inform the Bond Trustee in writing after becoming aware that a Put Option Event has occurred.

12.4 Listing Failure Event

The Issuer shall promptly inform the Bond Trustee in writing if a Listing Failure Event has occurred. However, no Event of Default shall occur if the Issuer fails (i) to list the Bonds in accordance with Clause 3.1 (*Admission to Listing*) or (ii) to inform of such Listing Failure Event, and such failure shall result in the accrual of default interest in accordance with paragraph (c) of Clause 8.2 (*Default interest*) for as long as such Listing Failure Event is continuing.

12.5 Information: Miscellaneous

The Issuer shall:

- (a) promptly inform the Bond Trustee in writing of any Event of Default or any event or circumstance which the Issuer understands or could reasonably be expected to understand may lead to an Event of Default and the steps, if any, being taken to remedy it;
- (b) at the request of the Bond Trustee, report the balance of the Issuer's Bonds (to the best of its knowledge, having made due and appropriate enquiries);
- (c) send the Bond Trustee copies of any statutory notifications of the Issuer, including but not limited to in connection with mergers, de-mergers and reduction of the Issuer's share capital or equity;
- (d) if the Bonds are listed on an Exchange, send a copy to the Bond Trustee of its notices to the Exchange;
- (e) if the Issuer and/or the Bonds are rated, inform the Bond Trustee of its and/or the rating of the Bonds, and any changes to such rating;
- (f) inform the Bond Trustee of changes in the registration of the Bonds in the CSD; and
- (g) within a reasonable time, provide such information about the Issuer's business, assets and financial condition as the Bond Trustee may reasonably request.

13. GENERAL AND FINANCIAL UNDERTAKINGS

The Issuer undertakes to (and shall, where applicable, procure that the other Group Companies will) comply with the undertakings set forth in this Clause 13.

13.1 Authorisations

Each Obligor shall obtain, maintain and comply with the terms of any material authorisation, approval, license and consent required for the Olive Downs Coking Coal Complex and for the

conduct of its business as carried out at the date of these Bond Terms (other than any non-compliance of a minor or immaterial nature).

13.2 Compliance with laws

Each Obligor shall comply in all material respects with all laws and regulations to which it may be subject to from time to time.

13.3 Corporate status

No Obligor shall change its current jurisdiction of incorporation or entity form (other than a Dormant Obligor).

13.4 Mergers

No Obligor shall carry out any merger or other business combination or corporate reorganisation involving the consolidation of any of their assets and obligations with persons who are not Obligors.

13.5 De-mergers

No Obligor shall carry out any demerger or other corporate reorganisation having the same or equivalent effect as a demerger with persons who are not Obligors.

13.6 Ownership

Pembroke Resources Australian Unit Trust shall remain the 100% direct legal owner of all the other Guarantors (other than any Dormant Obligor).

13.7 Disposals

No Obligor shall sell or otherwise dispose of, part with possession of, or create an interest in, any of the assets or rights related to the Olive Downs Coking Coal Complex (whether in one or more related or unrelated transactions) except for Permitted Disposals.

13.8 Transaction Security

The Obligors shall procure that the Transaction Security remains valid, binding and enforceable and with the priority it is expressed to have.

13.9 Anti-corruption and sanctions

The Obligors shall (a) ensure that no proceeds from the Bonds are used directly or indirectly for any purpose which would breach any acts, regulations or laws on bribery, corruption or similar applicable to it; and (b) conduct its businesses in compliance with anti-corruption laws applicable to it.

13.10 Investments and activity

(a) The Obligors shall procure that all material investment related to the Olive Downs Coking Coal Complex, including the acquisition of any assets relating thereto, shall be made by and remain with the Obligors. The Obligors shall furthermore procure that all material business operations and activities relating to the Olive Downs Coking Coal Complex are conducted by the Obligors.

- (b) The Obligors shall not invest or take part in any activity other than the Olive Downs Coking Coal Complex or any activity reasonably incidental to the Olive Downs Coking Coal Complex.
- (c) The Obligors shall make no investment in plant and equipment related to the Stage 2 Expansion prior to the Issuer having issued a First Stage Production Certificate.

13.11 Related party transactions

Without limiting Clause 13.2 (*Compliance with laws*) above, the Issuer shall, and shall procure that each other Obligor will, conduct all business transactions with any Affiliate which is not an Obligor on an arm's length (or better) basis.

13.12 Environmental

Each Obligor must obtain and maintain any environmental and social authorisation that is required for the development and operation of Olive Downs Coking Coal Complex where failure to do so would have a Material Adverse Effect. Further, each Obligor must (a) comply, in all material respects, with all environmental law, social law and environmental and social authorisations; (b) use all reasonable precautions to avoid any act or omission that would reasonably result in a material environmental and social incident, and (c) not release into the environment any dangerous substances in breach of any environmental and social laws, requirements of law or authorisations which results or is likely to result in a Material Adverse Effect.

13.13 Mining business

The Obligors shall conduct their business in material compliance with all applicable laws and good industry practices, and shall comply with all material conditions and requirements of the Mining Tenements and do whatever may be reasonably required to keep the Mining Tenements in full force and effect.

13.14 Inspection

The Obligors shall, following an Event of Default, allow the Bond Trustee or its representatives to have access at reasonable times on customary terms to all premises of the Obligors (at the Issuer's cost) to inspect the assets and activities of the Olive Downs Coking Coal Complex.

13.15 Insurances

The Obligors shall maintain insurances on and in relation to its material business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business. All insurances must be with reputable independent insurance companies or underwriters.

13.16 Distributions

No Obligor shall make any Distributions to its shareholders, other than any Permitted Distribution.

13.17 Financial Indebtedness

No Obligor shall incur, allow to exist or prolong any Financial Indebtedness other than any Permitted Financial Indebtedness.

13.18 Negative pledge

No Obligor shall create or allow to subsist, retain, provide, prolong or renew any Security over any of its assets (whether present or future) other than any Permitted Security.

13.19 Loans or credit

No Obligor shall be a creditor in respect of any Financial Indebtedness, other than any Permitted Loan.

13.20 No guarantees or indemnities

No Obligor shall, incur or allow to remain outstanding any guarantee in respect of any obligation of any person, other than any Permitted Guarantee.

13.21 Hedging

The Obligors shall not enter into any hedging arrangement or other forms of derivative transactions in connection with protection against or benefit from fluctuation in any rate or price other than any Permitted Hedging.

13.22 Holding company/trustee

Notwithstanding anything otherwise permitted under the Bond Finance Documents, Pembroke Resources Nominee Pty Limited shall not trade, carry on any business, own any assets or incur any liabilities except for:

- (a) those necessary to maintain its corporate existence as a trustee and holding company (including those arising under its constituent documents and the trust deed);
- (b) remuneration of its directors;
- (c) the payment of Permitted Distributions;
- (d) the provision of administrative services to the Pembroke Resources Australian Unit Trust and the other Obligors of a type customarily provided by a trustee and holding company;
- (e) the ownership of shares in the other Obligors, and such credit balances and Cash and Cash Equivalents that are required in the ordinary course of business as a trustee and holding company;
- (f) the right and liabilities under the Finance Documents;
- (g) the payment of professional fees and administration costs in the ordinary course of business as a trustee and holding company;
- (h) any other activity that is permitted by the Bond Finance Documents and which is consistent with its role as a trustee and holding company (which, for the avoidance of doubt, does not permit it to acquire or hold any material assets other than its interests in the other Obligors and other assets contemplated by the paragraphs above).

