
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

Form 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): December 24, 2020

PEABODY ENERGY CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

1-16463
(Commission
File Number)

13-4004153
(IRS Employer
Identification No.)

701 Market Street, St. Louis, Missouri
(Address of principal executive offices)

63101-1826
(Zip Code)

Registrant's telephone number, including area code: (314) 342-3400

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.01 per share	BTU	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01. Entry into a Material Definitive Agreement.

On December 24, 2020, (i) Peabody Energy Corporation (“**Peabody**” or the “**Company**”), (ii) certain of its subsidiaries, (iii) each of the revolving lenders (the “**Revolving Lenders**”) under the Company’s first lien secured credit facility, dated April 3, 2017 (as modified, amended or supplemented from time to time, “**Credit Agreement**”), among Peabody, as borrower, JPMorgan Chase Bank, N.A., as administrative agent (as successor to Goldman Sachs Bank USA in its capacity as administrative agent) (the “**Administrative Agent**”), and other lenders party thereto, (iv) the Administrative Agent, and (v) and certain holders, or investment advisors, sub-advisors, or managers of discretionary accounts that hold (together with their respective successors and permitted assigns, each, a “**Consenting Noteholder**” and, collectively, the “**Consenting Noteholders**”), the Company’s 6.000% Senior Secured Notes due 2022 (the “**Existing Notes**”), entered into a transaction support agreement (together with all exhibits, annexes and schedules thereto, the “**Transaction Support Agreement**”) to define their commitments to effect a series of transactions to provide the Company with maturity extensions and covenant relief, while allowing it to maintain sufficient operating liquidity and financial flexibility. Among other things, the Transaction Support Agreement, including the term sheet attached thereto (the “**Term Sheet**”), contemplates:

- the Consenting Noteholders properly tendering (and not validly withdrawing) approximately \$298.4 million in aggregate principal amount of the Existing Notes in exchange for the Total Consideration (as defined below), plus accrued and unpaid interest;
- by tendering their Existing Notes, the Consenting Noteholders delivering related consents in the Consent Solicitation (as defined below); and
- the Revolving Lenders exchanging their Revolving Commitments (as defined in the Credit Agreement) in accordance with the applicable procedures set forth in the Term Sheet.

The foregoing summary of the Transaction Support Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Transaction Support Agreement, a copy of which is attached as Exhibit 10.1 hereto and incorporated herein by reference.

Item 7.01. Regulation FD Disclosure.

Offering Memorandum Supplemental Information

The Company is furnishing as Exhibit 99.1 certain information concerning the Company and the Co-Issuers (defined below) derived from the Confidential Offering Memorandum and Consent Solicitation Statement, dated December 24, 2020 (as it may be supplemented and amended from time to time, the “**Offering Memorandum**”) that is being disseminated in connection with the proposed Exchange Offer described under Item 8.01. The supplemental information included in the Offering Memorandum is set forth in Exhibit 99.1 and incorporated herein by reference, including, but not limited to, the following sections of the Offering Memorandum:

- Summary Historical Consolidated Financial Data of Peabody Energy Corporation;
- Summary Historical Financial Data of Wilpinjong;
- Summary Unaudited Pro Forma Financial Data of the Co-Issuers (unaudited pro forma financial information of PIC AU Holdings LLC, a Delaware limited liability company and an indirect, wholly-owned subsidiary of the Company, and PIC AU Holdings Corporation, a Delaware corporation and an indirect, wholly-owned subsidiary of the Company (together, the “**Co-Issuers**”), after giving effect to certain recapitalization transactions and the Exchange Offer);
- Risks Related to the Co-Issuers;
- Risks Related to Peabody;
- Peabody Capitalization;
- The Co-Issuers’ Capitalization;
- The Co-Issuers’ Unaudited Pro Forma Financial Information;
- Information Regarding the Co-Issuers;

- Management’s Discussion and Analysis of Financial Condition and Results of Operations of the Co-Issuers;
- Description of Peabody’s Other Indebtedness; and
- Description of the Co-Issuers’ Other Indebtedness.

The Company is also furnishing as Exhibits 99.2 and 99.3 the following sections of the Offering Memorandum: “Description of the New Co-Issuer Notes,” and “Description of the New Peabody Notes.” These sections outline the terms of the New Co-Issuer Notes and the New Peabody Notes, respectively (each as defined under Item 8.01).

In connection with the Exchange Offer, the Company is also furnishing herewith the following historical consolidated financial statements of Wilpinjong Coal Pty Ltd (“**Wilpinjong**”), a direct wholly owned subsidiary of PIC Acquisition Corp, which is a wholly owned subsidiary of PIC AU Holdings, LLC, one of the Co-Issuers, and owns and operates Peabody’s Wilpinjong mine in Australia:

- audited financial statements for the years ended 31 December 2019 and 2018; and
- unaudited interim financial statements for the three months ended 30 September 2020.

The foregoing financial statements of Wilpinjong are furnished hereto as Exhibits 99.4 and 99.5, respectively, and are incorporated herein by this reference.

Presentation of Financial Information and Non-GAAP and Non-IFRS Financial Measures

The historical financial statements and information of Wilpinjong included in the Offering Memorandum and incorporated by reference into this Item 7.01, unless otherwise stated, have been prepared in accordance with Australian Accounting Standards, and other authoritative pronouncements of the Australian Accounting Standards Board and also comply with the International Financial Reporting Standards (“**IFRS**”) as issued by the International Accounting Standards Board (“**IASB**”), which differ in certain respects from GAAP, which differences may be material and may not be comparable to financial statements of U.S. companies. Additionally, certain historical financial data in “Summary Historical Financial Data of Wilpinjong” included in the Offering Memorandum and incorporated by reference into this Item 7.01 has been aggregated in order to present “Operating costs and expenses (exclusive of items shown separately below)” and “Operating profit” for presentation purposes. The historical financial statements of Wilpinjong included in the Offering Memorandum and incorporated by reference into this Item 7.01 do not contain a reconciliation to GAAP. For these reasons, historical financial statements of Wilpinjong included in this Offering Memorandum may not be comparable to financial statements of U.S. companies.

Peabody’s financial statements are prepared under GAAP. The Co-Issuers’ pro forma financial statements are prepared under GAAP. Certain differences may exist between GAAP and IFRS. A reconciliation of the non-GAAP pro-forma financial information included in Exhibit 99.1 to the most directly comparable financial measures prepared in accordance with GAAP is also included in Exhibit 99.1. Adjusted EBITDA is used by Peabody’s management as the primary metric to measure its segments’ operating performance and by the Co-Issuers’ management to measure operating performance. Peabody and the Co-Issuers also believe that this non-GAAP performance measure is used by investors to measure its operating performance and lenders to measure its ability to incur and service debt. It is not meant to be considered in isolation or as a substitute for comparable GAAP measures and should only be read in conjunction with Peabody’s and Wilpinjong’s financial statements prepared or presented in accordance with GAAP.

The pro forma financial information included in Exhibit 99.1 is not intended to comply with the requirements of Regulation S-X under the Securities Act and the rules and regulations of the SEC promulgated thereunder. We cannot assure you that had such financial information been compliant with Regulation S-X under the Securities Act and the rules and regulations of the SEC promulgated thereunder there would not be differences and such differences could be material.

On December 24, 2020, the Company issued a press release announcing entry into the Transaction Support Agreement, described under Item 1.01, a copy of which is furnished hereto as Exhibit 99.6 and incorporated herein by reference. A copy of the Company's investor presentation to be used in investor presentations or meetings beginning December 28, 2020 in connection with the Exchange Offer and transactions contemplated by the Transaction Support Agreement is furnished hereto as Exhibit 99.7 and is incorporated herein by reference.

The information furnished in this Item 7.01, including Exhibits 99.1, 99.2, 99.3, 99.4, 99.5, 99.6 and 99.7 hereto, shall not be deemed "filed" for purposes of Section 18 of the Securities and Exchange Act of 1934 (the "**Exchange Act**"), or otherwise subject to the liabilities of that section, nor shall such information be deemed incorporated by reference in any filings under the Securities Act of 1933 (the "**Securities Act**"), or the Exchange Act, except as shall be expressly set forth by specific reference in such filing. The filing of this Item 7.01 of this Current Report on Form 8-K shall not be deemed an admission as to the materiality of any information herein that is required to be disclosed solely by reason of Regulation FD.

Item 8.01. Other Events.

On December 24, 2020, the Company issued a press release announcing the commencement, subject to the terms and conditions of the Offering Memorandum, of an offer to exchange (the "**Exchange Offer**") any and all of its outstanding \$459,000,000 aggregate principal amount of Existing Notes for, (i) as to eligible holders who validly tender prior to 5:00 p.m. New York City Time, on January 8, 2021 (the "**Early Tender Date**"), per \$1,000 principal amount of tendered Existing Notes, (a) a ratable share of \$194 million of new 10.000% Senior Secured Notes due 2024 (the "**New Co-Issuer Notes**") (ratably with all participating eligible holders) co-issued by the Co-Issuers, (b) a ratable share of \$9.42 million cash (ratably only with eligible holders that tender prior to the Early Tender Date), (c) an amount of new 8.500% Senior Secured Notes due 2024 issued by the Company (the "**New Peabody Notes**") and, together with the New Co-Issuer Notes, the "**New Notes**") such that, when combined with (a) and (b), the aggregate consideration equals \$1,000 per \$1,000 face amount of Existing Notes tendered, and (d) the "Early Tender Premium" of \$10.00 in cash (collectively, the "**Total Consideration**"); and (ii) as to eligible holders who validly tender after the Early Tender Date but prior to 11:59 p.m. New York City Time, on January 25, 2021, unless extended or terminated (the "**Expiration Date**"), for each \$1,000 principal amount of tendered Existing Notes, (x) a ratable share of \$194 million of New Co-Issuer Notes (ratably with all participating eligible holders) and (y) an amount of New Peabody Notes such that, when combined with (y), aggregate consideration equals \$1,000 per \$1,000 face amount of notes tendered. Subject to satisfaction of the conditions to the Exchange Offer, each \$1,000 principal amount of Existing Notes tendered on or prior to the Expiration Date (including Existing Notes tendered prior to the Early Tender Date) will be exchanged into an amount of New Peabody Notes that, together with New Co-Issuer Notes, received in exchange and the Pro Rata Payment (if applicable), will amount to \$1,000 aggregate consideration received for each \$1,000 of principal amount of Existing Notes tendered.

Concurrently with the Exchange Offer, upon the terms and subject to the conditions set forth in the Offering Memorandum and the related Letter of Transmittal, the Company is soliciting consents (the "**Consent Solicitation**") from holders of the Existing Notes to certain proposed amendments to the indenture governing the Existing Notes (the "**Existing Indenture**") to (i) eliminate substantially all of the restrictive covenants, certain events of default applicable to the Existing Notes and certain other provisions contained in the Existing Indenture and (ii) release the collateral securing the Existing Notes and eliminate certain other related provisions contained in the Existing Indenture. The terms of the Exchange Offer and Consent Solicitation are consistent with the terms set forth in the Transaction Support Agreement. The foregoing is a summary of the material terms of the Exchange Offer does not purport to be complete, and is subject to, and qualified by, the press release, a copy of which is attached hereto as Exhibit 99.8 and incorporated by reference into this Item 8.01.

The New Co-Issuer Notes and the New Peabody Notes have not been and will not be registered under the Securities Act or the securities laws of any state, and may not be offered or sold in the United States absent registration or an exemption from the registration requirements of the Securities Act and applicable state securities laws. Neither this Current Report on Form 8-K nor the press release attached hereto as Exhibit 99.8 constitutes an offer to sell or the solicitation of an offer to buy the New Co-Issuer Notes or the New Peabody Notes, nor shall there be any sale of the New Co-Issuer Notes or the New Peabody Notes in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such jurisdiction.

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of the securities laws. Forward-looking statements can be identified by the fact that they do not relate strictly to historical or current facts. They often include words or variation of words such as “expects,” “anticipates,” “intends,” “plans,” “believes,” “seeks,” “estimates,” “projects,” “forecasts,” “targets,” “would,” “will,” “should,” “goal,” “could” or “may” or other similar expressions. Forward-looking statements provide management’s current expectations or predictions of future conditions, events or results. All statements that address operating performance, events or developments that Peabody expects will occur in the future are forward-looking statements. They may include estimates of revenues, income, earnings per share, cost savings, capital expenditures, dividends, share repurchases, liquidity, capital structure, market share, industry volume, or other financial items, descriptions of management’s plans or objectives for future operations, or descriptions of assumptions underlying any of the above. All forward-looking statements speak only as of the date they are made and reflect Peabody’s good faith beliefs, assumptions and expectations, but they are not guarantees of future performance or events. Furthermore, Peabody disclaims any obligation to publicly update or revise any forward-looking statement, except as required by law. By their nature, forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. Factors that might cause such differences include, but are not limited to, (i) the participation by noteholders in the Exchange Offer, (ii) the satisfaction of the conditions to the Exchange Offer, (iii) the availability of alternative transactions, (iv) general market conditions and (v) a variety of economic, competitive and regulatory factors, many of which are beyond Peabody’s control, including the impact of the COVID-19 outbreak and factors that are described in Peabody’s Annual Report on Form 10-K for the fiscal year ended December 31, 2019, and other factors that Peabody may describe from time to time in other filings with the SEC. You may get such filings for free at Peabody’s website at www.peabodyenergy.com. You should understand that it is not possible to predict or identify all such factors and, consequently, you should not consider any such list to be a complete set of all potential risks or uncertainties.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	<u>Transaction Support Agreement, dated as of December 24, 2020, between Peabody, certain subsidiaries of Peabody, the Revolving Lenders, the Administrative Agent, and the Consenting Noteholders.</u>
99.1	<u>Disclosure regarding Peabody and its subsidiaries included in the Offering Memorandum.</u>
99.2	<u>Description of New Co-Issuer Notes included in the Offering Memorandum.</u>
99.3	<u>Description of New Peabody Notes included in the Offering Memorandum.</u>
99.4	<u>Audited financial statements of Wilpinjong Coal Pty Ltd for the years ended 31 December 2019 and 2018.</u>
99.5	<u>Unaudited interim financial statements of Wilpinjong Coal Pty Ltd for the three months ended 30 September 2020.</u>
99.6	<u>Press Release of Peabody, dated December 24, 2020, related to the Transaction Support Agreement.</u>
99.7	<u>Investor Presentation, to be used in investor presentations and meetings beginning December 28, 2020.</u>
99.8	<u>Press Release of Peabody, dated December 24, 2020, related to the Exchange Offer.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PEABODY ENERGY CORPORATION

December 24, 2020

By: /s/ Scott T. Jarboe
Name: Scott T. Jarboe
Title: Chief Legal Officer

EXECUTION VERSION

THIS AGREEMENT IS NOT, AND IS NOT INTENDED TO BE AN OFFER FOR THE PURCHASE, SALE, EXCHANGE, HYPOTHECATION, OR OTHER TRANSFER OF SECURITIES FOR PURPOSES OF THE SECURITIES ACT OR THE EXCHANGE ACT. ANY SUCH OFFER OR SOLICITATION WILL COMPLY WITH ALL APPLICABLE LAWS INCLUDING ALL APPLICABLE SECURITIES LAWS.

TRANSACTION SUPPORT AGREEMENT

This Transaction Support Agreement (together with the exhibits and schedules attached hereto, as each may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms hereof, this "Agreement"), dated as of December 24, 2020, is entered into by and among:

- (a) Peabody Energy Corporation, a Delaware corporation ("PEC"), each of the guarantors (the "Subsidiary Guarantors") of the 2022 Notes, the RemainCo Notes, the Term Facility, and the RemainCo L/C Facility (each as defined below), each of the issuers and guarantors (other than PEC) (the "Wilpinjong Entities") of the Wilpinjong Term Loans (as defined below) and the Wilpinjong Notes (as defined below), and Peabody Global Holdings, LLC, as set forth in the signature pages to this Agreement (collectively, the "Company Parties," the "Company," or "Peabody");
- (b) each of the Revolving Lenders, including in its respective capacity as an L/C Issuer, if applicable (each as defined below);
- (c) JPMorgan Chase Bank, N.A., in its capacity as administrative agent (in such capacity, the "Administrative Agent") under the Credit Agreement; and
- (d) the Consenting Noteholders¹ (as defined below).

¹ For the avoidance of doubt, any affiliates or related parties of any such Consenting Noteholder shall not be deemed to be Consenting Noteholders themselves. The Parties acknowledge and agree that all representations, warranties, covenants, and other agreements made by any Consenting Noteholder that is a separately managed account of or advised by an investment manager are being made only with respect to the Claims held by such separately managed or advised account (in the amount identified on the signature pages hereto), and shall not apply to (or be deemed to be made in relation to) any Claims that may be beneficially owned by other accounts that are managed or advised by such investment manager. The Parties further acknowledge and agree that all representations, warranties, covenants, and other agreements made by any Consenting Noteholder that is an investment advisor, sub-advisor, or manager of managed accounts are being made solely in such Consenting Noteholder's capacity as an investment advisor, sub-advisor, or manager to the beneficial owners of the 2022 Notes specified on the applicable signature pages hereto (in the amount identified on such signature pages), and shall not apply to (or be deemed to be made in relation to) such investment advisor, sub-advisor, or manager in any other capacity, including, without limitation, in its capacity as an investment advisor, sub-advisor, or manager of other managed accounts.

This Agreement collectively refers to the Company Parties, the Administrative Agent, the Revolving Lenders, and the Consenting Noteholders signatory hereto as the “Parties” and each individually as a “Party.”

RECITALS

WHEREAS, the Company, the Revolving Lenders, the Term Lenders (as defined below) and the Administrative Agent are parties to the Credit Agreement under which the aggregate principal amount of Revolving Commitments (as defined below) is approximately \$540 million;

WHEREAS, the Company and the 2022 Notes Indenture Trustee (as defined below) are parties to the 2022 Notes Indenture (as defined below), under which the 2022 Notes were issued in the original aggregate amount of \$500 million, and the current aggregate amount of the 2022 Notes outstanding is approximately \$459 million;

WHEREAS, the Parties have negotiated or been apprised of the terms of a restructuring of the 2022 Notes and the Revolving Facility in good faith and at arm’s length, as set forth and as specified in this Agreement and as specified in the term sheet attached as Exhibit A hereto (the “Term Sheet” and, such transactions as described in this Agreement, the Offering Memorandum (as defined below), and the Term Sheet, the “Transaction”);

WHEREAS, the Transaction contemplated in this Agreement, the Offering Memorandum and the Term Sheet will be effectuated through (a) an exchange offer conducted by the Company of 2022 Notes for New Notes and the other consideration described in the Offering Memorandum and the Term Sheet (the “Notes Exchange Offer”), (b) a restructuring of the Revolving Commitments (as defined below) and the obligations owing by the Company to the Revolving Lenders for the consideration described in the Term Sheet (the “RCF Restructuring”), (c) consents to proposed amendments to the 2022 Notes Indenture to be implemented through a supplemental indenture having the terms set forth in the Offering Memorandum (the “2022 Notes Seventh Supplemental Indenture”) and (d) an amendment (the “Credit Agreement Amendment”) to certain terms of the Credit Agreement having terms consistent in all respects with those set forth in the Term Sheet; and

WHEREAS, this Agreement sets forth the agreement among the Parties concerning their respective commitments, subject to the terms and conditions hereof, to implement the Transaction.

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Parties, intending to be legally bound, hereby agrees as follows:

AGREEMENT

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Term Sheet or as otherwise expressly set forth herein. The following terms used in this Agreement are defined as:

“2022 Notes” means the 6.000% senior secured notes due 2022 issued by PEC pursuant to the 2022 Notes Indenture.

“2022 Notes Claims” means any Claims arising under or related to the 2022 Notes Indenture with respect to the 2022 Notes.

“2022 Notes Claims Transfer” has the meaning set forth in Section 8 hereof.

“2022 Notes Claims Transferor” has the meaning set forth in Section 8 hereof.

“2022 Notes Documents” means, collectively, the 2022 Notes Indenture, all other documents entered into pursuant to or in connection with the 2022 Notes Indenture and all amendments and supplements thereto.

“2022 Notes Indenture” means that certain indenture, dated as of February 15, 2017 (as amended, supplemented or otherwise modified from time to time), by and between Peabody Securities Finance Corporation, a Delaware corporation and a wholly owned subsidiary of PEC, as escrow issuer, and the 2022 Notes Indenture Trustee, as supplemented by a supplemental indenture, dated as of April 3, 2017 (and as further amended, modified or otherwise supplemented to the date hereof), among Peabody, Peabody Securities Finance Corporation, the subsidiary guarantors party thereto and the 2022 Notes Indenture Trustee, pursuant to which PEC became a co-obligor of the 2022 Notes, and, thereafter, PEC became the sole issuer of the 2022 Notes upon the merger of Peabody Securities Finance Corporation with and into PEC, with PEC as the surviving corporation.

“2022 Notes Indenture Trustee” means Wilmington Trust, National Association.

“2022 Notes Permitted Transferee” has the meaning given to such term in Section 8 hereof.

“2022 Notes Seventh Supplemental Indenture” has the meaning set forth in the preamble hereof.

“Ad Hoc Group” means the ad hoc group of Consenting Noteholders represented by the Ad Hoc Group Advisors.

“Ad Hoc Group Advisors” means, collectively, Davis Polk & Wardwell LLP, Houlihan Lokey Capital, Inc. and Norton Rose Fulbright Australia.

“Administrative Agent” has the meaning set forth in the preamble hereof.

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with, such Person.

“Agreement” has the meaning set forth in the preamble hereof.

“Agreement Effective Date” has the meaning set forth in Section 25 hereof.

“Alternative Transaction” means any dissolution, winding up, liquidation, reorganization, recapitalization, receivership, assignment for the benefit of creditors, merger, consolidation, business combination, joint venture, partnership, sale of assets (other than ordinary course sales or sales of *de minimis* assets), financing (debt or equity), or restructuring of or involving any of the Company Parties (or any of their assets, liabilities, or equity interests), other than the Transaction.

“Automatic Termination Event” has the meaning set forth in Section 7 hereof.

“Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as amended from time to time.

“Business Day” means any day other than a Saturday, Sunday, or any other day on which banks in New York, New York are authorized or required by law to close.

“Claim” means (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed undisputed, secured, or unsecured, each as set forth in section 101(5) of title 11 of the United States Code.

“Collateral Trust Agreement” means that certain Collateral Trust Agreement (as amended, restated, supplemented or otherwise modified from time to time), dated as of April 3, 2017, by and among PEC, the other Grantors party thereto, the Administrative Agent, the 2022 Notes Trustee and Wilmington Trust, National Association, as Priority Collateral Trustee and Junior Collateral Trustee.

“Company” has the meaning set forth in the preamble hereof.

“Company Counsel Opinion” means a legal opinion from Jones Day, as counsel for the Company, reasonably acceptable to the Consenting Noteholders and the Revolving Lenders.

“Company Parties” has the meaning set forth in the preamble hereof.

“Company Released Party” means each of: (a) the Company Parties; (b) the predecessors, successors, and assigns of each of the foregoing; and (c) the current and former shareholders, employees, agents, officers, directors, trustees, partners, members, managers, professionals, attorneys, and financial advisors of each of the foregoing, in each case in their capacity as such.

“Company Termination Event” has the meaning set forth in Section 7 hereof.

“Consenting Noteholders” means, subject to footnote 1 hereof, collectively, (a) the undersigned holders of 2022 Notes and (b) in their capacity as such, the undersigned investment advisors, sub-advisors, or managers of discretionary accounts (together with their respective successors and permitted assigns) that hold 2022 Notes and that have authority to bind, and by executing this Agreement do thereby bind, the beneficial owners of such 2022 Notes to the terms of this Agreement.

“Consenting Noteholder Termination Event” has the meaning set forth in Section 7 hereof.

“Consenting Noteholder Transferee Joinder” has the meaning set forth in Section 8 hereof.

“Consenting Parties” means, collectively, the Consenting Noteholders, the Revolving Lenders, and the Administrative Agent.

“Consenting Party Released Claims” has the meaning given to such term in Section 11(b) hereof.

“Control” (including the terms “controlling,” “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise.

“Credit Agreement” means that certain Credit Agreement (as amended, supplemented or otherwise modified from time to time), dated as of April 3, 2017, by and among Peabody, the Revolving Lenders, the Term Lenders, and the Administrative Agent.

“Credit Agreement Amendment” has the meaning set forth in the preamble hereof.

“Credit Agreement Documents” means the Credit Agreement and all other documents entered into pursuant to or in connection with the Credit Agreement and all amendments and supplements thereto.

“Definitive Closing Documents” means all Definitive Documents other than those in clauses (a) and (b) specified in the definition thereof.

“Definitive Documents” means: (a) the Descriptions of Notes, the Offering Memorandum used in connection with the Notes Exchange Offer and the issuance of the New Notes, and any other securities offering or exchange offer documents used in connection with the Transaction; (b) any consent solicitation statements or other solicitation materials, including any related notices, ballots, or other election

forms used in connection with the Transaction; (c) any credit agreements, Credit Agreement amendments or indentures (including supplemental indentures) to be entered into in connection with the Transaction, including the Wilpinjong Notes Indenture, the RemainCo Notes Indenture, the 2022 Notes Seventh Supplemental Indenture, the Credit Agreement Amendment, the Wilpinjong Credit Agreement and the RemainCo Letters of Credit Agreement; (d) any security or collateral documents entered into in connection with the Transaction; (e) any intercreditor agreements or collateral trust agreements entered into in connection with the Transaction, including entering into the New Collateral Trust Agreement; and (f) all other ancillary and related documents and instruments entered into in connection with the Transaction. Except as otherwise set forth in this Agreement, all of the documents in the foregoing clauses (a) through (f) shall be consistent in all respects with the terms set forth in this Agreement and the Term Sheet and shall otherwise be acceptable in form and substance to (i) the Company, (ii) each Revolving Lender and (iii) each Consenting Noteholder, each in its or their reasonable discretion.

“Definitive Noteholder Closing Documents” means any indentures and any ancillary or other documents related thereto to be entered into in connection with the Transaction, including the Wilpinjong Notes Indenture and the RemainCo Notes Indenture.

“Definitive RCF Closing Documents” means any credit agreements, revolving credit facilities, letters of credit, and any ancillary or other documents related thereto to be entered into in connection with the Transaction, including the Wilpinjong Credit Agreement and the RemainCo Letters of Credit Agreement.

“Descriptions of Notes” means, together, the RemainCo Notes DoN and the Wilpinjong Notes DoN.

“Exchange Act” has the meaning set forth in Section 3 hereof.

“Existing Documents” means, collectively, the 2022 Notes, the 2022 Notes Documents, the Credit Agreement Documents, the Collateral Trust Agreement and all documents and agreements (including amendments) related thereto.

“L/C Issuer” has the meaning given to that term in the Credit Agreement.

“Mutual Termination Event” has the meaning set forth in Section 7 hereof.

“New Collateral Trust Agreement” means a collateral trust agreement to be entered into as of the Settlement Date, by and among (a) Wilmington Trust, as priority collateral trustee for and on behalf of holders of the Wilpinjong Notes and the Wilpinjong Term Loan and any priority lien holder that becomes party to such New Collateral Trust Agreement after the Settlement Date in accordance with the terms thereof, (b) Wilmington Trust, as junior collateral trustee for and on behalf of the holders of any Priority Lien Obligations and any other junior lien holder that becomes party to such New Collateral Trust Agreement after the Settlement Date in accordance with the terms thereof, (c) the Wilpinjong Entities, (d) the Wilpinjong Notes Indenture Trustee and (e) the Wilpinjong Administrative Agent.

“New Notes” means, collectively, the Wilpinjong Notes and the RemainCo Notes to be issued as part of the Notes Exchange Offer.

“New Loans” means, collectively, the Wilpinjong Term Loans and the RemainCo Letters of Credit to be issued as part of the RCF Restructuring.

“Notes Exchange Commencement Date” means December 24, 2020.

“Notes Exchange Offer” has the meaning set forth in the preamble hereof.

“Offering Memorandum” means that definitive offer to exchange to be used in the Notes Exchange Offer.

“Other Released Party” means each of: (a) the Consenting Parties and each of their Affiliates; (b) the predecessors, successors, and assigns of each of the foregoing, and (c) the current and former employees, agents, officers, directors, trustees, partners, members, managers, professionals, attorneys, and financial advisors of each of the foregoing, in each case in their capacity as such.

“Parties” has the meaning set forth in the preamble hereof.

“Peabody” has the meaning set forth in the preamble hereof.

“PEC” has the meaning set forth in the preamble hereof.

“Permitted Transferee” has the meaning set forth in Section 8(b) hereof.

“Person” means an individual, partnership, joint venture, limited liability company, corporation, trust, unincorporated organization, group, or any other legal entity or association.

“Priority Collateral Trustee” has the meaning given to that term in the Collateral Trust Agreement.

“Priority Lien Obligations” has the meaning given to that term in the Collateral Trust Agreement.

“Public Disclosure” has the meaning set forth in Section 28 hereof.

“RCF Permitted Transferee” has the meaning given to such term in Section 8 hereof.

“RCF Restructuring” has the meaning set forth in the preamble hereof.

“RemainCo L/C Facility” means the letter of credit facility to be established as part of the RCF Restructuring, consistent in all respects with the terms set forth in the Term Sheet.

“RemainCo Letters of Credit” means the Letters of Credit to be issued under the RemainCo L/C Facility.

“RemainCo Letters of Credit Agreement” means the letter of credit agreement to document the RemainCo L/C Facility.

“RemainCo Notes” means the 8.500% senior secured notes due 2024 to be issued by PEC pursuant to the RemainCo Notes Indenture.

“RemainCo Notes Documents” means, collectively, the RemainCo Notes Indenture, all other documents entered into pursuant to or in connection with the RemainCo Notes Indenture and all amendments and supplements thereto.

“RemainCo Notes DoN” means the Description of Notes for the RemainCo Notes attached hereto as Exhibit B and otherwise in form and substance acceptable to the Consenting Noteholders.

“RemainCo Notes Indenture” means an indenture, to be entered into by and between PEC and the RemainCo Indenture Trustee, consistent in all respects with the Offering Memorandum and otherwise in form and substance acceptable to the Consenting Parties.

“RemainCo Notes Indenture Trustee” means Wilmington Trust, National Association.

“Required Consenting Parties” means each of the (a) Consenting Noteholders holding, collectively, more than 66.67% by principal face amount of all 2022 Notes held by the Consenting Noteholders as of the time of determination and (b) the Revolving Lenders holding, collectively, more than 50% by principal face amount of all Revolving Commitments held by the Revolving Lenders as of the time of determination.

“Revolving Commitment” has the meaning given to that term in the Credit Agreement.

“Revolving Facility” has the meaning given to that term in the Credit Agreement.

“Revolving Facility Claims” means any Claims arising under or related to the Credit Agreement with respect to the Revolving Facility.

“Revolving Facility Transfer” has the meaning set forth in Section 8 hereof.

“Revolving Facility Transferor” has the meaning set forth in Section 8 hereof.

“Revolving Lender” has the meaning given to that term in the Credit Agreement.

“Revolving Lender Termination Event” has the meaning set forth in Section 7 hereof.

“Revolving Lender Transferee Joinder” has the meaning set forth in Section 8 hereof.

“SEC” has the meaning set forth in Section 3 hereof.

“Securities Act” has the meaning set forth in Section 3 hereof.

“Security Agreement” means that certain Priority Lien Pledge and Security Agreement, dated as of April 3, 2017, among PEC, the PEC subsidiaries identified therein, and the Priority Collateral Trustee.

“Settlement Date” means the date on which the Transaction is consummated in accordance with the terms and conditions set forth in this Agreement, the Term Sheet, and each of the Definitive Documents.

“Subsidiary Guarantors” has the meaning set forth in the preamble hereof.

“Sureties” has the meaning given to that term in the Sureties TSA.

“Sureties TSA” means the Transaction Support Agreement, dated as of November 6, 2020, by and among PEC, the PEC subsidiaries party thereto, and the Sureties.

“Term Facility” has the meaning given to that term in the Credit Agreement.

“Term Lender” has the meaning given to that term in the Credit Agreement.

“Term Sheet” has the meaning set forth in the preamble hereof.

“Termination Date” has the meaning set forth in Section 7 hereof.

“Termination Event” means any of a Consenting Noteholder Termination Event, a Revolving Lender Termination Event, a Company Termination Event, a Mutual Termination Event, or an Automatic Termination Event.

“Transaction” has the meaning set forth in the preamble hereof.

“Wilpinjong Administrative Agent” means JPMorgan Chase Bank, N.A.

“Wilpinjong Credit Agreement” means a Credit Agreement, to be entered into by and among the Wilpinjong Entities, the Wilpinjong Administrative Agent and the Revolving Lenders, consistent in all respects with the terms set forth in the Term Sheet.

“Wilpinjong Entities” has the meaning set forth in the preamble hereof.

“Wilpinjong Notes” means the 10.000% senior secured notes due 2024 issued by the Wilpinjong Entities pursuant to the Wilpinjong Notes Indenture.

“Wilpinjong Notes Documents” means, collectively, the Wilpinjong Notes Indenture, all other documents entered into pursuant to or in connection with the Wilpinjong Notes Indenture and all amendments and supplements thereto.

“Wilpinjong Notes DoN” means the Description of Notes for the Wilpinjong Notes attached hereto as Exhibit C and otherwise in form and substance acceptable to the Consenting Noteholders.

“Wilpinjong Notes Indenture” means an indenture, to be entered into by and between the Wilpinjong Entities and the Wilpinjong Indenture Trustee, consistent in all respects with the Offering Memorandum and otherwise in form and substance acceptable to the Consenting Parties.

“Wilpinjong Notes Indenture Trustee” means Wilmington Trust, National Association.

“Wilpinjong Term Loan Documents” means the Wilpinjong Credit Agreement and all documents entered into pursuant to or in connection with the Wilpinjong Credit Agreement and all amendments and supplements thereto.

“Wilpinjong Term Loans” means the Wilpinjong New Structurally Senior Term Loans (as such term is defined in the Term Sheet).

2. Incorporation by Reference; Definitive Documents.

- (a) The exhibits hereto are fully incorporated by reference herein and are made a part of this Agreement as if fully set forth herein, and all references to this Agreement shall include and incorporate all exhibits hereto; provided, however, that (i) to the extent that there is a conflict between this Agreement, on the one hand, and the Descriptions of Notes or the Term Sheet, on the other hand, the terms and provisions of the Descriptions of Notes or the Term Sheet shall govern, (ii) to the extent that there is a conflict between the Term Sheet, on the one hand, and the Descriptions of Notes, on the other hand, the terms and provisions of the Term Sheet shall govern, and (iii) to the extent that there is a conflict between the Term Sheet, the Descriptions of Notes or this Agreement, on the one hand, and the Definitive Closing Documents, on the other hand, the terms and provisions of the Definitive Closing Documents shall govern. This Agreement, the Descriptions of Notes, the Term Sheet, or any provision hereof or thereof, may not be modified, waived, amended, or supplemented, except in accordance with Section 19 hereof.

- (b) The Parties recognize that time is of the essence and therefore, as soon as is reasonably practicable, the Parties will negotiate and, thereafter, execute the Definitive Documents implementing the Transaction in form and substance consistent with this Agreement, the Descriptions of Notes and the Term Sheet.
- (c) Without limiting any applicable consent rights of the Consenting Noteholders or the Revolving Lenders with respect to the Definitive Documents, if the Definitive RCF Closing Documents impose restrictive covenants on any Company Party or contain events of default that, in either case, are less favorable to such Company Party than similar obligations or restrictions imposed on such Company Party under the New Notes as set forth in the Descriptions of Notes (as reasonably determined in good faith by the Ad Hoc Group Advisors in consultation with counsel to the Company Parties), then the Definitive Noteholder Closing Documents shall contain terms that impose the same restrictive covenants on such Company Party, contain the same events of default, and/or provide to the holders of New Notes the same remedies or prepayment rights provided to the Revolving Lenders that are set forth in the Definitive RCF Closing Documents, or terms that are reasonably equivalent (as reasonably determined in good faith by the Ad Hoc Group Advisors in consultation with counsel to the Company Parties). Each Party hereto acknowledges and agrees that (i) the Term Sheet sets forth the material terms of the Revolving Lenders' agreement, (ii) the Descriptions of Notes set forth the material terms of the Consenting Noteholders' agreement, (iii) certain economic terms set forth in the Term Sheet and the Descriptions of Notes are different, and (iv) subject to section 2(a), the material terms in the Definitive Documents will be consistent with the Term Sheet and Descriptions of Notes, as applicable (subject to the foregoing sentence and paragraph 34 below); however, for terms in the Definitive Documents that are not specifically addressed in the Term Sheet, it is the intent of the Parties for the terms of the Definitive Noteholder Closing Documents to provide substantially the same terms to holders of the New Notes as are provided to the Revolving Lenders under the terms of the Definitive RCF Closing Documents and that it would be an exercise of reasonable discretion if a Party were to withhold its consent to the form or substance of any Definitive Document if such Definitive Document deviated from the foregoing intent in any material respect.

3. Commitments of the Company. Subject to the terms and conditions of this Agreement, the Company agrees that, so long as no Termination Event has occurred:

- (a) on the Settlement Date, the Company will effectuate the RCF Restructuring in accordance with the provisions of this Agreement and the Term Sheet, including by entering into the Definitive Closing Documents in connection with the RCF Restructuring;

- (b) on the Notes Exchange Commencement Date (unless such date is extended in accordance with the terms of this Agreement), the Company will distribute the documents for the Notes Exchange Offer to holders of the 2022 Notes in accordance with the provisions of this Agreement, the Offering Memorandum, the Term Sheet and the applicable requirements of the Securities Act of 1933, as amended (the “Securities Act”), the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the rules and regulations of the Securities and Exchange Commission (the “SEC”) thereunder;
- (c) on a timely basis, the Company shall negotiate in good faith the Definitive Closing Documents with the respective Parties thereto and execute and deliver each Definitive Closing Document to which it is to be a party;
- (d) the Company shall (i) use commercially reasonable efforts as permitted under applicable laws and regulations to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable to consummate and make effective the Transaction and all other actions contemplated in connection therewith and under the Definitive Documents, (ii) take any action reasonably requested by any Consenting Party to facilitate the implementation and consummation of the Transaction, and (iii) refrain from taking any actions inconsistent with, and not failing or omitting to take an action that is required by, this Agreement or the Definitive Documents;
- (e) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Transaction, the Company will support and take all steps reasonably necessary or desirable to address any such impediment;
- (f) the Company shall promptly pay when due all the reasonable and documented and invoiced fees, costs, and out-of-pocket expenses of the advisors for the Administrative Agent, the Revolving Lenders and the Ad Hoc Group in accordance with their respective engagement letters, if any. Nothing, in this Section 3(f) shall, or shall be deemed to, modify, amend, limit, or otherwise alter the terms of or obligations under the Credit Agreement Documents, the 2022 Notes Documents, or any other agreement or undertaking entered into by the Company;
- (g) the Company shall use commercially reasonable efforts to seek additional support for the Transaction, including the Notes Exchange Offer, from holders of 2022 Notes and Revolving Facility Claims to the extent reasonably prudent;

- (h) to the extent the Ad Hoc Group Advisors or counsel to the Administrative Agent reasonably identify, in consultation with counsel to the Company Parties, (i) any material defects, errors or omissions, with respect to the liens granted by the Company in favor of the Priority Collateral Trustee on the collateral securing the Priority Lien Obligations, the Company shall take such actions as are reasonably requested by the Ad Hoc Group Advisors or counsel to the Administrative Agent, in consultation with the Company Parties and their counsel, to promptly correct such material defects, errors or omissions, in a manner reasonably satisfactory to the Ad Hoc Group Advisors and counsel to the Administrative Agent or (ii) any material property (including real property) of the Company Parties (with materiality determined in the reasonable discretion of the Ad Hoc Group Advisors and counsel to the Administrative Agent, in consultation with the Company Parties) on which liens have not been granted by the Company in favor of the Priority Collateral Trustee to secure the Priority Lien Obligations, the Company shall agree to take actions reasonably requested by the Ad Hoc Group Advisors or counsel to the Administrative Agent to promptly grant liens on such property in favor of the Priority Collateral Trustee to secure the Priority Lien Obligations including, without limitation by promptly executing and delivering control agreements for accounts in form and substance reasonably acceptable to the Priority Collateral Trustee, the Ad Hoc Group Advisors and counsel to the Administrative Agent (including for that certain account with an account number ending in 1560) or by transferring funds from accounts without such control agreements into accounts where such agreements have been executed and delivered; provided that, after the Company Parties have undertaken commercially reasonable efforts to promptly correct any such defects, errors or omissions or to promptly take such reasonably requested actions, the failure to so remedy such defects, errors or omissions or to take such actions shall not be a condition precedent to the occurrence of the Transaction, but the Company shall correct any such defects, errors or omissions or take such actions on a post-closing timeline reasonably acceptable to the Ad Hoc Group Advisors and counsel to the Administrative Agent (but in no event later than 90 days after the Settlement Date or such later date as the Ad Hoc Group Advisors and the Administrative Agent may agree in their reasonable discretion); provided, further, that the obligations in this Section 3(h) shall survive the Termination Date;
- (i) the Company shall not object to, delay or impede the Transaction or the implementation thereof or initiate any legal proceedings that are inconsistent with, or that would delay, prevent, frustrate, or impede the approval, solicitation, or consummation of, the Transaction, the Definitive Documents, or any other transactions outlined therein, or in the Offering Memorandum or the Term Sheet, or take any other action that is barred by this Agreement;

- (j) the Company will not directly or indirectly arrange, participate in or consent to any credit facility, bond issuance, or other financing, rights offering, or issuance of debt or equity securities (including in connection with any exchange), or otherwise support or participate in any reorganization, merger, consolidation, business combination, or other recapitalization or debt restructuring, of the Company (whether through a judicial process or otherwise) other than in the ordinary course of business or in connection with the Transaction;
- (k) the Company will not exchange or offer to exchange any 2022 Notes other than pursuant to the Notes Exchange Offer, or, except as expressly contemplated by this Agreement, solicit consents to any amendment, modification or supplement to the 2022 Notes Indenture, the Credit Agreement, the Collateral Trust Agreement or any related guarantees, security documents, intercreditor agreements or ancillary documents;
- (l) the Company will not seek, solicit, support, formulate, entertain, encourage, engage in any inquiries or discussions concerning, or enter into any agreements relating to any Alternative Transaction, and if the Company receives an unsolicited bona fide proposal or expression of interest in undertaking an Alternative Transaction, the Company will, within 24 hours of the receipt of such proposal or expression of interest, notify counsel to the Administrative Agent and the Ad Hoc Group Advisors of the receipt thereof, with such notice to include the material terms thereof, including the identity of the person or group of persons involved in making such proposal;
- (m) the Company will promptly provide a Consenting Party with any documentation or information that is reasonably requested by such Consenting Party or is reasonably necessary to consummate the Transactions and that is not unduly burdensome to the Company to provide, subject to any confidentiality restrictions to which the Company may be subject;
- (n) the Company will conduct its business in the ordinary course consistent with past practice and in light of then-current market conditions, and use its best efforts to (i) preserve intact its present business organization, (ii) maintain in effect all of its foreign, federal, state and local licenses, permits, consents, franchises, approvals and authorizations required to operate the Company's business, (iii) keep available the services of its directors, officers and key employees, (iv) maintain satisfactory relationships with its customers, suppliers and others having material business relationships with it, (v) manage its working capital (including the timing of collection of accounts receivable and of the payment of accounts payable and the management of inventory) in the ordinary course of business consistent with past practice and (vi) maintain their good standing under the laws of the state or other jurisdictions in which they are incorporated or organized. Without limiting the generality of the foregoing, except as expressly contemplated by this Agreement, the Company shall not:

- (i) amend its articles of incorporation, bylaws or other similar organizational documents (whether by merger, consolidation or otherwise);
- (ii) split, combine or reclassify any shares of capital stock of the Company or declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of the capital stock of the Company, or redeem, repurchase or otherwise acquire or offer to redeem, repurchase, or otherwise acquire any Company securities;
- (iii) issue, deliver or sell, or authorize the issuance, delivery or sale of, any shares of any Company securities or amend any term of any Company security (in each case, whether by merger, consolidation or otherwise);
- (iv) acquire (by merger, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any assets, securities, properties, interests or businesses, other than in the ordinary course of business of the Company and in a manner that is consistent with past practice;
- (v) sell, lease or otherwise transfer, or create or incur any lien on, any of the Company's assets, securities, properties, interests or businesses, other than in the ordinary course of business consistent with past practice;
- (vi) make any loans, advances or capital contributions to, or investments in, any other Person, other than in the ordinary course of business consistent with past practice;
- (vii) make any payment in satisfaction of any existing funded indebtedness other than regularly scheduled payments of interest and principal;
- (viii) create, incur, assume, suffer to exist or otherwise be liable with respect to any indebtedness for borrowed money or guarantees thereof;
- (ix) enter into any agreement or arrangement that limits or otherwise restricts in any material respect the Company or any of its Affiliates or any successor thereto or that could, after the Settlement Date, limit or restrict in any material respect the Company or any of its respective Affiliates, from engaging or competing in any line of business, in any location or with any Person; or

- (x) enter into any agreement or arrangement that waives, releases or assigns any material rights, claims or benefits of the Company;
- (o) the Company will use commercially reasonable efforts to obtain any and all necessary or required governmental, regulatory and/or third-party approvals and consents for the implementation or consummation for the Transaction;
- (p) the Company will promptly notify the Ad Hoc Group Advisors and counsel to the Administrative Agent as to: (i) any material change in the business or financial (including liquidity) performance of the Company Parties; (ii) the status and progress of the Transactions, including progress in relation to the Note Exchange Offer and the negotiations of the Definitive Closing Documents; (iii) the status of obtaining any necessary or desirable authorizations (including any consents) from any competent judicial body, governmental authority, banking, taxation, supervisory, or regulatory body or any stock exchange; (iv) any material governmental or third party complaints, litigations, investigations or hearings; (v) any event or circumstance that has occurred, or that is reasonably likely to occur (and if it did so occur), that would permit any Party to terminate, or could reasonably be expected to result in the termination of, this Agreement; (vi) any matter or circumstance that constitutes or could reasonably be expected to constitute a material impediment to the implementation or consummation of the Transaction; (vii) any notice of any commencement of any involuntary insolvency proceedings of PEC or any other Company Party or any of their Affiliates, or material legal suit for payment of debt or securement of security from or by any person in respect of the Company; and (viii) any representation or statement made or deemed to be made by them under this Agreement which is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; and
- (q) the Company will not (i) waive any of the conditions to consummation of the Transaction set forth in the Definitive Documents or (ii) amend any of the terms of the Definitive Documents, in each case, without the prior written consent of each Consenting Party, as applicable.