13.23 Financial covenants

- (a) The Issuer shall comply with the following financial covenants:
 - (i) **Minimum Cash:** After the Disbursement, the Issuer shall ensure that the Obligors maintains Cash and Cash Equivalents at all times of no less than the AUD 25,000,000.
 - (ii) **Interest Coverage Ratio:** After the Disbursement, the Issuer shall ensure that the Interest Coverage Ratio shall be minimum 2.0x:
 - (A) to and including the Relevant Period ending on 31 December 2026, but only to the extent the Liquidity at each relevant Quarter Date is lower than AUD 100,000,000 (and otherwise not applicable); and
 - (B) in respect of the Relevant Period ending on 31 March 2027 and any time thereafter.
- (b) Compliance with the above financial covenants shall be tested on each Quarter Date and certified by the Issuer with a Compliance Certificate in connection with the publication of its Financial Reports and management accounts.

13.24 Equity cure

- (a) If the Issuer fails (or would otherwise fail) to comply with the Interest Coverage Ratio in respect of a Relevant Period, and the Issuer after the end of that Relevant Period receives cash proceeds in the form of new equity or a Subordinated Loan (the “**Cure Amount**”) within 20 Business Days of the date on which the Annual Financial Statements or the Interim Accounts are due hereunder, then the Interest Coverage Ratio for that Relevant Period shall be recalculated by increasing EBITDA for that Relevant Period by the Cure Amount.
- (b) If, after giving effect to the foregoing recalculation, the Issuer is in compliance with the requirements of the Interest Coverage Ratio, the Issuer shall be deemed to have satisfied the requirements of the Interest Coverage Ratio for such Relevant Period as though there had been no failure to comply with such requirement, and the applicable breach or default of such financial covenants which had occurred shall be deemed to have been prevented or cured.
- (c) The Issuer shall be limited to a maximum of four equity cures of actual failures to satisfy the Interest Coverage Ratio during the term of the Bonds.

13.25 Bank Accounts

- (a) The Issuer shall, where relevant, establish and maintain the Accounts, each of which shall be subject to the Transaction Security.
- (b) All Accounts shall be maintained with an Acceptable Bank. No Obligor shall open or maintain an account which is not with an Acceptable Bank and subject to perfected first priority Security under the Transaction Security, other than Excluded Accounts, subject

however to any mandatory limitations arising under any applicable law. Excluded Accounts will not otherwise be excluded from the Transaction Security.

13.26 Operating Accounts

- (a) The Issuer shall prior to the Issue Date establish (or designate as) one or more operating accounts (each an “**Operating Account**”).
- (b) Prior to the Disbursement, the Operating Accounts shall be pledged in favour of the Security Trustee, but not blocked unless an Event of Default has occurred and is continuing.
- (c) All revenues generated and amounts received by the Obligors derived from and associated with the Olive Downs Coking Coal Complex shall be paid directly into an Operating Account, and amounts in the Operating Accounts shall (other than as permitted pursuant to the definition of Permitted Distributions) be solely employed towards purposes related to the Olive Downs Coking Coal Complex.

14. EVENTS OF DEFAULT AND ACCELERATION OF THE BONDS

14.1 Events of Default

Each of the events or circumstances set out in this Clause 14.1 shall constitute an Event of Default:

(a) *Non-payment*

An Obligor fails to pay any amount payable by it under the Bond Finance Documents when such amount is due for payment, unless:

- (i) its failure to pay is caused by administrative or technical error in payment systems or the CSD and payment is made within 5 Business Days following the original due date; or
- (ii) in the discretion of the Bond Trustee, the Issuer has substantiated that it is likely that such payment will be made in full within 5 Business Days following the original due date.

(b) *Breach of other obligations*

An Obligor does not comply with any provision of the Bond Finance Documents other than set out under paragraph (a) (*Non-payment*) above, unless such failure is capable of being remedied and is remedied within 20 Business Days after the earlier of the Issuer’s actual knowledge thereof, or notice thereof is given to the Issuer by the Bond Trustee.

(c) *Misrepresentation*

Any representation, warranty or statement (including statements in Compliance Certificates) made by any Obligor under or in connection with any Bond Finance Documents is or proves to have been incorrect, inaccurate or misleading in any material respect when made, unless such misrepresentation is capable of being remedied and is

remedied within 20 Business Days after such representation, warranty or statement is made.

(d) *Cross default*

If for any Obligor:

- (i) any Financial Indebtedness is not paid when due nor within any applicable grace period; or
- (ii) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described); or

provided however that the aggregate amount of such Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (ii) above exceeds a total of USD 10,000,000 (or the equivalent thereof in any other currency).

(e) *Insolvency and insolvency proceedings*

- (i) An Insolvency Event of Default;
- (ii) Any Obligor is Insolvent; or
- (iii) Any Obligor is object of any corporate action or any legal proceedings is taken in relation to:
 - (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation; or
 - (B) a composition, compromise, assignment or arrangement with any creditor which may materially impair its ability to perform its payment obligations under these Bond Terms; or
 - (C) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets; or
 - (D) enforcement of any Security over any of its or their assets having an aggregate value exceeding the threshold amount set out in paragraph 14.1 (d) (*Cross default*) above; or
 - (E) for paragraphs (A) - (D) above, any analogous procedure or step is taken in any jurisdiction in respect of any such company.

however, this shall not apply to any petition which is frivolous or vexatious and is discharged, stayed or dismissed within 20 Business Days of commencement.

(f) *Creditor's process*

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Obligor having an aggregate value exceeding the threshold amount set out in paragraph (d) (*Cross default*) above and is not discharged within 20 Business Days.

(g) *Unlawfulness*

It is or becomes unlawful for an Obligor to perform or comply with any of its obligations under the Bond Finance Documents to the extent this may materially impair:

- (i) the ability of such Obligor to perform its obligations under these Bond Terms; or
- (ii) the ability of the Bond Trustee or any Security Trustee to exercise any material right or power vested to it under the Bond Finance Documents.

14.2 Acceleration of the Bonds

If an Event of Default has occurred and is continuing, the Bond Trustee may, in its discretion in order to protect the interests of the Bondholders, or upon instruction received from the Bondholders pursuant to Clause 14.3 (*Bondholders' instructions*) below, by serving a Default Notice to the Issuer:

- (a) declare that the Outstanding Bonds, together with accrued interest and all other amounts accrued or outstanding under the Bond Finance Documents be immediately due and payable, at which time they shall become immediately due and payable; and/or
- (b) exercise (or direct the Security Trustee to exercise) any or all of its rights, remedies, powers or discretions under the Bond Finance Documents or take such further measures as are necessary to recover the amounts outstanding under the Bond Finance Documents.

14.3 Bondholders' instructions

The Bond Trustee shall serve a Default Notice pursuant to Clause 14.2 (*Acceleration of the Bonds*) if:

- (a) the Bond Trustee receives a demand in writing from Bondholders representing a simple majority of the Voting Bonds, that an Event of Default shall be declared, and a Bondholders' Meeting has not made a resolution to the contrary; or
- (b) the Bondholders' Meeting, by a simple majority decision, has approved the declaration of an Event of Default.

14.4 Calculation of claim

The claim derived from the Outstanding Bonds due for payment as a result of the serving of a Default Notice will be calculated at the call prices set out in Clause 10.2 (*Voluntary early redemption – Call Option*), as applicable at the following dates (and regardless of the Default Repayment Date):

- (a) for any Event of Default arising out of a breach of Clause 14.1 (*Events of Default*) paragraph (a) (*Non-payment*), the claim will be calculated at the call price applicable at the date when such Event of Default occurred; and
- (b) for any other Event of Default, the claim will be calculated at the call price applicable at the date when the Default Notice was served by the Bond Trustee.

However, if the situations described in paragraph (a) or (b) above takes place prior to the First Call Date, the calculation shall be based on the call price applicable on the First Call Date.

15. BONDHOLDERS' DECISIONS

15.1 Authority of the Bondholders' Meeting

- (a) A Bondholders' Meeting may, on behalf of the Bondholders, resolve to alter any of these Bond Terms, including, but not limited to, any reduction of principal or interest and any conversion of the Bonds into other capital classes.
- (b) The Bondholders' Meeting cannot resolve that any overdue payment of any instalment shall be reduced unless there is a pro rata reduction of the principal that has not fallen due, but may resolve that accrued interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- (c) The Bondholders' Meeting may not adopt resolutions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders.
- (d) Subject to the power of the Bond Trustee to take certain action as set out in Clause 16.1 (*Power to represent the Bondholders*), if a resolution by, or an approval of, the Bondholders is required, such resolution may be passed at a Bondholders' Meeting. Resolutions passed at any Bondholders' Meeting will be binding upon all Bondholders.
- (e) At least 50 per cent. of the Voting Bonds must be represented at a Bondholders' Meeting for a quorum to be present.
- (f) Resolutions will be passed by simple majority of the Voting Bonds represented at the Bondholders' Meeting, unless otherwise set out in paragraph (g) below.
- (g) Save for any amendments or waivers which can be made without resolution pursuant to paragraph (a)(i) and (ii) of Clause 17.1 (*Procedure for amendments and waivers*), a majority of at least 2/3 of the Voting Bonds represented at the Bondholders' Meeting is required for approval of any waiver or amendment of these Bond Terms.

15.2 Procedure for arranging a Bondholders' Meeting

- (a) A Bondholders' Meeting shall be convened by the Bond Trustee upon the request in writing of:
 - (i) the Issuer;
 - (ii) Bondholders representing at least 1/10 of the Voting Bonds;

- (iii) the Exchange, if the Bonds are listed and the Exchange is entitled to do so pursuant to the general rules and regulations of the Exchange; or
- (iv) the Bond Trustee.

The request shall clearly state the matters to be discussed and resolved.

- (b) If the Bond Trustee has not convened a Bondholders' Meeting within 10 Business Days after having received a valid request for calling a Bondholders' Meeting pursuant to paragraph (a) above, then the requesting party may call the Bondholders' Meeting itself.
- (c) Summons to a Bondholders' Meeting must be sent no later than 10 Business Days prior to the proposed date of the Bondholders' Meeting. The Summons shall be sent to all Bondholders registered in the CSD at the time the Summons is sent from the CSD. If the Bonds are listed, the Issuer shall ensure that the Summons is published in accordance with the applicable regulations of the Exchange. The Summons shall also be published on the website of the Bond Trustee (alternatively by press release or other relevant information platform).
- (d) Any Summons for a Bondholders' Meeting must clearly state the agenda for the Bondholders' Meeting and the matters to be resolved. The Bond Trustee may include additional agenda items to those requested by the person calling for the Bondholders' Meeting in the Summons. If the Summons contains proposed amendments to these Bond Terms, a description of the proposed amendments must be set out in the Summons.
- (e) Items which have not been included in the Summons may not be put to a vote at the Bondholders' Meeting.
- (f) By written notice to the Issuer, the Bond Trustee may prohibit the Issuer from acquiring or dispose of Bonds during the period from the date of the Summons until the date of the Bondholders' Meeting, unless the acquisition of Bonds is made by the Issuer pursuant to Clause 10 (Redemption and Repurchase of Bonds).
- (g) A Bondholders' Meeting may be held on premises selected by the Bond Trustee, or if paragraph (b) above applies, by the person convening the Bondholders' Meeting (however to be held in the capital of the Relevant Jurisdiction). The Bondholders' Meeting will be opened and, unless otherwise decided by the Bondholders' Meeting, chaired by the Bond Trustee. If the Bond Trustee is not present, the Bondholders' Meeting will be opened by a Bondholder and be chaired by a representative elected by the Bondholders' Meeting (the Bond Trustee or such other representative, the "Chairperson").
- (h) Each Bondholder, the Bond Trustee and, if the Bonds are listed, representatives of the Exchange, or any person or persons acting under a power of attorney for a Bondholder, shall have the right to attend the Bondholders' Meeting (each a "Representative"). The Chairperson may grant access to the meeting to other persons not being Representatives, unless the Bondholders' Meeting decides otherwise. In addition, each Representative has the right to be accompanied by an advisor. In case of dispute or doubt regarding whether

a person is a Representative or entitled to vote, the Chairperson will decide who may attend the Bondholders' Meeting and exercise voting rights.

- (i) Representatives of the Issuer have the right to attend the Bondholders' Meeting. The Bondholders' Meeting may resolve to exclude the Issuer's representatives and/or any person holding only Issuer's Bonds (or any representative of such person) from participating in the meeting at certain times, however, the Issuer's representative and any such other person shall have the right to be present during the voting.
- (j) Minutes of the Bondholders' Meeting must be recorded by, or by someone acting at the instruction of, the Chairperson. The minutes must state the number of Voting Bonds represented at the Bondholders' Meeting, the resolutions passed at the meeting, and the results of the vote on the matters to be decided at the Bondholders' Meeting. The minutes shall be signed by the Chairperson and at least one other person. The minutes will be deposited with the Bond Trustee who shall make available a copy to the Bondholders and the Issuer upon request.
- (k) The Bond Trustee will ensure that the Issuer, the Bondholders and the Exchange are notified of resolutions passed at the Bondholders' Meeting and that the resolutions are published on the website of the Bond Trustee (or other relevant electronically platform or press release).
- (l) The Issuer shall bear the costs and expenses incurred in connection with convening a Bondholders' Meeting regardless of who has convened the Bondholders' Meeting, including any reasonable costs and fees incurred by the Bond Trustee.

15.3 Voting rules

- (a) Each Bondholder (or person acting for a Bondholder under a power of attorney) may cast one vote for each Voting Bond owned on the Relevant Record Date, ref. Clause 3.3 (*Bondholders' rights*). The Chairperson may, in its sole discretion, decide on accepted evidence of ownership of Voting Bonds.
- (b) Issuer's Bonds shall not carry any voting rights. The Chairperson shall determine any question concerning whether any Bonds will be considered Issuer's Bonds.
- (c) For the purposes of this Clause 15, a Bondholder that has a Bond registered in the name of a nominee will, in accordance with Clause 3.3 (*Bondholders' rights*), be deemed to be the owner of the Bond rather than the nominee. No vote may be cast by any nominee if the Bondholder has presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders' rights*) stating that it is the owner of the Bonds voted for. If the Bondholder has voted directly for any of its nominee registered Bonds, the Bondholder's votes shall take precedence over votes submitted by the nominee for the same Bonds.
- (d) Any of the Issuer, the Bond Trustee and any Bondholder has the right to demand a vote by ballot. In case of parity of votes, the Chairperson will have the deciding vote.