4. Commitments of the Revolving Lenders. Subject to the terms and conditions of this Agreement, each Revolving Lender (severally and not jointly) and solely in their capacity as a Revolving Lender and not in any other capacity agrees that, so long as no Termination Event has occurred:

- (a) on a timely basis, such Revolving Lender shall negotiate in good faith the Definitive Closing Documents with the Company and execute and deliver each Definitive Closing Document to which it is to be a party;

- (b) such Revolving Lender shall (i) use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable under applicable laws and regulations to consummate and make effective the Transaction and all other actions contemplated in connection therewith; (ii) use commercially reasonable efforts to take any action reasonably requested by any of the Company Parties to facilitate the implementation and consummation of the Transaction, and (iii) refrain from taking any actions inconsistent with, and not failing or omitting to take an action that is required by, this Agreement;
- (c) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Transaction, each Revolving Lender will support and take all commercially reasonable steps reasonably necessary or desirable to address any such impediment provided such support and steps do not adversely affect the consideration such Revolving Lender will receive pursuant to the Transaction in any material respect;
- (d) such Revolving Lender shall use commercially reasonable efforts to support the approval and implementation of the Transaction;
- (e) such Revolving Lender shall validly exchange its Revolving Commitments in the RCF Restructuring in accordance with the applicable procedures set forth in the Term Sheet;
- (f) such Revolving Lender shall provide all requisite consents required for the Credit Agreement Amendment, consistent with this Agreement and the Term Sheet;
- (g) such Revolving Lender shall not withdraw or revoke its consent with respect to the Transaction, except as otherwise expressly permitted pursuant to this Agreement;
- (h) such Revolving Lender shall not:
 - (i) object to, delay or impede the Transaction or the implementation thereof or initiate any legal proceedings that are inconsistent with, or that would delay, prevent, frustrate, or impede the approval, solicitation, or consummation of, the Transaction, the Definitive Documents, or any other transactions outlined therein or in the Term Sheet, or take any other action that is barred by this Agreement;
 - (ii) vote for, consent to, support or participate in the formulation of any other restructuring, exchange or settlement of any of the Revolving Commitments; or

- (iii) solicit, encourage, or direct any Person to undertake any action set forth in clauses (i) through (iii) of this subsection (h);
- (i) such Revolving Lender shall use commercially reasonable efforts to execute any document and give any notice, order, instruction, or direction necessary to support, facilitate, implement, consummate, or otherwise give effect to the Transaction; and
- (j) such Revolving Lender shall not instruct the Administrative Agent to take any action, or to refrain from taking any action, that would be inconsistent with this Agreement or the Transaction.

5. Commitments of the Consenting Noteholders. Subject to the terms and conditions of this Agreement, each Consenting Noteholder (severally and not jointly) and solely in their capacity as a 2022 Noteholder and not in any other capacity agrees that, so long as no Termination Event has occurred:

- (a) on a timely basis, such Consenting Noteholder shall negotiate in good faith the Definitive Documents with the Company and execute and deliver each Definitive Document to which it is to be a party;
- (b) such Consenting Noteholder shall (i) use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable under applicable laws and regulations to consummate and make effective the Transaction and all other actions contemplated in connection therewith, (ii) use commercially reasonable efforts to take any action reasonably requested by any of the Company Parties to facilitate the implementation and consummation of the Transaction, and (iii) refrain from taking any actions inconsistent with, and not failing or omitting to take an action that is required by, this Agreement;
- (c) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Transaction, each Consenting Noteholder will support and take all commercially reasonable steps reasonably necessary or desirable to address any such impediment provided such support and steps do not adversely affect the consideration such Consenting Noteholder will receive pursuant to the Transaction in any material respect;
- (d) such Consenting Noteholder shall use commercially reasonable efforts to support the approval and implementation of the Transaction;
- (e) such Consenting Noteholder shall timely exchange and tender (or cause to be tendered) all of its 2022 Notes in accordance with the applicable procedures set forth in the Notes Exchange Offer and prior to the Early Tender Date (as defined in the Offering Memorandum), including with respect to any 2022 Notes for which such Consenting Noteholder serves (now or hereafter) as the nominee, investment manager, or advisor for beneficial holders thereof;

- (f) such Consenting Noteholder shall provide, in accordance with the Notes Exchange Offer, all requisite consents required for execution of the 2022 Notes Seventh Supplemental Indenture;
- (g) such Consenting Noteholder shall not withdraw or revoke its tender or consent with respect to the Notes Exchange Offer and the 2022 Notes Seventh Supplemental Indenture, except as otherwise expressly permitted pursuant to the Offering Memorandum or this Agreement;
- (h) such Consenting Noteholder shall not:
 - (i) object to, delay or impede the Transaction or the implementation thereof or initiate any legal proceedings that are inconsistent with, or that would delay, prevent, frustrate, or impede the approval, solicitation, or consummation of, the Transaction, the Definitive Documents, or any other transactions outlined therein or in the Term Sheet, or take any other action that is barred by this Agreement;
 - (ii) vote for, consent to, support or participate in the formulation of any other restructuring, exchange or settlement of any of the 2022 Notes; or
 - (iii) solicit, encourage, or direct any Person to undertake any action set forth in clauses (i) through (iii) of this subsection (h);
- (i) such Consenting Noteholder shall use commercially reasonable efforts to execute any document and give any notice, order, instruction, or direction necessary to support, facilitate, implement, consummate, or otherwise give effect to the Transaction;
- (j) such Consenting Noteholder shall not instruct the 2022 Notes Indenture Trustee to take any action, or to refrain from taking any action, that would be inconsistent with this Agreement or the Transaction.

6. Conditions Precedent.

- (a) It shall be a condition precedent to the occurrence of the Settlement Date, and each Party's obligation to consummate the Transaction (it being understood and agreed that upon satisfaction or waiver by each Party (except as provided in Section 6(a)(i) hereof) of the conditions set forth in this Section 6(a), each Party shall be obligated to consummate the Transaction), that:

- (i) the aggregate principal amount of 2022 Notes exchanged pursuant to the Notes Exchange Offer shall not be lower than 95% of the aggregate principal amount of outstanding 2022 Notes; provided that such condition may be waived by the Company with the prior written consent of the Required Consenting Parties;
 - (ii) all Revolving Lenders have entered into the RCF Restructuring;
 - (iii) each of the Definitive Closing Documents shall have, if applicable, been duly executed and delivered by each party thereto and shall be in full force and effect (and all conditions precedent to effectiveness thereunder shall have been satisfied or waived in accordance with the terms thereof) at or substantially concurrently with the Settlement Date; provided that a Party's failure to execute and deliver a Definitive Closing Document to which it is a party and which it is required to execute and deliver pursuant to this Agreement shall not be a condition precedent to such Party's obligations; and
 - (iv) the Termination Date shall not have occurred.
- (b) It shall be a condition precedent to the occurrence of the Settlement Date and to the Company's obligation to consummate the Transaction (it being understood and agreed that upon satisfaction or waiver by the Company of the conditions set forth in this Section 6(b), the Company shall be obligated to consummate the Transaction) that:
 - (i) the representations and warranties of the Consenting Parties contained in Section 10 hereof shall be true and correct in all material respects at and as of the date hereof and as of the Settlement Date with the same effect as if made at and as of such date and after giving effect to the Transactions (except for such representations and warranties made as of a specified date, which shall be true and correct only as of the specified date); and
 - (ii) the Consenting Parties shall have performed and complied, in all material respects, with all of their respective covenants and agreements contained in this Agreement that contemplate, by their terms, performance or compliance prior to the Settlement Date.
- (c) It shall be a condition precedent to the occurrence of the Settlement Date and a Consenting Party's obligation to consummate the Transaction (it being understood and agreed that upon satisfaction or waiver by a Consenting Party of the conditions set forth in this Section 6(c), such Consenting Party shall be obligated to consummate the Transaction) that:

- (i) the representations and warranties of the Company contained in Section 10 hereof shall be true and correct in all respects at and as of the date hereof and as of the Settlement Date with the same effect as if made at and as of such date and after giving effect to the Transaction (except for such representations and warranties made as of a specified date, which shall be true and correct only as of the specified date);
- (ii) the Company shall have performed and complied, in all material respects, with all of its respective covenants and agreements contained in this Agreement that contemplate, by their terms, performance or compliance on or prior to the Settlement Date;
- (iii) the Company shall have delivered the Company Counsel Opinion to each Consenting Party;
- (iv) no development or change occurring after the date hereof, and no information becoming known after the date hereof, that, in the reasonable judgment of the Consenting Noteholders or the Revolving Lenders results in or would reasonably be expected to result in a material change in, or material deviation from, the information provided by the Company to the Consenting Parties prior to the date of this Agreement, including, without limitation, a material change in the terms of the Transaction or in the post-Transaction corporate and capitalization structure of Company contemplated in this Agreement and the Definitive Documents;
- (v) the Company Parties shall have paid the 2022 Note Cash Premium (as defined in the Term Sheet);
- (vi) pursuant to the Credit Agreement Amendment, the Credit Agreement shall have been amended in accordance with the Term Sheet;
- (vii) pursuant to the 2022 Notes Seventh Supplemental Indenture, the 2022 Notes Indenture shall have been amended to (A) remove the liens and covenants for the benefit of the 2022 Notes that will remain outstanding after the Settlement Date and (B) remove from “Excluded Assets” (as defined in the 2022 Notes Indenture) the currently excluded 35% of the equity interests in first tier foreign subsidiaries of PEC;
- (viii) the Security Agreement shall have been amended to add to the “Collateral” (as defined in the Security Agreement) (A) the currently excluded 35% of the equity interests in first tier foreign subsidiaries of PEC and (B) 100% of the equity interests issued by PIC Acquisition Corp. and substantially all other assets of the Wilpinjong Entities (including any indebtedness in favor of either Wilpinjong Entity and any deposit accounts);

- (ix) PEC shall have delivered the documentation, in form and substance reasonably satisfactory to the Consenting Parties, necessary to designate the indebtedness under the RemainCo L/C Facility and with respect to the RemainCo Notes as Priority Lien Debt (as defined in the Collateral Trust Agreement);
- (x) PEC shall be in compliance with the Minimum Liquidity Covenant (as defined in the Term Sheet) as of the Settlement Date giving *pro forma* effect to the payments to be made to PEC and its subsidiaries on the Settlement Date in connection with the Transaction;
- (xi) the Administrative Agent, the Revolving Lenders and the Consenting Noteholders shall have received unaudited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of PIC AU Holdings Corporation and its subsidiaries, for the fiscal quarter ended September 30, 2020, in each case, in accordance with Generally Accepted Accounting Principles;
- (xii) each other condition precedent set forth in the Term Sheet has been satisfied;
- (xiii) each other condition precedent set forth in the Definitive Documents has been satisfied;
- (xiv) there shall not have occurred any event, condition, or occurrence that with the passage of time or giving of notice would constitute a Termination Event; and
- (xv) all documented and invoiced unpaid fees, costs, and out-of-pocket expenses of the advisors for the Administrative Agent, the Revolving Lenders and the Ad Hoc Group shall have been paid in accordance with Section 3(f) hereof.

7. Termination.

- (a) Termination by the Revolving Lenders. This Agreement may be terminated by each Revolving Lender, in their sole and absolute discretion, upon three days' prior written notice to all of the Parties, upon the occurrence of any of the following events (each, a "Revolving Lender Termination Event"):

- (i) a breach by the Company or any of the Consenting Noteholders of any of its representations, warranties, covenants, or obligations set forth in this Agreement or any other agreement entered into in connection with the Transaction that (if susceptible to cure) remains uncured for a period of three Business Days after the receipt by the Company or the applicable Consenting Noteholder of written notice of such breach; provided that nothing in this Section 7(a)(i) shall impair the Revolving Lenders' ability to terminate this Agreement pursuant to the remaining provisions in this Section 7(a); further, that the notice and cure period contained in this Section 7(a)(i) shall run concurrently with the notice period contained in Section 7(a) hereof;
- (ii) the Company has breached, in any material respect, any of its obligations under the Existing Documents or any related guarantees, security documents, agreements, instruments or other documents;
- (iii) the occurrence of an event of default set forth in any of the Existing Documents;
- (iv) the failure of the Company to pay the documented and invoiced fees, costs, and out-of-pocket expenses of the advisors to the Administrative Agent and the Revolving Lenders in accordance with Section 3(f) of this Agreement;
- (v) there shall not have occurred any event or condition that has had or could be reasonably expected, either individually or in the aggregate, to have a material adverse effect on the business, operations, assets, liabilities (actual or contingent) or financial condition of the Company, in each case as compared to such business, operations, assets, liabilities or financial condition as of the date hereof;
- (vi) the termination of the Sureties TSA by any Sureties but only if such termination or terminations results in any of the Company Parties making payments or delivering collateral in excess of a fair market value of \$50 million in the aggregate, or any modification of the Sureties TSA materially adverse to PEC or any of its subsidiaries party to the Sureties TSA; or
- (vii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction of, or the initiation or threatened initiation of any legal action by any governmental authority seeking, any ruling or order making illegal or otherwise enjoining, preventing, or prohibiting the consummation of a material portion of the Transaction.

- (b) Termination by the Consenting Noteholders. This Agreement may be terminated by each Consenting Noteholder, in their sole and absolute discretion, upon three days' prior written notice thereof to all of the Parties, upon the occurrence of any of the following events (each, a "Consenting Noteholder Termination Event"):
- (i) a breach by the Company or any of the Revolving Lenders of any of its representations, warranties, covenants, or obligations set forth in this Agreement or any other agreement to be entered into in connection with the Transaction that (if susceptible to cure) remains uncured for a period of three Business Days after the receipt by the Company or any Revolving Lender, as applicable, of written notice of such breach; provided that nothing in this Section 7(b)(i) shall impair the Consenting Noteholders' ability to terminate this Agreement pursuant to the remaining provisions in this Section 7(b); provided, further, that the notice and cure period contained in this Section 7(b)(i) shall run concurrently with the notice period contained in Section 7(b) hereof;
 - (ii) the Company has breached, in any material respect, any of its obligations under the Existing Documents or any related guarantees, security documents, agreements, instruments or other documents;
 - (iii) the occurrence of an event of default set forth in any of the Existing Documents;
 - (iv) the failure of the Company to pay the documented and invoiced fees, costs, and out-of-pocket expenses of the Ad Hoc Group in accordance with Section 3(f) of this Agreement;
 - (v) there shall have occurred any event or condition that has had or would be reasonably expected, either individually or in the aggregate, to have a material adverse effect on the business, operations, assets, liabilities (actual or contingent) or financial condition of the Company, in each case as compared to such business, operations, assets, liabilities or financial condition as of the date hereof;
 - (vi) the termination of the Sureties TSA by any Sureties but only if such termination or terminations results in any of the Company Parties making payments or delivering collateral in excess of a fair market value of \$50 million in the aggregate, or any modification of the Sureties TSA materially adverse to PEC or any of its subsidiaries party to the Sureties TSA; or

- (vii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction of, or the initiation or threatened initiation of any legal action by any governmental authority seeking, any ruling or order making illegal or otherwise enjoining, preventing, or prohibiting the consummation of a material portion of the Transaction.
- (c) Termination by the Company.
 - (i) The Company may terminate this Agreement upon three days' prior written notice thereof to all of the Parties, upon the occurrence of any of the following events (each, a "Company Termination Event"):
 - (A) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling or order making illegal or otherwise enjoining, preventing, or prohibiting the consummation of a material portion of the Transaction; or
 - (B) if, pursuant to Section 15 hereof, the board of directors or any comparable governing body of competent authority of any Company Party reasonably determines in good faith based upon the advice of legal counsel that continued performance under this Agreement would be inconsistent with the exercise of its fiduciary duties under applicable law.
 - (ii) The Company may terminate this Agreement with respect to any particular Consenting Noteholder or Revolving Lender (but not as to all of the other Parties) upon three days' prior written notice thereof upon the occurrence of a breach by such Consenting Noteholder or Revolving Lender of any of the representations, warranties, or covenants with respect to such Consenting Noteholder or Revolving Lender, as applicable, set forth in this Agreement that (if susceptible to cure) remains uncured for a period of three Business Days after the receipt by all of the Consenting Noteholders and Revolving Lenders, as applicable, of written notice of such breach; provided that nothing in this Section 7(c)(ii) shall impair the Company's ability to terminate this Agreement pursuant to Section 7(c)(i) hereof; provided, further, that the notice and cure period contained in this Section 7(c)(ii) shall run concurrently with the notice period contained in Section 7(c)(i) hereof.

- (d) Mutual Termination. This Agreement may be terminated at any time by mutual written consent of the Company, all of the Revolving Lenders, and all of the Consenting Noteholders (a “Mutual Termination Event”).
- (e) Automatic Termination. This Agreement will automatically terminate upon (the occurrence of any such event, an “Automatic Termination Event”):
 - (i) January 30, 2021 if the Settlement Date has not occurred before such date;
 - (ii) the Company announcing (whether or not in writing) its intention not to support the Transaction, or its intention to terminate this Agreement and such announcement is not retracted in writing within one Business Day thereafter;
 - (iii) PEC or any other Company Party commencing insolvency proceedings, including (A) voluntarily commencing any case or filing any petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect, (B) consenting to the institution of, or failing to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (C) filing an answer admitting the material allegations of a petition filed against it in any such proceeding, (D) applying for or consenting to the appointment of a receiver, administrator, administrative receiver, trustee, custodian, sequestrator, conservator or similar official for the Company for a substantial part of its assets, or (E) making a general assignment or arrangement for the benefit of creditors;
 - (iv) the entry of an order, judgment or decree adjudicating the Company Parties or any of their respective subsidiaries bankrupt or insolvent, including the entry of any order for relief with respect to any of the Company Parties or any of their respective subsidiaries under the Bankruptcy Code; or
 - (v) the taking of any binding corporate action by any of the Company Parties or any of their respective subsidiaries in furtherance of any action described in the foregoing clauses (ii)-(iv).
- (f) Termination Date and Survival. The date on which this Agreement is terminated in accordance with this Section 7 shall be referred to as the “Termination Date” and the provisions of this Agreement shall terminate on the Termination Date; provided that Sections 1, 3(h) 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 and 31 hereof shall survive the Termination Date.

- (g) Effect of Termination. Upon the Termination Date, this Agreement shall forthwith become null and void and have no further force or effect, each Party hereto shall be released from its commitments, undertakings and agreements under or related to this Agreement and any of the Definitive Documents, as applicable, and there shall be no liability or obligation on the part of any Party hereto; provided that in no event shall any such termination relieve a Party hereto from (i) liability for its breach or non-performance of its obligations hereunder prior to such Termination Date, notwithstanding any termination of this Agreement by any other Party, and (ii) obligations under this Agreement which expressly survive any such termination pursuant to Section 7(f). Upon any Termination Event, any and all consents, tenders, waivers, forbearances and votes delivered by a Consenting Party in connection with the Transaction automatically shall be deemed, for all purposes, to be null and void *ab initio*. Notwithstanding the foregoing or anything herein to the contrary, no Party may exercise any of its respective termination rights as set forth in this Section 7 if such Party has failed to perform or comply in all material respects with the terms and conditions of this Agreement unless such failure to perform or comply arises as a result of another Party's actions or inactions or would not otherwise give rise to a Termination Event in favor of the other Party.

8. Transfer of Claims and Interests.

- (a) Each Revolving Lender shall not (i) sell, transfer, assign, hypothecate, pledge, grant a participation interest in, or otherwise dispose of, directly or indirectly, its right, title, or interest with respect to any of such Revolving Lender's Revolving Facility Claims or Revolving Commitments, in whole or in part, or (ii) deposit any of such Revolving Lender's Revolving Facility Claims or Revolving Commitments into a voting trust, or grant any proxies, or enter into a voting agreement with respect to any such Revolving Facility Claims or Revolving Commitments (the actions described in clauses (i) and (ii) of this Section 8(a) are collectively referred to herein as a "Revolving Facility Transfer" and the Revolving Lender making such Revolving Facility Transfer is referred to herein as the "Revolving Facility Transferor"), unless such Revolving Facility Transfer is to another Revolving Lender or any other entity that first agrees, in writing, to be bound by the terms of this Agreement by executing and delivering to the Company, counsel to the Administrative Agent, and counsel to the Ad Hoc Group a Revolving Lender Transferee Joinder substantially in the form attached as Exhibit D hereto (the "Revolving Lender Transferee Joinder") at least two Business Days prior to the effectiveness of the relevant Revolving Facility Transfer (such party to a permitted transfer an "RCF Permitted Transferee"). Upon the

consummation of a Revolving Facility Transfer in accordance herewith, such RCF Permitted Transferee shall be deemed to make all of the representations, warranties, and covenants of a Revolving Lender, as applicable, as set forth in this Agreement, and shall be deemed to be a Party and a Revolving Lender for all purposes under this Agreement. Upon compliance with the foregoing, the Revolving Facility Transferor shall be deemed to relinquish its rights (with respect to any such Revolving Facility Claims and Revolving Commitments that are the subject of a Revolving Facility Transfer) under this Agreement and shall be released from its obligations (with respect to any such Revolving Facility Claims or Revolving Commitments that are the subject of a Revolving Facility Transfer) hereunder. Any Revolving Facility Transfer made in violation of this Section 8 shall be deemed null and void *ab initio* and of no force or effect.

- (b) Each Consenting Noteholder shall not (i) sell, transfer, assign, hypothecate, pledge, grant a participation interest in, or otherwise dispose of, directly or indirectly, its right, title, or interest with respect to any of such Consenting Noteholder's 2022 Notes Claims in whole or in part or (ii) deposit any of such Consenting Noteholder's 2022 Notes Claims into a voting trust, or grant any proxies, or enter into a voting agreement with respect to any such 2022 Notes Claims (the actions described in clauses (i) and (ii) of this Section 8(b) are collectively referred to herein as a "2022 Notes Claims Transfer" and the Consenting Noteholder making such 2022 Notes Claims Transfer is referred to herein as the "2022 Notes Claims Transferor"), unless such 2022 Notes Claims Transfer is to an Affiliate, affiliated fund or account, affiliated entity with a common investment advisor, another Consenting Noteholder, or any other entity that first agrees, in writing, to be bound by the terms of this Agreement by executing a Consenting Noteholder Transferee Joinder substantially in the form attached as Exhibit E hereto (the "Consenting Noteholder Transferee Joinder") and delivering such Consenting Noteholder Transferee Joinder to the Company, counsel to the Ad Hoc Group and counsel to the Administrative Agent within two Business Days of the effectiveness of the relevant 2022 Notes Claims Transfer (such party to a permitted transfer, a "2022 Notes Permitted Transferee", and together with any RCF Permitted Transferee, a "Permitted Transferee"). Upon the consummation of a 2022 Notes Claims Transfer in accordance herewith, a 2022 Notes Permitted Transferee shall be deemed to make all of the representations, warranties, and covenants of a Consenting Noteholder, as applicable, as set forth in this Agreement, and shall be deemed to be a Party and a Consenting Noteholder for all purposes under this Agreement. Upon compliance with the foregoing, the 2022 Notes Claims Transferor shall be deemed to relinquish its rights (with respect to any such 2022 Notes Claims that are the subject of a 2022 Notes Claims Transfer) under this Agreement and shall be released from its obligations (with respect to any such 2022 Notes Claims that are the subject of a 2022 Notes Claims Transfer) hereunder. Any 2022 Notes Claims Transfer made in violation of this Section 8 shall be deemed null and void *ab initio* and of no force or effect.

- (c) Except as set forth in Section 8(a) or 8(b) hereof, nothing in this Agreement shall be construed as precluding any Consenting Noteholder or Revolving Lender or any of their respective Affiliates from acquiring additional 2022 Notes or Revolving Commitments; provided, however, that any such additional 2022 Notes or Revolving Commitments (other than 2022 Notes or Revolving Commitments held by any Affiliate of any such Consenting Noteholder or Revolving Lender that maintains or establishes an information-blocking device or “ethical wall” between it and such Consenting Noteholder or such Revolving Lender) shall automatically be subject to the terms and conditions of this Agreement.
- (d) Notwithstanding anything to the contrary herein, (i) a Qualified Marketmaker² that acquires any 2022 Notes Claims or Revolving Commitments subject to this Agreement held by a Consenting Noteholder or Revolving Lender with the purpose and intent of acting as a Qualified Marketmaker for such Claims, shall not be required to become a party to this Agreement as a Consenting Noteholder or Revolving Lender, if such Qualified Marketmaker transfers such 2022 Notes Claims or Revolving Commitments (by purchase, sale, assignment, or other similar means) to a Permitted Transferee; provided, that a Qualified Marketmaker’s failure to comply with this Section 8(d) shall result in the transfer of such Claims to such Qualified Marketmaker being deemed void *ab initio*, and (ii) to the extent any Party is acting solely in its capacity as a Qualified Marketmaker, it may transfer any ownership interests in the Claims that it acquires from a holder of Claims that is not a Consenting Noteholder or Revolving Lender to a transferee that is not a Consenting Noteholder or Revolving Lender at the time of such transfer without the requirement that the transferee be a Permitted Transferee.
- (e) The Parties acknowledge that all representations, warranties, covenants, and other agreements made by any Consenting Noteholder that is a separately managed account of or advised by an investment manager are being made only with respect to the Claims managed or advised by such investment manager (in the amount identified on the signature pages hereto), and shall not apply to (or be deemed to be made in relation to) any Claims that may be beneficially owned by such Consenting Noteholder that are not managed or advised by such investment manager.

² As used herein, the term “Qualified Marketmaker” means an entity that (a) holds itself out to the public, the syndicated loan market, or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers Claims against the Company Parties (including Existing Notes or Revolving Credit Facility Claims), or enter with customers into long and short positions in Claims against the Company Parties, in its capacity as a dealer or market maker in such Claims and (b) is, in fact, regularly in the business of making a market in Claims against issuers or borrowers (including term, loans, or debt or equity securities).

9. Ownership of Claims and Interests; Financial Participants.

- (a) Each of the Revolving Lenders and Consenting Noteholders represents and warrants (severally and not jointly) that as of the Agreement Effective Date (or such later date that it delivers its signature page hereto to the other Parties):
 - (i) it either (A) is the sole beneficial owner of the principal amount of the Revolving Commitments and/or the 2022 Notes indicated on its respective signature page hereto or (B) has sole investment or voting discretion with respect to the principal amount of the Revolving Commitments and/or the 2022 Notes indicated on its respective signature page hereto and has the power and authority to bind the beneficial owner of such Revolving Commitments and/or 2022 Notes to the terms of this Agreement;
 - (ii) other than pursuant to this Agreement, Revolving Commitments and Revolving Loans and/or 2022 Notes held by it are free and clear of any equity, option, proxy, voting restriction, right of first refusal, or other limitation on disposition of any kind that might adversely affect in any way such Revolving Lender's or Consenting Noteholder's performance of its obligations contained in this Agreement at the time such obligations are required to be performed; and
 - (iii) other than the Revolving Commitments and/or the 2022 Notes indicated on its respective signature page hereto, such Revolving Lender or Consenting Noteholder, as applicable, does not own any other Revolving Commitments or 2022 Notes.

10. Representations.

- (a) Each Party (severally and not jointly) represents to each other Party that:
 - (i) such Party is duly organized, validly existing, and in good standing (where such concept is recognized) under the laws of the jurisdiction of its organization, and has all requisite corporate, partnership, or limited liability company power and authority to enter into this Agreement and to carry out the Transaction contemplated herein, and to perform its respective obligations under this Agreement and the Definitive Documents;

- (ii) the execution, delivery, and performance of this Agreement by such Party does not and shall not (A) violate any provision of law, rule, or regulation applicable to it or any of its subsidiaries or its organizational documents or those of any of its subsidiaries, or (B) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under its organizational documents or any material contractual obligations to which it or any of its subsidiaries is a party;
 - (iii) as of the date of this Agreement (or such later date that it delivers its signature page hereto to the other Parties), such Party has no actual knowledge of any event that, due to any fiduciary or similar duty to any other person or entity, would prevent it from taking any action required of it under this Agreement; and
 - (iv) this Agreement is a legally valid and binding obligation of such Party, enforceable against it in accordance with its terms.
- (b) The Company Parties represent to each other Party that:
- (i) the Notes Exchange Offer is exempt from the registration requirements of the Securities Act; and
 - (ii) neither Wilpinjong Entity nor PIC Acquisition Corp. is liable with respect to any indebtedness, and no entities are creditors of either Wilpinjong Entity or PIC Acquisition Corp.
- (c) Each Consenting Noteholder represents to each other Party that it is (i) a “qualified institutional buyer” within the meaning of Rule 144A of the Securities Act or (ii) an institutional “accredited investor” within the meaning of Rule 501(a)(1), (a)(2), (a)(3) or (a)(7) of Regulation D under the Securities Act.

11. Releases.

- (a) Effective from and after the Settlement Date, in exchange for the cooperation with, participation in, and entering into the Transaction by the Consenting Parties, the Company shall waive, release, and discharge the Other Released Parties and their respective property, to the fullest extent permitted under applicable law, from any and all causes of action and any other claims, debts, obligations, duties, rights, suits, damages, actions, derivative claims, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing as of the Settlement Date, in law, at equity, or otherwise, whether for tort, contract, claims arising out of violations of federal or state securities laws, misrepresentation (whether intended or negligent), breach of duty (including any duty of candor), any laws or statutes similar to the foregoing, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances arising from or related in any way to the transactions or events giving rise to, or any claim that is treated as arising as a result of, the negotiation, formulation, or preparation of this Agreement, the

Definitive Documents or the related guarantees, security documents, agreements, amendments, instruments, or other documents, including those that the Company or any holder of a claim against or interest in the Company or any other entity could have been legally entitled to assert derivatively or on behalf of any other entity (collectively, the “Company Released Claims”). Further, from and after the Settlement Date, the Company hereby covenants and agrees not to, directly or indirectly, bring, maintain, or encourage any cause of action or other claim or proceeding against an Other Released Party relating to or arising out of any Company Released Claim. The Company further stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable law, any and all provisions, rights, and benefits conferred by any applicable U.S. federal or state law, or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 11(a). Notwithstanding anything to the contrary in this paragraph (a), nothing herein shall release, and Company Released Claims shall not include, (i) any claims in favor of the Company with respect to fraud, gross negligence or willful misconduct, in each case as determined by a final order entered by a court of competent jurisdiction, or the Other Released Parties’ obligations, any right to indemnification, exculpation or advancement expenses, or actions arising under this Agreement or the Definitive Documents or (ii) any claims in favor of the Company with respect to obligations under this Agreement that survive the termination hereof in accordance with Section 7(f) hereof.

- (b) Effective from and after the Settlement Date, in exchange for the cooperation with, participation in, and entering into the Transaction by the Company, the Consenting Parties shall waive, release, and discharge the Company Released Parties and their respective property, to the fullest extent permitted under applicable law, from any and all causes of action and any other claims, debts, obligations, duties, rights, suits, damages, actions, derivative claims, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing as of the Settlement Date, in law, at equity, or otherwise, whether for tort, contract, claims arising out of violations of federal or state securities laws, misrepresentation (whether intended or negligent), breach of duty (including any duty of candor), any laws or statutes similar to the foregoing, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances arising from or related in any way to the transactions or events giving rise to, or any claim that is treated as arising as a result of, the negotiation, formulation, or preparation of this Agreement, the Definitive Documents or the related guarantees, security documents, agreements, amendments, instruments, or other documents, including those that a Consenting Party or any holder of a claim against or interest in the Consenting Party or any other entity could have been legally entitled to assert derivatively or on behalf of any other entity (collectively, the “Consenting Party Released Claims”).

Further, from and after the Settlement Date, each Consenting Party hereby covenants and agrees not to, directly or indirectly, bring, maintain, or encourage any cause of action or other claim or proceeding against a Company Released Party relating to or arising out of any Consenting Party Released Claim. Each Consenting Party further stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable law, any and all provisions, rights, and benefits conferred by any applicable U.S. federal or state law, or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 11(b). Notwithstanding anything to the contrary in this paragraph (b), nothing herein shall release, and Consenting Party Released Claims shall not include, (i) any claims in favor of a Consenting Party with respect to fraud, gross negligence or willful misconduct, in each case as determined by a final order entered by a court of competent jurisdiction, the Company Released Parties' obligations, any right to indemnification, exculpation or advancement expenses, or actions arising under this Agreement or the Definitive Documents or (ii) any claims in favor of the Consenting Parties with respect to obligations under this Agreement that survive the termination hereof in accordance with Section 7(f) hereof.

- (c) The Consenting Parties and the Company acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to either the subject matter of this Agreement or any party hereto, but they hereto further acknowledge that it is their intention to hereby fully, finally, and forever settle and release all claims among them to the extent provided in this Agreement, whether known or unknown, suspected or unsuspected, which now exist, may exist, or heretofore have existed.

12. Indemnification.

- (a) Without prejudice to or limiting any Company Party's obligations under the Existing Documents, the Definitive Documents or any related guarantees, security documents, agreements, instruments or other relevant documents, PEC and each other Company Party hereby agrees to indemnify, pay and hold harmless each Consenting Party and each of their respective officers, partners, members, directors, trustees, advisors, employees, agents, sub-agents, Affiliates and controlling persons (each, an "Indemnified Party") from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented out-of-pocket fees and disbursements of counsel for any Consenting Party, and including any out-of-pocket costs associated with any discovery or other information requests), whether direct, indirect, special or consequential and whether

based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations) on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any Indemnified Party, in any manner relating to or arising out of third party claims relating to (i) the Existing Documents, the Definitive Documents or any related guarantees, security documents, agreements, instruments or other documents, (ii) the purchase, sale or marketing of, or the rescission of the purchase or sale of, any security of the Company regarding the subject matter of the Transaction, or (iii) the transactions or events giving rise to, or any claim that is treated as arising under, the Transaction, the Existing Documents or any related guarantees, security documents, agreements, instruments or other documents, or the negotiation, formulation, preparation, execution, delivery or performance of this Agreement, the Existing Documents, the Definitive Documents or the related guarantees, security documents, agreements, instruments, or other documents (collectively, the “Indemnification Obligations”).

- (b) The Indemnification Obligations shall (i) constitute “Obligations” as such term is used in the Wilpinjong Notes Indenture, the RemainCo Notes Indenture, the Wilpinjong Credit Agreement, the RemainCo Letters of Credit Agreement, the Collateral Trust Agreement and the New Collateral Trust Agreement, (ii) constitute Priority Lien Obligations under the Collateral Trust Agreement, the New Collateral Trust Agreement, the RemainCo Notes Indenture and the RemainCo Letters of Credit Agreement, (iii) constitute Secured Obligations under the Collateral Trust Agreement and the New Collateral Trust Agreement and (iv) rank *pari passu* in right of payment with Priority Lien Debt (as such term is used in the Collateral Trust Agreement and the New Collateral Trust Agreement, respectively) of PEC, the Subsidiary Guarantors and the Wilpinjong Entities, as applicable; provided, however, that in no case shall the foregoing apply to the Indemnification Obligations to the extent such application would contravene the terms of, or result in an event of default under, any of the Existing Documents, the Wilpinjong Notes Indenture, the RemainCo Notes Indenture, the Wilpinjong Credit Agreement, the RemainCo Letters of Credit Agreement, the Collateral Trust Agreement or the New Collateral Trust Agreement.

13. Entire Agreement; Prior Negotiations. This Agreement, including all of the exhibits attached hereto, constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all other prior negotiations, agreements, representations, warranties, term sheets, proposals, and understandings, whether written, oral, or implied, among the Parties with respect to the subject matter of this Agreement; provided, however, that any confidentiality agreement or non-disclosure agreement executed by any Party shall survive this Agreement and shall continue in full force and effect, subject to the terms thereof, irrespective of the terms hereof.

14. Reservation of Rights. This Agreement constitutes a proposed settlement among the Parties. Regardless of whether or not the Transaction contemplated herein is consummated, or whether or not the Termination Date has occurred, if applicable, nothing shall be construed herein as a waiver by any Party of any or all of such Party's rights or remedies, and the Parties expressly reserve any and all of their respective rights and remedies. Pursuant to Rule 408 of the Federal Rules of Evidence, any applicable state rules of evidence, and any other applicable law, this Agreement and all negotiations relating thereto shall not be admissible into evidence in any proceeding other than in a proceeding to enforce its terms or as a defense in connection with such a proceeding. This Agreement shall in no event be construed as or be deemed to be evidence of an admission or concession on the part of any Party for any Claim, fault, liability, or damages whatsoever. Each of the Parties denies any and all wrongdoing or liability of any kind and does not concede any infirmity in the Claims or defenses that it has asserted or could assert. Except as expressly provided in this Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair, or restrict the ability of each Party to protect and preserve its rights, remedies, and interests. Without limiting the foregoing sentence in any way, after a Termination Event hereunder, the Parties hereto each fully reserve any and all of their respective rights, remedies, and interests in the case of any Claim for a breach of this Agreement.

15. Fiduciary Duties. Notwithstanding anything herein, nothing in this Agreement shall require the Company or any directors, officers, members, or managers of any Company Party, each in their capacity as such, to take any action, or to refrain from taking any action, to the extent that such person or persons reasonably determines or determine in good faith, based upon the advice of counsel, that doing so would be inconsistent with their fiduciary obligations under applicable law.

16. Representation By Counsel. Each Party hereto acknowledges that it has been represented by counsel (or had the opportunity to be represented by counsel and waived its right to do so) in connection with this Agreement and the Transaction contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would provide any Party hereto with a defense to the enforcement of the terms of this Agreement against such Party based upon the lack of legal counsel shall have no application and is expressly waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effectuate the intent of the Parties hereto. None of the Parties hereto shall have any term or provision of this Agreement construed against such Party solely by reason of such Party having drafted the same.

17. Independent Due Diligence and Decision-making. Each of the Consenting Parties and the Company Parties hereby confirms that it has made its own decision to execute this Agreement based upon its own independent assessment of the documents and information available to it, as it has deemed appropriate.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which, when so executed, shall constitute one and the same instrument, and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (PDF) or by DocuSign.

19. Amendments and Waivers.

- (a) Except as otherwise provided herein, this Agreement (including, for the avoidance of doubt, the Term Sheet) may not be modified, amended, or supplemented, and no provision of this Agreement (including, for the avoidance of doubt, the Term Sheet) may be waived, without the prior written consent of each of the Parties.
- (b) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, whether or not such provisions are similar, nor shall any waiver of a provision of this Agreement be deemed a continuing waiver of such provision.

20. Headings. The headings of the sections, paragraphs, and subsections of this Agreement are included for convenience only and shall not affect the interpretation of the provisions contained herein.

21. Acknowledgments; Obligations Several. Notwithstanding that this Agreement is being executed by multiple Consenting Parties, the obligations of the Consenting Parties under this Agreement are several and neither joint nor joint and several. No Consenting Party shall be responsible in any way for the performance of the obligations or any breach of any other Consenting Party under this Agreement, and nothing contained herein, and no action taken by any Consenting Party pursuant hereto shall be deemed to constitute the Consenting Party as a partnership, an association or joint venture of any kind, or create a presumption that the Consenting Parties are in any way acting other than in their individual capacities. None of the Consenting Parties shall have any fiduciary duty or other duties or responsibilities in any kind or form to each other, the Company or any of the Company's other lenders, noteholders or stakeholders as a result of this Agreement or the transactions contemplated hereby. Each Consenting Party acknowledges that no other Consenting Party will be acting as agent of such Consenting Party in connection with monitoring such Consenting Party's investment or enforcing its rights under this Agreement, the Definitive Documents, or any other documents to be entered into in connection with the consummation of the Transaction. The Consenting Parties are not intended to be, and shall not be deemed to be, a "Group" for purposes of Section 13(d) of the Securities Exchange Act.

22. Consenting Party Enforcement. A Consenting Party may only enforce this Agreement against the Company and not against another Consenting Party.

23. Specific Performance; Damages. It is understood and agreed by the Parties that money damages would be an insufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach of this Agreement, including, without limitation, a court of competent jurisdiction requiring any Party to comply promptly with any of its obligations in this Agreement. Notwithstanding anything to the contrary in this Agreement, in no event shall any Party or their representatives be liable to any other Party hereunder for any punitive, incidental, consequential, special or indirect damages, including the loss of future revenue or income or opportunity, relating to the breach or alleged breach of this Agreement.

24. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to any choice of law provision that would require the application of the laws of another jurisdiction. By the execution and delivery of this Agreement, each of the Parties hereto hereby irrevocably and unconditionally agrees for itself that any legal action, suit, or proceeding against it with respect to any matter arising under or out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit, or proceeding may be brought in either a state or federal court of competent jurisdiction in the State and County of New York, Borough of Manhattan. By the execution and delivery of this Agreement, each of the Parties hereto hereby irrevocably accepts and submits itself to the exclusive jurisdiction of each such court, generally and unconditionally, with respect to any such action, suit, or proceeding. By executing and delivering this Agreement, each of the Parties hereto irrevocably and unconditionally submits to the personal jurisdiction of each such court described in this Section 24, solely for purposes of any action, suit, or proceeding arising out of or relating to this Agreement or for the recognition or enforcement of any judgment rendered or order entered in any such action, suit, or proceeding. EACH PARTY HERETO UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING REFERRED TO ABOVE. Each Party (a) certifies that no representative, agent, or attorney of any other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other Parties have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 24.

25. Agreement Effective Date. This Agreement shall become effective upon (such date, the “Agreement Effective Date”):

- (a) the execution and delivery of this Agreement by each of the Company Parties;
- (b) the execution and delivery of this Agreement by each of the Revolving Lenders;
- (c) the execution and delivery of this Agreement by holders of 2022 Notes holding at least 65.0% of the aggregate principal amount outstanding of the 2022 Notes; and
- (d) all documented and invoiced unpaid fees, costs, and out-of-pocket expenses of the advisors for the Administrative Agent, the Revolving Lenders and the Ad Hoc Group shall have been paid in accordance with Section 3(f) of this Agreement.