15.4 Repeated Bondholders' Meeting

- (a) Even if the necessary quorum set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) is not achieved, the Bondholders' Meeting shall be held and

voting completed for the purpose of recording the voting results in the minutes of the Bondholders' Meeting. The Bond Trustee or the person who convened the initial Bondholders' Meeting may, within 10 Business Days of that Bondholders' Meeting, convene a repeated meeting with the same agenda as the first meeting.

- (b) The provisions and procedures regarding Bondholders' Meetings as set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and Clause 15.3 (*Voting rules*) shall apply *mutatis mutandis* to a repeated Bondholders' Meeting, with the exception that the quorum requirements set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) shall not apply to a repeated Bondholders' Meeting. A Summons for a repeated Bondholders' Meeting shall also contain the voting results obtained in the initial Bondholders' Meeting.
- (c) A repeated Bondholders' Meeting may only be convened once for each original Bondholders' Meeting. A repeated Bondholders' Meeting may be convened pursuant to the procedures of a Written Resolution in accordance with Clause 15.5 (*Written Resolutions*), even if the initial meeting was held pursuant to the procedures of a Bondholders' Meeting in accordance with Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and vice versa.

15.5 Written Resolutions

- (a) Subject to these Bond Terms, anything which may be resolved by the Bondholders in a Bondholders' Meeting pursuant to Clause 15.1 (*Authority of the Bondholders' Meeting*) may also be resolved by way of a Written Resolution. A Written Resolution passed with the relevant majority is as valid as if it had been passed by the Bondholders in a Bondholders' Meeting, and any reference in any Bond Finance Document to a Bondholders' Meeting shall be construed accordingly.
- (b) The person requesting a Bondholders' Meeting may instead request that the relevant matters are to be resolved by Written Resolution only, unless the Bond Trustee decides otherwise.
- (c) The Summons for the Written Resolution shall be sent to the Bondholders registered in the CSD at the time the Summons is sent from the CSD and published at the Bond Trustee's web site, or other relevant electronic platform or via press release.
- (d) The provisions set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), 15.2 (*Procedure for arranging a Bondholders' Meeting*), Clause 15.3 (*Voting rules*) and Clause 15.4 (*Repeated Bondholders' Meeting*) shall apply *mutatis mutandis* to a Written Resolution, except that:
 - (i) the provisions set out in paragraphs (g), (h) and (i) of Clause 15.2 (*Procedure for arranging Bondholders' Meetings*); or
 - (ii) provisions which are otherwise in conflict with the requirements of this Clause 15.5,

shall not apply to a Written Resolution.

- (e) The Summons for a Written Resolution shall include:
 - (i) instructions as to how to vote to each separate item in the Summons (including instructions as to how voting can be done electronically if relevant); and
 - (ii) the time limit within which the Bond Trustee must have received all votes necessary in order for the Written Resolution to be passed with the requisite majority, which shall be at least 10 Business Days but not more than 15 Business Days from the date of the Summons (the “**Voting Period**”).
- (f) Only Bondholders of Voting Bonds registered with the CSD on the Relevant Record Date, or the beneficial owner thereof having presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders’ rights*), will be counted in the Written Resolution.
- (g) A Written Resolution is passed when the requisite majority set out in paragraph (e) or (f) of Clause 15.1 (*Authority of Bondholders’ Meeting*) has been obtained, based on a quorum of the total number of Voting Bonds, even if the Voting Period has not yet expired. A Written Resolution will also be resolved if the sufficient numbers of negative votes are received prior to the expiry of the Voting Period.
- (h) The effective date of a Written Resolution passed prior to the expiry of the Voting Period is the date when the resolution is approved by the last Bondholder that results in the necessary voting majority being obtained.
- (i) If no resolution is passed prior to the expiry of the Voting Period, the number of votes shall be calculated at the time specified in the summons on the last day of the Voting Period, and a decision will be made based on the quorum and majority requirements set out in paragraphs (e) to (g) of Clause 15.1 (*Authority of Bondholders’ Meeting*).

16. THE BOND TRUSTEE

16.1 Power to represent the Bondholders

- (a) The Bond Trustee has power and authority to act on behalf of, and/or represent, the Bondholders in all matters, including but not limited to taking any legal or other action, including enforcement of these Bond Terms, and the commencement of bankruptcy or other insolvency proceedings against the Issuer, or others.
- (b) The Issuer shall promptly upon request provide the Bond Trustee with any such documents, information and other assistance (in form and substance satisfactory to the Bond Trustee), that the Bond Trustee deems necessary for the purpose of exercising its and the Bondholders’ rights and/or carrying out its duties under the Bond Finance Documents.

16.2 The duties and authority of the Bond Trustee

- (a) The Bond Trustee shall represent the Bondholders in accordance with the Bond Finance Documents, including, inter alia, by following up on the delivery of any Compliance Certificates and such other documents which the Issuer is obliged to disclose or deliver

to the Bond Trustee pursuant to the Bond Finance Documents and, when relevant, in relation to accelerating and enforcing the Bonds on behalf of the Bondholders.

- (b) The Bond Trustee is not obligated to assess or monitor the financial condition of the Issuer or any other Obligor unless to the extent expressly set out in these Bond Terms, or to take any steps to ascertain whether any Event of Default has occurred. Until it has actual knowledge to the contrary, the Bond Trustee is entitled to assume that no Event of Default has occurred. The Bond Trustee is not responsible for the valid execution or enforceability of the Bond Finance Documents, or for any discrepancy between the indicative terms and conditions described in any marketing material presented to the Bondholders prior to issuance of the Bonds and the provisions of these Bond Terms.
- (c) The Bond Trustee is entitled to take such steps that it, in its sole discretion, considers necessary or advisable to protect the rights of the Bondholders in all matters pursuant to the terms of the Bond Finance Documents. The Bond Trustee may submit any instructions received by it from the Bondholders to a Bondholders' Meeting before the Bond Trustee takes any action pursuant to the instruction.
- (d) The Bond Trustee is entitled to engage external experts when carrying out its duties under the Bond Finance Documents.
- (e) The Bond Trustee shall hold all amounts recovered on behalf of the Bondholders on separated accounts.
- (f) The Bond Trustee shall facilitate that resolutions passed at the Bondholders' Meeting are properly implemented, provided, however, that the Bond Trustee may refuse to implement resolutions that may be in conflict with these Bond Terms, any other Bond Finance Document, or any applicable law.
- (g) Notwithstanding any other provision of the Bond Finance Documents to the contrary, the Bond Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (h) If the cost, loss or liability which the Bond Trustee may incur (including reasonable fees payable to the Bond Trustee itself) in:
 - (i) complying with instructions of the Bondholders; or
 - (ii) taking any action at its own initiative,

will not, in the reasonable opinion of the Bond Trustee, be covered by the Issuer or the relevant Bondholders pursuant to paragraphs (e) and (g) of Clause 16.4 (*Expenses, liability and indemnity*), the Bond Trustee may refrain from acting in accordance with such instructions, or refrain from taking such action, until it has received such funding or indemnities (or adequate security has been provided therefore) as it may reasonably require.