26. Notices. All notices (including, without limitation, any notice of termination as provided for herein) and other communications from any Party given or made pursuant to this Agreement shall be in writing and shall be deemed to have been duly given upon the earliest of the following: (a) upon personal delivery to the Party to be notified; (b) when sent by confirmed electronic mail if sent during the normal business hours of the recipient, and if not so confirmed, on the next Business Day; (c) three Business Days after having been sent by registered or certified mail, return receipt requested, postage prepaid; and (d) one Business Day after deposit with a nationally recognized overnight courier, specifying next day delivery (with an email upon sending to the Party to be notified), with written verification of receipt. All communications shall be sent:

(a) If to the Company:

Peabody Energy Corporation
701 Market Street
Saint Louis, Missouri 63101-1826
Attn: Mark Spurbeck
Scott Jarboe
Email: mspurbeck@peabodyenergy.com
sjarboe@peabodyenergy.com

With copies to:

Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Attn: Heather Lennox
Rachel L. Rawson
Email: hlennox@jonesday.com
rlrawson@jonesday.com

Jones Day
77 West Wacker
Chicago, Illinois 60601
Attn: Edward B. Winslow
Email: ebwinslow@jonesday.com

(b) If to the Revolving Lenders:

JPMorgan Chase Bank, N.A.
383 Madison Avenue
24th Floor
New York, New York 10179
Attn: Charles Dieckhaus
Email: charles.p.dieckhaus@jpmorgan.com

With a copy to:

Freshfields Bruckhaus Deringer LLP
 601 Lexington Avenue
 31st Floor
 New York, New York 10022
 Attn: Mark F. Liscio
 Samantha S. Braunstein
 Email: mark.liscio@freshfields.com
 Samantha.braunstein@freshfields.com

(c) If to the Consenting Noteholders:

Davis Polk & Wardwell LLP
 450 Lexington Avenue
 New York, New York 10017
 Attn: Damian S. Schaible
 Adam L. Shpeen
 Email: damian.schaible@davispolk.com
 adam.shpeen@davispolk.com

27. No Third-Party Beneficiaries. Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties, and no other Person shall be a third-party beneficiary hereof; provided that it is acknowledged and agreed that (a) each Other Released Party is a third party beneficiary with respect to Section 11(a) hereof and shall be permitted to enforce such provision in accordance with its terms and (b) each Company Released Party is a third party beneficiary with respect to Section 11(b) hereof and shall be permitted to enforce such provision in accordance with its terms.

28. Publicity; Non-Disclosure. The Company will disclose this Agreement on the Agreement Effective Date at 5:00 p.m. (EST) or promptly thereafter (but, in any event, no later than 11:59 p.m. (EST) on the Agreement Effective Date) by publicly filing a Form 8-K or any periodic report required or permitted to be filed by the Company under the Exchange Act with the SEC or, if the SEC's EDGAR filing system is not available, on a press release that results in prompt public dissemination of such information (the "Public Disclosure"). As promptly as reasonably practicable, the Company will provide the Revolving Lenders and the Consenting Noteholders with a draft of the Public Disclosure for review, and the Company will incorporate any reasonable additions or modifications to the Public Disclosure from the Revolving Lenders or the Consenting Noteholders, such that the Public Disclosure will be in a form acceptable to the Parties hereto in their reasonable discretion. For the avoidance of doubt, the Public Disclosure will not contain the holdings information or identity of any of the Revolving Lenders or Consenting Noteholders.

29. Rules and Interpretation. For purposes of this Agreement:

- (a) each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include all of the masculine, feminine, and neuter gender;
- (b) capitalized terms defined only in the singular or the plural shall nonetheless have their defined meanings when used in both the singular and the plural;

- (c) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit shall mean such document, schedule, or exhibit as it may have been or may be amended, restated, supplemented, or otherwise modified from time to time; provided that any capitalized terms herein that are defined with reference to another agreement are defined with reference to such other agreement as of the date of this Agreement, without giving effect to any termination of such other agreement or any amendments to such capitalized terms in any such other agreement following the date of this Agreement;
- (d) unless otherwise specified, all references herein to “Sections” are references to Sections of this Agreement;
- (e) the words “herein,” “hereof,” and “hereto” refer to this Agreement in its entirety rather than to any particular provision of this Agreement;
- (f) references to “shareholders,” “directors,” and/or “officers” shall also include “members” and/or “managers,” as applicable, as such terms are defined under the applicable corporation, partnership, and limited liability company laws;
- (g) the use of “include” or “including” is without limitation, whether stated or not; and
- (h) the preamble and the capitalized terms set forth in Section 1 herein shall have the same force and effect as all decretal Sections of this Agreement.

30. Successors and Assigns; Severability. This Agreement is intended to bind and inure to the benefit of the Parties and their respective permitted successors, assigns, heirs, executors, estates, administrators, and representatives. The invalidity or unenforceability at any time of any provision hereof in any jurisdiction shall not affect or diminish in any way the continuing validity and enforceability of the remaining provisions hereof or the continuing validity and enforceability of such provision in any other jurisdiction.

31. Good Faith Cooperation; Further Assurances. The Parties shall (and shall cause each of their subsidiaries and affiliates to) cooperate with each other in good faith and shall coordinate their activities (to the extent practicable) in respect of all matters concerning the implementation and consummation of the Transaction. Furthermore, each of the Parties shall (and shall cause each of their subsidiaries and affiliates to) take such action (including executing and delivering any other agreements and making and filing any required regulatory filings) as may be reasonably necessary to carry out the purposes and intent of this Agreement. Each Party hereby covenants and agrees to negotiate in good faith the Definitive Documents, each of which shall (a) except as otherwise provided for herein, contain the same economic terms (and other terms consistent in all material respects) as the terms set forth in the Descriptions of Notes and the Term Sheet (each as amended, supplemented, or otherwise modified in accordance with the terms herein), (b) except as otherwise provided for herein, be in form and substance reasonably acceptable in all respects to the Company, each Revolving Lender and each Consenting Noteholder, and (c) be consistent with this Agreement (as amended, supplemented, or otherwise modified in accordance with the terms herein) in all material regards.

32. **No Solicitation.** Each Party acknowledges that this Agreement is not, and is not intended to be, (a) an offer for the purchase, sale, exchange, hypothecation, or other transfer of securities for purposes of the Securities Act or the Exchange Act or (b) a solicitation of votes for the acceptance of a chapter 11 plan of reorganization for the purposes of sections 1125 and 1126 of title 11 of the United States Code or otherwise. Solicitation for the acceptance of the Transaction will not be solicited from any holder of 2022 Notes until such holder has received the disclosures required under or otherwise in compliance with applicable law.

33. **Direction to Agent.** Each Revolving Lender agrees that this Agreement shall be deemed a direction to the Administrative Agent: (a) to take all actions consistent with this Agreement to support pursuit of and consummation of the Transaction and the transactions contemplated by the definitive documents relating thereto; (b) to the extent applicable to it, to take or refrain from taking such actions as are set forth in Section 4(j) above, consistent with the Revolving Lenders' obligations set forth herein; and (c) to use all authority under the Credit Agreement to bind all Revolving Lenders party thereto to the Transaction and any definitive documents relating thereto, including the Definitive Documents, to the extent applicable.

34. **Error; Ambiguity.** Notwithstanding anything to the contrary herein, to the extent counsel to the Company Parties, counsel to the Administrative Agent, or the Ad Hoc Group Advisors identify, within four Business Days following the Agreement Effective Date, any clear errors, material ambiguities or internally inconsistent provisions within or among this Agreement, the Term Sheet and the Descriptions of Notes, each Party hereto covenants and agrees that it will endeavor in good faith to agree to any reasonable modifications to this Agreement, the Term Sheet or the Descriptions of Notes to remedy such errors, ambiguities, or inconsistent provisions.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered by their duly authorized officers,
all as of the day and year first written above.

PEABODY ENERGY CORPORATION

By: /s/ Mark A. Spurbeck
Name: Mark A. Spurbeck
Title: Executive Vice President, Chief Financial Officer

PIC AU Holdings LLC

By: /s/ Robert F. Bruer
Name: Robert F. Bruer
Title: President

PIC AU Holdings Corporation

By: /s/ Robert F. Bruer
Name: Robert F. Bruer
Title: President

[Signature Page to Transaction Support Agreement]

AMERICAN LAND DEVELOPMENT, LLC
AMERICAN LAND HOLDINGS OF COLORADO,
LLC
AMERICAN LAND HOLDINGS OF ILLINOIS, LLC
AMERICAN LAND HOLDINGS OF INDIANA, LLC
AMERICAN LAND HOLDINGS OF KENTUCKY,
LLC
BIG RIDGE, INC.
BTU WESTERN RESOURCES, INC.
COALSALES II, LLC
CONSERVANCY RESOURCES, LLC
EL SEGUNDO COAL COMPANY, LLC
HAYDEN GULCH TERMINAL, LLC
HILLSIDE RECREATIONAL LANDS, LLC
KAYENTA MOBILE HOME PARK, INC.
KENTUCKY UNITED COAL, LLC
MOFFAT COUNTY MINING, LLC
NEW MEXICO COAL RESOURCES, LLC
PEABODY AMERICA, LLC
PEABODY ARCLAR MINING, LLC
PEABODY ASSET HOLDINGS, LLC
PEABODY BEAR RUN MINING, LLC
PEABODY BEAR RUN SERVICES, LLC
PEABODY CABALLO MINING, LLC
PEABODY CARDINAL GASIFICATION, LLC
PEABODY CHINA, LLC
PEABODY COALSALES, LLC
PEABODY COALTRADE, LLC
PEABODY COLORADO OPERATIONS, LLC
PEABODY COLORADO SERVICES, LLC
PEABODY COULTERVILLE MINING, LLC
PEABODY DEVELOPMENT COMPANY, LLC
PEABODY ELECTRICITY, LLC
PEABODY EMPLOYMENT SERVICES, LLC
PEABODY GATEWAY NORTH MINING, LLC
PEABODY GATEWAY SERVICES, LLC
PEABODY GLOBAL FUNDING, LLC
PEABODY HOLDING COMPANY, LLC
PEABODY IC FUNDING CORP.
PEABODY ILLINOIS SERVICES, LLC
PEABODY INDIANA SERVICES, LLC
PEABODY INTERNATIONAL HOLDINGS, LLC
PEABODY INTERNATIONAL INVESTMENTS, INC.
PEABODY INTERNATIONAL SERVICES, INC.
PEABODY MIDWEST MANAGEMENT SERVICES,
LLC
PEABODY MIDWEST MINING, LLC
PEABODY MIDWEST OPERATIONS, LLC
PEABODY MIDWEST SERVICES, LLC
PEABODY MONGOLIA, LLC

[Signature Page to Transaction Support Agreement]

PEABODY NATURAL GAS, LLC
PEABODY NATURAL RESOURCES COMPANY
PEABODY NEW MEXICO SERVICES, LLC
PEABODY OPERATIONS HOLDING, LLC
PEABODY POWDER RIVER MINING, LLC
PEABODY POWDER RIVER OPERATIONS, LLC
PEABODY POWDER RIVER SERVICES, LLC
PEABODY ROCKY MOUNTAIN MANAGEMENT
SERVICES, LLC
PEABODY ROCKY MOUNTAIN SERVICES, LLC
PEABODY SCHOOL CREEK MINING, LLC
PEABODY SERVICES HOLDINGS, LLC
PEABODY TWENTYMILE MINING, LLC
PEABODY VENEZUELA COAL CORP.
PEABODY VENTURE FUND, LLC
PEABODY WILD BOAR MINING, LLC
PEABODY WILD BOAR SERVICES, LLC
PEABODY WILLIAMS FORK MINING, LLC
PEABODY WYOMING SERVICES, LLC
PEABODY-WATERSIDE DEVELOPMENT, L.L.C.
PEC EQUIPMENT COMPANY, LLC
SAGE CREEK HOLDINGS, LLC
SAGE CREEK LAND & RESERVES, LLC
SENECA PROPERTY, LLC
SHOSHONE COAL CORPORATION
TWENTYMILE COAL, LLC
UNITED MINERALS COMPANY, LLC

By: /s/ Eric R. Waller
Name: Eric R. Waller
Title: Secretary

[Signature Page to Transaction Support Agreement]

PEABODY INVESTMENTS CORP.

By: /s/ Scott T. Jarboe

Name: Scott T. Jarboe

Title: Senior Vice President & General Counsel –
Corporate & Assistant

BIG SKY COAL COMPANY

NGS ACQUISITION CORP., LLC

PEABODY SAGE CREEK MINING, LLC

PEABODY SOUTHEAST MINING, LLC

PEABODY WESTERN COAL COMPANY

By: /s/ Christopher W. Wittenauer

Name: Christopher W. Wittenauer

Title: Secretary

SENECA COAL COMPANY, LLC

By: /s/ Charles R. Otec

Name: Charles R. Otec

Title: President

[Signature Page to Transaction Support Agreement]

PEABODY GLOBAL HOLDINGS, LLC

By: /s/ James A. Tichenor

Name: James A. Tichenor

Title: Vice President and Treasurer

[Signature Page to Transaction Support Agreement]

Term Sheet

PEABODY ENERGY CORPORATION

Summary of Indicative Terms of Restructuring

This term sheet (this "Term Sheet")¹, dated as of December 24, 2020, sets forth material terms of the Transaction (as such term is defined in the Transaction Support Agreement (the "TSA") to which this Term Sheet is attached as Exhibit A), among: (a) Peabody Energy Corporation ("PEC"); (b) the direct and indirect subsidiaries of PEC that are guarantors under the Credit Agreement (as defined below) (collectively with PEC, the "Credit Parties"); (c) JPMorgan Chase Bank, N.A., as administrative agent (the "Administrative Agent") under that certain Credit Agreement, dated as of April 3, 2017 (as amended, supplemented or otherwise modified from time to time, the "Existing Credit Agreement"), by and among PEC, the lenders party thereto from time to time, and the Administrative Agent; (d) the Revolving Lenders (as such term is defined in the Credit Agreement); and (e) certain holders of 6.000% senior secured notes due 2022 (the "2022 Notes") issued by PEC pursuant to that certain indenture, dated as of February 15, 2017 (as amended, supplemented or otherwise modified from time to time, the "Existing Indenture"), by and between Peabody Securities Finance Corporation, as escrow issuer, and Wilmington Trust, National Association, as indenture trustee.

This Term Sheet does not constitute (nor will it be construed as) an offer to sell, or a solicitation of an offer to buy, any securities or a solicitation of acceptances or rejections as to any chapter 11 plan, it being understood that such an offer, if any, only will be made in compliance with applicable provisions of securities, bankruptcy, and/or other applicable laws. This Term Sheet does not purport to summarize all of the terms, conditions, representations, warranties, and other provisions with respect to the transactions described herein, which transactions will be subject to the completion of definitive documents incorporating the terms set forth herein. The closing of any transaction will be subject to the terms and conditions set forth in such definitive documents. This Term Sheet shall not constitute an admission of liability or a waiver of any rights of the parties except as expressly stated herein.

RESTRUCTURED DEBT OBLIGATIONS:**Revolving Facility:**

(i) Revolving Loans outstanding under the Existing Credit Agreement in the approximate aggregate principal amount of \$216 million, (ii) the issued and undrawn letters of credit outstanding under the Existing Revolving Credit Agreement (the "Existing Letters of Credit") in an approximate aggregate amount of \$320 million (or such other amount of outstanding Existing Letters of Credit as of the Restructuring Effective Date (as defined below)) and (iii) the Revolving Commitments, shall be collectively restructured or satisfied on the effective date of the Transaction (the "Restructuring Effective Date") as follows:

- 1) Each Revolving Lender shall receive;

¹ Capitalized terms shall have the meanings set forth below in this Term Sheet. Capitalized terms used but not otherwise defined in this Term Sheet shall have the meanings for such terms set forth or incorporated in the Existing Credit Agreement or Existing Indenture, as applicable.

(i) Its ratable share of \$206 million of secured term loans (the “Wilpinjong Term Loans,” and such facility, the “Wilpinjong Term Loan Facility”; and the lenders thereunder, the “Wilpinjong Term Lenders”), the terms of which shall be set forth in a new credit agreement (the “Wilpinjong Term Loan Agreement”) in form and substance reasonably acceptable to the Revolving Lenders, the Consenting Noteholders (as defined in the TSA; collectively with the Revolving Lenders, and the Administrative Agent, the “Consenting Parties”) and PEC;²

(ii) Its ratable share of a cash paydown of Revolving Loans in the approximate aggregate amount of \$10 million,³ or such other amount necessary to result in the reduction of the aggregate outstanding amount of Revolving Loans and unreimbursed Existing Letter of Credit draws to zero immediately prior to the Restructuring Effective Date (the “Effective Date Revolver Paydown”);

(iii) A nonrefundable exchange and replacement facility fee payable in cash in an amount of 1.00% of the outstanding Revolving Loans (after giving effect to the Effective Date Revolver Paydown) and L/C Obligations of each such Revolving Lender, payable in cash (the “Revolving Lender Restructuring Fees”);

(iv) its ratable share of PEC’s obligation to, within 15 days of the Restructuring Effective Date, offer to effect participations in the L/C Commitments under the RemainCo L/C Facility in the aggregate amount of \$3.125 million at a price of 80% of par pursuant to the principles and mechanics described with respect to Mandatory Offers (as defined and as described below); and

(v) its ratable share of cash prepayments with respect to the RemainCo L/C Facility (to be applied, *first*, to L/C Borrowings (as defined below) and, *second*, to cash collateralization of outstanding Letters of Credit) in an amount

² For the avoidance of doubt, any accrued and unpaid interest as of the Restructuring Effective Date on all Revolving Loans and outstanding letter of credit participation fees will be paid in cash on the Restructuring Effective Date.

³ Such amount will not exceed \$10 million, so long as the aggregate principal amount of Revolving Loans and unreimbursed Existing Letter of Credit draws does not exceed \$216 million on the Restructuring Effective Date.

equal to the aggregate consideration in excess of \$22.95 million for repurchases of Remaining 2022 Notes (as defined below) after the Restructuring Effective Date, such repayment to be made within 5 business days of any such repurchase (or on such other terms as may be agreed upon by PEC and all of the Revolving Lenders); provided that, to the extent that there is unused capacity under the L/C Commitment, any such payment to be applied to the cash collateralization of Letters of Credit shall be reduced and replaced by a pro rata early termination of such unused L/C Commitment in the amount that otherwise would have been used for cash collateralization; provided further that no such prepayment or commitment reduction (x) will be required with respect to repurchases of Remaining 2022 Notes (a) made with the proceeds of new shares of common stock or other Qualified Equity Interests of PEC or (b) exchanged into, or made with the proceeds of a substantially simultaneous issuance of, Refinanced Remaining 2022 Notes (as defined below), in each case, on or after the Restructuring Effective Date and (y) such prepayment or commitment reduction shall be made without premium or penalty.

2) The Existing Letters of Credit shall be deemed issued (upon such deemed issuance, together with any additional letters of credit issued under the facility after the Restructuring Effective Date, the “Letters of Credit”) under a letter of credit facility in an aggregate amount, including the Existing Letters of Credit and undrawn commitments, of \$324 million (the “RemainCo L/C Facility”), the terms of which shall be set forth in a new letter of credit facility agreement (the “RemainCo L/C Facility Agreement”; the lenders thereunder, the “RemainCo L/C Facility Lenders”; and the issuers of Letters of Credit thereunder, the “Letter of Credit Issuers”), in form and substance reasonably acceptable to PEC, the Administrative Agent, the Revolving Lenders and the Consenting Noteholders (collectively with the Administrative Agent and the Revolving Lenders, the “Transaction Review Parties”).

3) The Revolving Commitments under the Existing Credit Agreement shall be terminated in their entirety. After payment of the Effective Date Revolver Paydown, the outstanding Revolving Loans under the Existing Credit Agreement will be deemed satisfied.

2022 Notes:

The 2022 Notes outstanding under the Existing Indenture in the aggregate principal amount of up to approximately \$459 million shall be exchanged on the Restructuring Effective Date as follows:

Each holder of 2022 Notes participating (the “Participating Noteholders”) in the Notes Exchange Offer (as defined in the TSA) shall receive:

- (i) Its ratable share of \$194 million of secured notes (the “Wilpinjong Notes”), the terms of which shall be set forth in a new indenture (the “Wilpinjong Indenture”) in form and substance consistent with this Term Sheet and the description of notes attached to the TSA as Exhibit C, as the terms and conditions thereunder may be modified in accordance with the TSA;
- (ii) Its ratable share of up to \$255.58 million of senior secured notes (the “2024 Notes”), the terms of which shall be set forth in a new Indenture (the “New RemainCo Indenture”), in form and substance consistent with this Term Sheet and the description of notes attached to the TSA as Exhibit B, as the terms and conditions thereunder may be modified in accordance with the TSA;⁴
- (iii) An early tender premium, if such Participating Noteholder elects to accept the Notes Exchange Offer prior to an agreed upon early deadline, in the amount of (A) 1.00% of the principal amount of each such Participating Noteholder’s 2022 Notes and (B) its ratable share of \$9.42 million, each payable in cash (the “2022 Note Cash Premium”); and
- (iv) Within 15 days of the Restructuring Effective Date, the post-exchange opportunity to participate in PEC’s obligation to offer to repurchase up to an aggregate principal amount of \$22.5 million of 2024 Notes at 80% of par pursuant to the terms of the New RemainCo Indenture.

⁴ For the avoidance of doubt, any accrued and unpaid interest as of the Restructuring Effective Date on the 2022 Notes being Exchanged into Wilpinjong Notes or 2024 Notes will be paid in cash on the Restructuring Effective Date.

Conditions to Restructuring Effective Date:

The occurrence of the Restructuring Effective Date is subject to the following conditions precedent (unless otherwise waived in accordance with the TSA):

1) Revolving Lenders holding 100% of the Revolving Commitments under the Existing Credit Agreement shall have executed and delivered the Wilpinjong Term Loan Agreement and the RemainCo L/C Facility Agreement.

2) Holders of at least 95% (or such lesser amount as may be waived by PEC with the consent of the Revolving Lenders holding a majority of the Revolving Commitments and Consenting Noteholders holding 66.67% of the principal amount of 2022 Notes held by the Consenting Noteholders) of the aggregate principal amount of outstanding 2022 Notes shall have consented to the exchange consent solicitation with respect to the Wilpinjong Indenture and the New RemainCo Indenture (collectively with the Wilpinjong Term Loan Agreement and the RemainCo L/C Facility Agreement, the “Definitive Debt Documentation”).

3) The Administrative Agent shall have received the Effective Date Revolver Paydown and the Revolving Lender Restructuring Fees.

4) The Company shall have paid the 2022 Note Cash Premium.

5) Payment of all documented and invoiced outstanding costs and expenses due to the Administrative Agent, the Revolving Lenders and the Consenting Noteholders, including on account of such parties’ legal and financial advisors (including, but not limited to, Freshfields Bruckhaus Deringer US LLP, PJT Partners, MinterEllison, Davis Polk & Wardwell, Houlihan Lokey and Norton Rose).

6) The Existing Credit Agreement shall have been amended, in form and substance reasonably satisfactory to the Transaction Review Parties, to, among any other modifications necessary for the Transaction, (i) clarify that the RemainCo L/C Facility is a Refinancing Facility of the Revolving Facility and that the 2024 Notes are a Permitted Refinancing of the 2022 Notes and that the Peabody Exchange Option (as defined below) is permitted under clause (d) of Section 6.13 (*Unrestricted Subsidiaries*) and, to the extent necessary or reasonably advisable, Section 7.01(*Liens*) and Section 7.03 (*Indebtedness*) and (ii) remove from “Excluded Collateral” the currently excluded 35% of the equity interests in first tier foreign subsidiaries of PEC.

7) Pursuant to a supplemental indenture, the Existing Indenture shall have been amended, in form and substance reasonably satisfactory to PEC and the Transaction Review Parties, to, among any other modifications necessary for the Transaction, (i) remove the liens and covenants for the benefit of the 2022 Notes that will remain outstanding after the Restructuring Effective Date and (ii) remove from “Excluded Assets” the currently excluded 35% of the equity interests in first tier foreign subsidiaries of PEC.

8) The Security Agreement shall have been amended, in form and substance reasonably satisfactory to the Transaction Review Parties, to, among any other modifications necessary for the Transaction, add to the “Collateral” (x) the currently excluded 35% of the equity interests in first tier foreign subsidiaries of PEC and (y) the Wilpinjong Junior Lien.

9) PEC shall have delivered the documentation, in form and substance reasonably satisfactory to the Transaction Review Parties, necessary to designate the indebtedness under the RemainCo L/C Facility and with respect to the 2024 Notes as Priority Lien Debt (as defined in the Collateral Trust Agreement), including any required “Additional Secured Debt Designation” notice, a legal opinion as to such indebtedness being secured by a valid and perfected security interest in the Collateral, joinders and reaffirmation agreements.

10) PEC shall be in compliance with the Minimum Liquidity Covenant (as defined below) as of the Restructuring Effective Date giving *pro forma* effect to the payments to be made to PEC and its subsidiaries on the Restructuring Effective Date in connection with the Transaction.

11) The Administrative Agent, the Revolving Lenders and the Consenting Noteholders shall have received unaudited consolidated balance sheets and related statements of income, stockholders’ equity and cash flows of the PIC Corp (as defined below) and its subsidiaries, for the fiscal quarter ended September 30, 2020, in each case, in accordance with GAAP.

12) Each other condition precedent set forth in the Definitive Debt Documentation.

WILPINJONG TERM LOAN AGREEMENT:⁵

<u>Borrower:</u>	PIC AU Holdings Corporation, a Delaware corporation, as borrower (" <u>PIC Corp</u> "). PIC AU Holdings LLC, a Delaware limited liability company, as co-borrower (" <u>PIC LLC</u> ").
<u>Guarantor:</u>	No guarantors as of the Restructuring Effective Date, provided that to the extent not resulting in a materially adverse tax consequence (as determined by PEC in its good faith reasonable business judgment), if PIC Acquisition Corp., a Delaware corporation (" <u>PIC Acquisition</u> "), Wilpinjong Coal Pty Ltd (" <u>Wilpinjong Opco</u> ") or any of its subsidiaries are not at any time contractually prohibited from becoming a Guarantor (as determined by PEC in its good faith reasonable business judgment), PIC Acquisition, Wilpinjong Opco or such subsidiary shall become a Guarantor (each such subsidiary that becomes a guarantor as required in the succeeding sentence, collectively, with the Borrowers, the " <u>Wilpinjong Credit Parties</u> ").
<u>Administrative Agent:</u>	JPMorgan Chase Bank, N.A. (the " <u>New Wilpinjong Agent</u> "), subject to fee arrangements reasonably satisfactory to the New Wilpinjong Agent and PEC.
<u>Interest:</u>	Interest on the Wilpinjong Term Loan Facility shall accrue at a rate of 10.00% per annum, payable quarterly in arrears in cash. <u>Default Rate:</u> 2.00% <i>per annum</i> additional on overdue amounts, payable on demand.
<u>Maturity Date:</u>	December 31, 2024.
<u>Repayment and Prepayment:</u>	1) Payable in full on the maturity date with no amortization. 2) 100% excess cash flow and net cash proceeds of dispositions, casualty events and incurrence of indebtedness shall be used to prepay the Wilpinjong Term Loans; <u>provided</u> that PEC may apply a ratable portion (based on the aggregate principal amount of

⁵ All amounts to be paid by the Wilpinjong Credit Parties under the Wilpinjong Term Loan Agreement to be denominated in US Dollars.

Wilpinjong Notes and aggregate principal amount of the Wilpinjong Term Loans outstanding at the time of prepayment) of such amounts to the Wilpinjong Notes to the extent required under the Wilpinjong Indenture. Customary repatriation carve-outs shall apply to such mandatory prepayments. Net cash proceeds of dispositions and casualty events shall be subject to 365-day reinvestment rights to acquire property, plant and equipment necessary for the conduct of the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business. "Excess cash flow" to be defined in a manner satisfactory to the Transaction Review Parties.

3) Optional prepayments will be subject to the following call protection:

- Prior to the 2-year anniversary of the Restructuring Effective Date: the greater of (i) 1.00% and (ii) the excess of (a) the sum of the present values of the remaining scheduled payments of interest (exclusive of accrued and unpaid interest to the date of prepayment) through January 30, 2023 and the redemption price as of January 30, 2023 of 105% on the amount to be prepaid, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) using the applicable Treasury Rate, plus 50 basis points, and (b) the outstanding principal amount of Wilpinjong Term Loans.
- From the 2-year anniversary of the Restructuring Effective Date through the 2-year, 6-months anniversary of the Restructuring Effective Date: 5.00% premium on the amount to be prepaid.
- Thereafter: No prepayment penalty.
- In addition to optional prepayments, any payment premiums to apply if the Wilpinjong Term Loans are (x) accelerated (including as a result of automatic acceleration) as a result of bankruptcy or other events of default or (y) prepaid or repaid as a result of foreclosure and sale of, or collection of, collateral or in connection with the restructuring, reorganization or compromise of the obligations by a plan of reorganization or otherwise. If the Wilpinjong Term Loans are accelerated or otherwise become due prior to maturity, the greater of (x) the applicable premium in respect thereof and (y) the optional prepayment price above principal amount shall constitute part of the obligations under the Wilpinjong Term Loan Agreement.

<u>Security:</u>	(i) A pledge (the “ <u>Wilpinjong Pledge</u> ”) by PIC AU Holdings LLC of 100% the equity interests issued by PIC Acquisition and (ii) substantially all other assets of the Wilpinjong Credit Parties (including any indebtedness in favor of either Wilpinjong Credit Parties and deposit accounts) in each case, subject to customary exclusions. Such security will be on a first priority basis and will be subject to a collateral trust agreement in favor of Wilmington Trust, National Association, which collateral trust agreement (the “ <u>Wilpinjong Collateral Trust Agreement</u> ”) will benefit the Wilpinjong Term Lenders and the holders of Wilpinjong Notes on a senior <i>pari passu</i> basis and the holders of existing Priority Lien Debt on a junior <i>pari passu</i> basis (the “ <u>Wilpinjong Junior Lien</u> ”).
<u>Financial Covenants:</u>	None.
<u>Permitted Debt of Wilpinjong Credit Parties and Subsidiaries:</u>	None, other than <i>de minimis</i> exceptions acceptable to the Transaction Review Parties.
<u>Permitted Liens on Assets of Wilpinjong Credit Parties and Subsidiaries:</u>	None, other than <i>de minimis</i> exceptions acceptable to the Transaction Review Parties.
<u>Permitted Investments by Wilpinjong Credit Parties and Subsidiaries:</u>	None, other than <i>de minimis</i> exceptions acceptable to the Transaction Review Parties and investments existing as of the Agreement Effective Date.
<u>Restricted Payments by Wilpinjong Credit Parties and Subsidiaries:</u>	None, other than <i>de minimis</i> exceptions acceptable to the Transaction Review Parties; <u>provided</u> that (i) payments shall be permitted under the (a) Management Services Agreement, effective August 4, 2020 (as amended on December 23, 2020, and as further amended, supplemented or otherwise modified with the consent of the Transaction Review Parties prior to the Restructuring Effective Date) by and between Peabody Investments Corp and the Wilpinjong Credit Parties and the Wilpinjong Opco, and (b) the Management Services Agreement, effective August 4, 2020 (as amended on December 23, 2020, and as further amended, supplemented or otherwise modified with the consent of the Transaction Review Parties prior to the Restructuring Effective Date) by and between Peabody Energy Australia Pty Ltd and the Wilpinjong Credit Parties and the Wilpinjong Opco (collectively, the “ <u>Management Services Agreements</u> ”) not to exceed \$15 million in any calendar year in the aggregate under the Management Services

Agreements, (ii) payments shall be permitted under any tax sharing arrangement and (iii) voluntary prepayment and repurchases of the Wilpinjong Notes shall only be permitted if a substantially simultaneous prepayment of the Wilpinjong Term Loans is made in a ratable amount (based on the aggregate principal amount of Wilpinjong Notes and aggregate principal amount of the Wilpinjong Term Loans outstanding at the time of prepayment).

Permitted Dispositions by Wilpinjong
Credit Parties and Subsidiaries:

Usual and customary, provided that (i) the basket for permitted asset swaps shall be capped at an aggregate fair market value of \$15 million, (ii) individual asset sales pursuant to the general asset sale basket shall be capped at \$5 million and \$15 million in the aggregate and (iii) at least 90% of aggregate consideration received shall be in cash or cash equivalents with respect to any permitted asset sale under the general asset sale basket.

Unrestricted Subsidiaries:

Not permitted.

Holding Company Covenant:

The Borrowers and PIC Acquisition shall be subject to customary holding company restrictions. For the avoidance of doubt, the Borrowers and PIC Acquisition shall not be permitted to hold any material assets (provided that the PIC LLC and PIC Acquisition and their Subsidiaries, including Wilpinjong Opco, may hold intercompany receivables from, or incur intercompany payables to, each other) other than the beneficial ownership in Wilpinjong Opco.

Events of Default:

Usual and customary, subject to thresholds to be agreed, including, without limitation, (i) any termination of the Sureties TSA by any sureties signatory thereto, but only if any such termination or terminations results in PIC Corp, PIC LLC or any of their Subsidiaries making payments or delivering collateral to such sureties beyond the collateral that such sureties are entitled to as of the Restructuring Effective Date, and such payments or additional collateral are in excess of a fair market value (or face value with respect to delivered letters of credit or guarantees) of \$20 million in the aggregate (a “Wilpinjong Sureties Event of Default”), or any modification materially adverse to PEC or any of its subsidiaries party to the Sureties TSA, (ii) a cross “Event of Default” to the step-in deed for the benefit of the Australian domestic energy producer that is a customer of the Wilpinjong Mine under a long-term supply agreement (the “Customer”) and, as a result, the Customer (x) exercises its step-in rights to appoint a receiver to operate the mine

assets of Wilpinjong Opco and such receiver refuses to mine for third-party production or (y) receives payments or collateral from PIC LLC, PIC Corp or any of their Subsidiaries beyond that to which they are entitled as of the Restructuring Effective Date and such payments or additional collateral are in excess of a fair market value (or face value with respect to letters of credit or guarantees) of \$20 million as consideration to forbear from exercising its rights or waive any such “Event of Default,” (iii) the permanent cessation of production of coal at the mine operated by Wilpinjong Opco, or such cessation continues for more than 90 days and there is no reasonable likelihood that such production will continue and (iv) the termination of the Management Services Agreements unless at the time of such termination there are arrangements in place providing for substantially the same services to be provided to the PIC LLC and its Subsidiaries on terms not materially less favorable to the PIC LLC and its Subsidiaries.

Exchange Option:

Each Wilpinjong Term Loan Lender (subject to participation thresholds to be agreed) shall have the option to convert Wilpinjong Term Loans in an amount up to the Maximum Exchange Amount (as defined below), triggered upon the occurrence and continuance of a Wilpinjong Triggering Event, once triggered, obligating Peabody to issue an aggregate principal amount of term loans under the RemainCo LC Facility (the “RemainCo Term Loans”), on a pro rata basis, of up to the Maximum Guarantee Amount in exchange for the Wilpinjong Term Loans, at par, upon such further terms and for such purposes as may be agreed in the Definitive Debt Documentation (the “Peabody Exchange Option”); provided that the holders of the Wilpinjong Notes shall receive the same option to exchange their Wilpinjong Notes into 2024 Notes on a ratable basis (based on the aggregate principal amount of Wilpinjong Notes and aggregate principal amount of the Wilpinjong Term Loans outstanding at the time of the exercise of such option).

The RemainCo Term Loans shall have substantially the same terms as the RemainCo L/C Facility; provided that (i) interest on the RemainCo Term Loans shall accrue at the rate of interest applicable to the L/C Borrowings and (ii) the RemainCo Term Loans shall be entitled to its ratable share of proceeds of asset sales, casualty events, debt incurrence and equity infusions or similarly mandatory prepayment events benefitting any other holder of Priority Lien Debt.

“Maximum Exchange Amount” shall mean the lesser of (i) the sum of the aggregate principal amount of Wilpinjong Term Loans and Wilpinjong Notes, (ii) the maximum amount of “Restricted Payments” (as defined in the Existing Indenture),

if any, that PEC may be permitted to utilize for purposes of issuing 2024 Notes and RemainCo Term Loans, (iii) to the extent the Peabody Exchange Option may result in any Lien (as defined in the Existing Indenture), the maximum amount of Permitted Liens (as defined in the Existing Indenture) that may take the form of any such Lien and (iv) the maximum amount of "Investments" (as defined in the Existing Credit Agreement), if any, that PEC may be permitted to utilize for purposes of issuing 2024 Notes and RemainCo Term Loans, in each case as of any date of determination.

"Wilpinjong Triggering Event" shall mean the occurrence of either of the following clauses (a) and (b): (a) the Wilpinjong Notes or the Wilpinjong Term Loans are accelerated or otherwise become due prior to their stated maturity, in each case, as a result of an event of default thereunder or by operation of law, or a payment event of default occurs under either the Wilpinjong Notes or the Wilpinjong Term Loans or (b) (i) consolidated EBITDA of PIC LLC and its Subsidiaries is less than \$70 million during the most recently completed four consecutive fiscal quarters (considered as one period) and (ii) either the holders of a majority in aggregate principal amount of the Wilpinjong Notes or Wilpinjong Term Loan Lenders holding a majority of the aggregate principal amount of the Wilpinjong Term Loans elect the right to exercise the Peabody Exchange Option or the holders of the Wilpinjong Notes' respective right.

Voting:

Usual and customary, provided that each Wilpinjong Term Loans Lender shall have consent rights to the subordination of its Wilpinjong Term Loans or priming thereof under the Wilpinjong Term Loan Agreement.

Conditions Precedent to Closing:

Usual and customary, including:

- 1) Delivery of a solvency certificate executed by a responsible officer of PIC Corp, in form and substance reasonably acceptable to the New Wilpinjong Agent and the Wilpinjong Term Lenders, which, among other things, shall certify that PIC Corp and its subsidiaries will be solvent immediately before and after the occurrence of the Restructuring Effective Date.
- 2) Delivery of an executed Wilpinjong Collateral Trust Agreement, in form and substance reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders.

- 3) Delivery of executed security documents reasonably requested by the New Wilpinjong Agent and the Wilpinjong Term Lenders, including with respect to the Wilpinjong Pledge, each in form and substance reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders.
- 4) A completed collateral questionnaire with respect to the Wilpinjong Credit Parties, dated as of the Restructuring Effective Date, in form reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders.
- 5) The New Wilpinjong Agent and the Wilpinjong Term Lenders shall be satisfied with compliance under any applicable “know your customer” anti-money laundering rules and regulations, including the Patriot Act, and a completed certification regarding beneficial owners of legal entity customers, as required by FINCEN.
- 6) Delivery of an executed opinion of counsel to PEC and the Wilpinjong Credit Parties, in form and substance reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders, regarding due execution, enforceability, non-contravention of law and agreements (including the Existing Credit Agreement and the Existing Indenture) and such other matters requested by the New Wilpinjong Agent and the Wilpinjong Term Lenders.
- 7) Delivery of such customary documents and certifications as the New Wilpinjong Agent may reasonably require to evidence that each Wilpinjong Credit Party is validly existing and in good standing in its jurisdiction of organization.
- 8) PEC shall have delivered to the Administrative Agent fair market and book value valuation materials associated with the designation of PIC Corp, PIC LLC, PIC Acquisition and Wilpinjong Opco as Unrestricted Subsidiaries on August 4, 2020.

Company Consent to Assignments:

Usual and customary and generally consistent with Existing Credit Agreement, provided that Wilpinjong Term Loans will be assignable without the consent of PEC subject to restrictions on assignments to disqualified lenders (which shall not include the Consenting Noteholders or their easily identifiable affiliates) as designated by PEC in writing prior to the Restructuring Effective Date in consultation with the Administrative Agent.

Governing Law: New York.

REMAINCO L/C CREDIT AGREEMENT:

Borrowers: PEC, as borrower.

Guarantors: The existing Priority Lien Debt guarantors.

Administrative Agent: JPMorgan Chase Bank, N.A. (the "New L/C Agent"), subject to fee arrangements reasonably satisfactory to the New L/C Agent and PEC.

L/C Commitment: The commitment to issue, replace and renew Letters of Credit under the RemainCo L/C Facility shall be in an amount equal to \$324 million.

L/C Fee and Interest on L/C Borrowings: Letter of credit participation fee on face amounts of undrawn Letters of Credit shall accrue at a rate of 6.00% *per annum*, payable quarterly in arrears in cash.

To the extent an L/C Borrowing exists, interest on any such L/C Borrowings shall accrue at a rate of the Eurocurrency Rate,⁶ *plus* 6.00% *per annum*, payable quarterly in arrears in cash.

Default Rate: 2.00% *per annum* additional on overdue amounts, payable on demand.

Fronting Fee: 0.125% *per annum* on face amount of Letters of Credit to be paid to the applicable Letter of Credit Issuer quarterly in arrears in cash.

L/C Processing Charges: Customary issuance, presentation, administration, amendment and other processing fees, and other standard costs and costs, of each Letter of Credit Issuer.

L/C Commitment Fee: 0.50% bps *per annum* on the unused L/C Commitment, payable quarterly in arrears.

⁶ Benchmark replacement language may be updated in a manner consistent with market practice, subject to the discretion of the Administrative Agent.

L/C Issuance Limit:

Each Revolving Lender that is a Letter of Credit Issuer under the Existing Credit Agreement shall be a Letter of Credit Issuer under the RemainCo L/C Facility. Aggregate L/C Issuance limits to be adjusted for a facility of this size and as agreed to by the Letter of Credit Issuers and PEC. Individual L/C Issuance Limits to be further adjusted to achieve ratable L/C Issuance Limits, provided that Letters of Credit Outstanding as of the Restructuring Effective Date shall not be deemed to exceed any such L/C Issuance Limits.

L/C Expiration Date:

Except as set forth below, no Letter of Credit shall have an expiry date later than the earlier of (i) December 23, 2024 and (ii) twelve months after the date of issuance or last extension of such Letter of Credit, including bank guarantees; provided that, notwithstanding the above, any Letter of Credit Issuer, in its absolute sole discretion, may issue, renew (whether subject to automatic renewal or otherwise) or extend a Letter of Credit such that it has an expiry date later than December 23, 2024, provided further that PEC shall be required to cash collateralize such Letter of Credit in an amount satisfactory to the applicable Letter of Credit Issuer (not to exceed 106% of face value) between 90-120 days prior to the maturity date (or such shorter period as such Letter of Credit Issuer may agree) (for the avoidance of doubt, each RemainCo L/C Facility Lender's participation in such Letters of Credit will terminate upon the maturity date with respect to the RemainCo L/C Facility).

Maturity Date:

December 31, 2024.

Repayment and Prepayment:

1) Upon any payment or disbursement by a Letter of Credit Issuer, PEC shall reimburse such Letter of Credit Issuer no later than the next business day after notice thereof; provided that if no such reimbursement is made, such reimbursement obligation shall be replaced with a borrowing by PEC (an "L/C Borrowing"), and no event of default shall result from such failure to reimburse.

2) Each RemainCo L/C Facility Lender shall pay to the applicable Letter of Credit Issuer its ratable share of any such L/C Borrowing by 1:00 p.m., New York City, on the next business day after the New L/C Agent provides notice of any L/C Borrowing.

3) All L/C Borrowings shall be payable in full on the maturity date with no amortization.

4) Prepayments of L/C Borrowings will result in the permanent reduction of the L/C Commitment in the amount of such prepayment.

5) Additionally, optional prepayments of L/C Borrowings and reductions of the L/C Commitment will be subject to the following call protection:

- Prior to the 2-year anniversary of the Restructuring Effective Date: the greater of (i) 1.00% and (ii) the excess of (a) the sum of the present values of the remaining scheduled payments of interest, letter of credit participation fees and commitment fees (exclusive of accrued and unpaid interest and fees to the date of prepayment) through January 30, 2023 and the principal amount of L/C Borrowings and the face amount of outstanding Letters of Credit (calculated as set forth below) at 103% on the amount to be prepaid or reduced, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) using the applicable Treasury Rate, plus 50 basis points, and (b) the outstanding aggregate amount of L/C Borrowings and face amount of Letters of Credit (calculated as set forth below). For purposes of clause (i), the unused L/C Commitment, the outstanding face value of Letters of Credit and principal amount of L/C Borrowings shall be based on such amounts outstanding as on the business day immediately prior to the date of prepayment or reduction.
- From the 2-year anniversary of the Restructuring Effective Date through the 2-year, 6-months anniversary of the Restructuring Effective Date: 3.00% premium on the amount to be prepaid or reduced.
- Thereafter: No prepayment penalty.
- In addition to optional prepayments, any payment and commitment reduction premiums to apply if (x) the RemainCo L/C Facility is accelerated or terminated early (including as a result of automatic acceleration) as a result of bankruptcy or other events of default or (y) the obligations thereunder are repaid or prepaid as a result of the foreclosure and sale of, or collection of, collateral or in connection with the restructuring, reorganization or compromise of the obligations by a plan of reorganization or otherwise.

Security:

Existing collateral securing Priority Lien Debt; provided that (i) the currently excluded 35% of equity interests in the first tier foreign subsidiaries of PEC shall no longer be excluded Collateral; provided that, if at any time after the Restructuring Effective Date, in the good faith determination by PEC that the pledge of 100% of the voting capital stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the L/C Facility Lenders and New L/C Agent will acknowledge in the RemainCo L/C Facility Agreement that Peabody Global Holdings, LLC's legal charge over the stock of Peabody Investments (Gibraltar) Limited shall revert to levels such that there is no such material cash tax liability, (ii) the Priority Lien Debt shall be secured by the Wilpinjong Junior Lien and (iii) subject to further diligence, the Transaction Review Parties reserve the right to request that the Priority Lien Debt be secured by additional collateral and require additional perfection actions, subject to reasonable thresholds to be agreed by PEC and the Transaction Review Parties.

Financial Covenants:

Liquidity of \$125 million (the "Minimum Liquidity Covenant") as of the end of each fiscal quarter of PEC.

"Liquidity," to be defined as the sum, without duplication, of (x) unrestricted cash and cash equivalents of PEC and its Restricted Subsidiaries, (y) undrawn committed Indebtedness of PEC and its Restricted Subsidiaries actually available for use by PEC and its Restricted Subsidiaries for general corporate purpose or for working capital, and (z) undrawn committed amounts under any Permitted Securitization Program to the extent such amounts can be borrowed for general corporate purposes or working capital.

MFN to any financial covenants governing Indebtedness incurred by PEC or its Restricted Subsidiaries.

Permitted Debt of PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Credit Agreement; provided that:

(i) no additional Priority Lien Debt may be incurred after the Restructuring Effective Date other than (a) increases as a result of PIK interest, (b) any Permitted Refinancing Increase, (c) indebtedness under the RemainCo Term Loans and the 2024 Notes incurred as a result of an exercise of the Peabody Exchange Option and (d) Priority Lien Debt in the

form of notes (the “Refinanced Remaining 2022 Notes”) in an amount not to exceed (x) the principal amount of the 2022 Notes held by holders that are not Participating Noteholders (“Remaining 2022 Notes”) as of the Restructuring Effective Date and (y) interest paid-in-kind on such Refinanced Remaining 2022 Notes, so long as such indebtedness (I) shall have a maturity no earlier than December 31, 2024, (II) shall have a coupon no greater than 8.50% (of which no more than 6.00% may be paid in cash), (III) shall not contain any mandatory prepayment provisions, covenants, events of default or other terms, which are more favorable than those of the 2024 Notes and (IV) is issued solely in connection with the substantially simultaneous repurchase, retirement, repayment or exchange for Remaining 2022 Notes; and

(ii) indebtedness extended by any Loan Party to any non-Loan Party shall be limited to transactions in the ordinary course and consistent with past practice.

Permitted Liens on Assets of PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Credit Agreement.

Permitted Investments by PEC and Restricted Subsidiaries:

None, other than *de minimis* exceptions acceptable to the Transaction Review Parties and investments existing as of the Agreement Effective Date.

Restricted Payments by PEC and Restricted Subsidiaries:

None, other than *de minimis* exceptions acceptable to the Transaction Review Parties; provided that:

(i) PEC may repurchase the Remaining 2022 Notes in an amount equal to (a) the greater of (I) \$25 million and (II) 75% of the aggregate principal amount of the Remaining 2022 Notes on the Restructuring Effective Date, (b) the amount of net cash proceeds from an offering of Qualified Equity Interests that has closed no later than 45 days prior to such repurchase and (c) the amount of net cash of Refinanced Remaining 2022 Notes issued to refinance (or the amount of Refinanced Remaining 2022 Notes issued in exchange for) the Remaining 2022 Notes, in each case so long as the price paid for any such repurchase is less than (x) 50% of par, plus accrued and unpaid interest, if such repurchase occurs prior to one year before the maturity date of such Remaining 2022 Notes, (y) 75% of par, plus accrued and unpaid interest, if such repurchase occurs between one year and 45 days before the maturity of such Remaining 2022 Notes and (z) 100% of par, plus accrued and unpaid interest, if repurchased within 45 days before the maturity of such Remaining 2022 Notes (the “Remaining 2022 Notes Repurchase Restrictions”); and

(ii) PEC may make open market purchases of Priority Lien Debt (other than Remaining 2022 Notes) so long as (a) Liquidity on the date of any such repurchase is equal to or greater than \$200 million after giving *pro forma* effect to any such repurchase and (b) for every \$4 in principal amount of Indebtedness repurchased, during any fiscal quarter ending on or before September 30, 2024, PEC must make an offer (a “Mandatory Offer”) on a *pro rata* basis to the RemainCo L/C Facility Lenders and holders of the 2024 Notes for \$1 of outstanding aggregate L/C Commitments and L/C Borrowings within 30 days of the end of such fiscal quarter at a price equal to the weighted-average repurchase price paid with respect to open market purchases over such fiscal quarter (other than open market purchases made during such fiscal quarter resulting from Mandatory Offers). Any amounts declined pursuant to a Mandatory Offer or such similar mandatory offer under the New RemainCo Indenture will increase a builder basket that may be used for future debt repurchases at any time without triggering further Mandatory Offers; provided that no Mandatory Offer shall be required in connection with a repurchase of the Remaining 2022 Notes.

Mandatory Offers (other than with respect to the 2024 Notes) will be redeemed pursuant to the following principles:

- RemainCo L/C Facility Lenders that participate in a mandatory offer (an “Offer Participant”) will continue to hold its L/C Commitment as a lender of record.
- L/C Borrowings may be purchased by PEC and will be cancelled and retired.
- Mandatory Offers will be applied, *first*, to an Offer Participant’s L/C Borrowings and, *second*, to the extent such Offer Participant has no L/C Borrowings outstanding, to its L/C Commitments.
- Upon the acceptance of the Mandatory Offer, PEC to pay to Offer Participant (x) an amount equal to Offer Participant’s L/C Borrowings subject to the offer, *less* any applicable discount and (y) an amount equal to Offer Participant’s L/C Commitment subject to the offer (such amount, the “PEC L/C Committed Amount”), *less* any applicable discount (the “L/C Commitment Purchase Amount”).

- After such date (x) the L/C Commitments have terminated and (y) the Offer Participant no longer has any Letter of Credit Participation obligations under the RemainCo L/C Facility, the Offer Participant shall pay to PEC the PEC L/C Committed Amount, *less* any amounts paid after the effective date of the exercise of the Mandatory Offer by the Offer Participant on account of its Letter of Credit drawing participation obligations with respect to its portion of its L/C Commitment that is a PEC L/C Committed Amount.
- Letter of Credit participation fees on account of the L/C Purchase Amount to be turned over to PEC upon payment thereof.
- Any PEC L/C Committed Amount will be disregarded for voting purposes.
- Documentation with respect to the Mandatory Offer to be in form satisfactory to PEC and Offer Participant.

Permitted Dispositions by PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Credit Agreement.

Unrestricted Subsidiaries:

No designations of, investment in, or other transfers to, new Unrestricted Subsidiaries permitted after the Restructuring Effective Date.

Events of Default:

Substantially the same as set forth in the Existing Credit Agreement, provided that additional events of default will include (without limitation) (i) any termination of the Sureties TSA by any sureties signatory thereto, but only if any such termination or terminations results in the PEC or any of their Subsidiaries (including PIC Corp, PIC LLC and their Subsidiaries) making payments or delivering collateral to such sureties beyond the collateral that such sureties are entitled to as of the Restructuring Effective Date, and such payments or additional collateral in excess of a fair market value (or face value with respect to delivered letters of credit or guarantees) of \$50 million (a “**PEC Sureties Event of Default**”), or any modification to the Sureties TSA materially adverse to PEC or any of its subsidiaries and (ii) PEC fails to comply with any obligation under the TSA that survives or arises following the closing date (including any obligation under any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to PEC by the Administrative Agent.

Voting:

Usual and customary and consistent with the Existing Credit Agreement, provided that each RemainCo L/C Facility Lender shall have consent rights to the subordination of its obligations under the RemainCo L/C Credit Agreement or priming thereof under the L/C Facility Credit Agreement. Usual and customary class voting between holders of L/C Borrowings and holders of L/C Commitments.

Conditions Precedent to Closing:

Usual and customary, including:

- 1) Delivery of a completed collateral questionnaire with respect to the Credit Parties, dated as of the Restructuring Effective Date, in form reasonably satisfactory to the New L/C Agent and the RemainCo L/C Facility Lenders.
- 2) The New L/C Agent and the L/C Facility Lenders shall be satisfied with compliance under any applicable “know your customer” anti-money laundering rules and regulations, including the Patriot Act, and a completed certification regarding beneficial owners of legal entity customers, as required by FINCEN.
- 3) The New L/C Agent and the RemainCo L/C Facility Lenders shall have received evidence satisfactory of flood insurance with respect to real property that is part of the Collateral as of the date hereof as may be required to comply with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and Biggert-Waters Flood Insurance Act of 2012.
- 4) Delivery of an executed opinion of counsel to PEC and the other Credit Parties, in form and substance reasonably satisfactory to the New L/C Agent and the RemainCo L/C Facility Lenders, regarding due execution, enforceability, non-contravention of law and agreements (including the Existing Credit Agreement and the Existing Indenture) and such other matters reasonably requested by the New L/C Agent and the RemainCo L/C Facility Lenders.
- 5) Delivery of an executed opinion of Gibraltar counsel to PEC and the other Credit Parties, in form and substance reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders, regarding the Gibraltar Pledge Agreement and such other matters reasonably requested by the New L/C Agent and the RemainCo L/C Facility Lenders.

- 6) Delivery of an executed opinion of Indiana counsel to PEC and the other Credit Parties, in form and substance reasonably satisfactory to the New Wilpinjong Agent and the Wilpinjong Term Lenders, regarding due execution and such other matters reasonably requested by the New L/C Agent and the RemainCo L/C Facility Lenders.
- 7) Delivery of such customary documents and certifications as the New L/C Agent and the RemainCo L/C Facility Lenders may reasonably require to evidence that each Credit Parties is validly existing and in good standing in its jurisdiction of organization.

Assignments: Company Consent to Assignments:

L/C Commitments and L/C Borrowings will be separately assignable.

Consents to assignments will be usual and customary and generally consistent with Existing Credit Agreement; provided the L/C Borrowings will be assignable without the consent of PEC, subject to restrictions on assignments to disqualified lenders (which shall not include the Consenting Noteholders or their easily identifiable affiliates) as designated by PEC in writing prior to the Restructuring Effective Date in consultation with the Administrative Agent.

Governing Law:

New York.

WILPINJONG INDENTURE:⁷

Issuer:

PIC LLC, as issuer.

PIC Corp, as co-issuer.

Guarantor:

Same as Wilpinjong Term Loan Agreement.

Interest:

Same as Wilpinjong Term Loan Agreement.

⁷ The terms of the Wilpinjong Indenture are to be consistent with the description of notes for such issuance and subject to change in accordance with the TSA. The description of notes for such issuance is attached to the TSA.

<u>Maturity Date:</u>	Same as Wilpinjong Term Loan Agreement.
<u>Repayment and Prepayment:</u>	Same as Wilpinjong Term Loan Agreement; <u>provided</u> that PEC may apply a ratable portion (based on the aggregate principal amount of Wilpinjong Notes and aggregate principal amount of the Wilpinjong Term Loans outstanding at the time of prepayment) of mandatory prepayments to the Wilpinjong Term Loans to the extent required under the Wilpinjong Term Loan Agreement.
<u>Security:</u>	Same as Wilpinjong Term Loan Agreement.
<u>Financial Covenants:</u>	Same as Wilpinjong Term Loan Agreement.
<u>Permitted Debt of Wilpinjong Credit Parties and Subsidiaries:</u>	Substantially the same as Wilpinjong Term Loan Agreement.
<u>Permitted Liens on Assets of Wilpinjong Credit Parties and Subsidiaries:</u>	Substantially the same as Wilpinjong Term Loan Agreement.
<u>Permitted Investments by Wilpinjong Credit Parties and Subsidiaries:</u>	Substantially the same as Wilpinjong Term Loan Agreement.
<u>Restricted Payments by Wilpinjong Credit Parties and Subsidiaries:</u>	Substantially the same as Wilpinjong Term Loan Agreement; <u>provided</u> that voluntary prepayments of the Wilpinjong Term Loans shall only be permitted if a substantially simultaneous prepayment or repurchase of the Wilpinjong Notes is made in a ratable amount (based on the aggregate principal amount of Wilpinjong Notes and aggregate principal amount of the Wilpinjong Term Loans outstanding at the time of prepayment).
<u>Permitted Dispositions by Wilpinjong Credit Parties and Subsidiaries:</u>	Substantially the same as Wilpinjong Term Loan Agreement.
<u>Unrestricted Subsidiaries:</u>	Same as Wilpinjong Term Loan Agreement.
<u>Holding Company Covenant:</u>	Same as Wilpinjong Term Loan Agreement.
<u>Events of Default:</u>	Substantially the same as Wilpinjong Term Loan Agreement.

<u>Exchange Option:</u>	Substantially the same as Wilpinjong Term Loan Agreement with mechanics modified to reflect that the offer is for Wilpinjong Notes to exchange into 2024 Notes.
<u>Voting:</u>	Usual and customary.
<u>Conditions Precedent:</u>	Usual and customary.
<u>NEW REMAINCO INDENTURE:</u>⁸	
<u>Borrowers:</u>	PEC, as issuer.
<u>Guarantors:</u>	Same as RemainCo L/C Facility.
<u>Interest:</u>	Interest shall accrue at a rate of 8.50% <i>per annum</i> , of which (x) 6.00% will be payable in cash and (y) 2.50% will be payable-in-kind, in each case payable semi-annually in arrears.
<u>Maturity Date:</u>	Same as RemainCo L/C Facility.
<u>Repayment and Prepayment:</u>	<ol style="list-style-type: none"> 1) Payable in full on the maturity date. 2) Optional prepayments of 2024 Notes will be subject to the following call protection: <ul style="list-style-type: none"> • <u>Prior to the 2-year anniversary of the Restructuring Effective Date:</u> the greater of (i) 1.00% and (ii) the excess of (a) the sum of the present values of the remaining scheduled payments of interest (exclusive of accrued and unpaid interest to the date of prepayment) through December 31, 2022 and a redemption price of 104.25% on the amount to be prepaid on December 31, 2022, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) using the applicable Treasury Rate, plus 50 basis points, and (ii) the outstanding principal amount of Wilpinjong Term Loans. • <u>From the 2-year anniversary of the Restructuring through the 2-year, 6-months anniversary of the Restructuring Effective Date:</u> 4.25% premium on the amount to be prepaid.

⁸ The terms of the New RemainCo Indenture are to be consistent with the description of notes for such issuance and subject to change in accordance with the TSA. The description of notes for such issuance is attached to the TSA.

- Thereafter: No prepayment penalty.
- In addition to the optional prepayments, any payment premiums to apply if the 2024 Notes (x) are accelerated (including as a result of automatic acceleration) as a result of bankruptcy or other events of default or (y) or prepaid or repaid as a result of the foreclosure and sale of, or collection of, collateral or in connection with the restructuring, reorganization or compromise of the obligations by a plan of reorganization or otherwise.

Security:

Same as RemainCo L/C Facility.

Financial Covenants:

None.

To the extent that the RemainCo L/C Facility Lenders receive any consent fee, reduction in L/C Commitment (accompanied by any required payment or prepayment) or additional security received on account of an amendment to, or waiver or forbearance of, the Minimum Liquidity Covenant or other financial maintenance covenant, the holders of the 2024 Notes will receive the same consideration.

Permitted Debt of PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Indenture; provided that (i) no additional Priority Lien Debt may be incurred after the Restructuring Effective Date other than (a) increases as a result of PIK interest, (b) any Permitted Refinancing Increase, (c) indebtedness under the RemainCo Term Loans and the 2024 Notes incurred as a result of an exercise of the Peabody Exchange Option and (d) Refinanced Remaining 2022 Notes in an amount not to exceed (x) the principal amount of the Remaining 2022 Notes and (y) interest paid-in-kind on such Refinanced Remaining 2022 Notes, so long as such indebtedness (I) shall have a maturity no earlier than December 31, 2024, (II) shall have a coupon no higher than 8.50% (of which no more than 6.00% may be paid in cash) and (III) shall not contain any mandatory prepayment provisions, covenants, events of default or other terms, which are more favorable than those of the 2024 Notes; and

(ii) indebtedness extended by any Loan Party to any non-Loan Party shall be limited to transactions in the ordinary course and consistent with past practice.

Permitted Liens on Assets of PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Indenture.

Permitted Investments by PEC and Restricted Subsidiaries:

Substantially the same as RemainCo L/C Facility.

Restricted Payments by PEC and Restricted Subsidiaries:

Substantially the same as RemainCo L/C Facility, including that PEC may make open market purchases of Priority Lien Debt (other than Remaining 2022 Notes) so long as (a) Liquidity on the date of any such repurchase is equal to or greater than \$200 million after giving *pro forma* effect to any such repurchase and (b) for every \$4 in principal amount of Indebtedness repurchased, during any fiscal quarter ending on or before September 30, 2024, PEC must make a Mandatory Offer on a *pro rata* basis to the RemainCo L/C Facility Lenders and holders of the 2024 Notes for \$1 of an aggregate accreted value and/or outstanding aggregate principal amount within 30 days of the end of such fiscal quarter at a price equal to the weighted-average repurchase price paid with respect to open market purchases over such fiscal quarter (other than open market purchases made during such fiscal quarter resulting from Mandatory Offers). Any amounts declined pursuant to a Mandatory Offer or such similar mandatory offer under the New RemainCo L/C Facility will increase a builder basket that may be used for future debt repurchases at any time without triggering further Mandatory Offers; provided that no Mandatory Offer shall be required in connection with a repurchase of the Remaining 2022 Notes.

Permitted Dispositions by PEC and Restricted Subsidiaries:

Substantially the same as set forth in the Existing Indenture.

Unrestricted Subsidiaries:

Same as RemainCo L/C Facility.

Events of Default:

Substantially the same as set forth in the Existing Indenture, provided additional events of default will include (without limitation) that (i) any PEC Sureties Event of Default, or any modification to the Sureties TSA materially adverse to PEC or any of its subsidiaries and (ii) PEC fails to comply with any obligation under the TSA that survives or arises following the issue date (including any obligation under any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to PEC by the Trustee or to PEC and the Trustee by the holders of 25% or more in aggregate principal amount of outstanding 2024 Notes.

Voting:

Amendments customarily requiring a majority of noteholders will require holders of 66.67% of the aggregate principal amount of outstanding 2024 Notes, provided that amendments releasing or reducing security or guarantees will require 85% of the aggregate principal amount of outstanding 2024 Notes.

Conditions Precedent:

Usual and customary.

MISCELLANEOUS:

Debt Trading:

None of the indebtedness under the Definitive Debt Documentation shall be stapled.

Exhibit B

RemainCo Notes DoN

DESCRIPTION OF THE NEW PEABODY NOTES

In this “Description of the New Peabody Notes,” the terms “we,” “us,” “our” and “Company” refer only to Peabody Energy Corporation and any successor obligor, and not to any of its subsidiaries. You can find the definitions of certain other terms used in this description under “—Certain Definitions.”

On the Issue Date, the Company will issue up to \$255.58 million in initial aggregate principal amount of 8.500% senior secured notes due 2024 (the “notes”) under an indenture (the “indenture”), among itself, the Guarantors and Wilmington Trust, National Association, as trustee (in such capacity, the “Trustee”), in a private transaction that is not subject to the registration requirements of the Securities Act. Holders of the notes will not be entitled to any registration rights. See “Notice to Investors.” It is not anticipated that the indenture will be qualified under, or subject to, the Trust Indenture Act of 1939, as amended, and, as a result, holders of the notes will not receive the protection afforded thereby. The Security Documents referred to below define the terms of the agreements that will secure the notes and the Note Guarantees. Only registered holders of notes will have rights under the indenture, and all references to “holders” or “noteholders” in the following description are to registered holders of notes.

The following description is a summary of the material provisions of the indenture, the notes and the Security Documents. Because this is a summary, it may not contain all the information that is important to you. You should read each of these documents in its entirety because such documents, and not this description, will define the Company’s obligations and your rights as holders of the notes.

Brief Description of the New Peabody Notes

The notes:

- (1) will be general senior secured obligations of the Company;
- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of the Company that constitute Peabody Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be secured, equally and ratably, on a second-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), in the Second Lien Collateral;
- (4) will be *pari passu* in right of payment with all existing and future senior Debt of the Company; the payment obligations of the Company under the notes shall at all times rank at least equally with all the Company’s other present and future Indebtedness;
- (5) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations of the Company to the extent of the value of the Collateral;
- (6) will be structurally subordinated to any existing and future Debt and other liabilities of the Company’s non-Guarantor Subsidiaries (including, without limitation, any Unrestricted Subsidiaries);
- (7) will be senior in right of payment to any future subordinated Debt of the Company; and
- (8) will be unconditionally guaranteed by the Guarantors.

The notes will mature on December 31, 2024. The notes will bear interest commencing the date of issue at the rate of 8.500% per annum. Subject to the provisions of the indenture, cash interest (“Cash Interest”) will accrue on the Accreted Value of the notes at the rate of 6.000% per annum from the Issue Date, or from the most recent date after the Issue Date to which interest has been paid or provided for. Cash Interest will be payable semiannually in arrears on June 30 and December 31 of each year, commencing on June 30, 2021, to holders of

record on the immediately preceding June 15 and December 15, respectively. In addition, additional interest payable as paid-in-kind interest (“PIK Interest”) will accrue on the Accreted Value of notes at the rate of 2.500% per annum from the Issue Date, or from the most recent date after the Issue Date to which interest has been paid or provided for. PIK Interest will be payable semiannually in arrears on June 30 and December 31 of each year, commencing on June 30, 2021, to holders of record on the immediately preceding June 15 and December 15, respectively, by increasing the principal amount of the notes by the amount of such PIK Interest accrued for such interest period, rounded up to the nearest \$1.00. The Accreted Value of the notes as of any date will be the principal amount of the notes as of such date (or such lesser or greater amount as shall be outstanding under the indenture from time to time, and subject to any redemption, repurchase or other retirement thereof, in whole or in part), and will reflect the amount of any PIK Interest through the immediately preceding interest payment date. If any note is surrendered for exchange on or after a record date for an interest payment date that will occur on or after the date of such exchange, the exchanging holder will receive interest on the interest payment date solely in the form of Cash Interest and interest on the note received in exchange thereof will accrue from such interest payment date. The notes will be issued in an aggregate initial principal amount of up to \$255.58 million (the “initial notes”). The initial notes will have an initial Accreted Value equal to their initial principal amount.

The notes will bear interest, payable in cash, on overdue principal, and, to the extent lawful, on overdue interest, at a rate that is 2.00% per annum higher than the rate otherwise applicable to Cash Interest on the notes. Interest on the notes will be computed on the basis of a 360-day year of twelve 30-day months.

Interest payable on the maturity date and upon redemption will be payable solely as Cash Interest, with any PIK Interest that would have been due at such date compounded into the principal amount due on such date.

Except as set forth in “—Book-Entry, Delivery and Form,” the notes will be issued in registered, global form in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof; provided that after the first interest payment date, the notes will be in minimum denominations of \$1.00 and integral multiples of \$1.00 in excess thereof.

Additional Notes

Subject to the covenants described below, the Company may issue additional notes (the “Additional Notes”), in an unlimited amount from time to time under the indenture having the same terms in all respects as the notes except that interest on such Additional Notes may, if provided in such Additional Notes, accrue from the date of their issuance or from the most recent interest payment date and not from the Issue Date. Any Additional Notes will be secured, equally and ratably, with the notes and any other Priority Lien Obligations. Except as otherwise stated herein, the notes offered hereby and any Additional Notes subsequently issued under the indenture will be treated as a single class for all purposes under the indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase and will vote together as one class on all matters. Notwithstanding the foregoing, any Additional Notes that are not fungible with the notes offered hereunder for United States federal income tax purposes shall have a separate CUSIP number and ISIN from the notes. Unless the context requires otherwise, references to “notes” for all purposes of the indenture and this “Description of the New Peabody Notes” include any Additional Notes that are actually issued.

The Note Guarantees

The obligations of the Company pursuant to the notes, including any repurchase obligation resulting from a Change of Control, will be unconditionally guaranteed, jointly and severally, on a senior secured basis, by each of the Company’s Restricted Subsidiaries that guarantees the obligations of the Company under the Existing Credit Facility, the LC Agreement, the 2025 Notes Indenture, the 2022 Notes Indenture and any other Priority Lien Debt.

Each Note Guarantee of the notes:

- (1) will be a general senior secured obligation of such Guarantor;

- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of such Guarantor that constitute Peabody Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be secured, equally and ratably, on a second-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of such Guarantor that constitute Second Lien Collateral;
- (4) will be *pari passu* in right of payment with all existing and future senior Debt of such Guarantor;
- (5) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations of such Guarantor to the extent of the value of the Collateral; and
- (6) will be senior in right of payment to any future subordinated Debt of such Guarantor.

Not all of our Subsidiaries will guarantee the notes. For instance, none of our Foreign Subsidiaries and none of our Foreign Subsidiary Holdcos will guarantee the notes. In the event of a bankruptcy, liquidation or reorganization of any of these non-Guarantor Subsidiaries, the non-Guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to us. As of and for the twelve months ended September 30, 2020, on a pro forma basis after giving effect to the Refinancing Transactions, the non-Guarantor Subsidiaries represented approximately 29% of our total consolidated liabilities, generated 38% of our consolidated revenues (after intercompany eliminations) and held 45% of our consolidated assets (after intercompany eliminations).

On the Issue Date, all of our Subsidiaries will be “Restricted Subsidiaries” except for Ribfield Pty. Ltd, Middlemount Mine Management Pty Ltd, Middlemount Coal Pty Ltd, Newhall Funding Company, P&L Receivables Company, LLC, Sterling Centennial Missouri Insurance Corporation, Wilpinjong Coal Pty Ltd, PIC AU Holdings LLC, PIC AU Holdings Corporation, and PIC Acquisition Corp. Our Unrestricted Subsidiaries will not be subject to the restrictive covenants in the indenture. Our Unrestricted Subsidiaries will not guarantee the notes. Other than the Unrestricted Subsidiaries listed above, the indenture governing the notes will prohibit the designation of any other Subsidiary as an Unrestricted Subsidiary.

The Note Guarantees will be joint and several obligations of the Guarantors. Each Note Guarantee will be limited to the maximum amount that would not render the Guarantor’s obligations subject to avoidance under applicable law. By virtue of this limitation, a Guarantor’s obligation under its Note Guarantee could be significantly less than amounts payable with respect to the notes, or a Guarantor may have effectively no obligation under its Note Guarantee. See “Risk Factors—Risks Related to the Notes and the Refinancing Transactions—Fraudulent transfer and other laws may limit your rights as a noteholder.”

The Note Guarantee of a Guarantor will automatically terminate upon:

- (1) a sale or other disposition (including by way of consolidation or merger or otherwise) of the Guarantor or the sale or other disposition of all or substantially all the assets of the Guarantor (other than to the Company or a Restricted Subsidiary) in connection with a transaction or circumstance that does not violate the indenture,
- (2) a disposition of the majority of the Capital Stock of the Guarantor to a third Person in connection with a transaction or circumstance that does not violate the indenture, after which the Guarantor is no longer a Restricted Subsidiary,
- (3) a liquidation or dissolution of the Guarantor so long as no Default occurs as a result thereof, if its assets are distributed to the Company or another Guarantor,
- (4) the Guarantor ceasing to be a Restricted Subsidiary in accordance with the indenture, or

- (5) legal defeasance, covenant defeasance or satisfaction and discharge of the indenture, as provided in “—Defeasance and Discharge.”

Collateral

The obligations of the Company with respect to the notes, the obligations of the Guarantors under the Note Guarantees and the performance of all other obligations of the Company and the Guarantors under the indenture will be secured equally and ratably by (a) first priority Liens in the Peabody Collateral granted to the Priority Collateral Trustee for the benefit of the holders of the notes and any other Priority Lien Obligations and (b) second priority liens on the Second Lien Collateral. These Liens will be senior in priority to the Liens securing Junior Lien Obligations with respect to the Collateral. The Liens securing Junior Lien Obligations will be held by the Junior Collateral Trustee. The notes offered hereby will be considered to be Priority Lien Debt for purposes of the Collateral Trust Agreement. All Liens securing Priority Lien Obligations will be held by the Priority Collateral Trustee and administered pursuant to the Collateral Trust Agreement. References to “Collateral Trustee” herein shall mean each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

The Collateral comprises (a) first priority liens over (i) substantially all of the assets of the Company, Pledgor and the Guarantors, except for the Excluded Assets, (ii) 100% of the capital stock of each Domestic Restricted Subsidiary of the Company, 100% of the capital stock of each first tier Foreign Subsidiary of the Company or a Foreign Subsidiary Holdco, except in each case to the extent that such capital stock constitutes an Excluded Asset, (iii) a legal charge by Pledgor of 100 % of the voting capital stock and 100% of the non-voting capital stock of Peabody Investments (Gibraltar) Limited, provided that, if at any time after the Issue Date, in the good faith determination by the Company that the pledge of 100% of the voting capital stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the legal charge over the stock of Peabody Investments (Gibraltar) Limited shall be reduced to levels such that there is no such material cash tax liability and (iv) all intercompany debt owed to the Company, Pledgor or any Guarantor (the “*Peabody Collateral*”) and (b) second priority liens on the Second Lien Collateral (clauses (a) and (b), collectively (the “*Collateral*”). The Collateral Trustee will not hold liens for the benefit of the holders of Secured Debt Obligations on any Excluded Assets.

Certain security interests in favor of the Peabody Collateral Trustee may not be in place and/or perfected (to the extent possible under applicable law) as of the Issue Date. With respect to any liens on or security interests in the Peabody Collateral that are not created or perfected (to the extent possible under applicable law) on or prior to such date, the Company will be required to have all such security interests created or perfected (to the extent possible under applicable law) within 90 days after the Issue Date (or such later date as may be agreed to in accordance with the Transaction Support Agreement); however no assurance can be given that such security interest will be granted or perfected on a timely basis.

Collateral Trust Agreement

The Company and the other Grantors have entered into the Collateral Trust Agreement, dated as of April 3, 2017, with the Junior Collateral Trustee, the Priority Collateral Trustee and each other Secured Debt Representative. The Collateral Trust Agreement sets forth the terms on which each of the Priority Collateral Trustee and the Junior Collateral Trustee receives, holds, administers, maintains, enforces and distributes the proceeds of all Liens upon the Collateral at any time held by it, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof).

Collateral Trustee

Wilmington Trust, National Association was appointed pursuant to the Collateral Trust Agreement to serve as Priority Collateral Trustee for the benefit of the holders of the notes offered hereby and all other Priority Lien Obligations outstanding from time to time.

Wilmington Trust, National Association was appointed pursuant to the Collateral Trust Agreement to serve as Junior Collateral Trustee for the benefit of the holders of the Junior Lien Obligations outstanding from time to time.

Neither the Company nor any of its Affiliates may act as Collateral Trustee.

Each of the Priority Collateral Trustee and the Junior Collateral Trustee will hold (directly or through co-trustees or agents), and will be entitled to enforce, all Liens on the Collateral at any time held by it created by the relevant Security Documents.

Except as provided in the Collateral Trust Agreement or as directed by an Act of Required Secured Parties in accordance with the Collateral Trust Agreement (or, following the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders in accordance with the Collateral Trust Agreement, subject to the terms described below under the caption “—Restrictions on Enforcement of Junior Liens”), the Collateral Trustee is not obligated:

- (1) to act upon directions purported to be delivered to it by any Person;
- (2) to foreclose upon or otherwise enforce any Lien; or
- (3) to take any other action whatsoever with regard to any or all of the Security Documents, the Liens created thereby or the Collateral.

The Company will deliver to each Secured Debt Representative copies of all Security Documents delivered to the Collateral Trustee acting for the benefit of such Secured Debt Representative.

Enforcement of Liens

The Collateral Trust Agreement provides that if a Secured Debt Representative delivers at any time to the Collateral Trustee written notice that any event has occurred that constitutes a default under any Secured Debt Document entitling the Collateral Trustee to foreclose upon, collect or otherwise enforce its Liens under the applicable Security Documents, such Secured Debt Representative will promptly deliver written notice thereof to each other Secured Debt Representative and the other Collateral Trustee. Thereafter, the Collateral Trustee may await direction by an Act of Required Secured Parties and will act, or decline to act, as directed by an Act of Required Secured Parties, in the exercise and enforcement of the Collateral Trustee’s interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Trustee will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Required Secured Parties; *provided*, however, that from and after the Junior Lien Enforcement Date (as defined below), the Junior Collateral Trustee shall exercise or decline to exercise enforcement rights, powers and remedies as directed by the Required Junior Lien Debtholders, as described below under the caption “—Restrictions on Enforcement of Junior Liens,” unless the Priority Lien Secured Parties or a Priority Lien Representative shall have caused the Priority Collateral Trustee to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives). Unless it has been directed to the contrary by an Act of Required Secured Parties (or, from and after the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders, subject to the terms described under the caption “—Restrictions on Enforcement of Junior Liens”) or as otherwise expressly provided in the Collateral Trust Agreement, the Collateral Trustee in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Secured Debt Document as it may deem advisable and in the best interest of the Secured Parties.

Priority of Liens

The Collateral Trust Agreement provides that notwithstanding anything therein or in any other Security Document to the contrary, and notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing the Junior Lien Obligations granted on the Collateral or of any Liens securing the Priority Lien Obligations granted on the Collateral and notwithstanding any provision of the UCC, the time of

incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or any other applicable law or the Junior Lien Documents or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Company or any other Grantor, the Collateral Trust Agreement and the other Security Documents will create two separate and distinct Trust Estates and Liens:

(1) each Grantor's right, title and interest in, to and under all Collateral, granted to the Priority Collateral Trustee under any Priority Lien Security Document for the benefit of the Priority Lien Secured Parties, together with all of the Priority Collateral Trustee's right, title and interest in, to and under the Priority Lien Security Documents, and all interests, rights, powers and remedies of the Priority Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "Senior Trust Estate"), and Priority Lien securing the payment and performance of the Priority Lien Obligations;

(2) Lien Obligations now or hereafter held by the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties or held by any Priority Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are senior and prior to any Liens on Collateral securing the Junior Lien Obligations; and

(3) each Grantor's right, title and interest in, to and under all Collateral granted to the Junior Collateral Trustee under any Junior Lien Security Document for the benefit of the Junior Lien Secured Parties, together with all of the Junior Collateral Trustee's right, title and interest in, to and under the Junior Lien Security Documents, and all interests, rights, powers and remedies of the Junior Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively the "Junior Trust Estate" and together with the Senior Trust Estate, the "Trust Estates"), and Junior Lien securing the payment and performance of the Junior Lien Obligations;

and the Collateral Trust Agreement provides that any Liens on Collateral securing the Junior Lien Obligations held by the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties or held by any Junior Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are subject to the priority of and subordinate to any Liens on Collateral securing the Priority Lien Obligations.

The Collateral Trust Agreement further provides that in the event that any Junior Lien Secured Party becomes a judgment lien creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of any Junior Lien Obligations, such judgment lien shall be subordinated to the Priority Liens on the same basis as the Junior Liens are subordinated to the Priority Liens.

Collateral Sharing Equally and Ratably within Class

The Collateral Trust Agreement provides that the payment and satisfaction of all of the Secured Obligations within each Class is secured equally and ratably by the Liens established in favor of the Collateral Trustee for the benefit of the Secured Parties belonging to such Class, notwithstanding the time of incurrence of any Secured Obligations within such Class or the date, time, method or order of grant, attachment or perfection of any Liens securing such Secured Obligations within such Class and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation, or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations or the Junior Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Company or any other Grantor, and the Collateral Trust Agreement further provides that:

- (1) all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by the Company or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of

Junior Lien Debt, and that all such Junior Liens will be enforceable by the Junior Collateral Trustee for the benefit of all Junior Lien Secured Party equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement provides that this provision will not be violated with respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and

- (2) all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by the Company or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt (and any Swap Obligations and any Cash Management Obligations related to such Series of Priority Lien Debt), whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt (and any Swap Obligations and any Cash Management Obligations related to such Series of Priority Lien Debt), and that all such Priority Liens will be enforceable by the Priority Collateral Trustee for the benefit of all Priority Lien Secured Parties equally and ratably provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement provides that (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Swap Obligations or Cash Management Obligations if the related Swap Contract or Cash Management Agreement prohibits the applicable Hedge Provider or Cash Management Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Cash Management Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;

The Collateral Trust Agreement further provides that the foregoing provision will not alter the priorities of the Liens of the Priority Collateral Trustee and the Junior Collateral Trustee or among Secured Parties belonging to different Classes as provided above under the caption “—Priority of Liens.”

Restrictions on Enforcement of Junior Liens

The Collateral Trust Agreement provides that, until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, the Priority Lien Secured Parties will have, subject to the exceptions set forth below in clauses (1) through (6), and subject to the rights of the holders of Permitted Prior Liens, including the provisions described below under the caption “—Provisions of the Indenture Relating to Security—Relative Rights,” the exclusive right to authorize and direct the Collateral Trustee with respect to the Security Documents and the Collateral including, without limitation, the exclusive right to authorize or direct the Priority Collateral Trustee to enforce, collect or realize on any Collateral or exercise any other right or remedy with respect to the Collateral (including, without limitation, the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee’s letter or similar agreement or arrangement) and no Junior Lien Representative or Junior Lien Secured Party may authorize or direct the Junior Collateral Trustee with respect to such matters; provided, however, that the Required Junior Lien Debtholders (or any Junior Lien Representative representing such Required Junior Lien Debtholders) may so direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral thereunder after the date (the “Junior Lien Enforcement Date”) that is 180 days after the later of: (i) the date on which any Junior Lien Representative has declared the existence of any Event of Default under (and as defined in) any Junior Lien Document and demanded the repayment of all the principal amount of all Junior Lien Obligations thereunder; and (ii) the date on which the Collateral Trustee and each Priority Lien Representative has received notice from such Junior Lien Representative of such declarations of an Event of Default; provided

further that notwithstanding anything in the Collateral Trust Agreement to the contrary, the Junior Lien Enforcement Date shall be stayed and shall be deemed not to have occurred (I) at any time the Priority Collateral Trustee has commenced and is diligently pursuing any enforcement action with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives); (II) at any time the Grantor which has granted a security interest in such Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding or (III) solely with respect to any ABL Priority Collateral, at any time that the Priority Collateral Trustee is stayed from taking any enforcement action pursuant to the terms of the ABL Intercreditor Agreement. Notwithstanding the foregoing, subject to the rights of the ABL Collateral Agent under the ABL Intercreditor Agreement, the requisite Junior Lien Secured Parties may direct the Junior Collateral Trustee or the Junior Lien Representative, as applicable (and, in the case of subclauses (5) and (6) below, any Junior Lien Secured Party may):

- (1) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations;
- (2) as necessary to redeem any Collateral in a creditors' redemption permitted by law or to deliver any notice or demand necessary to enforce any right to claim, take or receive proceeds of Collateral remaining after the Discharge of Priority Lien Obligations;
- (3) in order to perfect or establish the priority (subject to Priority Liens) of the Junior Liens upon any Collateral; provided that the Junior Lien Secured Parties may not require the Collateral Trustee to take any action to perfect any Collateral through possession or control other than the Priority Collateral Trustee taking any action for possession or control required by any Security Documents and the Priority Collateral Trustee agreeing pursuant to the Collateral Trust Agreement that the Priority Collateral Trustee agrees to act as bailee and/or agent for and on behalf of the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties as specified in the Collateral Trust Agreement;
- (4) as necessary to create, prove, preserve or protect (but not enforce) its rights in, and perfection and priority of the Junior Liens upon any Collateral;
- (5) file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Lien Secured Parties, including any claims secured by the Collateral, if any, or the avoidance of any Junior Lien, in each case to the extent not inconsistent with the terms of the Collateral Trust Agreement; or
- (6) vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim or statement of interest, make other filings and make any arguments and motions that are, in each case, with respect to the Junior Lien Obligations and the Collateral; provided that no filing of any claim or vote, or pleading related to such claim or vote, to accept or reject a disclosure statement, plan of reorganization, arrangement, compromise or liquidation, or any other document, agreement or proposal similar to the foregoing by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or any Junior Lien Representative may be inconsistent with the provisions of the Collateral Trust Agreement.

Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, none of the Junior Lien Secured Parties, the Junior Collateral Trustee (unless acting pursuant to an Act of Required Secured Parties) or any Junior Lien Representative will:

- (1) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other court, or take any other action, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the Priority Lien Secured Parties in respect of the Priority Liens (subject to the exceptions set forth above in clauses (1) through (7)) or that would limit, invalidate, avoid or set aside any Priority Lien or subordinate the Priority Liens to the Junior Liens or grant the Junior Liens equal ranking to the Priority Liens;

- (2) oppose or otherwise contest any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement of Priority Liens made by any Priority Lien Secured Party or any Priority Lien Representative in any Insolvency or Liquidation Proceedings;
- (3) oppose or otherwise contest any lawful exercise by any Priority Lien Secured Party or any Priority Lien Representative of the right to credit bid Priority Lien Debt at any sale of Collateral in foreclosure of Priority Liens;
- (4) oppose or otherwise contest any other request for judicial relief made in any court by any holder of Priority Lien Obligations or any Priority Lien Representative relating to the lawful enforcement of any Priority Lien;
- (5) contest, protest or object to any foreclosure proceeding or action brought by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party or any other exercise by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party of any rights and remedies relating to the Collateral under the Priority Lien Documents or otherwise and each Junior Lien Representative on behalf of itself and each Junior Lien Secured Party hereby waives any and all rights it may have to object to the time or manner in which the Priority Collateral Trustee or any Priority Lien Secured Party seeks to enforce the Priority Lien Obligations or the Priority Liens, in each case, subject to the exceptions set forth above in clauses (1) through (7);
- (6) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding) the validity, enforceability, perfection, priority or extent of the Priority Liens or the amount, nature or extent of the Priority Lien Obligations; or
- (7) object to the forbearance by the Priority Collateral Trustee from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral;

provided, that notwithstanding the foregoing, the Required Junior Lien Debtholders (or any Junior Lien Representative representing such Required Junior Lien Debtholders) may direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral from and after the Junior Lien Enforcement Date as described under the caption “—Restrictions on Enforcement of Junior Liens.”

Except as specifically set forth in the Collateral Trust Agreement, both before and during an Insolvency or Liquidation Proceeding, the Junior Lien Secured Parties and the Junior Lien Representative may take any actions and exercise any and all rights that would be available to a holder of unsecured claims that are not inconsistent with the Collateral Trust Agreement.

At any time prior to the Discharge of Priority Lien Obligations and after (a) the commencement of any Insolvency or Liquidation Proceeding in respect of the Company or any other Grantor or (b) the Junior Collateral Trustee and each Junior Lien Representative have received written notice from any Priority Lien Representative at the direction of an Act of Required Secured Parties stating that (i) any Series of Priority Lien Debt has become due and payable in full (whether at maturity, upon acceleration or otherwise) or (ii) the Priority Lien Secured Parties securing one or more Series of Priority Lien Debt have become entitled under any Priority Lien Documents to and desire to enforce any or all of the Priority Liens by reason of a default under such Priority Lien Documents, no payment of money (or the equivalent of money) will be made from the proceeds of Collateral by the Company or any other Grantor to the Junior Collateral Trustee or any Junior Lien Secured Party (including, without limitation, payments and prepayments made from such proceeds for application to Junior Lien Obligations and all other payments and deposits made from such proceeds pursuant to any Junior Lien Document).

All proceeds of Collateral received by the Junior Collateral Trustee, any Junior Lien Representative or any Junior Lien Secured Party in violation of the two immediately preceding paragraphs and all proceeds of

Collateral received by the Junior Collateral Trustee, any Junior Lien Representative or Junior Lien Secured Party in connection with any exercise of remedies against the Collateral will be held by the Junior Collateral Trustee, the applicable Junior Lien Representative or the applicable Junior Lien Secured Party in trust for the account of the Priority Lien Secured Parties and remitted to the Priority Collateral Trustee for application in accordance with the provisions described below under the caption “Collateral Trust Agreement—Order of Application.” The Junior Liens will remain attached to and enforceable against all proceeds so held or remitted until applied to satisfy the Priority Lien Obligations. All proceeds of Collateral received by the Junior Collateral Trustee, any Junior Lien Secured Party and Junior Lien Representative not in violation of the two immediately preceding paragraphs will be received by the Junior Collateral Trustee, the Junior Lien Secured Parties and the Junior Lien Representatives free from the Priority Liens and all other Liens except the Junior Liens.

Waiver of Right of Marshalling

The Collateral Trust Agreement provides that, prior to the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties, each Junior Lien Representative and the Junior Collateral Trustee may not assert or enforce any marshaling, appraisal, valuation or other similar right accorded to a junior lienholder under applicable law, as against the Priority Lien Secured Parties or the Priority Lien Representatives (in their respective capacities as such). Following the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties and any Junior Lien Representative may assert their right under the Uniform Commercial Code or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the Priority Lien Secured Parties.