- (i) The Bond Trustee shall give a notice to the Bondholders before it ceases to perform its obligations under the Bond Finance Documents by reason of the non-payment by the

Issuer of any fee or indemnity due to the Bond Trustee under the Bond Finance Documents.

- (j) The Bond Trustee may instruct the CSD to split the Bonds to a lower nominal value in order to facilitate partial redemptions, write-downs or restructurings of the Bonds or in other situations where such split is deemed necessary.

16.3 Equality and conflicts of interest

- (a) The Bond Trustee shall not make decisions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders. The Bond Trustee shall, when acting pursuant to the Bond Finance Documents, act with regard only to the interests of the Bondholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other person, other than as explicitly stated in the Bond Finance Documents.
- (b) The Bond Trustee may act as agent, trustee, representative and/or security agent for several bond issues relating to the Issuer notwithstanding potential conflicts of interest. The Bond Trustee is entitled to delegate its duties to other professional parties.

16.4 Expenses, liability and indemnity

- (a) The Bond Trustee will not be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Bond Finance Document, unless directly caused by its gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss. Irrespective of the foregoing, the Bond Trustee shall have no liability to the Bondholders for damage caused by the Bond Trustee acting in accordance with instructions given by the Bondholders in accordance with these Bond Terms.
- (b) The Bond Trustee will not be liable to the Issuer for damage or loss caused by any action taken or omitted by it under or in connection with any Bond Finance Document, unless caused by its gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss.
- (c) Any liability for the Bond Trustee for damage or loss is limited to the amount of the Outstanding Bonds. The Bond Trustee is not liable for the content of information provided to the Bondholders by or on behalf of the Issuer or any other person.
- (d) The Bond Trustee shall not be considered to have acted negligently in:
 - (i) acting in accordance with advice from or opinions of reputable external experts;
or
 - (ii) taking, delaying or omitting any action if acting with reasonable care and provided the Bond Trustee considers that such action is in the interests of the Bondholders.
- (e) The Issuer is liable for, and will indemnify the Bond Trustee fully in respect of, all losses, expenses and liabilities incurred by the Bond Trustee as a result of negligence by the Issuer (including its directors, management, officers, employees and agents) in connection with the performance of the Bond Trustee's obligations under the Bond

Finance Documents, including losses incurred by the Bond Trustee as a result of the Bond Trustee's actions based on misrepresentations made by the Issuer in connection with the issuance of the Bonds, the entering into or performance under the Bond Finance Documents, and for as long as any amounts are outstanding under or pursuant to the Bond Finance Documents.

- (f) The Issuer shall cover all costs and expenses incurred by the Bond Trustee in connection with it fulfilling its obligations under the Bond Finance Documents. The Bond Trustee is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Bond Finance Documents. The Bond Trustee's obligations under the Bond Finance Documents are conditioned upon the due payment of such fees and indemnifications. The fees of the Bond Trustee will be further set out in the Bond Trustee Fee Agreement.
- (g) The Issuer shall on demand by the Bond Trustee pay all costs incurred for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event or circumstance which the Bond Trustee reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer or any Bond Finance Document which the Bond Trustee reasonably believes may constitute or lead to a breach of any Bond Finance Document or otherwise be detrimental to the interests of the Bondholders under the Bond Finance Documents.
- (h) Fees, costs and expenses payable to the Bond Trustee which are not reimbursed in any other way due to an Event of Default, the Issuer being Insolvent or similar circumstances pertaining to any Obligors, may be covered by making an equal reduction in the proceeds to the Bondholders hereunder of any costs and expenses incurred by the Bond Trustee or the Security Trustee in connection therewith. The Bond Trustee may withhold funds from any escrow account (or similar arrangement) or from other funds received from the Issuer or any other person, irrespective of such funds being subject to Transaction Security, and to set-off and cover any such costs and expenses from those funds.
- (i) As a condition to effecting any instruction from the Bondholders (including, but not limited to, instructions set out in Clause 14.3 (*Bondholders' instructions*) or Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*)), the Bond Trustee may require satisfactory Security, guarantees and/or indemnities for any possible liability and anticipated costs and expenses from those Bondholders who have given that instruction and/or who voted in favour of the decision to instruct the Bond Trustee.

16.5 Replacement of the Bond Trustee

- (a) The Bond Trustee may be replaced by a majority of 2/3 of Voting Bonds in accordance with the procedures set out in Clause 15 (*Bondholders' Decisions*), and the Bondholders may resolve to replace the Bond Trustee without the Issuer's approval.
- (b) The Bond Trustee may resign by giving notice to the Issuer and the Bondholders, in which case a successor Bond Trustee shall be elected pursuant to this Clause 16.5, initiated by the retiring Bond Trustee.

- (c) If the Bond Trustee is Insolvent, or otherwise is permanently unable to fulfil its obligations under these Bond Terms, the Bond Trustee shall be deemed to have resigned and a successor Bond Trustee shall be appointed in accordance with this Clause 16.5. The Issuer may appoint a temporary Bond Trustee until a new Bond Trustee is elected in accordance with paragraph (a) above.
- (d) The change of Bond Trustee shall only take effect upon execution of all necessary actions to effectively substitute the retiring Bond Trustee, and the retiring Bond Trustee undertakes to co-operate in all reasonable manners without delay to such effect. The retiring Bond Trustee shall be discharged from any further obligation in respect of the Bond Finance Documents from the change takes effect, but shall remain liable under the Bond Finance Documents in respect of any action which it took or failed to take whilst acting as Bond Trustee. The retiring Bond Trustee remains entitled to any benefits and any unpaid fees or expenses under the Bond Finance Documents before the change has taken place.
- (e) Upon change of Bond Trustee, the Issuer shall co-operate in all reasonable manners without delay to replace the retiring Bond Trustee with the successor Bond Trustee and release the retiring Bond Trustee from any future obligations under the Bond Finance Documents and any other documents.

16.6 Security Agent

- (a) The Bond Trustee is appointed to act as Security Agent for the Bonds, unless any other person is appointed. The main functions of the Security Agent may include holding Transaction Security on behalf of the Secured Parties and monitoring compliance by the Issuer and other relevant parties of their respective obligations under the Transaction Security Documents with respect to the Transaction Security on the basis of information made available to it pursuant to the Bond Finance Documents.
- (b) The Bond Trustee shall, when acting as Security Agent for the Bonds, at all times maintain and keep all certificates and other documents received by it, that are bearers of right relating to the Transaction Security in safe custody on behalf of the Bondholders. The Bond Trustee shall not be responsible for or required to insure against any loss incurred in connection with such safe custody.
- (c) Before the appointment of a Security Agent other than the Bond Trustee, the Issuer shall be given the opportunity to state its views on the proposed Security Agent, but the final decision as to appointment shall lie exclusively with the Bond Trustee.
- (d) The functions, rights and obligations of the Security Agent may be determined by a Security Agent Agreement to be entered into between the Bond Trustee and the Security Agent, which the Bond Trustee shall have the right to require each Obligor and any other party to a Bond Finance Document to sign as a party, or, at the discretion of the Bond Trustee, to acknowledge. The Bond Trustee shall at all times retain the right to instruct the Security Agent in all matters, whether or not a separate Security Agent Agreement has been entered into.