Insolvency or Liquidation Proceedings

The Collateral Trust Agreement provides that, if in any Insolvency or Liquidation Proceeding and prior to the Discharge of Priority Lien Obligations, the Priority Lien Secured Parties by an Act of Required Secured Parties shall desire to permit the use of “Cash Collateral” (as such term is defined in Section 363(a) of the Bankruptcy Code), or to permit the Company or any other Grantor to obtain financing, whether from the Priority Lien Secured Parties or any other Person under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law (“DIP Financing”) then each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative for itself and on behalf of the other Junior Lien Secured Parties represented by it, will raise no objection to such Cash Collateral use or DIP Financing including any proposed orders for such Cash Collateral use and/ or DIP Financing which are acceptable to the Priority Lien Secured Parties) and to the extent the Liens securing the Priority Lien Obligations are subordinated to or *pari passu* with such DIP Financing, the Junior Collateral Trustee will subordinate its Junior Liens in the Collateral to the Liens securing such DIP Financing (and all Obligations relating thereto) and will not request adequate protection or any other relief in connection therewith (except, as expressly agreed by the Priority Lien Secured Parties or to the extent permitted as described below under this caption “—Insolvency or Liquidation Proceedings;” provided that the Junior Lien Secured Parties will retain the right to object to any ancillary agreements or arrangements regarding Cash Collateral use or the DIP Financing that are materially prejudicial to their interests. No Junior Lien Secured Party may provide DIP Financing to the Company or other Grantor secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations, provided that if no Priority Lien Secured Party offers to provide DIP Financing to the extent permitted under this paragraph on or before the date of the hearing to approve DIP Financing, then a Junior Lien Secured Party may seek to provide such DIP Financing secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations, and the Priority Lien Secured Parties may object thereto; provided, further, that such DIP Financing may not “roll-up” or otherwise include or refinance any pre-petition Junior Lien Obligations. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf itself and the Junior Lien Secured Parties represented by it agree that each of them will not seek consultation rights in connection with, and will raise no objection to or oppose a motion to sell, liquidate or otherwise dispose of Collateral under Section 363 of the Bankruptcy Code if the requisite Priority Lien Secured Parties have consented to such sale, liquidation or other disposition; provided that, to the extent such sale, liquidation or other disposition is to be free and clear of Liens, the Liens securing the Priority Lien Obligations and the Junior Lien Obligations will attach to the proceeds of the sale, liquidation or

other disposition on the same basis of priority as the Liens on the Collateral securing the Priority Lien Obligations rank to the Liens on the Collateral securing the Junior Lien Obligations pursuant to the Collateral Trust Agreement. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of itself and the Junior Lien Secured Parties represented by it will not directly or indirectly oppose or impede entry of any order in connection with such sale, liquidation or other disposition, including orders to retain professionals or set bid procedures in connection with such sale, liquidation or disposition if the requisite Priority Lien Secured Parties have consented to such (i) retention of professionals and bid procedures in connection with such sale, liquidation or disposition of such assets and (ii) the sale, liquidation or disposition of such assets, in which event the Junior Lien Secured Parties will be deemed to have consented to the sale or disposition of Collateral pursuant to Section 363(f) of the Bankruptcy Code and such motion does not impair the rights of the Junior Lien Secured Parties under Section 363(k) of the Bankruptcy Code.

The Collateral Trust Agreement provides that until the Discharge of Priority Lien Obligations has occurred, none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Party represented by it, shall: (i) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral, without the prior written consent of the Priority Lien Secured Parties, unless a motion for adequate protection permitted under this caption “—Insolvency or Liquidation Proceedings” has been denied by a bankruptcy court or (ii) oppose (or support any other Person in opposing) any request by the Priority Lien Secured Parties for relief from such stay.

The Collateral Trust Agreement provides that if, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of Priority Lien Obligations and on account of Junior Lien Obligations, then, to the extent the debt obligations distributed on account of the Priority Lien Obligations and on account of the Junior Lien Obligations are secured by Liens upon the same property, the provisions of the Collateral Trust Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

The Collateral Trust Agreement provides that none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties represented by it shall contest (or support any other Person contesting): (1) any request by the Priority Lien Representatives or the Priority Lien Secured Parties for adequate protection under any Bankruptcy Law; or (2) any objection by the Priority Lien Representatives or the Priority Lien Secured Parties to any motion, relief, action or proceeding based on the Priority Lien Secured Parties claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding: (1) if the Priority Lien Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any Cash Collateral use or DIP Financing, then the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or Junior Lien Representative, on behalf of itself or any of the other Junior Lien Secured Parties represented by it, may seek or request adequate protection in the form of a Lien on such additional collateral, which Lien will be subordinated to the Liens securing the Priority Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Junior Lien Obligations are so subordinated to the Priority Lien Obligations under the Collateral Trust Agreement; and (2) each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representatives and the Junior Lien Secured Parties shall only be permitted to seek adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding in the form of (A) additional collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted a senior Lien on such additional collateral; (B) replacement Liens on the Collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted senior replacement

Liens on the Collateral; and (C) an administrative expense claim; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted an administrative expense claim which is senior and prior to the administrative expense claim of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of the Junior Lien Secured Parties represented by it. If any Junior Lien Secured Party receives adequate protection payments in an Insolvency or Liquidation Proceeding ("Junior Lien Adequate Protection Payments"), and the Priority Lien Secured Parties do not receive payment in full in cash of all Priority Lien Obligations upon the effectiveness of the plan of reorganization for, or conclusion of, that Insolvency or Liquidation Proceeding, then, each Junior Lien Secured Party shall pay over to the Priority Lien Secured Party an amount (the "Pay-Over Amount") equal to the lesser of (i) the Junior Lien Adequate Protection Payments received by such Junior Lien Secured Parties and (ii) the amount of the short-fall (the "Short Fall") in payment in full of the Priority Lien Obligations; provided that to the extent any portion of the Short Fall represents payments received by the Priority Lien Secured Parties in the form of promissory notes, equity or other property, equal in value to the cash paid in respect of the Pay-Over Amount, the Priority Lien Secured Parties shall, upon receipt of the Pay-Over Amount, transfer those promissory notes, equity or other property, pro rata, equal in value to the cash paid in respect of the Pay-Over Amount to the applicable Junior Lien Secured Parties in exchange for the Pay-Over Amount. Notwithstanding anything in the Collateral Trust Agreement to the contrary, the Priority Lien Secured Parties shall not be deemed to have consented to, and expressly retain their rights to object to the grant of adequate protection in the form of cash payments to the Junior Lien Secured Parties made pursuant to this paragraph.

Nothing in the Collateral Trust Agreement, except as expressly provided therein, prohibits or in any way limits any Priority Lien Representative or any Priority Lien Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), any Junior Lien Representative or any of the other Junior Lien Secured Parties, including the seeking by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of adequate protection or the asserting by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), any Junior Lien Representative or any of the other Junior Lien Secured Parties of any of its rights and remedies under the Junior Lien Documents or otherwise.

The Collateral Trust Agreement provides that if any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Company or any other Grantor any amount paid in respect of Priority Lien Obligations (a "Recovery"), then such Priority Lien Secured Party shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts on the date of such Recovery, and from and after the date of such reinstatement the Discharge of Priority Lien Obligations shall be deemed not to have occurred for all purposes hereunder. If the Collateral Trust Agreement is terminated prior to such Recovery, the Collateral Trust Agreement will be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

The Collateral Trust Agreement provides that the grants of Liens pursuant to the Priority Lien Security Documents and the Junior Lien Security Documents constitute two separate and distinct grants of Liens; and because of, among other things, their differing rights in the Collateral, the Junior Lien Obligations are fundamentally different from the Priority Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. If it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then all distributions will be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior

secured claims) in respect of post-petition interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding) before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, and the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or each Junior Lien Representative, as applicable, for itself and on behalf of the Junior Lien Secured Parties for whom it acts as representative, will turn over to the Priority Collateral Trustee for application in accordance with the Collateral Trust Agreement, Collateral or proceeds of Collateral otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties).

The Collateral Trust Agreement provides that, notwithstanding any other provision to the contrary, each Junior Lien Representative and the Junior Collateral Trustee, for itself and on behalf of each other Junior Lien Secured Party represented by it, agrees that none of such Junior Lien Representative or the Junior Collateral Trustee, the Junior Lien Secured Parties represented by it or any agent or trustee on behalf of any of them shall, for any purpose during any Insolvency or Liquidation Proceeding or otherwise, support, endorse, propose or submit, whether directly or indirectly, any plan of reorganization that provides for the impairment of repayment of the Priority Lien Obligations unless the Priority Lien Secured Parties or the Priority Lien Representative, in each case, specified in clauses (1) or (2) of the definition of Act of Required Secured Parties shall have consented to such plan in writing.

The Collateral Trust Agreement is a “subordination agreement” under Section 510(a) of the Bankruptcy Code, which will be effective before, during and after the commencement of an insolvency proceeding. All references in the Collateral Trust Agreement to any Grantor will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an insolvency proceeding.

Order of Application

The Collateral Trust Agreement provides that if any Collateral is sold or otherwise realized upon by the Collateral Trustee in connection with any collection, sale, foreclosure or other enforcement of Liens granted to the Collateral Trustee in the Security Documents, the proceeds received by the Collateral Trustee from such collection, sale, foreclosure or other enforcement and the proceeds received by the Collateral Trustee or any Priority Lien Secured Party or Junior Lien Secured Party of any insurance policy maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral will be distributed by the Collateral Trustee, subject to the terms of the ABL Intercreditor Agreement, in the following order of application:

FIRST, to the payment of all amounts payable under the Collateral Trust Agreement on account of the Collateral Trustee’s fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Trustee or any co-trustee or agent of the Collateral Trustee in connection with any Security Document (including, but not limited to, indemnification obligations that are then due and payable to the Collateral Trustee or any co-trustee or agent of the Collateral Trustee);

SECOND, to the repayment of obligations, other than the Secured Obligations, secured by a Permitted Prior Lien on the Collateral sold or realized upon to the extent that such other Lien has priority over the Priority Liens but only if such obligation is discharged (in whole or in part) in connection with such sale;

THIRD, to the respective Priority Lien Representatives on a pro rata basis for each Series of Priority Lien Debt (and Swap Obligations represented by such Priority Lien Representative) that are secured by such Collateral for application to the payment of all such outstanding Priority Lien Debt and any other such Priority Lien Obligations (other than Cash Management Obligations) that are then due and payable and so secured (for application in such order as may be provided in the Priority Lien Documents applicable to the respective Priority Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Priority Lien Debt and all other Priority Lien Obligations (other than Cash Management Obligations) that are then due and payable and so secured (including all interest and fees accrued thereon after the commencement of

any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt);

FOURTH, to the respective Priority Lien Representatives on a pro rata basis for any Cash Management Obligations represented by such Priority Lien Representative that are secured by such Collateral for application to the payment of all such Cash Management Obligations that are then due and payable (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding);

FIFTH, to the respective Junior Lien Representatives on a pro rata basis for each Series of Junior Lien Debt that are secured by such Collateral for application to the payment of all outstanding Junior Lien Debt and any other Junior Lien Obligations that are so secured and then due and payable (for application in such order as may be provided in the Junior Lien Documents applicable to the respective Junior Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Junior Lien Debt and all other Junior Lien Obligations that are then due and payable and so secured (including, to the extent legally permitted, all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Junior Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Junior Lien Document) of all outstanding letters of credit, if any, constituting Junior Lien Debt); and

SIXTH, any surplus remaining after the payment in full in cash of amounts described in the preceding clauses will be paid to the Company or the applicable Grantor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law or as a court of competent jurisdiction may direct.

Notwithstanding the foregoing, if any Series of Secured Debt has released its Lien on any Collateral as set forth in the Collateral Trust Agreement, then such Series of Secured Debt and any related Secured Obligations of that Series thereafter shall not be entitled to share in the proceeds of any Collateral so released by that Series.

If any Junior Collateral Trustee, the Junior Lien Representative or any Junior Lien Secured Party collects or receives on account of any Junior Lien Obligations any proceeds of any foreclosure, collection or other enforcement, proceeds of any insurance maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral and any proceeds of any assets that were subject to Priority Liens that have been avoided or otherwise invalidated that should have been applied to the payment of the Priority Lien Obligations in accordance with the immediately preceding paragraph, whether after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Junior Lien Representative or such Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Priority Collateral Trustee, for the account of the Priority Lien Secured Parties, to be applied in accordance with the provisions set forth in the immediately preceding paragraph. Until so delivered, such proceeds shall be segregated and will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

The provisions set forth under this caption “—Order of Application” are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Secured Obligations, each present and future Secured Debt Representative and the Collateral Trustee as holder of Priority Liens and Junior Liens. The Secured Debt Representative of each future Series of Secured Debt will be required to deliver a lien

sharing and priority confirmation to the Collateral Trustee and each other Secured Debt Representative at the time of incurrence of such Series of Secured Debt.

Release of Liens on Collateral

The Collateral Trust Agreement provides that the Priority Collateral Trustee's and/or Junior Collateral Trustee's Liens, as applicable, upon the Collateral will be released or subordinated in any of the following circumstances:

(1) the Collateral Trustee's Liens will be released in whole, upon (A) payment in full in cash and discharge of all outstanding Secured Debt and all other Secured Obligations that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged; (B) termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation, termination or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Secured Debt Documents) of all outstanding letters of credit issued pursuant to any Secured Debt Documents or, solely to the extent if any agreed to by the issuer of any outstanding letter of credit issued pursuant to any Secured Debt Document, the issuance of a back to back letter of credit in favor of the issuer of any such outstanding letter of credit in an amount equal to such outstanding letter of credit and issued by a financial institution acceptable to such issuer and (C) with respect to any Swap Obligations, (x) the cash collateralization of all such Swap Obligations on terms satisfactory to each applicable Hedge Provider or (y) the expiration or termination of all Swap Contracts evidencing such Swap Obligations and payment in full in cash of all Swap Contracts with respect thereto;

(2) the Collateral Trustee's Liens will be released as to any Collateral that is sold, transferred or otherwise disposed of by the Company or any other Grantor to a Person that is not (either before or after such sale, transfer or disposition) the Company or a Restricted Subsidiary of the Company in a transaction or other circumstance that is permitted by all of the Secured Debt Documents, at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; provided that the Collateral Trustee's Liens upon the Collateral will not be released if the sale or disposition is subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"

(3) as to a release of less than all or substantially all of the Collateral (other than pursuant to clause (2) above), the Collateral Trustee's Liens on such Collateral will be released if directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the release was permitted by each applicable Secured Debt Document; provided, that this clause (3) shall not apply to (i) Discharge of Priority Lien Obligations upon payment in full thereof or (ii) sales or dispositions subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"

(4) as to a release of all or substantially all of the Collateral (other than pursuant to clause (1) above), the Collateral Trustee's Liens on such Collateral will be released if (A) consent to release of that Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt at the time outstanding as provided for in the applicable Secured Debt Documents, and (B) the Company has delivered an Officer's Certificate to the Collateral Trustee in the form required under the Collateral Trust Agreement certifying that any such necessary consents have been obtained;

(5) (i) if any Guarantor is released from its obligations under each of the Priority Lien Documents in accordance with the terms thereof, then the Priority Liens on any assets of such Guarantor constituting Collateral and the obligations of such Guarantor under its Guarantee of the Priority Lien Obligations, shall automatically, unconditionally and simultaneously be released; and (ii) if any Guarantor is released from all its obligations under each of the Junior Lien Documents in accordance with the terms thereof, then the Junior Liens on any assets of such Guarantor constituting Collateral and the obligations of such Guarantor under its Guarantee of the Junior Lien Obligations, shall be automatically, unconditionally and simultaneously released;

(6) notwithstanding any of the foregoing, if, prior to the Discharge of Priority Lien Obligations, the Priority Collateral Trustee is exercising its rights or remedies with respect to the Collateral under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, and the Priority Collateral Trustee releases any part of the Collateral from all of the Priority Liens or any Guarantor is released from its obligations under its Guarantee of all of the Priority Lien Obligations, in any such case, in connection with any collection, sale, foreclosure or other enforcement, then the Junior Liens on such Collateral or the obligations of such Guarantor under its Guarantee of the Junior Lien Obligations, as the context may require, shall be automatically, unconditionally and simultaneously released to the same extent. If in connection with any exercise of rights and remedies by the Priority Collateral Trustee under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, the equity interests of any Person are foreclosed upon or otherwise disposed of and the Priority Collateral Trustee releases the Priority Lien on the property or assets of such Person then the Junior Liens with respect to the property or assets of such Person will be concurrently and automatically released to the same extent as all of the Priority Liens on such property or assets are released;

(7) solely with respect to ABL Priority Collateral, if and to the extent required by the ABL Intercreditor Agreement;

(8) the Collateral Trustee's Liens on any Collateral will be subordinated as directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the subordination was permitted by each applicable Secured Debt Document; and

(9) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction.

Release of Liens in Respect of Notes

The indenture and the Collateral Trust Agreement will provide that the Collateral Trustee's or Co-Issuer Notes Collateral Trustee's, as applicable, Liens upon the Collateral will no longer secure the notes outstanding under the indenture or any other Obligations under the indenture, and the right of the holders of the notes and such Obligations to the benefits and proceeds of the Collateral Trustee's or Co-Issuer Notes Collateral Trustee's, as applicable, Liens on the Collateral will terminate and be discharged:

(1) upon satisfaction and discharge of the indenture as set forth under the caption "—Defeasance and Discharge;"

(2) upon a Legal Defeasance or Covenant Defeasance of the notes as set forth under the caption "—Defeasance and Discharge;"

(3) upon payment in full and discharge of all notes outstanding under the indenture and all Obligations that are outstanding, due and payable under the indenture at the time the notes are paid in full and discharged; or

(4) in whole or in part, with the consent of the holders of the requisite percentage of notes in accordance with the provisions described below under the caption "—Amendments and Waivers."

Amendment of Security Documents

The Collateral Trust Agreement provides that no amendment or supplement to the provisions of any Security Document will be effective without the approval of the Collateral Trustee acting as directed by an Act of Required Secured Parties, except that:

(1) any amendment or supplement that has the effect solely of:

- (a) adding or maintaining Collateral, securing additional Secured Obligations that are otherwise not prohibited by the terms of any Secured Debt Document to be secured by the Collateral or preserving, perfecting or establishing the Liens thereon or the rights of the Collateral Trustee therein; or

- (b) providing for the assumption of any Grantor's obligations under any Secured Debt Document in the case of a merger or consolidation or sale of all or substantially all of the assets of such Grantor to the extent not prohibited by the terms of the indenture governing the notes, the Existing Credit Facility or any other Secured Debt Documents, as applicable;

will become effective when executed and delivered by the Company or any other applicable Grantor party thereto and the Collateral Trustee for the applicable Class of Security Document being so amended or supplemented;

- (2) no amendment or supplement that reduces, impairs or adversely affects the right of any Secured Party:
 - (a) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Required Secured Parties (or amends the provisions of this clause (2) or the definitions of "Act of Required Secured Parties", "Act of Required Secured Parties", "Act of Required Junior Lien Debtholders", "Major Non-Controlling Priority Representative" or "Controlling Representative"),
 - (b) to share in the order of application described above under "—Order of Application" in the proceeds of enforcement of or realization on any Collateral, in each case that has not been released in accordance with the provisions described above under the caption "—Release of Liens on Collateral" or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt,
 - (c) to require that Liens securing Secured Obligations be released only as set forth in the provisions described above under the caption "—Release of Liens on Collateral" or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt, or
 - (d) to amend the terms described under this caption relating to amendments,

will become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Document; and

- (3) no amendment or supplement that imposes any obligation upon or adversely affects the rights of (i) the Priority Collateral Trustee and/or the Junior Collateral Trustee or (ii) any Secured Debt Representative, in any case, in its capacity as such will become effective without the consent of (i) the Priority Collateral Trustee or the Junior Collateral Trustee so affected (or both, in the case of a such an amendment or supplement generally affecting the Collateral Trustee) or (ii) such Secured Debt Representative, respectively.

Any amendment or supplement to the provisions of the Security Documents that releases Collateral will be effective only in accordance with the requirements set forth in the applicable Secured Debt Document referenced above under the caption "—Release of Liens on Collateral." Any amendment or supplement that results in the Collateral Trustee's Liens upon the Collateral no longer securing the notes and the other Obligations under the indenture may only be effected in accordance with the provisions described above under the captions "—Release of Liens in Respect of Notes" or "—Release of Liens on Collateral."

The Collateral Trust Agreement provides that, notwithstanding anything to the contrary under the caption "—Amendment of Security Documents," but subject to clauses (2) and (3) above:

- (1) any Mortgage or other Security Document that secures Junior Lien Obligations (but not Priority Lien Obligations) may be amended or supplemented with the approval of the Junior Collateral Trustee acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment or supplement would not be permitted under the terms of the Collateral Trust Agreement or the other Priority Lien Documents; and
- (2) any amendment or waiver of, or any consent under any Priority Lien Security Document will apply automatically to any comparable provision of any comparable Junior Lien Document without the consent

Voting

In connection with any matter under the Collateral Trust Agreement requiring a vote of holders of Secured Debt, each Series of Secured Debt will cast its votes in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt to be voted by a Series of Secured Debt will equal (1) the aggregate principal amount of Secured Debt held by the holders of such Series of Secured Debt (including outstanding letters of credit whether or not then available or drawn), *plus* (2) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Funded Debt of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt will vote the total amount of Secured Debt under that Series of Secured Debt as a block in respect of any vote under the Collateral Trust Agreement. Upon request of the Collateral Trustee, each Priority Lien Representative and each Junior Lien Representative will provide a written notice to the Collateral Trustee of the aggregate principal amount of Priority Lien Debt or Junior Lien Debt for which it acts as Priority Lien Representative or Junior Lien Representative.

Second Lien Collateral Trust Agreement

The Company and the other Grantors will enter into a collateral trust agreement, with the priority collateral trustee thereunder, the representatives for the first-lien secured debt holders of PIC AU Holdings LLC and PIC AU Holdings Inc., and Wilmington Trust, National Association, in its capacity as Priority Collateral Trustee, as the junior collateral trustee on behalf of the representatives of the Priority Lien Obligations (the “Second Lien Collateral Trust Agreement”). This collateral trust agreement will document how the collateral trustees receive, hold, administer, maintain, enforce and distribute the proceeds of all Liens upon the Second Lien Collateral at any time held by them, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof). By its acceptance of the Notes, each holder is deemed to authorize and direct the Priority Collateral Trustee to enter into and perform under the Second Lien Collateral Trust Agreement in the capacity as “Junior Lien Representative” thereunder.

Provisions of the Indenture Relating to Collateral

Relative Rights

Nothing in the indenture or the Security Documents will:

- (1) impair, as to the Company and the holders of the notes, the obligation of the Company to pay principal of, premium and interest on the notes in accordance with their terms or any other obligation of the Company or any other Grantor;
- (2) affect the relative rights of holders of notes as against any other creditors of the Company or any other Grantor (other than holders of Priority Liens or Junior Liens);
- (3) restrict the right of any holder of notes to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral to the extent specifically prohibited by the provisions described above under the captions “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”) or “—Second Lien Collateral Trust Agreement”;
- (4) restrict or prevent any holder of notes or other Priority Lien Obligations, the Priority Collateral Trustee or any Priority Lien Representative from exercising any of its rights or remedies upon a Default or Event of Default not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings” or “—Second Lien Collateral Trust Agreement”; or

- (5) restrict or prevent any holder of notes or other Junior Lien Obligations, the Junior Collateral Trustee or any Junior Lien Representative from taking any lawful action in an Insolvency or Liquidation Proceeding not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings” or “—Second Lien Collateral Trust Agreement.”

Further Assurances; Insurance

The indenture will provide that the Company and each of the other Grantors will do or cause to be done all acts and things that may be required, or that the Collateral Trustee from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

The Company and each of the other Grantors will promptly execute, acknowledge and deliver such Security Documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that the Controlling Collateral Trustee may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the Secured Parties; it being understood that none of the Collateral Trustee or any Secured Debt Representative shall have a duty to so request.

The Company and the other Grantors will:

- (1) keep their properties adequately insured at all times by financially sound and reputable insurers;
- (2) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;
- (3) maintain such other insurance as may be required by law; and
- (4) maintain such other insurance as may be required by the Security Documents.

Upon the request of the Collateral Trustee, the Company and the other Grantors will furnish to the Collateral Trustee full information as to their property and liability insurance carriers.

Optional Redemption

Except as set forth below and the last paragraph of the covenant described below under “— Repurchase of Notes at the Option of Holders— Change of Control,” the notes will not be redeemable at the option of the Company.

At any time prior to December 31, 2022 the Company may redeem the notes, in whole or in part, upon prior notice as described under “— Selection and Notice,” by paying a redemption price equal to 100% of the Accreted Value of the notes to be redeemed plus the Applicable Premium, and accrued and unpaid interest, if any, to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

At any time and from time to time on or after December 31, 2022, the Company may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” at a redemption price equal to

the percentage of the Accreted Value set forth below plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

12-month period commencing December 31 in Year	
2022	104.250%
2023 and thereafter	100.000%

At any time and from time to time prior to December 31, 2022, the Company may redeem up to 35% of the Accreted Value of the notes (including the Accreted Value of any Additional Notes) at a redemption price equal to 108.500% of the Accreted Value plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest on the relevant interest payment date), but in an Accreted Value not to exceed the net cash proceeds of one or more Equity Offerings, provided that

- (1) in each case, the redemption takes place not later than 180 days after the closing of the related Equity Offering, and
- (2) not less than 65% of the Accreted Value of the notes (including the Accreted Value of any Additional Notes) remains outstanding immediately thereafter.

Unless the Company defaults in the payment of the applicable redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on and after the applicable redemption date.

Repurchase of Notes at the Option of Holders

Change of Control

Not later than 30 days following a Change of Control, the Company will make an Offer to Purchase (as defined below) all outstanding notes at a purchase price equal to 101% of the Accreted Value of the notes repurchased, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date); *provided, however*, that notwithstanding the occurrence of a Change of Control, the Company shall not be obligated to purchase the notes pursuant to this covenant in the event that (i) during the 30-day period following such Change of Control, the Company has given the notice to exercise its right to redeem all the notes under the terms described in “—Optional Redemption” and redeemed such notes in accordance with such notice, unless and until there is a default in payment of the applicable redemption price, or (ii) a third party makes the Offer to Purchase in the manner, at the time and otherwise in compliance with the requirements set forth in the indenture applicable to an Offer to Purchase made by the Company and purchases all notes properly tendered and not withdrawn under the offer.

An “Offer to Purchase” means a written offer, which will specify the Accreted Value of notes subject to the offer and the purchase price. The offer must specify an expiration date (the “expiration date”) not less than 30 days or more than 60 days after the date of the offer, and a settlement date for purchase (the “purchase date”) not more than five business days after the expiration date. The offer must include information concerning the business of the Company and its Subsidiaries which the Company in good faith believes will enable the holders to make an informed decision with respect to the Offer to Purchase. The offer will also contain instructions and materials necessary to enable holders to tender notes pursuant to the offer. If the Offer to Purchase is sent prior to the occurrence of the Change of Control, it may be conditioned upon the consummation of the Change of Control.

A holder may tender all or any portion of its notes pursuant to an Offer to Purchase, subject to the requirement that any portion of a note tendered must be in a minimum of \$2,000 principal amount or a multiple of \$1,000 principal amount in excess thereof. Holders are entitled to withdraw notes tendered up to the close of

business on the expiration date. On the purchase date the purchase price will become due and payable on each note accepted for purchase pursuant to the Offer to Purchase, and interest on notes purchased will cease to accrue on and after the purchase date.

Notes repurchased by the Company pursuant to an Offer to Purchase will have the status of notes issued but not outstanding or will be retired and canceled at the option of the Company.

Notes purchased by a third party pursuant to the preceding paragraphs will have the status of notes issued and outstanding.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to an Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

The Change of Control provisions described above may deter certain mergers, tender offers and other takeover attempts involving the Company by increasing the capital required to effectuate such transactions. The definition of Change of Control also includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of the Company and its Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a noteholder to require the Company to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Company and its Subsidiaries taken as a whole to another Person or group may be uncertain.

Holders may not be entitled to require us to purchase their notes in certain circumstances involving a significant change in the composition of our Board of Directors, including in connection with a proxy contest where our Board of Directors does not approve a dissident slate of directors but approves them as continuing directors, even if our Board of Directors initially opposed the directors.

Future debt of the Company may prohibit the Company from purchasing notes in the event of a Change of Control, provide that a Change of Control is a default or require the Company to repurchase the notes upon a Change of Control. Moreover, the exercise by the noteholders of their right to require the Company to purchase the notes could cause a default under other such future Debt, even if the Change of Control itself does not, due to the financial effect of the purchase on the Company.

Finally, the Company’s ability to pay cash to the noteholders following the occurrence of a Change of Control may be limited by the Company’s then existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the notes. See “Risk Factors—Risks Related to the Notes—We may be unable to purchase the notes upon a change of control.”

Except as described above with respect to a Change of Control, the indenture will not contain provisions that permit the holder of the notes to require that the Company purchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The provisions under the indenture relating to the Company’s obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or amended as described below in “—Amendments and Waivers.”

In the event that holders of not less than 90% of the aggregate Accreted Value of the outstanding notes accept an Offer to Purchase and the Company (or the third party making the Offer to Purchase in lieu of the

Company) purchases all of the notes held by such holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior written notice to the holders and the Trustee, given not more than 30 days following the purchase pursuant to the Offer to Purchase described above, to redeem all of the notes that remain outstanding following such purchase at a redemption price equal to the Offer to Purchase payment price plus accrued and unpaid interest on the notes redeemed to the date of redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

Asset Sales

The Company will not, and will not permit any Restricted Subsidiary to, make any Asset Sale unless the following conditions are met:

- (1) The Asset Sale is for at least Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale).
- (2) At least 75% of the aggregate consideration received by the Company or its Restricted Subsidiaries for such Asset Sale consists of cash or Cash Equivalents.

For purposes of this clause (2):

- (A) the assumption by the purchaser of Debt or other obligations or liabilities (as shown on the Company's most recent balance sheet or in the footnotes thereto) (other than Subordinated Debt or other obligations or liabilities subordinated in right of payment to the notes) of the Company or a Restricted Subsidiary pursuant to operation of law or a customary novation or assumption agreement,
- (B) Additional Assets,
- (C) instruments, notes, securities or other obligations received by the Company or such Restricted Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Company or such Restricted Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received, and
- (D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in the Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (D) that is at that time outstanding, not to exceed the greater of (x) \$70.0 million and (y) 2.0% of the Company's Consolidated Net Tangible Assets at the time of receipt of such outstanding Designated Non-cash Consideration (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value),

shall in each case be considered cash or Cash Equivalents.

- (3) Within 360 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Company or a Restricted Subsidiary may apply an amount equal to such Net Cash Proceeds at its option:
 - (A) to permanently prepay, repay, redeem, reduce or repurchase Debt as follows:
 - (i) if the assets subject to such Asset Sale constitute Collateral, to prepay, repay, redeem, reduce or purchase Priority Lien Obligations on a pro rata basis; provided that all reductions of (or offers to reduce) Obligations under the notes shall be made as provided under "—Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued unpaid interest, to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid;

- (ii) subject to clause (iii) below, if the assets subject to such Asset Sale do not constitute Collateral, to prepay, repay, redeem, reduce or purchase Obligations under other Debt of the Company or a Guarantor (and, if the Debt prepaid, repaid, redeemed, reduced or purchased is revolving credit Debt, to correspondingly reduce commitments with respect thereto); provided that the Company shall equally and ratably prepay, repay, redeem, reduce or purchase (or offer to prepay, repay, redeem, reduce or purchase, as applicable) Obligations under the notes on a pro rata basis; provided further that all reductions of Obligations under the notes shall be made as provided under "Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued and unpaid interest to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid; or
- (iii) if the assets subject to such Asset Sale are the property or assets of a Non-Guarantor Restricted Subsidiary, to prepay, repay, redeem, reduce or purchase Debt of such Restricted Subsidiary, other than Debt owed to the Company or any Restricted Subsidiary; or
- (B) to acquire land, reserves, property, plant and equipment useful to the conduct of its current mining business; or
- (C) to make capital expenditures in a Permitted Business.

A binding commitment to make an acquisition, expenditure or any combination thereof in compliance with clauses (B) and (C) shall be treated as a permitted application of the Net Cash Proceeds from the date of such commitment; *provided* that (x) such investment is consummated within 360 days after the earlier of the making of such commitment and the end of the 360-day period referred to in the first sentence of this clause (3) (it being understood that if such commitment is for any purchase, lease or other arrangement for mineral or surface rights, the Net Cash Proceeds need only be applied as and when installments are due and payable) and (y) if such acquisition is not consummated within the period set forth in subclause (x) or such binding commitment is terminated, the Net Cash Proceeds not so applied will be deemed to be Excess Proceeds (as defined below).

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the Net Cash Proceeds of any Asset Sales by a Foreign Subsidiary that is non-Guarantor Restricted Subsidiary to the Company is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the Net Cash Proceeds of any Assets Sales by a Foreign Subsidiary that is a non-Guarantor Restricted Subsidiary to the Company could result in material adverse tax consequences, as determined by the Company in its sole discretion, the portion of such Net Cash Proceeds so affected will not be required to be applied in compliance with this covenant; *provided* that within 360 days of the receipt of such Net Cash Proceeds, the Company shall use commercially reasonable efforts to permit repatriation of the proceeds that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such proceeds may be repatriated, within such 360 day period, such proceeds shall be required to be applied in compliance with this covenant.

- (4) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (3) within 360 days of the Asset Sale constitute "Excess Proceeds." Excess Proceeds of less than \$25.0 million will be carried forward and accumulated. When the aggregate amount of the accumulated Excess Proceeds equals or exceeds such amount, the Company must, within 30 days, make an Offer to Purchase notes (an "Asset Sale Offer") having an Accreted Value equal to:
 - (A) accumulated Excess Proceeds, multiplied by
 - (B) a fraction (x) the numerator of which is equal to the outstanding aggregate Accreted Value of the notes and (y) the denominator of which is equal to the outstanding aggregate Accreted Value and/

or aggregate principal amount, as applicable, of the notes and all other Priority Lien Obligations similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale,

rounded down to the nearest \$1,000. The purchase price for any Asset Sale Offer will be 100% of the Accreted Value, plus accrued interest, if any, to, but excluding, the date of purchase, prepayment or redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer is for less than all of the outstanding notes and notes in an aggregate Accreted Value in excess of the purchase amount are tendered and not withdrawn pursuant to the Asset Sale Offer, the Company will purchase notes having an aggregate Accreted Value equal to the purchase amount on a *pro rata* basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Upon completion of the Asset Sale Offer, Excess Proceeds will be reset to zero, and any Excess Proceeds remaining after consummation of the Asset Sale Offer may be used for any purpose not otherwise prohibited by the indenture.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Asset Sale Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such compliance.

Issue Date Offer to Purchase

Within 15 days of the Issue Date, the Company must make an Offer to Purchase up to \$22.5 million in aggregate Accreted Value of notes (the “Issue Date Offer to Purchase”) at a purchase price equal to 80% of the Accreted Value of the notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

If the aggregate Accreted Value of notes surrendered in the Issue Date Offer to Purchase exceeds \$22.5 million in aggregate Accreted Value, the Company will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a *pro rata* basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate Accreted Value of the notes tendered.

For the avoidance of doubt, the Applicable Premium will not be payable in connection with the repurchases described above.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to the Issue Date Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Issue Date Offer to Purchase provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Issue Date Offer to Purchase provisions of the indenture by virtue of such compliance.

Debt Repurchase Mandatory Offer

If for any fiscal quarter of the Company ending on or before September 30, 2024 (“Debt Repurchase Quarterly Period”), the Company makes any open-market repurchases of Debt (other than the 2022 Notes) pursuant to clause (13) of the second paragraph of “Certain Covenants — Limitation on Restricted Payments,”

the Company must, within 30 days of the end of such Debt Repurchase Quarterly Period, make an Offer to Purchase an aggregate Accreted Value and/or aggregate principal amount, as applicable, on a pro rata basis, of (i) notes and (ii) Priority Lien Obligations incurred under the Existing Credit Facility (a “Debt Repurchase Mandatory Offer”) equal to 25% of the aggregate principal amount of Debt repurchased during the applicable Debt Repurchase Quarterly Period, rounded down to the nearest \$1,000 (the “Available Repurchase Amount”); *provided*, that any repurchases of notes and/or Priority Lien Obligations by the Company pursuant to the Issue Date Offer to Purchase and/or Debt Repurchase Mandatory Offer provisions of the indenture, as applicable, will not be subject to the Debt Repurchase Mandatory Offer provisions of the indenture.

The purchase price for any notes and Priority Lien Obligations repurchased in such Debt Repurchase Mandatory Offer will be at a price to Accreted Value and/or principal amount, as applicable, that is the weighted-average repurchase price for all Debt repurchased during the applicable Debt Repurchase Quarterly Period (other than as pursuant to a prior Debt Repurchase Mandatory Offer), plus accrued interest, if any, to, but not including, the date of purchase (subject, with respect to the notes, to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

If the aggregate Accreted Value and/or aggregate principal amount, as applicable, of notes and such other Priority Lien Obligations surrendered in a Debt Repurchase Mandatory Offer exceeds the Available Repurchase Amount, the Company will select the notes (in the case of global notes, subject to the applicable procedures of DTC) and the Company will select such other Priority Lien Obligations to be purchased on a pro rata basis with such adjustments as needed so that no notes or Priority Lien Obligations in an unauthorized denomination are purchased in part based on the aggregate Accreted Value and/or aggregate principal amount, as applicable, of the notes and such other Priority Lien Obligations tendered.

To the extent that the aggregate Accreted Value and/or aggregate principal amount, as applicable, of notes and such other Priority Lien Obligations tendered pursuant to a Debt Repurchase Mandatory Offer is less than the Available Repurchase Amount, the Company may use any remaining Available Repurchase Amount (any such amount, “Retained Excess Available Repurchase Amount”) for any Debt open-market repurchases; *provided*, that any repurchases of Debt by the Company with Retained Excess Available Repurchase Amounts will not be subject to the Debt Repurchase Mandatory Offer provisions of the indenture.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to a Debt Repurchase Mandatory Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Debt Repurchase Mandatory Offer provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Debt Repurchase Mandatory Offer provisions of the indenture by virtue of such compliance.

Selection and Notice

If less than all of the notes are to be redeemed at any time, the Trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange and the Company provides written notice to a responsible officer of the Trustee of such listing, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or
- (2) if the notes are not listed on any national securities exchange, on a *pro rata* basis (or, in the case of global notes, the notes represented thereby will be selected by lot in accordance with DTC’s applicable procedures).

No notes of \$2,000 or less can be redeemed in part. Notices of optional redemption will be given by first class mail (or electronically in the case of global notes) at least 30 but not more than 60 days before the

redemption date to each holder of notes to be redeemed at its registered address, except that optional redemption notices may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or satisfaction and discharge of the indenture.

Notice of any redemption of the notes (including upon an Equity Offering) may, at the Company's discretion, be given prior to a transaction or event and any such redemption or notice may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion or occurrence of the related transaction or event, as the case may be. In addition, if such redemption or purchase is subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed, or such notice may be rescinded at any time in the Company's discretion if in the good faith judgment of the Company any or all of such conditions will not be satisfied. In addition, the Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the Accreted Value of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder upon cancellation of the original note. Notes called for redemption without a condition precedent will become due on the date fixed for redemption. On and after the redemption date, interest will cease to accrue on notes or portions of them called for redemption, unless the Company defaults in making such redemption payment.

No Mandatory Redemption or Sinking Fund

The Company is not required to make mandatory redemption payments with respect to the notes. The Company may from time to time purchase notes on the open market or otherwise in accordance with applicable laws. There will be no sinking fund payments for the notes.

Changes in Covenants if Notes Are Rated Investment Grade

If at any time (i) the notes are rated Investment Grade by each of S&P and Moody's (or, if either (or both) of S&P and Moody's have been substituted in accordance with the definition of "Rating Agencies," by each of the then applicable Rating Agencies), (ii) no Default has occurred and is continuing under the indenture and (iii) the Company has delivered to the Trustee an Officer's Certificate certifying to the foregoing provisions of this sentence, the covenants specifically listed under the following captions in this "Description of the New Peabody Notes" section of this offering circular will be suspended (the "Suspension Period"):

- (1) "—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;"
- (2) "—Certain Covenants—Limitation on Restricted Payments;"
- (3) "—Certain Covenants—Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries;"
- (4) "—Repurchase of Notes at the Option of Holders—Asset Sales" and "—Repurchase of Notes at the Option of Holders—Debt Repurchase Mandatory Offer";
- (5) "—Certain Covenants—Limitation on Transactions with Affiliates;" and
- (6) clause (a)(2)(C) of "—Certain Covenants—Consolidation, Merger or Sale of Assets—The Company."

Notwithstanding the foregoing, if the rating assigned to the notes by either Rating Agency should subsequently decline to below Investment Grade, the foregoing covenants will be reinstituted as of and from the

date of such rating decline (the “Reversion Date”). Calculations under the reinstated “Limitation on Restricted Payments” covenant will be made as if the “Limitation on Restricted Payments” covenant had been in effect since the date of the indenture except that no Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. Furthermore, all Debt incurred during the Suspension Period will be deemed to have been incurred or issued pursuant to clause (2) of the definition of “Permitted Debt.” Notwithstanding that the suspended covenants may be reinstated, no default will be deemed to have occurred as a result of a failure to comply with such suspended covenants during any Suspension Period (or upon termination of any covenant Suspension Period or after that time based solely on events that occurred during the Suspension Period).

There can be no assurance that the notes will ever achieve or maintain a rating of Investment Grade from any Rating Agency. The Company shall promptly deliver to the Trustee an Officer’s Certificate notifying the Trustee of any event giving rise to a Suspension Period or a Reversion Date, the date thereof and identifying the suspended covenants. The Trustee shall not have any obligation to monitor the ratings of the notes, determine whether a Suspension Period or Reversion Date has occurred or notify holders of the occurrence or dates of any Suspension Period, suspended covenants or Reversion Date.

Certain Covenants

Limitation on Debt and Disqualified Stock or Preferred Stock

(a) The Company

- (1) will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Debt (including Acquired Debt) or Disqualified Stock; and
- (2) will not permit any of its Restricted Subsidiaries to Incur any Preferred Stock (other than Disqualified Stock or Preferred Stock of Restricted Subsidiaries held by the Company or a Restricted Subsidiary, so long as it is so held);

provided that the Company or any Restricted Subsidiary may Incur Debt (including Acquired Debt) or Disqualified Stock and any Restricted Subsidiary may Incur Preferred Stock if, on the date of the Incurrence, after giving effect to the Incurrence and the receipt and application of the proceeds therefrom, the Fixed Charge Coverage Ratio of the Company is not less than 2.25:1.00 (the “Fixed Charge Coverage Ratio Test”); *provided* that the maximum aggregate principal amount of Debt, Disqualified Stock or Preferred Stock that non-Guarantor Restricted Subsidiaries may incur under this paragraph (a) is \$50.0 million outstanding at any time.

(b) The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Debt (“Permitted Debt”):

- (1) Incurrence by the Company and the Guarantors of Priority Lien Debt in an aggregate principal amount (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof) at any one time outstanding not to exceed the Priority Lien Cap and any related guarantees thereof;
- (2) Incurrence by the Company and its Restricted Subsidiaries of Existing Debt (other than Debt described in clause (1) of this paragraph);
- (3) Debt of (i) the Company or a Guarantor owed to the Company or any Guarantor so long as the Debt continues to be owed to the Company or a Guarantor, (ii) any Restricted Subsidiary that is a not Guarantor owed to any other Restricted Subsidiary that is not a Guarantor, (iii) the Company or a Guarantor owed to any Restricted Subsidiary that is not a Guarantor; *provided* that the Debt incurred under this clause (iii) is subordinated in right of payment to the notes and (iv) any Restricted Subsidiary that is not a Guarantor to the Company or a Guarantor; *provided* that the

Debt incurred under this clause (iv) is incurred in the ordinary course of business and consistent with past practice;

- (4) Debt constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, “refinance”) then outstanding Debt (“Permitted Refinancing Debt”) that was permitted by the indenture to be incurred under clause (a) of this covenant or clauses (1), (4), (8), (9), (16) or (17) of this paragraph in an amount not to exceed the principal amount of the Debt so refinanced, plus premiums, fees and expenses; *provided* that:
 - (i) in case the Debt to be refinanced is subordinated in right of payment to the notes, the new Debt, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes;
 - (ii) (x) the new Debt does not have a Stated Maturity prior to the Stated Maturity of the Debt to be refinanced, and the Average Life of the new Debt is at least equal to the remaining Average Life of the Debt to be refinanced or (y) the new debt does not have a Stated Maturity prior to the Stated Maturity of the notes, and the Average Life of the new Debt is at least equal to the remaining Average Life of the notes;
 - (iii) in no event may Debt of the Company, Pledgor or any Guarantor be refinanced pursuant to this clause by means of any Debt of any Restricted Subsidiary that is neither a Guarantor, Pledgor nor the Company; and
 - (iv) in case the Debt to be refinanced is secured, the Liens securing such new Debt have a Lien priority equal to or junior to the Liens securing the Debt being refinanced;
- (5) Bank Products Obligations and Permitted Hedging Agreements of the Company or any Restricted Subsidiary;
- (6) Debt of the Company or any Restricted Subsidiary in connection with one or more standby or trade-related letters of credit, performance bonds, bid bonds, appeal bonds, bankers acceptances, insurance obligations, reclamation obligations, bank guarantees, surety bonds, completion guarantees or other similar bonds and obligations, including self-bonding arrangements, issued by the Company or a Restricted Subsidiary in the ordinary course of business or pursuant to self-insurance obligations and not in connection with the borrowing of money or the obtaining of advances;
- (7) Debt arising from agreements of the Company or any Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;
- (8) [reserved];
- (9) Debt of the Company or any Restricted Subsidiary Incurred to finance the acquisition, construction or improvement of any assets, including Finance Lease Obligations and any Debt assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Debt Incurred pursuant to this clause, including all Permitted Refinancing Debt Incurred to refund, refinance or replace any Debt Incurred pursuant to this clause (9), may not exceed the greater of (a) \$100.0 million and (b) 2.0% of Consolidated Net Tangible Assets; *provided* that such amount may be increased by the then-outstanding principal amount of any operating lease in existence on the Issue Date that is actually restructured to a Finance Lease after the Issue Date;

- (10) (i) Debt of the Company or any Restricted Subsidiary consisting of Guarantees of Debt of any Restricted Subsidiary otherwise permitted under this covenant and (ii) Debt of any Restricted Subsidiary consisting of Guarantees of Debt of the Company otherwise permitted under this covenant; *provided* that such Guarantee is incurred in accordance with the covenant described below under “—Note Guarantees by Restricted Subsidiaries.”
- (11) Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; *provided* that any subsequent transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Preferred Stock (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an issue of Preferred Stock;
- (12) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;
- (13) Debt Incurred by any Foreign Restricted Subsidiary in an aggregate principal amount at any one time outstanding not to exceed \$50.0 million;
- (14) Debt of the Company or any Restricted Subsidiary consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply or other arrangements;
- (15) Guarantees by the Company or any Restricted Subsidiary of borrowings by current or former officers, managers, directors, employees or consultants in connection with the purchase of Equity Interests of the Company by any such person in an aggregate principal amount not to exceed \$2.0 million at any one time outstanding;
- (16) any Permitted Receivables Financing in an aggregate principal amount (or similar amount) at any time outstanding not to exceed the greater of (i) \$250.0 million and (ii) 3.5% of Consolidated Net Tangible Assets;
- (17) Debt of the Company consisting of (i) additional notes issuable in exchange for Co-Issuer Notes and (ii) Debt under the LC Agreement issuable in exchange for Debt outstanding under the New Co-Issuer Term Loan Facility, as applicable, up to the Maximum Amount, pursuant to the Co-Issuer Notes Indenture;
- (18) Debt consisting of Additional Notes that is incurred solely in connection with the repurchase, retirement, repayment or exchange for 2022 Notes pursuant to clause (3) or (4) of the second paragraph of “Certain Covenants—Limitation on Restricted Payments;” and
- (19) Debt of the Company or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed \$10.0 million.

The Company will not incur, and will not permit any Guarantor to incur, any Debt (including Permitted Debt) that is contractually subordinated in right of payment to any other Debt of the Company or such Guarantor unless such Debt is also contractually subordinated in right of payment to the notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Debt will be deemed to be contractually subordinated in right of payment to any other Debt of the Company solely by virtue of being unsecured or by virtue of being secured on junior priority basis.

For purposes of determining compliance with this “—Limitation on Debt and Disqualified Stock or Preferred Stock” covenant and the covenant described under the caption “—Liens,” in the event that an item of Debt meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (19) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, the Company will be permitted to classify such item of Debt on the date of its Incurrence, or later reclassify all or a portion of such item of Debt, in any manner that complies with this covenant. Notwithstanding the foregoing, all Priority Lien

Debt will be deemed to have been incurred in reliance on the exception provided in clause (1) of the definition of Permitted Debt. The accrual of interest or preferred stock dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest on any Debt in the form of additional Debt with the same terms, the reclassification of preferred stock as Debt due to a change in accounting principles, and the payment of dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Debt or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of the Company as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Company or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Debt outstanding as of any date will be:

- (1) the accreted value of the Debt, in the case of any Debt issued with original issue discount;
- (2) the principal amount of the Debt, in the case of any other Debt; and
- (3) in respect of Debt of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Debt of the other Person.

Limitation on Restricted Payments

- (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively “Restricted Payments”):
 - (1) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Company’s Qualified Equity Interests) held by Persons other than the Company or any of its Restricted Subsidiaries;
 - (2) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Company held by Persons other than the Company or any of its Restricted Subsidiaries;
 - (3) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Debt that is unsecured, Junior Lien Debt or Subordinated Debt (other than (x) a payment of interest or principal at Stated Maturity thereof or the redemption, repurchase or other acquisition or retirement for value of any Debt that is unsecured, Junior Lien Debt or Subordinated Debt in anticipation of satisfying a scheduled maturity, sinking fund or amortization or other installment obligation, in each case due within three months of the date of such redemption, repurchase, acquisition or retirement or (y) Debt permitted under clause (3) of the definition of “Permitted Debt”); or
 - (4) make any Investment other than a Permitted Investment (a “Restricted Investment”).

The amount of any Restricted Payment, if other than in cash, will be the Fair Market Value, on the date of the Restricted Payment, of the assets or securities proposed to be transferred or issued to or by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment, except that the Fair Market Value of any non-cash dividend or distribution paid within 60 days after the date of its declaration shall be determined as of such date.

- (b) The foregoing will not prohibit:
- (1) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with paragraph (a);
 - (2) dividends or distributions by a Restricted Subsidiary payable, on a *pro rata* basis or on a basis more favorable to the Company, to all holders of any class of Equity Interests of such Restricted Subsidiary a majority of which is held, directly or indirectly through Restricted Subsidiaries, by the Company;
 - (3) the repurchase, retirement or repayment for cash of any 2022 Notes outstanding after the Issue Date in an aggregate principal amount not to exceed the sum of (a) the greater of (I) \$25.0 million and (II) 75% of the principal amount of the 2022 Notes outstanding after the Issue Date, (b) any net cash proceeds from an offering of Qualified Equity Interests that has closed no longer than 45 days prior to such repurchase, retirement or repayment and (c) no earlier than 90 days prior to their Stated Maturity, from the net cash proceeds from an offering of Additional Notes that has closed no longer than 45 days prior to such repurchase, retirement or repayment; *provided* that the purchase price for any 2022 Notes repurchased, retired or repaid pursuant to this clause (3) is (w) less than 50% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid more than a year prior to their Stated Maturity, (x) less than 75% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid between a year and 45 days prior to their Stated Maturity, or (y) no higher than 100% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid within 45 days prior to their Stated Maturity;
 - (4) the acquisition of any 2022 Notes outstanding after the Issue Date in exchange for Additional Notes in an aggregate principal amount no greater than the aggregate principal amount of the acquired 2022 Notes, plus accrued and unpaid interest;
 - (5) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company in exchange for Qualified Equity Interests of the Company;
 - (6) the repayment, redemption, repurchase, defeasance or other acquisition or retirement of Debt that is unsecured, Junior Lien Debt or Subordinated Debt in exchange for, or out of the proceeds of, a cash or non-cash contribution to the capital of the Company or a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company;
 - (7) any Investment acquired as a capital contribution to the Company, or made in exchange for Qualified Equity Interests of the Company;
 - (8) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company held by current officers, directors or employees or former officers, directors or employees (or their estates or beneficiaries under their estates or their immediate family members) of the Company or any of its Restricted Subsidiaries upon death, disability, retirement, severance or termination of employment or pursuant to any agreement under which the Equity Interests were issued, and Investments in the Equity Interests of the Company in connection with certain purchases or redemptions of Equity Interests held by officers, directors and employees or any employee pension benefit plan of a type specified in the indenture; *provided* that the aggregate cash consideration paid therefor in any twelve-month period after the Issue Date does not exceed an aggregate amount of \$5.0 million;
 - (9) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of any Debt that is unsecured, Junior Lien Debt, Subordinated Debt or Disqualified Stock at a purchase price not greater than 101% of the principal amount or liquidation preference thereof in the event of (i) a change of control pursuant to a provision no more favorable to the holders thereof than in the covenant described below under “—Repurchase of Notes at the Option of Holders—Change of Control” or (ii) an asset sale pursuant to a provision no more favorable to the holders thereof than in the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales,” *provided* that, in each case, prior

to the repurchase the Company has made an Offer to Purchase and repurchased all notes issued under the indenture that were validly tendered for payment in connection with the Offer to Purchase;

- (10) cash payments in lieu of fractional shares upon exercise of options or warrants or conversion or exchange of convertible securities, repurchases of Equity Interests deemed to occur upon the exercise of options, warrants or other convertible securities to the extent such securities represent a portion of the exercise price of such options, warrants or other convertible securities and repurchases of Equity Interests in connection with the withholding of a portion of the Equity Interests granted or awarded to a director or an employee to pay for the Taxes payable by such director or employee upon such grant or award;
- (11) Restricted Payments, other than with respect to dividends or share repurchases, in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (11) not to exceed \$5.0 million;
- (12) [reserved];
- (13) open-market repurchases of any Debt (other than the 2022 Notes), so long as, immediately after giving pro forma effect to any such repurchase, the Company's Minimum Liquidity shall be not less than \$200.0 million;
- (14) repurchases of notes by the Company pursuant to the Issue Date Offer to Purchase; and
- (15) the issuance of additional notes in exchange for Co-Issuer Notes, up to the Maximum Amount, pursuant to the Co-Issuer Notes Indenture; *provided that*, in the case of clauses (8), (9), (11), (13) and (14), no Default has occurred and is continuing or would occur as a result thereof.

For purposes of determining compliance with this covenant, in the event that a Restricted Payment permitted pursuant to this covenant or a Permitted Investment meets the criteria of more than one of the categories of Restricted Payment described in clauses (1) through (15) above or one or more clauses of the definition of Permitted Investments, the Company shall be permitted to classify such Restricted Payment or Permitted Investment on the date it is made, or later reclassify all or a portion of such Restricted Payment or Permitted Investment, in any manner that complies with this covenant, and such Restricted Payment or Permitted Investment shall be treated as having been made pursuant to only one of such clauses of this covenant or of the definition of Permitted Investments. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Limitation on Liens

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, incur or permit to exist any Lien of any nature whatsoever on any of its properties or assets, whether owned at the Issue Date or thereafter acquired, to secure any Debt other than Permitted Liens.

Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries

- (a) Except as provided in paragraph (b), the Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to:
 - (1) pay dividends or make any other distributions on its Equity Interests to the Company or any other Restricted Subsidiary,
 - (2) pay any Debt or other liabilities owed to the Company or any other Restricted Subsidiary,
 - (3) make loans or advances to the Company or any other Restricted Subsidiary, or
 - (4) sell, lease or transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The provisions of paragraph (a) do not apply to any encumbrances or restrictions:

- (1) agreements governing Debt as in effect on the Issue Date, including pursuant to the Existing Credit Facility or the LC Agreement and the other documents relating to the Existing Credit Facility or the LC Agreement, and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of those agreements; *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;
- (2) existing pursuant to the indenture, the notes, the Note Guarantee or the Security Documents;
- (3) existing under or by reason of applicable law, rule, regulation or order;
- (4) existing under any agreements or other instruments of, or with respect to:
 - (i) any Person, or the property or assets of any Person, at the time the Person is acquired by the Company or any Restricted Subsidiary, or
 - (ii) any Unrestricted Subsidiary at the time it is designated or is deemed to become a Restricted Subsidiary.

which encumbrances or restrictions (x) are not applicable to any other Person or the property or assets of any other Person and (y) were not put in place in anticipation of such event and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing, *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

- (5) of the type described in clause (a)(4) arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, Joint Venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of, the Company or any Restricted Subsidiary;
- (6) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Restricted Subsidiary pending closing of such sale or disposition that is permitted by the indenture;
- (7) consisting of customary restrictions pursuant to any Permitted Receivables Financing;
- (8) existing pursuant to Permitted Refinancing Debt; *provided* that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Debt are, taken as a whole, no less favorable in any material respect to the noteholders than those contained in the agreements governing the Debt being refinanced;
- (9) consisting of restrictions on cash or other deposits or net worth imposed by lessors, customers, suppliers or required by insurance surety bonding companies or in connection with any reclamation activity of the Company or a Restricted Subsidiary, in each case, in the ordinary course of business;
- (10) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Finance Leases or operating leases or Mining Leases that impose encumbrances or restrictions discussed in clause (a)(4) above on the property so acquired or covered thereby;
- (11) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred by a Foreign Subsidiary subsequent to the Issue Date by the covenant described above under “—Limitation

on Debt and Disqualified Stock and Preferred Stock”, which encumbrances or restrictions are customary for a financing or agreement of such type (as determined in good faith by the Company), and the Company determines in good faith that such encumbrances and restrictions will not materially affect the Company’s ability to make principal or interest payments on the notes as and when they become due;

- (12) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction;
- (13) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred subsequent to the Issue Date by the covenant described above under “—Limitation on Debt and Disqualified Stock and Preferred Stock” if such encumbrances and restrictions are, taken as a whole, no less favorable in any material respect to the noteholders than is customary in comparable financings (as determined in good faith by the Company), and the Company determines in good faith that such encumbrances and restrictions will not materially affect the Company’s ability to make principal or interest payments on the notes as and when they become due; and
- (14) existing under or by reason of any Debt secured by a Lien permitted to be Incurred pursuant to the covenants described under “—Limitation on Debt and Disqualified Stock and Preferred Stock” and “—Limitation on Liens” that limit the right of the Company or any Restricted Subsidiary to dispose of the assets securing such Debt.

Note Guarantees by Restricted Subsidiaries

If and for so long as any Domestic Restricted Subsidiary of the Company, directly or indirectly, Guarantees any Debt of the Company or any other Guarantor, such Subsidiary shall provide a Note Guarantee within 30 days, and if the guaranteed Debt is Subordinated Debt, the Guarantee of such guaranteed Debt must be subordinated in right of payment to the Note Guarantee to at least the extent that the guaranteed Debt is subordinated to the notes.

Limitation on Transactions with Affiliates

- (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Company or any Restricted Subsidiary (a “Related Party Transaction”) involving aggregate consideration in excess of \$25.0 million, unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Company) to the Company or any of the relevant Restricted Subsidiaries than those that could be obtained in a comparable arm’s-length transaction with a Person that is not an Affiliate of the Company.
- (b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$50.0 million must first be approved by a majority of the Board of Directors of the Company who are disinterested in the subject matter of the transaction pursuant to a resolution by the Board of Directors of the Company.
- (c) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$100.0 million, the Company must deliver to the Trustee an opinion from an accounting, appraisal, or investment banking firm of national standing in the applicable jurisdiction (i) stating that its terms are not materially less favorable to the Company or any of the relevant Restricted Subsidiaries that would have been obtained in a comparable transaction with an unrelated Person or (ii) as to the fairness to the Company or any of the relevant Restricted Subsidiaries of such Related Party Transaction from a financial point of view.
- (d) The foregoing paragraphs do not apply to:
 - (1) any transaction between the Company and any of its Restricted Subsidiaries or between Restricted Subsidiaries of the Company;

- (2) the payment of reasonable and customary regular fees to directors of the Company who are not employees of the Company;
- (3) any Permitted Investment or any Restricted Payment permitted under the covenant described above under “—Limitation on Restricted Payments;”
- (4) any issuance of Equity Interests (other than Disqualified Equity Interests) of the Company;
- (5) loans or advances to officers, directors or employees of the Company in the ordinary course of business of the Company or its Restricted Subsidiaries or Guarantees in respect thereof or otherwise made on their behalf (including payment on such Guarantees) but only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;
- (6) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries with officers and employees of the Company or any of its Restricted Subsidiaries that are Affiliates of the Company and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans) so long as such agreement has been entered into in the ordinary course of business;
- (7) transactions with customers, clients, suppliers, joint venture partners, managers, operators, or purchasers or sellers of goods or services (including pursuant to joint venture agreements) in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Company, as determined in good faith by the Company;
- (8) (i) transactions arising under the Management Services Agreements and any indemnification and reimbursement payments required thereunder, provided that the aggregate amount of all such fees and payments may not exceed \$15.0 million in any calendar year, (ii) any tax sharing payments to the Company or its Affiliates, and (iii) transactions arising under any other contract, agreement, instrument or other arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Company and its Restricted Subsidiaries than those in effect on the Issue Date;
- (9) transactions entered into as part of a Permitted Receivables Financing;
- (10) transactions with any Affiliate in its capacity as a holder of Debt or Equity Interests; *provided* that such Affiliate owns less than a majority of the interests of the relevant class and is treated the same as other holders;
- (11) payments to or from, and transactions with, any joint ventures or similar arrangements (including, without limitation, any cash management activities relating thereto); *provided* that such arrangements are on terms no less favorable to the Company and its Restricted Subsidiaries in any material respect, on the one hand, than to the relevant joint venture partner and its Affiliates, on the other hand, taking into account all related agreements and transactions entered in by the Company and its Restricted Subsidiaries, on the one hand, and the relevant joint venture partner and its Affiliates, on the other hand;
- (12) any lease or sublease of equipment to any Affiliate in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Company, as determined in good faith by the Company; and
- (13) any agreements entered into in connection with the Refinancing Transactions.

Designation of Restricted and Unrestricted Subsidiaries

- (a) Without affecting the status of any Unrestricted Subsidiaries as of the Issue Date, the Company shall not designate any Subsidiary to be an Unrestricted Subsidiary after the Issue Date.

- (b) The Company may designate an Unrestricted Subsidiary to be a Restricted Subsidiary if the designation would not cause a Default.
- (c) Upon an Unrestricted Subsidiary becoming, or being deemed to become, a Restricted Subsidiary,
 - (1) all of its Debt and Disqualified Stock or Preferred Stock will be deemed Incurred at that time for purposes of the covenant described above under “—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”
 - (2) Investments therein previously charged under the covenant described above under “—Limitation on Restricted Payments” will be credited thereunder;
 - (3) it may be required to issue a Note Guarantee pursuant to the covenant described above under “—Note Guarantees by Restricted Subsidiaries;” and
 - (4) it will thenceforward be subject to the provisions of the indenture as a Restricted Subsidiary.
- (d) Any designation by the Company of a Subsidiary as a Restricted Subsidiary will be evidenced to the Trustee by promptly filing with the Trustee an Officer’s Certificate certifying that the designation complied with the foregoing provisions.

Reports

Whether or not the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any notes are outstanding, the Company must provide the Trustee and noteholders (or make available on EDGAR) within the time periods specified in those sections of the Exchange Act with:

- (1) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if the Company were required to file such forms, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and, with respect to annual information only, a report thereon by the Company’s certified independent accountants, and
- (2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in the preceding paragraphs of this covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company’s filings for any reason, the Company will (1) post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if the Company were required to file those reports with the SEC and (2) furnish to the noteholders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act, so long as the notes are not freely transferable under the Securities Act.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and its receipt of such reports shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company’s or any other Person’s compliance with any of its covenants under the indenture or the notes (as to which the Trustee is entitled to rely exclusively on an Officer’s Certificate). The Trustee shall have no duty to determine whether any filings on EDGAR have been made or review or analyze any reports furnished or made available to it.

Any and all Defaults or Events of Default arising from a failure to furnish or file in a timely manner any information or report required by this covenant shall be deemed cured (and the Company shall be deemed to be in compliance with this covenant) upon furnishing or filing such information or report as contemplated by this covenant (but without regard to the date on which such information or report is so furnished or filed); *provided*

that such cure shall not otherwise affect the rights of the holders described below under “—Default and Remedies” if principal and interest have been accelerated in accordance with the terms of the indenture and such acceleration has not been rescinded or cancelled prior to such cure.

To the extent not satisfied by the reporting obligations outlined above, the Company shall furnish holders of notes and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the notes are not freely transferable under the Securities Act. The notes will be eligible for resale under Rule 144A. See “—Notice to Investors; Transfer Restrictions.”

Obligation to Maintain Ratings

The Company shall take all necessary actions to have a rating assigned to the notes by either Rating Agency prior to the Issue Date and to maintain a rating of the notes by at least one Rating Agency so long as any of the notes are outstanding.

Consolidation, Merger or Sale of Assets

The Company

- (a) The Company will not:
 - (1) consolidate or merge with or into any Person, or
 - (2) sell, convey, transfer, or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related transactions, to any Person, unless:
 - (A) either (x) the Company is the continuing Person or (y) the resulting, surviving or transferee Person (the “Surviving Company”) is a corporation, partnership (including a limited partnership), trust or limited liability company organized and validly existing under the laws of the United States of America, any state thereof or the District of Columbia and expressly assumes by supplemental indenture (or other agreement or instrument, as applicable) all of the obligations of its predecessor under the indenture, the notes, the Note Guarantees, the Security Documents and the other Note Documents, as applicable;
 - (B) immediately after giving effect to the transaction, no Default has occurred and is continuing;
 - (C) immediately after giving effect to the transaction on a pro forma basis, the Company (or the Surviving Company, as applicable) (i) could Incur at least \$1.00 of Debt under the Fixed Charge Coverage Ratio Test or (ii) would have a Fixed Charge Coverage Ratio on a pro forma basis that is at least equal to the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; and
 - (D) the Company delivers to the Trustee an Officer’s Certificate and an opinion of counsel, each stating that the consolidation, merger or transfer and the supplemental indenture (or other agreement or instrument, as applicable) (if any) comply with the indenture;
- provided, that clauses (B) and (C) will not apply (i) to the consolidation, merger, sale, conveyance, transfer or other disposition of the Company with or into a Wholly Owned Restricted Subsidiary or the consolidation, merger, sale, conveyance, transfer or other disposition of a Wholly Owned Restricted Subsidiary with or into the Company or (ii) if, in the good faith determination of the Board of Directors of the Company, whose determination is evidenced by a resolution of the Board of Directors of the Company, the sole purpose of the transaction is to change the jurisdiction of formation or incorporation of the Company, as applicable.*
- (b) The Company shall not lease all or substantially all of its assets, whether in one transaction or a series of transactions, to one or more other Persons.

- (c) Upon the consummation of any transaction effected in accordance with these provisions, if the Company or the Company, as applicable, is not the continuing Person, the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company or the Company, as applicable, under the indenture, the notes, the Note Guarantees and the other Note Documents, as applicable, with the same effect as if such Successor Company had been named as the Company or the Company, as applicable, in the indenture. Upon any such substitution in the case of the Company, except for its sale, conveyance, transfer or disposition of less than all its assets, the Company will be released from its obligations under the indenture, the notes and the other Note Documents, and, upon any such substitution in the case of the Company, it will be released from its obligations under the indenture, its Note Guarantee and the other Note Documents as described above under “—The Note Guarantees.”

Guarantors

No Guarantor may:

- (a) consolidate or merge with or into any Person, or
- (b) sell, convey, transfer or otherwise dispose of all or substantially all of the Guarantor’s assets, in one transaction or a series of related transactions, to any Person,
unless
 - (1) the other Person is the Company or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or
 - (2) (A) either (x) the Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes by supplemental indenture (or other agreement or instrument, as applicable) all of the obligations of the Guarantor under its Note Guarantee, the Security Documents and the other Note Documents; and
(B) immediately after giving effect to the transaction, no Default has occurred and is continuing; or
 - (3) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Restricted Subsidiary) in a transaction or other circumstance that does not violate the indenture.

Default and Remedies

Events of Default

An “Event of Default” occurs if:

- (1) the Company defaults in the payment of the principal and premium, if any, of any note when the same becomes due and payable at final maturity, upon acceleration or redemption, or otherwise (other than pursuant to an Offer to Purchase);
- (2) the Company defaults in the payment of interest on any note when the same becomes due and payable, and the default continues for a period of 30 days;
- (3) the Company fails to make an Offer to Purchase and thereafter accept and pay for notes tendered when and as required pursuant to the covenant described above under “—Repurchase of Notes at the Option of Holders—Change of Control” or the Company or any Guarantor fails to comply with the covenant described above under “—Certain Covenants—Consolidation, Merger or Sale of Assets;”
- (4) the Company or any Restricted Subsidiary defaults in the performance of or breach any other of its covenants or agreements in the indenture or, under the notes or under the other Note Documents

(other than a default specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 60 consecutive days (or 90 consecutive days in the case of a failure to comply with the reporting obligations described under the caption “— Certain Covenants —Reports”) after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes;

- (5) there occurs with respect to any Debt of the Company or any of its Restricted Subsidiaries having an outstanding principal amount of \$75.0 million or more (i) an event of default that results in such Debt being due and payable prior to its scheduled maturity or (ii) failure to make a principal payment on such Debt when due and such defaulted payment is not made, waived or extended within the applicable grace period;
- (6) one or more final judgments or orders for the payment of money are rendered against the Company or any of its Restricted Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes, in each case, the aggregate amount for such final judgments or orders outstanding and not paid or discharged against such Person to exceed \$75.0 million (in excess of amounts which the Company’s insurance carriers have agreed to pay under applicable policies), or its foreign currency equivalent, during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect;
- (7) certain bankruptcy defaults occur with respect to the Company or any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would be a Significant Subsidiary;
- (8) any Note Guarantee ceases to be in full force and effect, other than in accordance the terms of the indenture, or a Guarantor denies or disaffirms its obligations under its Note Guarantee;
- (9) the occurrence of the following:
 - (a) except as permitted by the Note Documents, any Note Document establishing the Priority Liens ceases for any reason to be enforceable; provided that it will not be an Event of Default under this clause (9)(a) if the sole result of the failure of one or more Note Documents to be fully enforceable is that any Priority Lien purported to be granted under such Note Documents on Collateral, individually or in the aggregate, having a fair market value of not more than \$100.0 million, ceases to be an enforceable and perfected Priority Lien; provided that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;
 - (b) except as permitted by the Note Documents, any Priority Lien purported to be granted under any Note Document on Collateral, individually or in the aggregate, having a fair market value in excess of \$100.0 million, ceases to be an enforceable and perfected first priority Lien, subject to Permitted Liens; provided that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and
 - (c) the Company or Guarantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or Guarantor set forth in or arising under any Note Document establishing Priority Liens.
- (10) (i) any termination of the Surety Transaction Support Agreement by any sureties signatory thereto, provided that such termination or terminations result in the Company or any of its Subsidiaries making payments or delivering collateral in excess of a fair market value of \$50.0 million in the aggregate, or (ii) any modification of the Surety Transaction Support Agreement materially adverse to the Company or any of its Subsidiaries; or

- (11) the Company fails to comply with any obligation under the Transaction Support Agreement that survives or arises after the Issue Date (including any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes.

Consequences of an Event of Default

If an Event of Default, other than a bankruptcy default with respect to the Company occurs and is continuing under the indenture, the Trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding, by written notice to the Company (and to the Trustee if the notice is given by the holders), may declare the principal of and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal and accrued interest will become immediately due and payable. If a bankruptcy default occurs with respect to the Company, the principal of and accrued interest on the notes then outstanding will become immediately due and payable without any declaration or other act on the part of the Trustee or any holder.

Without limiting the generality of the foregoing, it is understood and agreed that if the notes are accelerated or otherwise become due prior to their stated maturity, in each case, as a result of an Event of Default (including, without limitation, an Event of Default under clause (7) of the definition thereof (including the acceleration of any portion of the notes by operation of law)), the greater of (i) the Applicable Premium and (ii) the amount by which the applicable redemption price set forth in the table under “—Optional Redemption” exceeds the principal amount of the notes (the “Redemption Price Premium”), as applicable, with respect to an optional redemption of the notes shall also be due and payable as though the notes had been optionally redeemed on the date of such acceleration and shall constitute part of the Obligations with respect to the notes in view of the impracticability and difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each holder’s lost profits as a result thereof. If the Redemption Price Premium becomes due and payable, it shall be deemed to be principal of the notes and interest shall accrue on the full principal amount of the notes (including the Redemption Price Premium) from and after the applicable triggering event, including in connection with an Event of Default specified under clause (7) of the definition thereof. Any Redemption Price Premium payable above shall be presumed to be liquidated damages sustained by each holder as the result of the acceleration of the notes and the Company and the Guarantors to the extent they provide guarantees for the notes pursuant to “—Guarantees” agree that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the notes or the Indenture are satisfied, released or discharged through foreclosure, whether by judicial proceeding, deed in lieu of foreclosure or by any other means. IN THE INDENTURE, THE COMPANY WILL, AND TO THE EXTENT APPLICABLE, THE GUARANTORS IN ANY APPLICABLE SUPPLEMENTAL INDENTURE WILL, EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company and if applicable, the Guarantors will expressly agree (to the fullest extent they may lawfully do so) that: (A) the Redemption Price Premium is reasonable and is the product of an arm’s length transaction between sophisticated business entities ably represented by counsel; (B) the Redemption Price Premium shall be payable notwithstanding the then prevailing market rates at the time acceleration occurs; (C) there has been a course of conduct between holders and the Issuer giving specific consideration in this transaction for such agreement to pay the Redemption Price Premium; and (D) the Company shall be estopped from claiming differently than as agreed to in this paragraph. The Company and if applicable, the Guarantors expressly acknowledge that their agreement to pay the Redemption Price Premium to holders as herein described was a material inducement to investors to acquire the notes.

Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a “Noteholder Direction”) provided by any one or more holders (each a “Directing Holder”) must be accompanied by a written representation from each such holder delivered to

the Company and the Trustee that such holder is not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default (a "Default Direction") shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the notes are accelerated. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such noteholder's Position Representation within five business days of request therefor (a "Verification Covenant"). In any case in which the holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation with a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such holder, the percentage of notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, any acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee in connection with a Default under clauses (3), (4), (5), (6) or (9) during the pendency of an Event of Default under clause (7) as a result of a bankruptcy or similar proceeding shall not require compliance with the two immediately preceding paragraphs.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with the Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Company, any holder or any other Person in acting in good faith on a Noteholder Direction.

The holders of a majority in principal amount of the outstanding notes by written notice to the Company and to the Trustee may waive all past defaults and rescind and annul a declaration of acceleration and its consequences if:

- (1) all existing Events of Default, other than the nonpayment of the principal of, and interest on, the notes that have become due solely by the declaration of acceleration, have been cured or waived, and
- (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Except as otherwise provided in “—Consequences of an Event of Default” or “—Amendments and Waivers—Amendments with Consent of Holders,” the holders of a majority in aggregate principal amount of the outstanding notes may, by notice to the Trustee, waive an existing Default and its consequences. Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

In the event of a declaration of acceleration of the notes because an Event of Default described in clause (5) under “—Events of Default” has occurred and is continuing, the declaration of acceleration of the notes shall be automatically annulled, without any action by the Trustee or the holders, if the event of default or payment default triggering such Event of Default pursuant to clause (5) shall be remedied or cured, or rescinded or waived by the holders of the Debt, or the Debt that gave rise to such Event of Default shall have been discharged in full, within 30 days after the declaration of acceleration with respect thereto and if (i) the annulment of the acceleration of the notes would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, except nonpayment of principal, premium or interest on the notes that became due solely because of the acceleration of the notes, have been cured or waived.

The holders of a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the indenture or the other Note Documents, that may involve the Trustee in personal liability, or that the Trustee determines in good faith may be unduly prejudicial to the rights of holders of notes not joining in the giving of such direction (it being understood that the Trustee shall have no duty to determine whether any direction is prejudicial to any holder). In addition, the Trustee may take any other action it deems proper that is not inconsistent with any such direction received from holders of notes. Neither the Trustee nor the Collateral Trustee shall be obligated to take any action at the direction of holders of notes unless such holders have offered, and if requested, provided to the Trustee and Collateral Trustee indemnity or security satisfactory to the Trustee and Collateral Trustee.

A holder of notes may not institute any proceeding, judicial or otherwise, with respect to the indenture, the notes or the other Note Documents, or for the appointment of a receiver or trustee, or for any other remedy under the indenture, the notes or the other Note Documents, unless:

- (1) the holder has previously given to the Trustee written notice of a continuing Event of Default;
- (2) holders of at least 25% in aggregate principal amount of outstanding notes have made written request to the Trustee to institute proceedings in respect of the Event of Default in its own name as Trustee under the indenture;
- (3) holders of notes have offered, and if requested, provided to the Trustee indemnity reasonably satisfactory to the Trustee against any costs, liabilities or expenses to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) during such 60-day period, the holders of a majority in aggregate principal amount of the outstanding notes have not given the Trustee a direction that is inconsistent with such written request.

Notwithstanding anything in the indenture to the contrary, the right of a holder of a note to receive payment of principal of or interest on its note on or after the Stated Maturities thereof, or to bring suit for the enforcement of any such payment on or after such dates, may not be impaired or affected without the consent of that holder.

If any Default occurs and is continuing and is actually known to a responsible officer of the Trustee, the Trustee will send notice of the Default to each holder within 90 days after it occurs, unless the Default has been

cured; provided that, except in the case of a default in the payment of the principal of or interest on any note, the Trustee may withhold the notice if and so long as the Trustee in good faith determines that withholding the notice is in the interest of the holders. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless written notice of an event, which is in fact a Default, has been delivered to the Trustee at its office specified in the Indenture and such notice references the Notes and the Indenture and states it is a "Notice of Default."

No Liability of Directors, Officers, Employees, Incorporators, Members and Stockholders

No director, officer, employee, incorporator, member or stockholder of the Company, as such, will have any liability for any obligations of the Company under the notes, any Note Guarantee, the indenture or any other Note Document or for any claim based on, in respect of, or by reason of, such obligations. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. This waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

Amendments and Waivers

Amendments without Consent of Holders

(a) The Company, the Trustee and the Collateral Trustee, as applicable, may amend or supplement the indenture, the notes and the other Note Documents without notice to or the consent of any noteholder:

- (1) to cure any ambiguity, defect, omission or inconsistency in the Note Documents;
- (2) to comply with the covenant described above under "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (3) to evidence and provide for the acceptance of an appointment by a successor trustee;
- (4) to provide for uncertificated notes in addition to or in place of certificated notes, *provided* that the uncertificated notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated notes are described in Section 163(f)(2)(B) of the Code;
- (5) to provide for any Guarantee of the notes, or to confirm and evidence the release, termination or discharge of any Guarantee when such release, termination or discharge is permitted by the indenture;
- (6) to provide for the issuance of Additional Notes in accordance with the terms of the indenture;
- (7) (a) to conform any provision to this "Description of the New Peabody Notes" and (b) conform the text of the Note Documents or any other such documents (in recordable form) as may be necessary or advisable (in the Company's reasonable discretion) to preserve and confirm the relative priorities of the Secured Obligations and as such priorities are contemplated and set forth in the Collateral Trust Agreement;
- (8) make, complete or confirm any grant of Collateral permitted or required by any of the Note Documents, including to secure additional Priority Lien Debt;
- (9) release, discharge, terminate or subordinate Liens on Collateral in accordance with the Note Documents and to confirm and evidence any such release, discharge, termination or subordination;
- (10) as provided in the Collateral Trust Agreement;
- (11) in the case of any Note Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;

- (12) in the case of the indenture, to make any amendment to the provisions relating to the transfer and legending of the notes as permitted hereunder, including, without limitation, to facilitate the issuance and administration of the notes; provided that compliance with the indenture as so amended may not result in the notes being transferred in violation of the Securities Act or any applicable securities laws;
- (13) to comply with the rules of any applicable securities depository;
- (14) to comply with any requirement of the SEC in connection with qualifying or maintaining the qualification of, the indenture under the TIA (if the Company elects to qualify the indenture under the TIA); or
- (15) to make any other change that does not materially and adversely affect the rights of any holder.

In addition, the Collateral Trustee and the Trustee will be authorized to amend the Security Documents as provided under the caption “—Collateral Trust Agreement—Amendment of Security Documents.”

Except as otherwise provided in “—Default and Remedies—Consequences of an Event of Default” or the following paragraph, the Company and the Trustee may amend the indenture, the notes and the other Note Documents with the consent of the holders of at least 66.67% in aggregate principal amount of the outstanding notes, and the holders of at least 66.67% in aggregate principal amount of the outstanding notes may waive future compliance by the Company with any provision of the indenture, the notes or the other Note Documents.

(b) Notwithstanding the provisions of paragraph (a), without the consent of each holder affected, an amendment or waiver may not:

- (1) reduce the principal amount of or change the Stated Maturity of any installment of principal of any note or waive the provisions with respect to the redemption of the notes (other than the provisions described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control” and “—Repurchase of Notes at the Option of Holders —Asset Sales”, which are described below),
- (2) reduce the rate of or change the Stated Maturity of any interest payment on any note,
- (3) reduce the amount payable upon the redemption of any note or, in respect of an optional redemption, the times at which any note may be redeemed or,
- (4) after the time an Offer to Purchase is required to have been made, reduce the purchase amount or purchase price, or extend the latest expiration date or purchase date thereunder,
- (5) make any note payable in money other than that stated in the note,
- (6) impair the right of any holder of notes to receive any principal payment or interest payment on such holder’s notes or Note Guarantee, on or after the Stated Maturity thereof, or eliminate the contractual right expressly set forth in the indenture or the notes of any holder to institute suit for the enforcement of any such payment,
- (7) make any change in the percentage of the principal amount of the notes whose holders must consent to an amendment or waiver,
- (8) [reserved],
- (9) make any change in any Note Guarantee that would adversely affect the noteholders,
- (10) modify or amend the provisions in the indenture regarding the waiver of past Defaults and the waiver of certain covenants by the holders of such notes affected thereby, except to increase any percentage vote required or to provide that certain other provisions of the indenture may not be modified or waived without the consent of the holder of each note affected thereby, or
- (11) modify or amend any of the above or this amendment and waiver provision.

In addition, the consent of holders representing at least 85.00% of outstanding notes will be required to (i) release the Liens for the benefit of the holders of the notes on all or substantially all of the Collateral, (ii) alter or waive the provisions with respect to the redemption of the notes described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control” and “—Repurchase of Notes at the Option of Holders — Asset Sales” or (iii) modify or change any provision of the indenture affecting the ranking of the notes in a manner materially adverse to the holders of the notes.

It is not necessary for noteholders to approve the particular form of any proposed amendment or waiver, but is sufficient if their consent approves the substance thereof.

Neither the Company nor any of its Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid or agreed to be paid to all holders of the notes that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to the consent, waiver or amendment. In addition, neither the Company nor any of its Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of consent fee, pay down, future collateral, or otherwise, to any holder of Debt under the LC Agreement for or as an inducement to any consent, waiver, forbearance or amendment of any financial maintenance or minimum liquidity covenants included in the LC Agreement unless such consideration is offered to be paid or agreed to be paid to all holders of the notes on a pro rata basis.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants described under “—Certain Covenants,” or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any legal rights of any holders of the notes to receive payment of principal of or premium, if any, or interest on the notes or to institute suit for the enforcement of any payment on or with respect to such holder’s notes.

Defeasance and Discharge

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officer’s Certificate, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Note Guarantees (“Legal Defeasance”) except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium, if any, on, such notes when such payments are due from the trust referred to below;
- (2) the Company’s obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties, immunities and indemnities of the Trustee and Collateral Trustee, and the Company’s and the Guarantors’ obligations in connection therewith; and
- (4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, the Company may, at its option and at any time, elect to have the obligations of the Company and the Guarantors released with respect to certain covenants (including its obligation to make an Offer to Purchase pursuant to a Change of Control or Asset Sale) contained in the indenture (“Covenant Defeasance”) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event covenant Defeasance occurs, all Events of Default described under “—Default and Remedies” (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable government securities, or a combination of cash in U.S. dollars and non-callable government securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium, if any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) in the case of Legal Defeasance, the Company must deliver to the Trustee an opinion of counsel confirming that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, the Company must deliver to the Trustee an opinion of counsel confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (4) no Default or Event of Default under the notes has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Debt), and the granting of Liens to secure such borrowings);
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture and the agreements governing any other Debt being defeased, discharged or replaced) to which the Company or any of the Guarantors is a party or by which the Company or any of the Guarantors is bound;
- (6) the Company must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the holders of the notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and
- (7) the Company must deliver to the Trustee and the Collateral Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

The Collateral will be released from the Lien securing the notes, as provided under the caption "—Collateral Trust Agreement—Release of Liens in Respect of Notes," upon a Legal Defeasance or Covenant Defeasance in accordance with the provisions described above.

Concerning the Trustee and Paying Agent

Wilmington Trust, National Association will be the Trustee under the indenture.

Except during the continuance of an Event of Default actually known to a responsible officer of the Trustee, the Trustee will be required to perform only those duties that are specifically set forth in the indenture and no

others, and no implied covenants or obligations will be read into the indenture against the Trustee. In case an Event of Default has occurred and is continuing and is actually known to a responsible officer of the Trustee, the Trustee shall exercise those rights and powers vested in it by the indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. No provision of the indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties thereunder, or in the exercise of its rights or powers, unless it receives indemnity satisfactory to it against any loss, liability or expense.

The indenture will limit the rights of the Trustee, should it become a creditor of any obligor on the notes or the Note Guarantees, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee may engage in other transactions with the Company and its Affiliates; *provided* that if it acquires any conflicting interest after a Default has occurred and is continuing, it must either eliminate the conflict within 90 days, apply to the Commission for permission to continue or resign.

Wilmington Trust, National Association will also initially serve as the security registrar and paying agent for the notes. We may at any time designate additional paying agents or rescind the designation of paying agents or approve a change in the office through which any paying agent acts. We may also choose to act as our own paying agent, but must also maintain a paying agency in the contiguous United States. Whenever there are changes in the paying agent for the notes we must notify the Trustee.

References in the indenture to the Trustee shall, as appropriate, refer also to the paying agent and security registrar, and such other entities and any authentication agent shall be entitled to the same rights, protections and indemnities as those granted to the Trustee.

Form, Denomination and Registration of Notes

The notes will be issued in registered form, without interest coupons, in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, in the form of both global notes and certificated notes, as further described below under “—Book Entry, Delivery and Form.”

The Trustee will not be required (i) to issue, register the transfer of or exchange any note for a period of 15 days before a selection of notes to be redeemed, (ii) to register the transfer of or exchange any note so selected for redemption in whole or in part, except, in the case of a partial redemption, that portion of the note not being redeemed, or (iii) if a redemption is to occur after a regular record date but on or before the corresponding interest payment date, to register the transfer or exchange any note on or after the regular record date and before the date of redemption.

No service charge will be imposed in connection with any transfer or exchange of any note, but the Company may in general require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

Governing Law

The indenture, including any Note Guarantees, the notes and the other Note Documents shall be governed by, and construed in accordance with, the laws of the State of New York; however, the Mortgages shall be governed by, and construed in accordance with, the laws of the state in which the applicable premises is located.

Certain Definitions

“2022 Notes” means the Company’s 6.000% Senior Secured Notes due 2022 issued pursuant to the 2022 Notes Indenture.

“2022 Notes Indenture” means the Indenture, dated as of February 15, 2017, between the Company (as successor by merger to Peabody Securities Finance Corporation) and Wilmington Trust, National Association, as Trustee, governing 6.000% Senior Secured Notes due 2022 and 6.375% Senior Secured Notes due 2025, as amended and supplemented with respect to the 6.000% Senior Secured Notes due 2022.

“2025 Notes Indenture” means the Indenture, dated as of February 15, 2017, between the Company (as successor by merger to Peabody Securities Finance Corporation) and Wilmington Trust, National Association, as Trustee, governing 6.000% Senior Secured Notes due 2022 and 6.375% Senior Secured Notes due 2025, as amended and supplemented with respect to the 6.375% Senior Secured Notes due 2025.

“2022 Notes Indenture Trustee” means Wilmington Trust, National Association, in its capacity as trustee under the 2022 Notes Indenture.

“2025 Notes Indenture Trustee” means Wilmington Trust, National Association, in its capacity as trustee under the 2025 Notes Indenture.

“ABL Collateral Agent” means any agent or representative of the holders of the ABL Debt (including for purposes related to the administration of the ABL Security Documents) pursuant to the credit agreement or other agreement governing such ABL Debt.

“ABL Credit Facilities” means one or more asset-based revolving credit facilities with banks or other institutional or other lenders providing for asset-based revolving credit loans or letters of credit, as such credit facility, in whole or in part, in one or more instances, may be amended, restated, modified, supplemented, extended, renewed, refunded, restructured, refinanced or replaced or otherwise modified from time to time and whether by the same or any other agent, lender or group of lenders or other party.