- (e) The provisions set out in Clause 16.4 (*Expenses, liability and indemnity*) shall apply *mutatis mutandis* to any expenses and liabilities of the Security Agent in connection with the Bond Finance Documents.

17. AMENDMENTS AND WAIVERS

17.1 Procedure for amendments and waivers

- (a) The Issuer and the Bond Trustee (acting on behalf of the Bondholders) may agree to amend the Bond Finance Documents or waive a past default or anticipated failure to comply with any provision in a Bond Finance Document, provided that:
 - (i) such amendment or waiver is not detrimental to the rights and benefits of the Bondholders in any material respect, or is made solely for the purpose of rectifying obvious errors and mistakes;
 - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
 - (iii) such amendment or waiver has been duly approved by the Bondholders in accordance with Clause 15 (*Bondholders' Decisions*).
- (b) Any changes to these Bond Terms necessary or appropriate in connection with the appointment of a Security Agent other than the Bond Trustee shall be documented in an amendment to these Bond Terms, signed by the Bond Trustee (in its discretion). If so desired by the Bond Trustee, any or all of the Transaction Security Documents shall be amended, assigned or re-issued, so that the Security Agent is the holder of the relevant Security (on behalf of the Bondholders). The costs incurred in connection with such amendment, assignment or re-issue shall be for the account of the Issuer.

17.2 Authority with respect to documentation

If the Bondholders have resolved the substance of an amendment to any Bond Finance Document, without resolving on the specific or final form of such amendment, the Bond Trustee shall be considered authorised to draft, approve and/or finalise (as applicable) any required documentation or any outstanding matters in such documentation without any further approvals or involvement from the Bondholders being required.

17.3 Notification of amendments or waivers

- (a) The Bond Trustee shall as soon as possible notify the Bondholders of any amendments or waivers made in accordance with this Clause 17, setting out the date from which the amendment or waiver will be effective, unless such notice according to the Bond Trustee's sole discretion is unnecessary. The Issuer shall ensure that any amendment to these Bond Terms is duly registered with the CSD.
- (b) Prior to agreeing to an amendment or granting a waiver in accordance with paragraph (a)(i) of Clause 17.1 (*Procedure for amendments and waivers*), the Bond Trustee may inform the Bondholders of such waiver or amendment at a relevant information platform.

18. MISCELLANEOUS

18.1 Limitation of claims

All claims under the Bond Finance Documents for payment, including interest and principal, will be subject to the legislation regarding time-bar provisions of the Relevant Jurisdiction.

18.2 Access to information

- (a) These Bond Terms will be made available to the public and copies may be obtained from the Bond Trustee or the Issuer. The Bond Trustee will not have any obligation to distribute any other information to the Bondholders or any other person, and the Bondholders have no right to obtain information from the Bond Trustee, other than as explicitly stated in these Bond Terms or pursuant to statutory provisions of law.
- (b) In order to carry out its functions and obligations under these Bond Terms, the Bond Trustee will have access to the relevant information regarding ownership of the Bonds, as recorded and regulated with the CSD.
- (c) The information referred to in paragraph (b) above may only be used for the purposes of carrying out their duties and exercising their rights in accordance with the Bond Finance Documents and shall not disclose such information to any Bondholder or third party unless necessary for such purposes.

18.3 Notices, contact information

- (a) Written notices to the Bondholders made by the Bond Trustee will be sent to the Bondholders via the CSD with a copy to the Issuer and the Exchange (if the Bonds are listed). Any such notice or communication will be deemed to be given or made via the CSD, when sent from the CSD.
- (b) The Issuer's written notifications to the Bondholders will be sent to the Bondholders via the Bond Trustee or through the CSD with a copy to the Bond Trustee and the Exchange (if the Bonds are listed).
- (c) Notwithstanding paragraph (a) above and provided that such written notification does not require the Bondholders to take any action under the Bond Finance Documents, the Issuer's written notifications to the Bondholders may be published by the Bond Trustee on a relevant information platform only.
- (d) Unless otherwise specifically provided, all notices or other communications under or in connection with these Bond Terms between the Bond Trustee and the Issuer will be given or made in writing, by letter or e-mail. Any such notice or communication will be deemed to be given or made as follows:
 - (i) if by letter, when delivered at the address of the relevant party;
 - (ii) if by e-mail, when received; and
 - (iii) if by publication on a relevant information platform, when published.

- (e) The Issuer and the Bond Trustee shall each ensure that the other party is kept informed of changes in postal address, e-mail address and telephone and contact persons.
- (f) When determining deadlines set out in these Bond Terms, the following will apply (unless otherwise stated):
 - (i) if the deadline is set out in days, the first day of the relevant period will not be included and the last day of the relevant period will be included;
 - (ii) if the deadline is set out in weeks, months or years, the deadline will end on the day in the last week or the last month which, according to its name or number, corresponds to the first day the deadline is in force. If such day is not a part of an actual month, the deadline will be the last day of such month; and
 - (iii) if a deadline ends on a day which is not a Business Day, the deadline is postponed to the next Business Day.

18.4 Defeasance

- (a) Subject to paragraph (b) below and provided that:
 - (i) an amount sufficient for the payment of principal and interest on the Outstanding Bonds to the relevant Repayment Date (including, to the extent applicable, any premium payable upon exercise of a Call Option), and always subject to paragraph (c) below (the “**Defeasance Amount**”) is credited by the Issuer to an account in a financial institution acceptable to the Bond Trustee (the “**Defeasance Account**”);
 - (ii) the Defeasance Account is irrevocably pledged and blocked in favour of the Bond Trustee on such terms as the Bond Trustee shall request (the “**Defeasance Pledge**”); and
 - (iii) the Bond Trustee has received such legal opinions and statements reasonably required by it, including (but not necessarily limited to) with respect to the validity and enforceability of the Defeasance Pledge,

then;

 - (A) the Issuer will be relieved from its obligations under paragraph (a) of Clause 12.2 (*Requirements as to Financial Reports*), Clause 12.3 (*Put Option Event*), Clause 12.5 (*Information: miscellaneous*) and Clause 13 (*General and Financial Undertakings*);
 - (B) any Transaction Security shall be released and the Defeasance Pledge shall be considered replacement of the Transaction Security; and
 - (C) any Obligor shall be released from any Guarantee or other obligation applicable to it under any Bond Finance Document.
- (b) The Bond Trustee shall be authorised to apply any amount credited to the Defeasance Account towards any amount payable by the Issuer under any Bond Finance Document

on the due date for the relevant payment until all obligations of the Issuer and all amounts outstanding under the Bond Finance Documents are repaid and discharged in full.

- (c) The Bond Trustee may, if the Defeasance Amount cannot be finally and conclusively determined, decide the amount to be deposited to the Defeasance Account in its discretion, applying such buffer amount as it deems necessary.
- (d) A defeasance established according to this Clause 18.4 may not be reversed.

19. GOVERNING LAW AND JURISDICTION

19.1 Governing law

These Bond Terms are governed by the laws of the Relevant Jurisdiction, without regard to its conflict of law provisions.