“ABL Debt” means Funded Debt incurred by the Company or any of the Guarantors under clause (1) of the definition of Permitted Debt that is secured by an ABL Lien that is permitted to be incurred and so secured under each applicable Secured Debt Document; provided, that:

- (a) on or before the date on which such Funded Debt is incurred by the Company or a Guarantor, such Funded Debt is designated by the Company, in an Officer’s Certificate delivered to the Collateral Trustee and the ABL Collateral Agent, as “ABL Debt” for the purposes of the Secured Debt Documents and the ABL Lien Documents; provided that no Series of Secured Debt may be designated as ABL Debt; and
- (b) such Funded Debt is subject to an ABL Intercreditor Agreement; and
- (c) all other requirements set forth in the ABL Intercreditor Agreement with respect to the incurrence of such Funded Debt have been satisfied (and the satisfaction of such requirements and the other provisions of this clause (c) will be conclusively established if the Company delivers to the Collateral Trustee and the ABL Collateral Agent an Officer’s Certificate stating that such requirements and other provisions have been satisfied and that such Debt is “ABL Lien Debt”).

“ABL Intercreditor Agreement” means an intercreditor agreement entered into between the ABL Collateral Agent, the Priority Collateral Trustee and the Junior Collateral Trustee that sets forth the relative priority of the Priority Liens and Junior Liens, on the one hand, compared to the ABL Liens, on the other hand.

“ABL Lien” means a Lien granted by an ABL Security Document to the ABL Collateral Agent, at any time, upon any ABL Priority Collateral of the Company or any Guarantor to secure ABL Obligations; provided that any such Lien upon Collateral other than ABL Priority Collateral will be junior to the Priority Liens and the Junior Liens.

“ABL Lien Documents” means any ABL Credit Facility pursuant to which any ABL Debt is incurred and ABL Security Documents.

“ABL Lien Obligations” means the ABL Debt and all other Obligations in respect of ABL Debt, and guarantees thereof, that are secured, or intended to be secured, under the ABL Lien Documents and are subject to the terms of the ABL Intercreditor Agreement, solely to the extent such Obligations and such guarantees thereof are permitted to be incurred under the ABL Lien Documents and the Secured Debt Documents and are so secured under the ABL Lien Documents.

“ABL Priority Collateral” means (i) accounts and chattel paper (but excluding intercompany debt owed to the Company or any Guarantor), in each case other than to the extent constituting identifiable proceeds of Term Priority Collateral; (ii) deposit accounts (and all cash, checks and other negotiable instruments, funds and other evidences of payment held therein), other than a deposit account used exclusively for identifiable proceeds of Term Priority Collateral; (iii) all inventory; (iv) to the extent evidencing, governing, securing or otherwise reasonably related to any of the foregoing, all documents, general intangibles, instruments, commercial tort claims, letters of credit, letter of credit rights and supporting obligations (but excluding intercompany debt owed to the Company or any Grantor); provided, however, that to the extent any of the foregoing also evidence, govern, secure or otherwise reasonably relate to any Term Priority Collateral, only that portion that evidences, governs, secures or primarily relates to ABL Priority Collateral shall constitute ABL Priority Collateral; provided, further, that the foregoing shall not include any intellectual property; (v) all books, records and documents related to the foregoing (including databases, customer lists and other records, whether tangible or electronic, which contain any information relating to any of the foregoing); and (vi) all proceeds and products of any or all of the foregoing in whatever form received, including claims against third parties.

“ABL Security Documents” means the ABL Intercreditor Agreement, all security agreements, collateral assignments, mortgages, control agreements or other grants or transfers for security executed and delivered by Company or any Guarantor creating (or purporting to create) a Lien upon the ABL Priority Collateral in favor of the ABL Collateral Agent, for the benefit of any of the holders of ABL Lien Obligations, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the ABL Intercreditor Agreement.

“Accreted Value” means, as of any date, an amount equal to the sum of (i) the Issue Amount and (ii) the PIK Interest accrued through such date, such amount to be calculated on a daily basis at the rate of 2.500% per annum compounded semiannually on each June 30 and December 31, from the Issue Date through the date of determination computed on the basis of a 360-day year of twelve 30-day months.

“Acquired Debt” means Debt of a Person existing at the time the Person is acquired by, or merges with or into, the Company or any Restricted Subsidiary or becomes a Restricted Subsidiary, whether or not such Debt is Incurred in connection with, or in contemplation of, the Person being acquired by or merging with or into or becoming a Restricted Subsidiary.

“Act of Required Secured Parties” means, as to any matter at any time:

(i) until the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, a direction in writing delivered to the Priority Collateral Trustee by or with the written consent of, the Required Lenders;

(ii) from and after the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, but prior to the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Trustee by or with the written consent of, the holders of (or the Priority Lien Representatives representing the holders of) more than 50% of the sum of:

(a) the aggregate outstanding principal amount of Priority Lien Debt (including the face amount of outstanding letters of credit whether or not then available or drawn); and

(b) other than in connection with the exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Priority Lien Debt; provided, however, that if at

any time prior to the Discharge of Priority Lien Obligations the only remaining Priority Lien Obligations are Swap Obligations, then the term “Act of Required Secured Parties” will mean the holders of a majority of the aggregate “settlement amount” (or similar term) as defined in the Swap Contracts (or, with respect to any Swap Contract that has been terminated in accordance with its terms, the amount, if any, then due and payable by the Company or any other Grantor (exclusive of expenses and similar payments but including any early termination payments then due) under such Swap Contract) under all Swap Contracts; provided further, that any Swap Contract with a “settlement amount” (or similar term) or termination payment that is a negative number shall be disregarded for purposes of all calculations required by the term “Act of Required Secured Parties;” and

(iii) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Junior Collateral Trustee by or with the written consent of the holders of (or the Junior Lien Representatives representing the holders of) Junior Lien Debt representing the Required Junior Lien Debtholders.

For purposes of this definition, (a) Secured Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company will be deemed not to be outstanding and neither the Company nor any Affiliate of the Company will be entitled to vote such Secured Debt (in each case, as identified in writing to the Collateral Trustee by the applicable Secured Debt Representative) and (b) votes will be determined in accordance with the provisions described under “—Collateral Trust Agreement—Voting.”

“Additional Assets” means all or substantially all of the assets of a Permitted Business, or Voting Stock of another Person engaged in a Permitted Business that will, on the date of acquisition, be a Restricted Subsidiary, or other assets (other than cash and Cash Equivalents or securities (including Equity Interests)) that are to be used in a Permitted Business.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, such specified Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and a Person shall be presumed to “control” another Person if (A) the first Person either (i) is the Beneficial Owner, directly or indirectly, of 35% or more of the total voting power of the Voting Stock of such specified Person or (ii) (x) is the Beneficial Owner, directly or indirectly, of 10% or more of the total voting power of the Voting Stock of such specified Person and (y) has the right to appoint or nominate, or has an officer or director that is, at least one member of the Board of Directors of such specified Person, or (B) if the specified Person is a limited liability company, the first Person is the managing member. “Controlled” has a meaning correlative thereto.

“Applicable Premium” means, with respect to any note on any redemption date, the greater of:

- (1) 1.0% of the Accreted Value of the note; or
- (2) the excess of:
 - (a) the present value at such redemption date of (i) the redemption price of such note at December 31, 2022 (such redemption price being set forth in the table above under the caption “—Optional Redemption”), plus (ii) all required Cash Interest payments due on such note from the redemption date through December 31, 2022 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
 - (b) the Accreted Value of such note.

The Trustee shall have no duty to calculate or verify the calculation of the Applicable Premium.

“Asset Sale” means any sale, lease (other than operating leases or finance leases entered into in the ordinary course of a Permitted Business), transfer or other disposition of any assets by the Company or any Restricted

Subsidiary outside of the ordinary course of business, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Restricted Subsidiary (each of the above referred to as a “disposition”), *provided* that the following are not included in the definition of “Asset Sale”:

- (1) a disposition to the Company or a Restricted Subsidiary, including the sale or issuance by the Company or any Restricted Subsidiary of any Equity Interests of any Restricted Subsidiary to the Company or any Restricted Subsidiary;
- (2) the sale or discount of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof, and dispositions of Receivables and related assets by Securitization Subsidiary in connection with a Permitted Receivables Financing and any transactions in connection with factoring of receivables by a non- Guarantor Restricted Subsidiary of the Company undertaken consistent with past practice or in the ordinary course of business;
- (3) a transaction covered by the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets—The Company;”
- (4) a Restricted Payment permitted under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments” or a Permitted Investment;
- (5) any transfer of property or assets that consists of grants by the Company or its Restricted Subsidiaries in the ordinary course of business of licenses or sub-licenses, including with respect to intellectual property rights;
- (6) the sale of Capital Stock of an Unrestricted Subsidiary;
- (7) the sale of assets by the Company and its Restricted Subsidiaries consisting of Real Property solely to the extent that such Real Property is not necessary for the normal conduct of operations of the Company and its Restricted Subsidiaries;
- (8) foreclosure of assets of the Company or any of its Restricted Subsidiaries to the extent not constituting a Default;
- (9) the sale or other disposition of cash or Cash Equivalents;
- (10) the unwinding of any Permitted Hedging Agreements;
- (11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (12) the issuance of Disqualified Stock or Preferred Stock pursuant to the covenant described above under “—Certain Covenants— Limitation on Debt and Disqualified Stock or Preferred Stock;”
- (13) (a) the sale of damaged, obsolete, unusable or worn out equipment or equipment that is no longer needed in the conduct of the business of the Company and its Restricted Subsidiaries and (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines;
- (14) dispositions of assets by virtue of an asset exchange or swap with a third party in any transaction (a) with an aggregate Fair Market Value less than or equal to \$15.0 million, (b) involving a coal-for-coal swap, (c) to the extent that an exchange is for Fair Market Value and for credit against the purchase price of similar replacement property or (d) consisting of a coal swap involving any Real Property;
- (15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than \$10.0 million; and
- (16) exchanges and relocation of easements for pipelines, oil and gas infrastructure and similar arrangements in the ordinary course of business.

If, in connection with an acquisition by the Company or any Restricted Subsidiary, a portion of the acquired assets are disposed of within 90 days of such acquisition, such disposition shall not be deemed to be an Asset Sale; *provided* that such assets are disposed of for Fair Market Value.

“*Average Life*” means, as of the date of determination with respect to any Debt, the quotient obtained by dividing (i) the sum of the products of (x) the number of years from the date of determination to the dates of each successive scheduled principal payment of such Debt and (y) the amount of such principal payment by (ii) the sum of all such principal payments.

“*Bank Products Obligations*” means any and all obligations of the Company, Pledgor or any Guarantor arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Company, Pledgor and/or any Guarantor now or hereafter maintained with any of such lenders or their affiliates, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other treasury, deposit, disbursement, overdraft, and cash management services afforded to the Company or Guarantor by any of such lenders or their affiliates, and (d) stored value card, commercial credit card and merchant card services.

“*Bankruptcy Code*” means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

“*Bankruptcy Law*” means the Bankruptcy Code and any federal, state or foreign law for the relief of debtors.

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have correlative meanings. For purposes of this definition, a Person shall be deemed not to Beneficially Own securities that are the subject of a stock purchase agreement, merger agreement, amalgamation agreement, arrangement agreement or similar agreement until consummation of the transactions or, as applicable, series of related transactions contemplated thereby.

“*Board of Directors*” means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) with respect to a partnership, if the general partner of the partnership is a corporation, the board of directors of the general partner of the partnership and if the general partner of the partnership is a limited liability company, the managing member or members or any controlling committee of managing members thereof of such general partner, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or any manager thereof and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

“*Capital Stock*” means

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests;
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing

any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock; and

- (5) in the case of a Gibraltar registered company, the share capital in such company.

“*Cash Equivalents*” means

- (1) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;
- (2) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of two years or less from the date of acquisition, (iii) bankers’ acceptances with maturities not exceeding two years from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital, surplus and undivided profits in excess of \$250 million (or the foreign currency equivalent thereof) whose short-term debt is rated A-2 or higher by S&P or P-2 or higher by Moody’s;
- (3) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody’s;
- (4) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case rated at least A-1 by S&P or P-1 by Moody’s with maturities not exceeding one year from the date of acquisition;
- (5) bonds, debentures, notes or other obligations with maturities not exceeding two years from the date of acquisition issued by any corporation, partnership, limited liability company or similar entity whose long-term unsecured debt has a credit rate of A2 or better by Moody’s and A or better by S&P;
- (6) investment funds at least 95% of the assets of which consist of investments of the type described in clauses (1) through (5) above (determined without regard to the maturity and duration limits for such investments set forth in such clauses, *provided* that the weighted average maturity of all investments held by any such fund is two years or less);
- (7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (1) above and entered into with a financial institution satisfying the criteria described in clause (2) above; and
- (8) in the case of a Foreign Restricted Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

“*Cash Management Agreement*” means any agreement evidencing Cash Management Obligations.

“*Cash Management Obligations*” means Bank Products Obligations, in each case, (x) with any Person that (x) at the time it enters into a Cash Management Agreement, is a Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of any of the foregoing or (ii) becomes a Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable), or an Affiliate of any of the foregoing at any time after it has entered into a Cash Management Agreement and (y) which has been designated at the election of the Company as “Cash Management Obligations” by written notice given by the Company and acknowledged by the Priority Lien Representative for the applicable Cash Management Obligations to the Collateral Trustee.

“Cash Management Provider” means the counterparty to the Company or any Restricted Subsidiary of the Company under any Cash Management Agreement.

“Change of Control” means:

- (1) the sale, lease, transfer, or conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole to any “person” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act);
- (2) any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act), other than (in the case of the Company) the Company or the Permitted Holders, is or becomes the “beneficial owner” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Company;
- (3) individuals who on the Issue Date constituted the Board of Directors of the Company, together with any new directors whose election by the Board of Directors or whose nomination for election by the holders of the Voting Stock of the Company was approved by a majority of the directors then still in office who were either directors or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Board of Directors of the Company then in office; or
- (4) the adoption of a plan relating to the liquidation or dissolution of the Company.

Notwithstanding the preceding, a conversion of the Company or any of its Restricted Subsidiaries from a limited partnership, corporation, limited liability company or other form of entity to a limited partnership, corporation, limited liability company or other form of entity or an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests for another form of entity shall not constitute a Change of Control, so long as following such transaction the “persons” (as that term is used in Section 13(d) of the Exchange Act) who Beneficially Owned the Voting Stock of the Company, as the case may be, immediately prior to such transaction continue to Beneficially Own in the aggregate more than 50% of the Voting Stock of such entity, or continue to Beneficially Own sufficient Equity Interests in such entity to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity or its general partner, as applicable, and, in either case no “person,” Beneficially Owns more than 50% of the Voting Stock of such entity or its general partner, as applicable.

“Class” means (1) in the case of Junior Lien Obligations, every Series of Junior Lien Debt and all other Junior Lien Obligations, taken together, and (2) in the case of Priority Lien Obligations, every Series of Priority Lien Debt and all other Priority Lien Obligations, taken together. The Collateral Trust Agreement includes two Classes of Secured Parties, the holders of Priority Lien Obligations and holders of Junior Lien Obligations.

“Co-Issuer Notes” means the 10.000% Senior Secured Notes due 2024 Issued by PIC AU Holdings LLC and PIC AU Holdings Corporation.

“Co-Issuer Notes Collateral Trustee” means Wilmington Trust, National Association, as collateral trustee under that certain Second Lien Collateral Trust Agreement.

“Co-Issuer Notes Indenture” means the Indenture, dated as of the Issue Date, among PIC AU Holdings LLC and PIC AU Holdings Corporation and Wilmington Trust, National Association, as Trustee, governing the Co-Issuer Notes.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means all property subject or purported to be subject, from time to time, to a Lien under any Security Document.

“*Collateral Trust Agreement*” means that certain collateral trust agreement dated April 3, 2017, as amended, by and among the Company, the Guarantors, the Priority Collateral Trustee, the Junior Lien Collateral Trustee, the 2025 Notes Indenture Trustee, the 2022 Notes Indenture Trustee and the administrative agent under the Existing Credit Facility, and, as of the Issue Date, the Trustee and the agent under the LC Agreement.

“*Collateral Trust Joinder*” means (1) with respect to the provisions of the Collateral Trust Agreement relating to any additional Secured Debt, an agreement substantially in the form attached to the Collateral Trust Agreement and (2) with respect to the provisions of the Collateral Trust Agreement relating to the addition of additional Guarantors, an agreement substantially in the form attached to the Collateral Trust Agreement.

“*Collateral Trustee*” means each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

“*Commission*” or “*SEC*” means the Securities and Exchange Commission.

“*common equity*,” when used with respect to a contribution of capital to the Company, means a capital contribution to the Company in a manner that does not constitute Disqualified Equity Interests.

“*Common Stock*” means Capital Stock not entitled to any preference on dividends or distributions, upon liquidation or otherwise.

“*Consolidated Net Income*” means, for any period, for the Company and the Restricted Subsidiaries on a consolidated basis, the net income (or loss) attributable to the Company and the Restricted Subsidiaries for that period, determined in accordance with GAAP, excluding, without duplication:

- (1) non-cash compensation expenses related to common stock and other equity securities issued to employees;
- (2) extraordinary or non-recurring gains and losses;
- (3) [reserved];
- (4) income or losses from discontinued operations or disposal of discontinued operations or costs and expenses associated with the closure of any mines (including any reclamation or disposal obligations);
- (5) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;
- (6) net unrealized gains or losses resulting in such period from non-cash foreign currency remeasurement gains or losses;
- (7) net unrealized gains or losses resulting in such period from the application FASB ASC 815. Derivatives and Hedging, in each case, for such period;
- (8) non-cash charges including non-cash charges due to cumulative effects of changes in accounting principles; and
- (9) any net income (or loss) of the Company or a Restricted Subsidiary for such period that is not a Subsidiary, or is an Unrestricted Subsidiary or a Securitization Subsidiary, or that is accounted for by the equity method of accounting to the extent included therein; *provided* that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period.

“*Consolidated Net Tangible Assets*” means, as of any particular time, the total of all the assets appearing on the most recent consolidated balance sheet prepared in accordance with GAAP of the Company and the

Restricted Subsidiaries as of the end of the last fiscal quarter for which financial information is available (less applicable reserves and other properly deductible items) after deducting from such amount:

- (1) all current liabilities, including current maturities of long-term debt and current maturities of obligations under finance leases (other than any portion thereof maturing after, or renewable or extendable at our option or the option of the relevant Restricted Subsidiary beyond, twelve months from the date of determination); and
- (2) the total of the net book values of all of our assets and the assets of our Restricted Subsidiaries properly classified as intangible assets under GAAP (including goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets).

The calculation of “Consolidated Net Tangible Assets” will be made on a pro forma basis consistent with the definition of Fixed Charge Coverage Ratio.

“*Consolidated Total Debt*” means, as of the date of determination, an amount equal to the sum (without duplication) of (1) the aggregate amount of all outstanding Debt of the Company and its Restricted Subsidiaries on a consolidated basis, but excluding the amount of any Swap Obligations (other than Swap Obligations entered into for speculative purposes) plus (2) the aggregate amount of all outstanding Disqualified Stock of the Company and its Restricted Subsidiaries, other than any Disqualified Stock issued by the Company to any Guarantor, or by a Guarantor to the Company or any other Guarantor, on a consolidated basis, with the amount of such Disqualified Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and Maximum Fixed Repurchase Price.

For purposes hereof, the “Maximum Fixed Repurchase Price” of any Disqualified Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Consolidated Total Debt shall be required to be determined pursuant to the indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined reasonably and in good faith by the Company.

“*Controlled Subsidiary*” means, with respect to any consent, waiver or right to terminate or accelerate the obligations under a Contract, any Subsidiary that the Company directly or indirectly controls for purposes of the provision of such consent, waiver or exercise of such right to terminate or accelerate the obligations under such Contract.

“*Controlling Priority Lien Representative*” means (i) until the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, the Administrative Agent and (ii) from and after the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, the Major Non-Controlling Priority Representative.

“*Controlling Representative*” means at any time (i) prior to the Discharge of Priority Lien Obligations, the Controlling Priority Lien Representative and (ii) after the Discharge of Priority Lien Obligations, the Junior Lien Representative that represents the Series of Junior Lien Debt with the then largest outstanding principal amount.

“*Credit Facilities*” means one or more credit facilities (including, without limitation, the Existing Credit Facility and the LC Agreement) or commercial paper facilities with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit or issuances of debt securities evidenced by notes, debentures, bonds or similar instruments, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“Debt” means, with respect to any Person, without duplication,

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (other than any obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees, bank guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits);
- (3) all obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (solely to the extent such letters of credit, bankers’ acceptances or other similar instruments have been drawn and remain unreimbursed);
- (4) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued expenses incurred in the ordinary course of business, (ii) obligations under federal coal leases and (iii) obligations under coal leases which may be terminated at the discretion of the lessee and (iv) obligations for take-or-pay arrangements);
- (5) the Finance Lease Obligations of such Person;
- (6) all Debt of other Persons Guaranteed by such Person to the extent so Guaranteed;
- (7) all Debt of other Persons secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person; and
- (8) all obligations of such Person under Permitted Hedging Agreements;

provided that in no event shall Debt include (i) asset retirement obligations, (ii) obligations (other than obligations with respect to Debt for borrowed money or other Funded Debt) related to surface rights under an agreement for the acquisition of surface rights for the production of coal reserves in the ordinary course of business in a manner consistent with historical practice of the Company and its Subsidiaries and (iii) Non-Finance Lease Obligations.

The amount of Debt of any Person will be deemed to be:

- (a) with respect to Debt secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the Fair Market Value of such asset on the date the Lien attached and (y) the amount of such Debt;
- (b) with respect to any Debt issued with original issue discount, the face amount of such Debt less the remaining unamortized portion of the original issue discount of such Debt;
- (c) with respect to any Permitted Hedging Agreement, the amount payable (determined after giving effect to all contractually permitted netting) if such Permitted Hedging Agreement terminated at that time; and
- (d) otherwise, the outstanding principal amount thereof.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Designated Non-cash Consideration” means the Fair Market Value of non-cash consideration received by the Company or any of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, less the amount of Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Discharge of Credit Facility Obligations” means that the Priority Lien Obligations pursuant to the Existing Credit Facility (other than Swap Obligations) are no longer secured by, and no longer required to be secured by, the Collateral pursuant to the terms of the Existing Credit Facility or the other applicable Priority Lien Documents; *provided* that a Discharge of Credit Facility Obligations shall be deemed not to have occurred if the

“Discharge of Priority Lien Obligations” means the occurrence of all of the following:

- (1) termination or expiration of all commitments to extend credit that would constitute Priority Lien Debt;
- (2) with respect to each Series of Priority Lien Debt, either (x) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt of such Series (other than any undrawn letters of credit) or (y) there has been a legal defeasance or covenant defeasance pursuant to the terms of the applicable Priority Lien Debt Documents for such Series of Priority Lien Debt;
- (3) with respect to any undrawn letters of credit constituting Priority Lien Debt, either (x) discharge or cash collateralization (at the lower of (A) 105% of the aggregate undrawn amount and (B) the percentage of the aggregate undrawn amount required for release of liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt or (y) the issuer of each such letter of credit has notified the Priority Collateral Trustee in writing that alternative arrangements satisfactory to such issuer and to the holders of the related Series of Priority Lien Debt that has reimbursement obligations with respect thereto have been made; and
- (4) payment in full in cash of all other Priority Lien Obligations (other than Swap Obligations) that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time); and
- (5) with respect to any Secured Obligations, (A) the cash collateralization of all such Swap Obligations on terms satisfactory to each applicable Hedge Provider or (B) the expiration or termination of all Swap Contracts evidencing such Swap Obligations and payment in full in cash of all Swap Obligations due and payable after giving effect to such expiration or termination;

provided, however, that if, at any time after the Discharge of Priority Lien Obligations has occurred, the Company thereafter enters into any Priority Lien Document evidencing a Priority Lien Debt the incurrence of which is not prohibited by any applicable Secured Debt Document, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement with respect to such new Priority Lien Debt (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which the Company designates such Funded Debt as Priority Lien Debt in accordance with the terms of the Collateral Trust Agreement, the Obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein and any Junior Lien Obligations shall be deemed to have been at all times Junior Lien Obligations and at no time Priority Lien Obligations.

“Disqualified Equity Interests” means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event

- (1) mature or are mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder for consideration other than Qualified Equity Interests, or
- (2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Debt,

in each case prior to the date that is 91 days after the Stated Maturity of the notes; *provided* that Equity Interests will not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to

require the repurchase or redemption upon an “asset sale” or “change of control” occurring prior to 91 days after the Stated Maturity of the notes if those provisions

- (a) are no more favorable to the holders of such Equity Interests than the provisions of the indenture described above under “—Repurchase of Notes at the Option of Holders— Asset Sales” and “—Certain Covenants—Repurchase of Notes at the Option of Holders—Change of Control,” and
- (b) specifically state that repurchase or redemption pursuant thereto will not be required prior to the Company’s repurchase of the notes as required by the indenture.

“*Disqualified Stock*” means Capital Stock constituting Disqualified Equity Interests.

“*Domestic Restricted Subsidiary*” means any Restricted Subsidiary that is not a Foreign Subsidiary; provided, that in no event shall any such Subsidiary that is a Subsidiary of a Foreign Subsidiary be considered a “Domestic Restricted Subsidiary.”

“*EBITDA*” means, with respect to any specified Person for any period, the sum of, without duplication:

- (1) Consolidated Net Income, plus
- (2) Fixed Charges, to the extent deducted in calculating Consolidated Net Income, plus
- (3) to the extent deducted in calculating Consolidated Net Income and as determined on a consolidated basis for the Company and its Restricted Subsidiaries in conformity with GAAP (and without duplication):
 - (a) Restructuring Costs; plus
 - (b) the provision for Taxes based on income, profits or capital, including, without limitation, state franchise and similar Taxes; plus
 - (c) depreciation, depletion, amortization (including, without limitation, amortization of intangibles, deferred financing fees and any amortization included in pension or other employee benefit expenses) and all other non-cash items reducing Consolidated Net Income (including, without limitation, write-downs and impairment of property, plant, equipment and intangibles and other long-lived assets and the impact of purchase accounting) but excluding, in each case, non-cash charges in a period which reflect cash expenses paid or to be paid in another period); plus
 - (d) any expenses, costs or charges related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or Debt permitted to be incurred by the indenture (whether or not successful); plus
 - (e) all non-recurring or unusual losses, charges and expenses (and less all non-recurring or unusual gains); plus
 - (f) all non-cash charges and expenses, including start-up and transition costs, business optimization expenses and other non-cash restructuring charges; plus
 - (g) the non-cash portion of “straight-line” rent expense; plus
 - (h) non-cash compensation expense or other non-cash expenses or charges arising from the granting of stock options, the granting of stock appreciation rights and similar arrangements (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation rights or similar arrangements); plus
 - (i) any debt extinguishment costs; plus
 - (j) accretion of asset retirement obligations in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic No. 410, Asset Retirement and Environmental Obligations, and any similar accounting in prior periods; plus

- (k) net after-tax losses attributable to asset sales, and net after-tax extraordinary losses; plus
- (l) (a) mark-to-market gains (and less any mark-to-market losses) relating to any Permitted Hedging Agreements and (b) any mark-to-market losses attributed to short positions in any actual or synthetic forward sales contracts relating to coal or any other similar device or instrument or other instrument classified as a “derivative” pursuant to FASB ASC Topic No. 815, Derivatives and Hedging; plus
- (m) commissions, premiums, discounts, fees or other charges relating to performance bonds, bid bonds, appeal bonds, surety bonds, reclamation and completion guarantees and other similar obligations;

provided that, with respect to any Restricted Subsidiary, such items will be added only to the extent and in the same proportion that the relevant Restricted Subsidiary’s net income was included in calculating Consolidated Net Income. Any reimbursement or equity contribution which is included in calculating EBITDA shall be excluded for purposes of calculations under paragraph (a)(3)(B) under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments;”

minus

- (1) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (a) and (b) of this clause (1) increased such Consolidated Net Income for the respective period for which EBITDA is being determined):
 - (a) non-cash items increasing Consolidated Net Income for such period (but excluding any such items in respect of which cash was received in a prior period or will be received in a future period or which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period), and
 - (b) the cash portion of “straight-line” rent expense which exceeds the amount expensed in respect of such rent expense.

“*Environment*” means soil, land surface or subsurface strata, water, surface waters (including navigable waters, ocean waters within applicable territorial limits, streams, ponds, drainage basins, and wetlands), ground waters, drinking water supply, water related sediments, air, plant and animal life, and any other environmental medium.

“*Environmental Laws*” means all laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the Environment, the preservation, restoration or reclamation of natural resources, or the presence, use, storage, discharge, management, release or threatened release of any pollutants, contaminants or hazardous or toxic substances, wastes or material or the effect of the environment on human health and safety.

“*Equity Interests*” means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Debt convertible into, or exchangeable for, Capital Stock.

“*Equity Offering*” means an offer and sale of Qualified Stock of the Company after the Issue Date other than an issuance registered on Form S-4 or S-8 or any successor thereto or any issuance pursuant to employee benefit plans or otherwise relating to compensation to officers, directors or employees.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Excluded Assets*” means:

- (1) motor vehicles and other assets subject to certificates of title where the net book value of any such motor vehicle or other such asset individually is less than \$1.0 million;

- (2) commercial tort claims where the amount of the net proceeds claimed is less than \$1.0 million;
- (3) (i) any lease, license or other written agreement or written obligation (each, a “Contract”) and any leased or licensed asset under a Contract or asset financed pursuant to a purchase money financing Contract or Finance Lease Obligation, in each case that is the direct subject of such Contract (so long as such Contract is not entered into for purposes of circumventing or avoiding the collateral requirements of the indenture), in each case only for so long as the granting of a security interest therein (x) would be prohibited by, cause a default under or result in a breach of such Contract (unless the Company or any Controlled Subsidiary may unilaterally waive it) or would give another Person (other than the Company or any Controlled Subsidiary) a right to terminate or accelerate the obligations under such Contract or to obtain a Lien to secure obligations owing to such Person (other than the Company or any Controlled Subsidiary) under such Contract (in each case, except to the extent any such prohibition is unenforceable after giving effect to applicable anti-assignment provisions of the UCC or other applicable law) or (y) would require obtaining the consent of any Person (other than the Company or any Controlled Subsidiary) or applicable Governmental Authority, except to the extent that such consent has already been obtained and in each case after giving effect to applicable anti-assignment provisions of the UCC or other applicable law or (ii) any asset the granting of a security interest therein in favor of the Secured Parties would be prohibited by any applicable law (other than any organizational document) (except to the extent such prohibition is unenforceable after giving effect to applicable anti-assignment provisions of the UCC, other than proceeds thereof, the assignment of which is expressly deemed effective under the UCC notwithstanding such prohibitions);
- (4) those assets with respect to which, in the reasonable judgment of the administrative agent under the Existing Credit Facility and the Company, the costs of obtaining or perfecting such a security interest are excessive in relation to the benefits to be obtained by the Secured Parties therefrom or would result in materially adverse tax consequences to the Company or its Subsidiaries as reasonably determined by the Company in consultation with the administrative agent under the Existing Credit Facility;
- (5) any Letter of Credit Rights (as defined in the UCC) (other than to the extent a Lien thereon can be perfected by filing a customary financing statement);
- (6) any right, title or interest in Receivables sold, pledged or financed pursuant to a Permitted Receivables Financing, and all of the Company’s and its Subsidiaries’ rights, interests and claims under a Permitted Receivables Financing;
- (7) any real property and leasehold rights and interests in real property other than Material Real Property;
- (8) any “intent-to-use” application for registration of a filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto; and
- (9) (i) any Equity Interests in the Pledgor, Peabody International Investments, Inc., Peabody International Holdings, LLC and each Subsidiary, whether now owned or hereafter acquired, substantially all of the assets of which consist of Equity Interests in Pledgor and any successor to any of the foregoing, (ii) any Equity Interests of captive insurance subsidiaries and not-for-profit subsidiaries, (iii) any Equity Interests in, or assets of, any Securitization Subsidiary (to the extent a pledge of the Equity Interests in such Securitization Subsidiary is prohibited under any Permitted Receivables Financing entered into by such Securitization Subsidiary), (iv) margin stock and (v) any Equity Interests in any Subsidiary that is not wholly-owned by the Company or any Restricted Subsidiary or in a Joint Venture, if the granting of a security interest therein (A) would be prohibited by, cause a default under or result in a breach of, or would give another Person (other than the Company or any Controlled Subsidiary) a right to terminate, under any organizational document,

shareholders, joint venture or similar agreement applicable to such Subsidiary or Joint Venture or (B) would require obtaining the consent of any Person (other than the Company or any Controlled Subsidiary) (in each case after giving effect to applicable anti-assignment provisions of the UCC or other applicable law); provided that, if at any time after the Issue Date, in the good faith determination by the Company the pledge of 100% of the Voting Stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the Pledgor's legal charge over the stock of Peabody Investments (Gibraltar) Limited shall be reduced to levels such that there is no such material cash tax liability;

provided that the Collateral shall include the replacements, substitutions and proceeds of any of the foregoing unless such replacements, substitutions or proceeds also constitute Excluded Assets.

"Excluded Flood Zone Property" means any "building", "structure" or mobile home" situated on any real property (each as defined in Regulation H as promulgated under the Flood Laws) located in a special flood hazard area and such real property under which such building, structure or mobile home stands.

"Existing Credit Facility" means the first lien secured credit facility, dated April 3, 2017, as amended, entered into by and among the Company and the Guarantors, JPMorgan Chase N.A., as administrative agent, and the lenders party thereto, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refundings or refinancings thereof.

"Existing Debt" means Debt of the Company or the Restricted Subsidiaries in existence on the Issue Date (other than the notes issued on the Issue Date and any Debt under the Existing Credit Facility, the LC Agreement, the 2025 Notes Indenture or 2022 Notes Indenture in existence on the Issue Date).

"Fair Market Value" means, with respect to any property, the price that could be negotiated in an arm's-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction, or, where the price is established by an existing contract, the contract price. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than \$50.0 million, by any Officer; or (b) if such property has a Fair Market Value in excess of \$50.0 million, by at least a majority of the disinterested members of the Board of Directors of the Company and evidenced by a resolution of the Board of Directors delivered to the Trustee.

"Finance Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a finance lease on the balance sheet of that Person.

"Finance Lease Obligations" means, at the time any determination thereof is to be made, the amount of the liability in respect of a Finance Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP; provided that Finance Lease Obligations shall, for the avoidance of doubt, exclude all Non-Finance Lease Obligations.

"Fixed Charge Coverage Ratio" means, on any date (the "transaction date"), the ratio of:

- (1) the aggregate amount of EBITDA of the Company for the four fiscal quarters immediately prior to the transaction date for which internal financial statements are available (the "reference period") to
- (2) the aggregate Fixed Charges of the Company during such reference period.

In making the foregoing calculation,

- (1) pro forma effect will be given to any Debt, Disqualified Stock or Preferred Stock Incurred during or after the reference period to the extent the Debt, Disqualified Stock or Preferred Stock is outstanding or is to be Incurred on the transaction date as if the Debt, Disqualified Stock or Preferred Stock had been Incurred on the first day of the reference period;

- (2) pro forma calculations of interest on Debt bearing a floating interest rate will be made as if the rate in effect on the transaction date (taking into account any Permitted Hedging Agreement applicable to the Debt if the Permitted Hedging Agreement has a remaining term of at least 12 months) had been the applicable rate for the entire reference period;
- (3) Fixed Charges related to any Debt, Disqualified Stock or Preferred Stock no longer outstanding or to be repaid or redeemed on the transaction date, except for Interest Expense accrued during the reference period under a revolving Credit Facility to the extent of the commitments thereunder (or under any successor revolving credit) in effect on the transaction date, will be excluded;
- (4) pro forma effect will be given to
 - (a) the creation, designation or redesignation of Restricted and Unrestricted Subsidiaries,
 - (b) the acquisition or disposition of companies, divisions or lines of businesses by the Company and its Restricted Subsidiaries, including any acquisition or disposition of a company, division or line of business since the beginning of the reference period by a Person that became a Restricted Subsidiary after the beginning of the reference period, and
 - (c) the discontinuation of any discontinued operations but, in the case of Fixed Charges, only to the extent that the obligations giving rise to the Fixed Charges will not be obligations of the Company or any Restricted Subsidiary following the transaction date that have occurred since the beginning of the reference period as if such events had occurred, and, in the case of any disposition, the proceeds thereof applied, on the first day of the reference period.

To the extent that pro forma effect is to be given to an acquisition or disposition of a company, division or line of business, the pro forma calculation will be based upon the most recent four full fiscal quarters for which the relevant financial information is available and will be calculated in accordance with Regulation S-X under the Securities Act.

“*Fixed Charges*” means, with respect to any specified Person for any period, the sum of:

- (1) Interest Expense for such period; and
- (2) the product of
 - (a) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock of the Company or any Preferred Stock of a Restricted Subsidiary, except for dividends payable in the Company’s Qualified Stock or paid to the Company or to a Restricted Subsidiary, and
 - (b) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate applicable to the Company and its Restricted Subsidiaries.

“*Flood Laws*” means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“*Foreign Restricted Subsidiary*” means any Restricted Subsidiary that is a Foreign Subsidiary.

“*Foreign Subsidiary*” means a Subsidiary that is organized under the laws of a jurisdiction other than the United States or any State thereof or the District of Columbia and any Subsidiary thereof.

“*Foreign Subsidiary Holdco*” means any domestic Subsidiary substantially all of the assets of which consist of the equity interests of a Foreign Subsidiary, or another Foreign Subsidiary Holdco.

“*Funded Debt*” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent;

- (1) in respect of borrowed money or advances; or
- (2) evidenced by loan agreements, bonds, notes or debentures or similar instruments or letters of credit (solely to the extent such letters of credit or other similar instruments have been drawn and remain unreimbursed) or, without duplication, reimbursement agreements in respect thereof.

For the avoidance of doubt, “Funded Debt” shall not include Swap Obligations or Cash Management Obligations.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the Issue Date.

“*Governmental Authority*” means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Grantor*” means the Company, the Guarantors, the Pledgor and any other Person (if any) that at any time provides collateral security for any Secured Obligations

“*Guarantee*” by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing any Debt or other obligation of any other Person (the “primary obligor”), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (c) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or other obligation; *provided* that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“*Guarantor*” means each Restricted Subsidiary of the Company that executes a Note Guarantee and their respective successor and assigns.

“*Hedge Provider*” means the counterparty to the Company or any Subsidiary of the Company under any Swap Contract.

“*Incur*” means, with respect to any Debt or Capital Stock, to incur, create, issue, assume or Guarantee such Debt or Capital Stock. If any Person becomes a Restricted Subsidiary of or merges with the Company or any Subsidiary of the Company on any date after the date of the indenture (including by redesignation of an Unrestricted Subsidiary or failure of an Unrestricted Subsidiary to meet the qualifications necessary to remain an Unrestricted Subsidiary), the Debt and Capital Stock of such Person outstanding on such date will be deemed to have been Incurred by such Person on such date for purposes of the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Insolvency or Liquidation Proceeding*” means:

- (1) any voluntary or involuntary case commenced by or against the Company or any other Grantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding

for the reorganization, recapitalization, receivership, liquidation or adjustment or marshalling of the assets or liabilities of the Company or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Company or any other Grantor or any similar case or proceeding relative to the Company or any other Grantor or its creditors, as such, in each case whether or not voluntary;

- (2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Company or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
- (3) any other proceeding of any type or nature in which substantially all claims of creditors of the Company or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

“Interest Expense” means, for any period, the consolidated interest expense (net of any interest income) of the Company and its Restricted Subsidiaries, plus, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by the Company or its Restricted Subsidiaries, without duplication, (i) interest expense attributable to Finance Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense, (v) any of the above expenses with respect to Debt of another Person Guaranteed by the Company or any of its Restricted Subsidiaries and (vi) any interest, premiums, fees, discounts, expenses and losses on the sale of accounts receivable (and any amortization thereof) payable by the Company or any Restricted Subsidiary in connection with a Permitted Receivables Financing, and any yields or other charges or other amounts comparable to, or in the nature of, interest payable by the Company or any Restricted Subsidiary under any receivables financing, but excluding (a) amortization of deferred financing charges incurred in respect of the notes, any Credit Facility, and any other Funded Debt, (b) the write off of any deferred financing fees or debt discount and (c) any lease, rental or other expense in connection with a Non-Finance Lease Obligation, all as determined on a consolidated basis and in accordance with GAAP. Interest Expense shall be determined for any period after giving effect to any net payments made or received and costs incurred by the Company and its Restricted Subsidiaries with respect to any related interest rate Permitted Hedging Agreements. For purposes of this definition, interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Investment” means

- (1) any advance, loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers, Joint Venture partners or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Company or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries),
- (2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form,
- (3) any purchase or acquisition of Equity Interests, bonds, notes or other Debt, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services, or
- (4) any Guarantee of any Debt or Disqualified Stock of another Person.

If the Company or any Restricted Subsidiary sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a

Subsidiary of the Company, all remaining Investments of the Company and the Restricted Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Company or any Restricted Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

“Investment Grade” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB– (or the equivalent) by S&P.

“Issue Amount” means (x) \$255.58 million, in the case of the initial notes and (y) such other amount specified by the Company, in the case of any Additional Notes.

“Issue Date” means the date on which the initial notes (other than Additional Notes) are originally issued under the indenture.

“Joint Venture” means any Person in which the Company or its Subsidiaries hold an ownership interest (a) that is not a Subsidiary and (b) of which the Company or such Subsidiary is a general partner or joint venturer; *provided, however*, that Middlemount Coal Pty Ltd shall be considered a Joint Venture for purposes of this definition.

“Junior Collateral Trustee” means Wilmington Trust, National Association, in its capacity as collateral trustee for the Junior Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“Junior Lien” means a Lien on Collateral granted by a Junior Lien Security Document to the Junior Collateral Trustee, at any time, upon any property of the Company, Pledgor or any Guarantor to secure Junior Lien Obligations.

“Junior Lien Cap” means, as of any date of determination, the amount of Junior Lien Debt that may be incurred by the Company such that, after giving pro forma effect to such Incurrence and the application of the net proceeds therefrom, the Total Leverage Ratio would not exceed 2.50 to 1.00.

“Junior Lien Debt” means Funded Debt, and letter of credit and reimbursement obligations with respect thereto, that is secured by a Junior Lien and that is permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document;

provided, that:

(a) on or before the date on which such Funded Debt is incurred by the Company, such Funded Debt is designated by the Company as “Junior Lien Debt” for the purposes of the Secured Debt Documents and the Collateral Trust Agreement pursuant to the procedures set forth in the Collateral Trust Agreement; *provided*, that no Funded Debt may be designated as both Junior Lien Debt and Priority Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Junior Lien Debt whose Secured Debt Representative is already party to the Collateral Trust Agreement, the Junior Lien Representative for such Funded Debt executes and delivers a Collateral Trust Joinder in accordance with the terms of the Collateral Trust Agreement; and

(c) all other relevant requirements set forth in the Collateral Trust Agreement are complied with.

“Junior Lien Documents” means, collectively, any indenture, credit agreement or other agreement pursuant to which any Junior Lien Debt is incurred and the Junior Lien Security Documents.

“Junior Lien Obligations” means Junior Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable), and all guarantees of any of the foregoing.

“Junior Lien Representative” means in the case of any Series of Junior Lien Debt, the trustee, agent or representative of the holders of such Series of Junior Lien Debt who maintains the transfer register for such Series of Junior Lien Debt and (A) is appointed as a Junior Lien Representative (for purposes related to the administration of the Security Documents) pursuant to the indenture, credit agreement or other agreement governing such Series of Junior Lien Debt, together with its successors in such capacity, and (B) who has executed a Collateral Trust Joinder, together with its successor in such capacity.

“Junior Lien Secured Parties” means the holders of Junior Lien Obligations and each Junior Lien Representative.

“Junior Lien Security Documents” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Company, Pledgor or any Guarantor creating (or purporting to create) a Lien upon Collateral in favor of the Junior Collateral Trustee, for the benefit of any of the Junior Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the Collateral Trust Agreement.

“LC Agreement” means the letter of credit facility agreement, to be dated as of the Issue Date, as amended, entered into by and among the Company and the Guarantors, the administrative agent party thereto, and the letter of credit issuers party thereto, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refundings or refinancings thereof.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease (or other lease in respect of a Non-Finance Lease Obligation) constitute a Lien.

“Major Non-Controlling Priority Representative” means (i) prior to an Outstanding Loan Threshold Date, the Priority Lien Representative of a Series of Priority Lien Debt (other than the administrative agent with respect to the Priority Lien Debt pursuant to the Existing Credit Facility) that constitutes the largest outstanding principal amount of any then outstanding Series of Priority Lien Debt (provided, however, that if there are two outstanding Series of Priority Lien Debt which have an equal outstanding principal amount, the Series of Priority Lien Debt with the earlier maturity date shall be considered to have the larger outstanding principal amount for purposes of this clause (i)) and (ii) on or after an Outstanding Loan Threshold Date, the Priority Lien Representative of the Series of Priority Lien Debt that constitutes the largest outstanding principal amount of any then outstanding Series of Priority Lien Debt (provided, however, that if there are two outstanding Series of Priority Lien Debt which have an equal outstanding principal amount, the Series of Priority Lien Debt with the earlier maturity date shall be considered to have the larger outstanding principal amount for purposes of this clause (ii)). For purposes of this definition, “principal amount” shall be deemed to include the face amount of any outstanding letter of credit issued under the particular Series.