19.2 Main jurisdiction

The Bond Trustee and the Issuer agree for the benefit of the Bond Trustee and the Bondholders that the City Court of the capital of the Relevant Jurisdiction shall have jurisdiction with respect to any dispute arising out of or in connection with these Bond Terms. The Issuer agrees for the benefit of the Bond Trustee and the Bondholders that any legal action or proceedings arising out of or in connection with these Bond Terms against the Issuer or any of its assets may be brought in such court.

19.3 Alternative jurisdiction

Clause 19 (*Governing law and jurisdiction*) is for the exclusive benefit of the Bond Trustee and the Bondholders and the Bond Trustee have the right:

- (a) to commence proceedings against the Issuer or any other Obligor or any of their respective assets in any court in any jurisdiction; and
- (b) to commence such proceedings, including enforcement proceedings, in any competent jurisdiction concurrently.

19.4 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Issuer:
 - (i) irrevocably appoints Advokatfirmaet Thommessen AS as its agent for service of process in relation to any proceedings in connection with these Bond Terms; and
 - (ii) agrees that failure by an agent for service of process to notify the Issuer of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Issuer must immediately (and in any event within 10 Business Days of such event taking place) appoint another agent on terms acceptable to the Bond Trustee. Failing this, the Bond Trustee may appoint another agent for this purpose.

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These Bond Terms have been executed in two originals, of which the Issuer and the Bond Trustee shall retain one each.

SIGNATURES:

The Issuer

EXECUTED by **PEMBROKE OLIVE
DOWNS PTY LTD** in accordance with
section 127(1) of the *Corporations Act
2001* (Cth):


.....
Signature of Director

BARRY TUDOR
Name of Director (block letters)


.....
Signature of Company Secretary

YOKO KOSUGI
Name of Company Secretary (block letters)

As Bond Trustee:

Nordic Trustee AS

.....

By:

Position:

-----000-----

These Bond Terms have been executed in two originals, of which the Issuer and the Bond Trustee shall retain one each.

SIGNATURES:

The Issuer

EXECUTED by **PEMBROKE OLIVE
DOWNS PTY LTD** in accordance with
section 127(1) of the *Corporations Act
2001* (Cth):

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company secretary

.....
Name of director/company secretary (block
letters)

As Bond Trustee:

Nordic Trustee AS

Olav Slagsvold
.....

By: Olav Slagsvold

Position: Authorised signatory (p.p)

**ATTACHMENT 1
COMPLIANCE CERTIFICATE**

[date]

Pembroke Olive Downs Pty Ltd 11.50% senior secured USD 550,000,000 bonds 2025/2030 (ISIN NO0013464792)

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer. Pursuant to Clause 12.2 (*Requirements to Financial Reports*) of the Bond Terms, a Compliance Certificate shall be issued in connection with each delivery of Financial Reports to the Bond Trustee.

This letter constitutes the Compliance Certificate for the period [].

Capitalised terms used herein will have the same meaning as in the Bond Terms.

With reference to Clause 12.2 (*Requirements as to Financial Reports*), we hereby certify that all information delivered under cover of this Compliance Certificate is true and accurate. Copies of our latest consolidated [Annual Financial Statements] / [Interim Accounts] are enclosed.

[The financial covenants set out in Clause 13.23 (*Financial covenants*) are met, please see the calculations and figures in respect of the covenants attached hereto.]

We confirm that, to the best of our knowledge, no Event of Default has occurred or is likely to occur.

Yours faithfully,

Pembroke Olive Downs Pty Ltd

Name of authorised person

Enclosure: Annual Financial Statements / Interim Accounts; [and any other written documentation]

ATTACHMENT 2
RELEASE NOTICE – BOND ESCROW ACCOUNT

[date]

Dear Sirs,

Pembroke Olive Downs Pty Ltd 11.50% senior secured USD 550,000,000 bonds 2025/2030 (ISIN NO0013464792)

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer.

Capitalised terms used herein will have the same meaning as in the Bond Terms.

We hereby give you notice that we on [date] wish to draw [currency and amount]/[all amounts] from the Bond Escrow Account to be applied pursuant to the purpose set out in the Bond Terms, and request you to instruct the bank to release the above mentioned amount.

We hereby represent and warrant that (i) no Event of Default has occurred and is continuing or is likely to occur as a result of the release from the Bond Escrow Account, and (ii) we confirm that the representations and warranties set out in the Bond Terms are true and accurate in all material respects at the date hereof.

Yours faithfully,

Pembroke Olive Downs Pty Ltd

Name of authorised person

Enclosure: [Funds flow / copy of any written documentation evidencing use of funds]

[...]

ATTACHMENT 3 INTERCREDITOR TERMS

1. OVERVIEW

1.1 The Security

The obligations of the Issuer and Guarantors under the Bond Finance Document will be secured by the Pre-Disbursement Security (“**Security**”) granted in favour of the Security Trustee.

The Security will be held by the Security Trustee on trust for the Beneficiaries in accordance with the terms of the Security Trust Deed as further described below.

The Security Trust Deed and the Security is governed by the law of Queensland, Australia.

2. THE SECURITY TRUST DEED

2.1 Beneficiaries under the Security Trust Deed

The Beneficiaries will have the benefit of the Security granted in favour of the Security Trustee under the Security Trust Deed.

The Beneficiaries under the Security Trust Deed will include:

- (a) the Security Trustee;
- (b) the Bondholders and the providers of the Guarantee Facility and the Revolving Credit Facility (if any);
- (c) the Bond Trustee (being the representative of the Bondholders) and any representative of the providers of the Guarantee Facility and the Revolving Credit Facility (if any);
- (d) the Account Bank (as will be defined in the Security Trust Deed);
- (e) any swap counterparty that may accede to the Security Trust Deed where the hedging provided by that swap counterparty (and the security for it) is not prohibited under the Finance Documents (as will be defined in the Security Trust Deed and include inter alia the Bond Finance Documents, the “**Finance Documents**”); and
- (f) any new Beneficiary that may accede to the Security Trust Deed where the financial indebtedness provided by that Beneficiary (and the security for it) is not prohibited under the Finance Documents,

in each case, who has not ceased to be a Beneficiary in accordance with the Security Trust Deed.

2.2 Bondholders are a Beneficiary Group

The Bondholders will be represented by the Bond Trustee as their “Debt Representative” under the Security Trust Deed. Bondholders will only be able to exercise rights under the Security

Trustee via the Bond Trustee. The Bond Trustee will exercise those rights on the instructions of the Bondholders given to it in accordance with the Bond Terms.

2.3 Powers of the Security Trustee

The Security Trustee has all the powers of a natural person or corporation in connection with the exercise of its rights and compliance with its obligations under the Finance Documents to which it is a party. The Security Trustee will be under no obligation to act unless it is properly instructed and adequately indemnified. The Security Trust Deed contains provisions that govern the performance by the Security Trustee of its duties and obligations in connection with the Security and the protections afforded to the Security Trustee in doing so. In addition, it contains provisions which govern the steps that are to be taken by the Security Trustee upon the occurrence of an event of default (as will be defined in the Security Trust Deed and to include events of default under the Bond Terms, “**Event of Default**”).

2.4 Instructions by Beneficiaries under the Security Trust Deed

The rights under the Security are granted in favour of the Security Trustee. The Security Trust Deed provides that, in the exercise of all such rights, the Security Trustee shall act in accordance with the instructions of the Majority Beneficiaries (as defined below) except in relation to certain matters under the Security Trust Deed which specifies otherwise, notably the enforcement provisions, summarised at paragraph 2.7 (“**Enforcement**”) below. In the absence of such instructions, the Security Trustee need not act. Any action taken by the Security Trustee in accordance with the instructions of the requisite Beneficiaries bind all the Beneficiaries.

2.5 Unanimous instructions under the Security Trust Deed

Under the Security Trust Deed, there are certain circumstances in which the Security Trustee must only act on the instructions of all Beneficiaries (with the Bond Trustee acting as the representative for all Bondholders). These include:

- (a) a change to certain definitions in the Security Trust Deed;
- (b) an exercise of any discretion in distribution of moneys received or recovered by the Security Trustee; and
- (c) a change to the clauses which govern the ability to instruct the Security Trustee, release of security, enforcement rights and the order of distribution of moneys received or recovered by the Security Trustee.

2.6 Events of Default

In general, if any Event of Default is continuing, the Security Trustee agrees to as soon as reasonably practicable of becoming aware of the Event of Default, notify all Beneficiaries of, among other things, the Event of Default and obtain directions as to what actions the Security Trustee should take in respect of the Security.

2.7 Enforcement

- (a) **Majority Beneficiaries**

At any time an Event of Default is subsisting, the Majority Beneficiaries (as defined below) can instruct the Security Trustee to take enforcement action under the Security. This applies despite anything else in this paragraph 2.7.

The Majority Beneficiaries are those Beneficiaries who total exposures are equal to or greater than 66.67% of the total exposure of all Beneficiaries (the “**Majority Beneficiaries**”).

(b) Standstill regime

Subject to customary exceptions for swap counterparties and the exercise of enforcement rights by the Security Trustee on the appointment of an administrator to an Obligor, each Beneficiary and the Security Trustee must not exercise a right to take (or, in the case of a Beneficiary, instruct the Security Trustee to take) any enforcement action or exercise any unsecured enforcement rights (including acceleration) under any Finance Document unless that Beneficiary (or its debt representative) has given an Event of Default notice to the Security Trustee and:

- (i) **(Non-Payment Event of Default)** in respect of an Event of Default which is a payment default which is subsisting, a standstill period of 10 Business Day has expired after the date of that Event of Default notice;
- (ii) **(Fundamental Events of Default)** in respect of a fundamental Event of Default (which includes insolvency) which is subsisting, a standstill period of 5 Business Day has expired after the date of that Event of Default notice; or
- (iii) **(Non-Fundamental Events of Default)** in the case of any other Event of Default:
 - (A) in respect of any unsecured enforcement rights (including acceleration), a standstill period of 20 Business Day has expired after the date of that Event of Default notice; and
 - (B) in respect of any secured enforcement action (including instructing the Security Trustee to enforce the Security), a further period of 20 Business Days has expired after the exercise of any unsecured enforcement rights by that Beneficiary.

From such time as a Beneficiary (or its debt representative) exercises unsecured enforcement rights in accordance with the standstill regime, each other Beneficiary (or its debt representative) may exercise unsecured enforcement rights.

(c) Once enforcement action has commenced

Subject to paragraph (ii) below, the Security Trustee must, as soon as practicable after enforcement action has commenced:

- (i) notify the Beneficiaries that such enforcement action has commenced; and
- (ii) convene meetings of the Beneficiaries or request written instructions from them for the purpose of obtaining further instructions.

The Security Trustee will only take further action in relation to enforcement action on the instructions or directions of the Majority Beneficiaries regardless of whether the direction to commence enforcement action was given by one or more Beneficiaries or debt representatives.

The Majority Beneficiaries cannot override or prevent any directions or instructions given by a Beneficiary (or Debt Representative) to commence enforcement action in accordance with the enforcement provisions under the Security Trust Deed. Any such instructions to do so are of no force or effect and must be disregarded by the Security Trustee.

2.8 Procedures for seeking instructions

Under the Security Trust Deed, when seeking instructions from the Beneficiaries, the Security Trustee may specify in writing a period within which instructions are to be provided. The period specified by the Security Trustee shall not be less than 10 Business Days (or 15 Business Days if there are outstanding Bonds or other notes comprising Secured Money), or unless the Majority Beneficiaries otherwise consent.

If a Beneficiary does not provide instructions in writing within the period specified, the Beneficiary's exposure will be set to zero and it will be disregarded for the purpose of determining whether instructions have been given by that Beneficiary.

2.9 Distribution of recovered moneys

The Security Trustee shall distribute any amount paid to or recovered by it under the Finance Documents, on or after the enforcement date as follows (or in such other order of priority as agreed by all Beneficiaries):

- (a) **first:** in payment of all amounts which, to the extent required by law, have priority over all the other payments specified in this clause;
- (b) **second:** in payment pro rata of all fees and costs of the Security Trustee, any debt representative or Beneficiary in a representative capacity, controller or attorney incurred in or incidental to the exercise or performance or attempted exercise or performance of any power plus any interest which has accrued with respect to such amounts calculated in accordance with the applicable Finance Documents;
- (c) **third:** in payment pro rata of any amount paid pursuant to any indemnity provided by any of the Beneficiaries pursuant to the indemnity provisions of the Security Trust Deed, plus any interest which has accrued with respect to such amounts calculated in accordance with the applicable Finance Documents;
- (d) **fourth:** in payment and discharge, in order of their priority, of any security interest of which the Security Trustee, controller or attorney has actual knowledge and which have priority to the relevant Security to the extent of that priority;
- (e) **fifth:** in or towards payment or repayment to each Beneficiary of its share (calculated at the date of distribution) of the Secured Money (other than any make whole or other repayment premium) until each Beneficiary has received its Secured Money in full;
- (f) **sixth:** in or towards payment to each Beneficiary (pro rata and pari passu) of any make whole or repayment premium which is due and payable to it; and

- (g) **seventh:** in payment of the surplus, if any, and without interest, to the Obligors. The Security Trustee, controller or attorney may pay the surplus to the credit of an account in the name of the Issuer and the other relevant Obligors held with any bank carrying on business within Australia and, having done so, the Security Trustee, controller or attorney (as applicable) shall be under no further liability in respect of that surplus.

2.10 Release of property from Security

The Security Trustee must remove or release property from a Security if:

- (a) the Finance Documents permit the removal or release of property, the requirements of those Finance Documents are satisfied; or
- (b) in all other cases, on the instructions of all Beneficiaries.

2.11 Indemnity to Security Trustee

Under the Security Trust Deed, the Security Trustee has the benefit of an indemnity (including out of the Security Trust fund), from the Beneficiaries (to the extent not reimbursed by the Obligors) against any loss, cost or damage the Security Trustee may sustain or incur directly or indirectly other than in the case of its own fraud, gross negligence or wilful default.

2.12 Limitation of liability of Security Trustee

Under the Security Trust Deed, the Security Trustee is not liable except to the extent those liabilities are satisfied from its indemnity from the Security Trust fund for a broad range of matters other than in the case of its own fraud, gross negligence or wilful default. This includes any action taken or not taken by it or them under any transaction document.