“Management Services Agreements” means, collectively, (i) the Management Services Agreement, dated as of August 4, 2020, by and between Peabody Investments Corp. and each of the Client Companies listed on the signature page thereto and (ii) the Management Services Agreement, dated as August 4, 2020, by and between

“*Material Real Property*” means (a) any fee owned real property interest held by the Company or any of its Restricted Subsidiaries in an active Mine or any leasehold interest in real property of the Company or any of its Restricted Subsidiaries in an active Mine, (b) any real property owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest located on a Reserve Area on the Issue Date that has a net book value in excess of \$10.0 million (c) any real property acquired or otherwise owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries acquires a leasehold interest after the Issue Date located on a Reserve Area that has a total net book value in excess of \$25.0 million and (d) any other fee owned real property interest held by the Company or any of its Restricted Subsidiaries (other than the types of property described in clauses (a) through (c) above) with a total net book value in excess of \$10.0 million as of the date of acquisition of such real property; provided that Material Real Property shall not include (x) any real property disclosed to the Trustee prior to the Release Date as a property intended to be sold following the Release Date, (y) any leasehold interests of the Company or any of its Restricted Subsidiaries in commercial real property constituting offices of the Company and its Subsidiaries or (z) any Excluded Flood Zone Property; provided that the aggregate total net book value of all Excluded Flood Zone Property acquired after April 11, 2018 does not exceed \$50,000,000 in the aggregate as of the date of determination; provided further that, any future coal reserve or access to a coal reserve (x) that is fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest and (y) that is located adjacent to, contiguous with, or in close proximity to, both geographically and geologically (according to reasonable standards used in the mining industry) an active Mine or Reserve Area, may, in the reasonable discretion of the administrative agent under the Existing Credit Facility (in consultation with the Company) and by notice to the Collateral Trustee, be deemed part of an active Mine or Reserve Area and, as a result, a “Material Real Property” in the future.

“*Maximum Amount*” shall mean the lesser of (i) the sum of the aggregate principal amount of Co-Issuer Notes as may be outstanding at any time and the aggregate Debt outstanding under the New Co-Issuer Term Loan Facility, (ii) the maximum amount of “Restricted Payments,” if any, that Peabody may be permitted to utilize for purposes of issuing additional notes pursuant to the requirement to offer to exchange additional notes for Co-Issuer Notes under the Co-Issuer Notes Indenture and an additional \$206.0 million pursuant to the requirement to offer to exchange new Company Debt for the New Co-Issuer Term Loan Facility, in each case as of any date of determination, (iii) to the extent the Wilpinjong Mandatory Offer (as defined in the Co-Issuer Notes Indenture) may result in any Lien (as defined in the Peabody Existing Indenture), the maximum amount of Permitted Liens (as defined in the Peabody Existing Indenture) that may take the form of any such Lien and (iv) the maximum amount of “Investments” (as defined in the Peabody Credit Agreement), if any, that Peabody may be permitted to utilize for purposes of issuing notes and term loans under the LC Agreement, in each case as of any date of determination.

“*Mine*” means any excavation or opening into the earth now and hereafter made from which coal is or can be extracted from any of the Real Properties.

“*Minimum Liquidity*” means, as of any date of determination, an amount determined for the Company and its Restricted Subsidiaries on a consolidated basis equal to the sum of (i) unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries on a consolidated basis, plus (ii) the available borrowing capacity under the Existing Credit Facility, any replacement Credit Facility or any Permitted Receivables Financing available for the Company and its Restricted Subsidiaries for general corporate purpose or for working capital.

“*Mining Laws*” means any and all applicable federal, state, local and foreign statutes, laws, regulations, legally-binding guidance, ordinances, rules, judgments, orders, decrees or common law causes of action relating to mining operations and activities under the Mineral Leasing Act of 1920, the Federal Coal Leasing Amendments Act or the Surface Mining Control and Reclamation Act, each as amended or its replacement, and their state and local counterparts or equivalents.

“*Mining Lease*” means a lease, license or other use agreement which provides the Company or any Restricted Subsidiary the real property and water rights, other interests in land, including coal, mining and surface rights, easements, rights of way and options, and rights to timber and natural gas (including coalbed methane and gob gas) necessary or integral in order to recover coal from any Mine. Leases (other than Finance Leases or operating leases of personal property even if such personal property would become fixtures) which provide the Company or any other Restricted Subsidiary the right to construct and operate a conveyor, crusher plant, silo, load out facility, rail spur, shops, offices and related facilities on the surface of the Real Property containing such reserves shall also be deemed a Mining Lease.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors.

“*Mortgages*” means all mortgages, debentures, hypothecs, deeds of trust, deeds to secure Debt and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on real estate and other related assets to secure payment of the notes and the Note Guarantees or any part thereof.

“*Net Cash Proceeds*” means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash), net of

- (1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;
- (2) provisions for Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Company and its Restricted Subsidiaries;
- (3) payments required to be made to holders of minority interests in Restricted Subsidiaries as a result of such Asset Sale or to repay Debt outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and
- (4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

“*New Co-Issuer Term Loan Agreement*” means that certain Term Loan Agreement, dated as of the Issue Date, among PIC AU Holdings LLC and PIC AU Holdings Corporation, as borrowers, the term loan agent party thereto, and the lenders from time to time party thereto.

“*New Co-Issuer Term Loan Facility*” means the term loan facility evidenced by the Term Loan Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“*Non-Finance Lease Obligation*” means a lease obligation that is not required to be accounted for as a finance lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Finance Lease Obligation.

“*Non-Recourse Debt*” means Debt as to which (i) neither the Company nor any Restricted Subsidiary provides any Guarantee and as to which the lenders have been notified in writing that they will not have any

recourse to the Capital Stock or assets of the Company or any Restricted Subsidiary and (ii) no default thereunder would, as such, constitute a default under any Debt of the Company or any Restricted Subsidiary.

“*Note Documents*” means the indenture, the notes and the Security Documents.

“*Note Guarantee*” means the guarantee of the notes by a Guarantor pursuant to the indenture.

“*Obligations*” means, with respect to any Debt, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Debt, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

“*Officer*” means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Senior Vice President, any Vice President or any Assistant Vice President of such Person.

“*Officer’s Certificate*” means a certificate signed on behalf of the Company by an Officer of the Company.

“*Outstanding Loan Threshold Date*” means the date that both (i) the outstanding principal amount of, without duplication, term Loans and unused commitments under the Existing Credit Facility (or the aggregate outstanding principal amount of all loans or other evidences of indebtedness, issued and outstanding letters of credit and commitments in respect thereof under any replacement Credit Facility designated as such in accordance with the provisions of the Collateral Trust Agreement) is less than 15% of the aggregate outstanding principal amount of all Priority Lien Debt and (ii) the aggregate outstanding principal amount of another Series of Priority Lien Debt exceeds the outstanding principal amount of, without duplication, term Loans and commitments under the Existing Credit Facility.

“*Peabody Existing Indenture*” means that certain indenture, dated as of February 15, 2017, by and between Peabody Securities Finance Corporation, a Delaware corporation (“*PSFC*”), and Wilmington Trust, National Association, as trustee (in such capacity, the “*Peabody Existing Trustee*”), as amended, modified or otherwise supplemented by (i) that certain supplemental indenture, dated as of April 3, 2017, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee, (ii) that certain supplemental indenture, dated as of May 7, 2018, among Peabody, NGS Acquisition Corp., LLC and the Peabody Existing Trustee, (iii) that certain supplemental indenture, dated as of August 9, 2018, between Peabody and the Peabody Existing Trustee, (iv) that certain supplemental indenture, dated as of December 7, 2018, among Peabody, Peabody Southeast Mining, LLC, and the Peabody Existing Trustee and (v) that certain supplemental indenture, dated as of the Issue Date, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee.

“*Permitted Business*” means any of the following, whether domestic or foreign: the mining, production, marketing, sale, trading and transportation (including, without limitation, any business related to terminals) of natural resources including coal, ancillary natural resources and mineral products, exploration of natural resources, any acquired business activity so long as a material portion of such acquired business was otherwise a Permitted Business, and any business that is ancillary or complementary to the foregoing.

“*Permitted Hedging Agreements*” means hedging agreements entered into in the ordinary course of business of the Company and its Restricted Subsidiaries to hedge interest rate, foreign currency, coal price or commodity risk or otherwise for non-speculative purposes (regardless of whether such agreement or instrument is classified as a “derivative” pursuant to FASB ASC Topic No. 815 and required to be marked-to-market).

“Permitted Holder” shall mean, each Person that is a “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of 5% or more of the Voting Stock of the Company on the Issue Date.

“Permitted Investments” means:

- (1) (1) any Investment (i) in the Company or in a Guarantor, (ii) by a Restricted Subsidiary that is a not Guarantor in any other Restricted Subsidiary that is a not a Guarantor and (iii) by the Company or a Guarantor in a Restricted Subsidiary that is not a Guarantor consisting of Debt permitted to be incurred pursuant to subclause (iv) of clause (3) of “Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock”;
- (2) any Investment in cash or Cash Equivalents;
- (3) [reserved];
- (4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”
- (5) any Investment acquired solely in exchange for Qualified Stock of the Company or in exchange for Capital Stock of the Company which the Company did not receive in exchange for a cash payment, Debt or Disqualified Stock;
- (6) Permitted Hedging Agreements;
- (7) (i) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;
- (8) [reserved];
- (9) advances to officers, directors and employees of the Company in an aggregate amount not to exceed \$5.0 million at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;
- (10) to the extent they involve an Investment, extensions of credit or letters of support to lessors, customers, suppliers and Joint Venture partners in the ordinary course of business;
- (11) Investments arising as a result of any Permitted Receivables Financing;
- (12) any Investment existing on the Issue Date or made pursuant to a legally binding written commitment in existence on the Issue Date;
- (13) (i) Investments in the nature of Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties, (ii) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry or (iii) payments or other arrangements whereby the Company or any Restricted Subsidiary provides a loan, advance payment or guarantee in return for future coal deliveries consistent with normal practices in the mining industry;
- (14) (i) promissory notes and other similar non-cash consideration received by the Company in connection with Asset Sales not otherwise prohibited under the indenture and (ii) Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company, including pursuant to any plan of reorganization or

similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, (B) litigation, arbitration or other disputes or (C) the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

- (15) to the extent they involve an Investment, purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;
- (16) Investments made pursuant to surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and related letters of credit or similar obligations, in each case, to the extent such surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds, related letters of credit and similar obligations are permitted under the indenture;
- (17) Investments (including debt obligations and Capital Stock) received in satisfaction of judgments or in connection with the bankruptcy or reorganization of suppliers and customers of the Company and its Restricted Subsidiaries and in settlement of delinquent obligations of, and other disputes with, such customers and suppliers arising in the ordinary course of business;
- (18) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss
- (19) Investments resulting from pledges and deposits permitted under the definition of “Permitted Liens;”
- (20) Investments consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits, in each case entered into in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under existing coal sales contracts (and extensions or renewals thereof on similar terms); and
- (21) in addition to Investments listed above, Investments in Persons engaged in Permitted Businesses in an aggregate amount, taken together with all other Investments made in reliance on this clause, not to exceed \$5.0 million; provided, however, that if any Investment pursuant to this clause (21) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of such Investment and such Person becomes a Restricted Subsidiary of the Company after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21) for so long as such Person continues to be a Restricted Subsidiary of the Company.

“*Permitted Liens*” means

- (1) Priority Liens held by the Priority Collateral Trustee securing Priority Lien Debt Incurred pursuant to clause (1) of the definition of Permitted Debt and all related Priority Lien Obligations;
- (2) Junior Lien held by the Junior Collateral Trustee securing Junior Lien Debt in an aggregate principal amount (as of the date of Incurrence of such Junior Lien Debt and after giving pro forma effect to the application of the net proceeds therefrom) not exceeding the Junior Lien Cap as of such date and all related Junior Lien Obligations;
- (3) Liens existing on the Issue Date other than any Lien described under clauses (1), (2), or (31) of this definition of “Permitted Liens;”
- (4) Liens incurred or pledges or deposits under workers’ compensation laws, unemployment insurance laws, social security and employee health and disability benefits laws or similar legislation, or casualty or liability insurance or self-insurance including any Lien securing letters of credit, letters of guarantee or bankers’ acceptances issued in the ordinary course of business in connection therewith;

- (5) Liens imposed by law, such as landlords', carriers', warehousemen's, materialmen's, repairmen's and mechanics' Liens and other similar Liens, on the property of the Company or any Restricted Subsidiary arising in the ordinary course of business and with respect to amounts which are not yet delinquent or are being contested in good faith by appropriate proceedings;
- (6) (i) Liens to secure the performance of bids, trade contracts and leases (other than Debt), reclamation bonds, insurance bonds, statutory obligations, surety and appeal bonds, performance bonds, bank guarantees and letters of credit and other obligations of a like nature incurred in the ordinary course of business, (ii) Liens on assets to secure obligations under surety bonds obtained as required in connection with the entering into of federal coal leases or (iii) Liens created under or by any turnover trust;
- (7) Liens for taxes, assessments or governmental charges or levies on the property of the Company or any Restricted Subsidiary if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings, *provided* that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefor;
- (8) easements, rights-of-way, zoning restrictions, leases, subleases, licenses, other restrictions and other similar encumbrances which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (9) Liens on the property of the Company or any Restricted Subsidiaries, as a tenant under a lease or sublease entered into in the ordinary course of business by such Person, in favor of the landlord under such lease or sublease, securing the tenant's performance under such lease or sublease, as such Liens are provided to the landlord under applicable law and not waived by the landlord;
- (10) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker's liens and the like in favor of financial institutions and counterparties to financial obligations and instruments, including Permitted Hedging Agreements;
- (11) Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;
- (12) judgment Liens that are being contested in good faith by appropriate legal proceedings and for which adequate reserves have been made;
- (13) Permitted Real Estate Encumbrances;
- (14) Liens incurred in the ordinary course of business securing obligations not securing Debt for borrowed money and not in the aggregate materially detracting from the value of the properties or their use in the operation of the business of the Company and its Restricted Subsidiaries;
- (15) Liens securing obligations in respect of trade-related letters of credit permitted under clause (6) of Permitted Debt covering only the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;
- (16) Liens (including the interest of a lessor under a Finance Lease) on property and improvements that secure Debt Incurred pursuant to clause (9) of Permitted Debt for the purpose of financing all or any part of the purchase price or cost of construction or improvement of such property, *provided* that the Lien does not (x) extend to any additional property or (y) secure any additional obligations, in each case other than the initial property so subject to such Lien and the Debt and other obligations originally so secured;
- (17) Liens on property of a Person at the time such Person becomes a Restricted Subsidiary of the Company, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any other Restricted Subsidiary;

- (18) Liens on property at the time the Company or any of the Restricted Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Company or a Restricted Subsidiary of such Person, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any such Restricted Subsidiary;
- (19) Liens securing Debt or other obligations of the Company or a Restricted Subsidiary to the Company or a Guarantor;
- (20) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;
- (21) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (22) Liens on Capital Stock of any Unrestricted Subsidiary;
- (23) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Company or any Restricted Subsidiary on deposit with or in possession of such bank;
- (24) deposits made in the ordinary course of business to secure reclamation liabilities, insurance liabilities and/or surety liabilities;
- (25) Liens on assets of Foreign Subsidiaries securing Debt of Foreign Subsidiaries;
- (26) extensions, renewals or replacements of any Lien referred to in clauses (1), (2), (3), (16), (17) or (18) in connection with the refinancing of the obligations secured thereby; *provided* that (i) such Lien does not extend to any other property (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), (ii) except as contemplated by the definition of "Permitted Refinancing Debt," the aggregate principal amount of Debt secured by such Lien is not increased and (iii) such Lien has no greater priority than the Lien being extended, renewed or replaced;
- (27) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Finance Lease Obligations), licenses, special assessments, trackage rights, transmission and transportation lines related to Mining Leases or mineral right or other Real Property including any re-conveyance obligations to a surface owner following mining, royalty payments and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on Real Property imposed by law or arising in the ordinary course of business that do not secure any monetary obligation and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Company or any Subsidiary;
- (28) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Company or its Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (29) Liens (including those arising from precautionary UCC financing statement filings (and those which are security interests for purposes of the Personal Property Securities Act of 2009 (Cth)) with respect to bailments, leases or consignment or retention of title arrangements entered into by the Company, Pledgor or any Guarantor in the ordinary course of business;

- (30) Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties or (y) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry;
- (31) Liens on accounts receivable and related assets and proceeds thereof arising in connection with a Permitted Receivables Financing Incurred pursuant to clause (16) of the definition of “Permitted Debt”;
- (32) Liens securing Debt incurred pursuant to clause (18) of the definition of “Permitted Debt”; and
- (33) other Liens securing Obligations in an aggregate amount at any time outstanding not to exceed \$10.0 million.

In addition, (i) with respect to any Lien securing Debt that was permitted to secure such Debt at the time of the Incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt; and (ii) in the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of Incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with this definition and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of the definition of Permitted Lien to which such Permitted Lien has been classified or reclassified. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Debt with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt.

“*Permitted Prior Lien*” means any Lien that has priority over the Lien of the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties which Lien was permitted under each Priority Lien Document.

“*Permitted Real Estate Encumbrances*” means the following encumbrances which do not, in any case, individually or in the aggregate, materially detract from the value of any Mine subject thereto or interfere with the ordinary conduct of the business or operations of the Company and its Restricted Subsidiaries as presently conducted on, at or with respect to such Mine and as to be conducted following the Issue Date: (a) encumbrances customarily found upon real property used for mining purposes in the applicable jurisdiction in which the applicable real property is located to the extent such encumbrances would be permitted or granted by a prudent operator of mining property similar in use and configuration to such real property (e.g., surface rights agreements, wheelage agreements and reconveyance agreements); (b) rights and easements of (i) owners of undivided interests in any of the real property where the Company and its Restricted Subsidiaries owns less than 100% of the fee interest, (ii) owners of interests in the surface of any real property where the applicable party does not own or lease such surface interest, (iii) lessees, if any, of coal or other minerals (including oil, gas and coal bed methane) where the applicable the Company and its Restricted Subsidiaries does not own such coal or other minerals, and (iv) lessees of other coal seams and other minerals (including oil, gas and coal bed methane) not owned or leased by such party; (c) with respect to any real property in which the Company or any Restricted Subsidiary holds a leasehold interest, terms, agreements, provisions, conditions, and limitations (other than royalty and other payment obligations which are otherwise permitted hereunder) contained in the leases granting such leasehold interest and the rights of lessors thereunder (and their heirs, executors, administrators, successors, and assigns), subject to any amendments or modifications set forth in any landlord consent delivered in connection with a Mortgage; (d) farm, grazing, hunting, recreational and residential leases with respect to which the Company or any Restricted Subsidiary is the lessor encumbering portions of the real properties to the extent such leases would be granted or permitted by, and contain terms and provisions that would be acceptable to, a prudent operator of mining properties similar in use and configuration to such real properties; (e) royalty and other payment obligations to sellers or transferors of fee coal or

lease properties to the extent such obligations constitute a lien not yet delinquent; (f) rights of others to subjacent or lateral support and absence of subsidence rights or to the maintenance of barrier pillars or restrictions on mining within certain areas as provided by any mining lease, unless in each case waived by such other person; and (g) rights of repurchase or reversion when mining and reclamation are completed.

“*Permitted Receivables Financing*” means any receivables financing facility or arrangement pursuant to which a Securitization Subsidiary purchases or otherwise acquires Receivables of the Company or any Restricted Subsidiary and enters into a third party financing thereof on terms that the Board of Directors of the Company has concluded are customary and fair to the Company and its Restricted Subsidiaries.

“*Person*” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, including a government or political subdivision or an agency or instrumentality thereof.

“*Pledgor*” means Peabody Global Holdings, LLC, a Delaware limited liability company, or any successor entity that directly holds the Capital Stock of Peabody Investments (Gibraltar) Limited.

“*Preferred Stock*” means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

“*Priority Collateral Trustee*” means Wilmington Trust, National Association, its capacity as collateral trustee for the Priority Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“*Priority Lien*” means a Lien granted, or purported to be granted, by a Security Document to the Priority Collateral Trustee, at any time, upon any property of the Company, Pledgor or any Guarantor to secure Priority Lien Obligations.

“*Priority Lien Cap*” means \$1,950.0 million.

“*Priority Lien Debt*” means:

(1) the notes issued on the Issue Date and the related Note Guarantees;

(2) Funded Debt in existence on the Issue Date under the Existing Credit Facility;

(3) Funded Debt in existence on the Issue Date under the 2025 Notes Indenture and 2022 Notes Indenture;

(4) Funded Debt incurred on the Issue Date under the LC Agreement;

(5) any Funded Debt hereafter incurred under the Existing Credit Facility or the LC Agreement that is permitted to be incurred and secured under each applicable Secured Debt Document; and

(6) any other Funded Debt (including Additional Notes and borrowings under any Credit Facilities) that is secured by a Priority Lien and that is permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document;

provided, that, in the case of Funded Debt referred to in clauses (5) and (6):

(a) on or before the date on which such Funded Debt is incurred by the Company, such Funded Debt is designated by the Company as “Priority Lien Debt” for the purposes of the Secured Debt Documents and the Collateral Trust Agreement pursuant to the procedures set forth in the Collateral Trust Agreement; *provided*, that no Funded Debt may be designated as both Priority Lien Debt and Junior Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Priority Lien Debt whose Secured Debt Representative is already party to the Collateral Trust Agreement, the Priority Lien Representative for such Funded Debt executes and delivers a Collateral Trust Joinder in accordance with the terms of the Collateral Trust Agreement; and

(c) all other relevant requirements set forth in the Collateral Trust Agreement are complied with.

For the avoidance of doubt, Swap Obligations and Cash Management Obligations do not constitute Priority Lien Debt but may constitute Priority Lien Obligations. Swap Obligations and Cash Management Obligations that are secured pursuant to the Priority Lien Documents with respect to a Series of Priority Lien Debt shall be “related to” such Series of Priority Lien Debt for purposes of the Collateral Trust Agreement.

“*Priority Lien Documents*” means, collectively, the Note Documents, the definitive documentation governing the Existing Credit Facility, the definitive documentation governing the LC Agreement, the definitive documentation governing 2025 Notes Indenture and 2022 Notes Indenture and any other indenture, credit agreement or other agreement pursuant to which any Priority Lien Debt is incurred and the Priority Lien Security Documents.

“*Priority Lien Obligations*” means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt and any indemnification obligations under the Transaction Support Agreement (subject to the limitations set forth therein), including without limitation any post-petition interest whether or not allowable, together with all Swap Obligations and Cash Management Obligations and guarantees of any of the foregoing.

“*Priority Lien Representative*” means:

- (1) in the case of the notes, the Trustee; and
- (2) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and is appointed as a representative of the Priority Lien Debt (for purposes related to the administration of the Security Documents) pursuant to the credit agreement or other agreement governing such Series of Priority Lien Debt, and who has executed a Collateral Trust Joinder, together with any successor in such capacity.

“*Priority Lien Secured Parties*” means the holders of Priority Lien Obligations, each Priority Lien Representative and the Priority Collateral Trustee.

“*Priority Lien Security Documents*” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Company, Pledgor or any Guarantor creating (or purporting to create) a Lien upon Collateral in favor of the Priority Collateral Trustee, for the benefit of any of the Priority Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the provisions described above under “—Collateral Trust Agreement—Voting.”

“*Production Payments*” means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

“*Qualified Equity Interests*” means all Equity Interests of a Person other than Disqualified Equity Interests.

“*Qualified Stock*” means all Capital Stock of a Person other than Disqualified Stock.

“*Rating Agencies*” means S&P and Moody’s; *provided*, that if either S&P or Moody’s (or both) shall cease issuing a rating on the notes for reasons outside the control of the Company, the Company may select a nationally recognized statistical rating agency to substitute for S&P or Moody’s (or both).

“*Real Property*” shall mean, collectively, all right, title and interest of the Company or any Subsidiary (including any leasehold or mineral estate) in and to any and all parcels of real property owned or operated by the Company or any Subsidiary, whether by lease, license or other use agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals.

“*Receivables*” means accounts receivable (including all rights to payment created by or arising from the sale of goods, leases of goods or the rendition of services, no matter how evidenced (including in the form of a chattel paper)).

“*Refinancing Transactions*” means the refinancing transactions as described in this offering circular.

“*Required Junior Lien Debtholders*” means, at any time, the holders of a majority in aggregate principal amount of all Junior Lien Debt then outstanding, calculated in accordance with the provisions described above under “—Collateral Trust Agreement—Voting.” For purposes of this definition, Junior Lien Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company (as certified in writing to the Collateral Trustee by the applicable Secured Debt Representative) will be deemed not to be outstanding and neither the Company nor any Affiliate of the Company will be entitled to vote any of the Junior Lien Debt.

“*Reserve Area*” means (a) the real property fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest as is disclosed in writing to the Trustee on the Issue Date and (b) any real property constituting coal reserves or access to coal reserves fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest, acquired after the Issue Date, that is not an active Mine.

“*Restricted Subsidiary*” means any Subsidiary of a Person other than any Unrestricted Subsidiary of such Person. Unless otherwise specified, “Restricted Subsidiary” means a Restricted Subsidiary of the Company.

“*S&P*” means S&P Global Ratings and its successors.

“*Second Lien Collateral*” shall consist of a pledge by PIC AU Holdings LLC, a Delaware limited liability company, of 100% of the equity interest of PIC Acquisition Corp., a Delaware corporation, and all other assets securing the Co-Issuer Notes, subject to Liens permitted by the Co-Issuer Notes Indenture as in effect on the Issue Date and without giving effect to subsequent amendments or supplements thereto.

“*Secured Debt*” means Priority Lien Debt and Junior Lien Debt.

“*Secured Debt Documents*” means the Priority Lien Documents and the Junior Lien Documents.

“*Secured Debt Representative*” means each Priority Lien Representative and each Junior Lien Representative.

“*Secured Obligations*” means Priority Lien Obligations and Junior Lien Obligations.

“*Secured Parties*” means the holders of Secured Obligations and the Secured Debt Representatives and the Collateral Trustee.

“*Securitization Subsidiary*” means any Subsidiary of the Company:

(i) that is designated a “*Securitization Subsidiary*” by the Company,

(ii) that does not engage in, and whose charter prohibits it from engaging in, any activities other than Permitted Receivables Financings and any activity necessary, incidental or related thereto,

(iii) no portion of the Debt or any other obligation, contingent or otherwise, of which

(a) is Guaranteed by the Company or any other Restricted Subsidiary of the Company,

(b) is recourse to or obligates the Company or any other Restricted Subsidiary of the Company in any way, or

(c) subjects any property or asset of the Company or any other Restricted Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, and

(iv) with respect to which neither the Company nor any other Restricted Subsidiary of the Company (other than an Unrestricted Subsidiary) has any obligation to maintain or preserve its financial condition or cause it to achieve certain levels of operating results;

other than, in respect of clauses (iii) and (iv), pursuant to customary representations, warranties, covenants and indemnities entered into in connection with a Permitted Receivables Financing.

“*Security Documents*” means the Collateral Trust Agreement, each joinder to the Collateral Trust Agreement, each Priority Lien Security Document and each Junior Lien Security Document, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the terms of the Collateral Trust Agreement.

“*Series of Junior Lien Debt*” means, severally, each issue or series of Junior Lien Debt for which a single transfer register is maintained.

“*Series of Priority Lien Debt*” means, severally, each series of the notes and each other issue or series of Priority Lien Debt for which a single transfer register is maintained.

“*Series of Secured Debt*” means each Series of Priority Lien Debt and each Series of Junior Lien Debt.

“*Significant Subsidiary*” means any Subsidiary of the Company that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“*Stated Maturity*” means (i) with respect to any Debt, the date specified as the fixed date on which the final installment of principal of such Debt is due and payable or (ii) with respect to any scheduled installment of principal of or interest on any Debt, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Debt, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

“*Subordinated Debt*” means any Debt of the Company, Pledgor or any Guarantor which is subordinated in right of payment to the notes or the Note Guarantee, as applicable, pursuant to a written agreement to that effect.

“*Subsidiary*” means with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, “*Subsidiary*” means a Subsidiary of the Company.

“*Surety Transaction Support Agreement*” means that certain Transaction Support Agreement, dated as of November 6, 2020, by and among the Company Parties and the Sureties signatory thereto (each as defined therein).

“*Swap Contract*” means (i) any interest rate swap agreement, interest rate cap agreement, interest rate future agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement designed to protect against or mitigate interest rate risk, (ii) any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement designed to protect against or mitigate foreign exchange risk and (iii) any commodity or raw material, including coal, futures contract, commodity hedge agreement, option agreement, any actual or synthetic forward sale contracts or other similar device or instrument or any other agreement designed to protect against or mitigate raw material price risk (which shall for the avoidance of doubt include any forward purchase and sale of coal for which full or partial payment is required or received), in each case, between the Company or any Restricted Subsidiary, on the one hand, and any Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of any of the foregoing (or with any person that was a Lender (as defined in the Existing Credit Facility), Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of the foregoing when such Swap Contract was entered into).

“*Swap Obligations*” means all debts, liabilities and obligations of the Company or any of its Subsidiaries under any Swap Contract.

“*Taxes*” means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

“*Term Priority Collateral*” means (i) equipment and fixtures; (ii) real estate assets; (iii) intellectual property; (iv) equity interests in all direct and indirect Subsidiaries of the Company; (v) all intercompany debt owed to the Company or any other Grantor; (vi) all other assets of any Grantor, whether real, personal or mixed not constituting ABL Priority Collateral; (vii) to the extent evidencing, governing, securing or otherwise reasonably related to any of the foregoing, all documents, general intangibles, instruments, commercial tort claims, letters of credit, letter of credit rights and supporting obligations; provided, however, that to the extent any of the foregoing also evidence, govern, secure or otherwise reasonably relate to any ABL Priority Collateral only that portion that evidences, governs, secures or primarily relates to Term Priority Collateral shall constitute Term Priority Collateral; (viii) all books records and documents related to the foregoing (including databases, customer lists and other records, whether tangible or electronic, which contain any information relating to any of the foregoing); and (ix) all proceeds and products of any or all of the foregoing in whatever form received, including proceeds of business interruption and other insurance and claims against third parties.

“*Total Leverage Ratio*” means (1) the excess of (a) Consolidated Total Debt of the Company and its Restricted Subsidiaries as of such date of determination and (b) an amount equal to the sum of the amount of unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries on a consolidated basis as of such date of determination to (2) EBITDA of the Company for the most recent four-quarter period for which internal financial statements are available, in each case with such pro forma adjustments to Consolidated Total Debt and EBITDA as are consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“*Transaction Support Agreement*” means that certain Transaction Support Agreement, dated as of December 24, 2020, by and among, among others, the Company, PIC AU Holdings LLC, PIC AU Holdings Corporation, and the Consenting Noteholders defined therein.

“*Treasury Rate*” means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H. 15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to December 31, 2022; *provided, however*, that if the period from the redemption date to December 31, 2022 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used. The Company will calculate the applicable Treasury Rate at least two but no more than four business days prior to the applicable redemption date and file with the Trustee, before such redemption date, a written statement setting forth the Applicable Premium and showing the calculation of the Applicable Premium in reasonable detail, and the Trustee will have no responsibility for verifying any such calculation.

“*UCC*” means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided, however*, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“*U.S. Government Obligations*” means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agency or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

“*Unrestricted Subsidiary*” means each of Ribfield Pty. Ltd, Middlemount Mine Management Pty Ltd, Middlemount Coal Pty Ltd, Newhall Funding Company, P&L Receivables Company, LLC, Sterling Centennial Missouri Insurance Corporation, Wilpinjong Coal Pty Ltd, PIC AU Holdings LLC, PIC AU Holdings Corporation, and PIC Acquisition Corp.

“*Voting Stock*” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“*Wholly Owned*” means, with respect to any Restricted Subsidiary, a Restricted Subsidiary all of the outstanding Capital Stock of which (other than any director’s qualifying shares) is owned by the Company and one or more Wholly Owned Restricted Subsidiaries (or a combination thereof).

Exhibit C

Wilpinjong Notes DoN

DESCRIPTION OF THE NEW CO-ISSUER NOTES

Solely for purposes of this “Description of the New Co-Issuer Notes,” references to “Main Issuer” are to PIC AU Holdings LLC, a Delaware limited liability company, references to “Co-Issuer” are to PIC AU Holdings Corporation, a Delaware corporation, and the terms “we,” “us,” “our” and the “Issuers” refer only to Main Issuer and Co-Issuer and any of their successor obligors, and not to any of their subsidiaries. You can find the definitions of certain other terms used in this description under “—Certain Definitions.”

On the Issue Date, the Issuers will issue \$194.0 million in aggregate principal amount of 10.000% senior secured notes due 2024 (the “notes”) under an indenture (the “indenture”) among themselves and Wilmington Trust, National Association, as trustee (in such capacity, the “Trustee”) and as collateral trustee (in such capacity the “Collateral Trustee”), in a private transaction that is not subject to the registration requirements of the Securities Act. Holders of the notes will not be entitled to any registration rights. See “Notice to Investors.” It is not anticipated that the indenture will be qualified under, or subject to, the Trust Indenture Act of 1939, as amended (the “TIA”), and, as a result, holders of the notes will not receive the protection afforded thereby. The Security Documents referred to below define the terms of the agreements that will secure the notes. Only registered holders of notes will have rights under the indenture, and all references to “holders” or “noteholders” in the following description are to registered holders of notes.

The following description is a summary of the material provisions of the indenture, the notes and the Security Documents. Because this is a summary, it may not contain all the information that is important to you. You should read each of these documents in its entirety because such documents, and not this description, will define the Issuers’ obligations and your rights as holders of the notes.

Brief Description of the New Co-Issuer Notes

The notes:

- (1) will be general senior secured obligations of the Issuers;
- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under the Term Loan Facility), by Liens on the assets of the Issuers that constitute Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be *pari passu* in right of payment with all existing and future senior Debt of either of the Issuers; the payment obligations of the Issuers under the notes shall at all times rank at least equally with all other present and future Indebtedness of the Issuers;
- (4) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations (including with respect to Collateral securing the Obligations on a second lien basis) of either of the Issuers to the extent of the value of the Collateral;
- (5) will be structurally subordinated to any existing and future Debt and other liabilities of the Issuers’ Subsidiaries, unless such subsidiaries guarantee the notes in the future;
- (6) will be senior in right of payment to any future subordinated Debt of either of the Issuers;
- (7) structurally senior to all of Peabody’s indebtedness, including such indebtedness under the Peabody Credit Agreement, the Peabody L/C Agreement, the Peabody Existing Indenture and the Peabody 2024 Notes Indenture; and
- (8) effectively junior to all of the Issuers’ secured indebtedness and obligations which are secured by liens on assets that do not constitute Collateral, in each case, to the extent of the value of the assets securing that indebtedness.

The notes will mature on December 31, 2024. The notes will bear interest commencing the date of issue at the rate of 10.000% per annum. Interest on the notes will be payable quarterly on each March 31, June 30,

September 30 and December 31, commencing March 31, 2021. The Issuers will make each interest payment to holders of record of the notes on the March 15, June 15, September 15 and December 15 immediately preceding the interest payment date. The notes will bear interest on overdue principal, and, to the extent lawful, on overdue interest, at a rate that is 2.00% per annum higher than the rate otherwise applicable to the notes. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Except as set forth in “—Book-Entry, Delivery and Form,” the notes will be issued in registered, global form in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

Guarantees

The notes will not be guaranteed by any of the Issuers’ Subsidiaries and thus will be structurally subordinated to any existing or future indebtedness or other liabilities, including trade payables, of any such Subsidiaries, provided that to the extent not resulting in a materially adverse tax consequence (as determined by Peabody in its reasonable business judgment), if any of PIC Acquisition Corp., a Delaware corporation (“PIC Acquisition”), Wilpinjong Coal Pty Ltd (“Wilpinjong Opco”) or any of its subsidiaries at any time is not contractually prohibited from becoming a Guarantor (as determined by the Company in its reasonable business judgment), PIC Acquisition, Wilpinjong Opco or such subsidiary shall become a Guarantor (each of PIC Acquisition, Wilpinjong Opco or such subsidiary that becomes a guarantor as required in the succeeding sentence, collectively, with the Issuers, the “Wilpinjong Credit Parties”).

Collateral

The obligations of the Issuers with respect to the notes, and the performance of all other obligations of the Issuers under the indenture will be secured equally and ratably by first priority Liens in the Collateral granted to the Priority Collateral Trustee for the benefit of the holders of the notes and any other Priority Lien Obligations. These Liens will be senior in priority to the Liens securing Junior Lien Obligations with respect to the Collateral. The Liens securing Junior Lien Obligations will be held by the Junior Collateral Trustee. The notes offered hereby will be considered to be Priority Lien Debt for purposes of the Collateral Trust Agreement. All Liens securing Priority Lien Obligations will be held by the Priority Collateral Trustee and administered pursuant to the Collateral Trust Agreement. References to “Collateral Trustee” herein shall mean each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

The Collateral initially comprises (i) 100% of the capital stock of PIC Acquisition Corp. owned by the Main Issuer, which constitutes 100% of all capital stock issued by PIC Acquisition Corp. (the “Pledged Equity Interests”) and (ii) all other property subject or purported to be subject, from time to time, to a Lien under any Secured Document (collectively, the “Collateral”).

Collateral Trust Agreement

The Issuers will enter into a Collateral Trust Agreement with the Junior Collateral Trustee, the Priority Collateral Trustee and each other Secured Debt Representative. The Collateral Trust Agreement will set forth the terms on which each of the Priority Collateral Trustee and the Junior Collateral Trustee will receive, hold, administer, maintain, enforce and distribute the proceeds of all Liens upon the Collateral at any time held by it, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof).

Collateral Trustee

Wilmington Trust, National Association, will be appointed pursuant to the Collateral Trust Agreement to serve as Priority Collateral Trustee for the benefit of the holders of the notes offered hereby and all other Priority Lien Obligations outstanding from time to time.

Wilmington Trust, National Association will be appointed pursuant to the Collateral Trust Agreement to serve as Junior Collateral Trustee for the benefit of the holders of the Junior Lien Obligations outstanding from time to time.

Neither the Issuers nor any of their Affiliates may act as Collateral Trustee.

Each of the Priority Collateral Trustee and the Junior Collateral Trustee will hold (directly or through co-trustees or agents), and will be entitled to enforce, all Liens on the Collateral at any time held by it created by the relevant Security Documents, subject to the Collateral Trust Agreement.

Except as provided in the Collateral Trust Agreement or as directed by an Act of Required Secured Parties in accordance with the Collateral Trust Agreement (or, following the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders in accordance with the Collateral Trust Agreement, subject to the terms described below under the caption “—Restrictions on Enforcement of Junior Liens”), the Collateral Trustee will not be obligated:

- (1) to act upon directions purported to be delivered to it by any Person;
- (2) to foreclose upon or otherwise enforce any Lien; or
- (3) to take any other action whatsoever with regard to any or all of the Security Documents, the Liens created thereby or the Collateral.

The Issuers will deliver to each Secured Debt Representative copies of all Security Documents delivered to the Collateral Trustee acting for the benefit of such Secured Debt Representative.

Enforcement of Liens

The Collateral Trust Agreement will provide that if a Secured Debt Representative delivers at any time to the Collateral Trustee written notice that any event has occurred that constitutes a default under any Secured Debt Document entitling the Collateral Trustee to foreclose upon, collect or otherwise enforce its Liens under the applicable Security Documents, such Secured Debt Representative will promptly deliver written notice thereof to each other Secured Debt Representative and the other Collateral Trustee. Thereafter, the Collateral Trustee may await direction by an Act of Required Secured Parties and will act, or decline to act, as directed by an Act of Required Secured Parties, in the exercise and enforcement of the Collateral Trustee’s interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Trustee will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Required Secured Parties; provided, however, that from and after the Junior Lien Enforcement Date (as defined below), the Junior Collateral Trustee shall exercise or decline to exercise enforcement rights, powers and remedies as directed by the Required Junior Lien Debtholders, as described below under the caption “—Restrictions on Enforcement of Junior Liens,” unless the Priority Lien Secured Parties or a Priority Lien Representative shall have caused the Priority Collateral Trustee to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives). Unless it has been directed to the contrary by an Act of Required Secured Parties (or, from and after the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders, subject to the terms described under the caption “—Restrictions on Enforcement of Junior Liens”) or as otherwise expressly provided in the Collateral Trust Agreement, the Collateral Trustee in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Secured Debt Document as it may deem advisable and in the best interest of the Secured Parties.

Priority of Liens

The Collateral Trust Agreement will provide that notwithstanding anything therein or in any other Security Document to the contrary, and notwithstanding the date, time, method, manner or order of grant, attachment or

perfection of any Liens securing the Junior Lien Obligations granted on the Collateral or of any Liens securing the Priority Lien Obligations granted on the Collateral and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or any other applicable law or the Junior Lien Documents or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against any Issuer or any other Grantor, the Collateral Trust Agreement and the other Security Documents will create two separate and distinct Trust Estates and Liens:

- (1) each Grantor's right, title and interest in, to and under all Collateral, granted to the Priority Collateral Trustee under any Priority Lien Security Document for the benefit of the Priority Lien Secured Parties, together with all of the Priority Collateral Trustee's right, title and interest in, to and under the Priority Lien Security Documents, and all interests, rights, powers and remedies of the Priority Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "Senior Trust Estate"), and Priority Lien securing the payment and performance of the Priority Lien Obligations;
- (2) Lien Obligations now or hereafter held by the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties or held by any Priority Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are senior and prior to any Liens on Collateral securing the Junior Lien Obligations; and
- (3) each Grantor's right, title and interest in, to and under all Collateral granted to the Junior Collateral Trustee under any Junior Lien Security Document for the benefit of the Junior Lien Secured Parties, together with all of the Junior Collateral Trustee's right, title and interest in, to and under the Junior Lien Security Documents, and all interests, rights, powers and remedies of the Junior Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively the "Junior Trust Estate" and together with the Senior Trust Estate, the "Trust Estates"), and Junior Lien securing the payment and performance of the Junior Lien Obligations; and the Collateral Trust Agreement will provide that any Liens on Collateral securing the Junior Lien Obligations held by the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties or held by any Junior Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are subject to the priority of and subordinate to any Liens on Collateral securing the Priority Lien Obligations.

The Collateral Trust Agreement will further provide that in the event that any Junior Lien Secured Party becomes a judgment lien creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of any Junior Lien Obligations, such judgment lien shall be subordinated to the Priority Liens on the same basis as the Junior Liens are subordinated to the Priority Liens.

Collateral Sharing Equally and Ratably within Class

The Collateral Trust Agreement will provide that the payment and satisfaction of all of the Secured Obligations within each Class will be secured equally and ratably by the Liens established in favor of the Collateral Trustee for the benefit of the Secured Parties belonging to such Class, notwithstanding the time of incurrence of any Secured Obligations within such Class or the date, time, method or order of grant, attachment or perfection of any Liens securing such Secured Obligations within such Class and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation, or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations or the Junior Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any

Insolvency or Liquidation Proceeding has been commenced against any Issuer or any other Grantor, and the Collateral Trust Agreement will further provide that:

- (1) all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by any Issuer or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Junior Lien Debt, and that all such Junior Liens will be enforceable by the Junior Collateral Trustee for the benefit of all Junior Lien Secured Parties equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement will provide that this provision will not be violated with respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and
- (2) all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by any Issuer or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt, and that all such Priority Liens will be enforceable by the Priority Collateral Trustee for the benefit of all Priority Lien Secured Parties equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement will provide that this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property.

The Collateral Trust Agreement will further provide that the foregoing provision will not alter the priorities of the Liens of the Priority Collateral Trustee and the Junior Collateral Trustee or among Secured Parties belonging to different Classes as provided above under the caption “—Priority of Liens.”

For the avoidance of doubt, the Liens on the Collateral securing the notes shall be *pari passu* with the Liens on the Collateral securing the Obligations under the Term Loan Facility.

Restrictions on Enforcement of Junior Liens

The Collateral Trust Agreement will provide that, until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Issuer or any other Grantor, the Priority Lien Secured Parties will have, subject to the exceptions set forth below in clauses (1) through (7), the exclusive right to authorize and direct the Collateral Trustee with respect to the Security Documents and the Collateral including, without limitation, the exclusive right to authorize or direct the Priority Collateral Trustee to enforce, collect or realize on any Collateral or exercise any other right or remedy with respect to the Collateral (including, without limitation, the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee’s letter or similar agreement or arrangement) and neither the Junior Lien Representative nor any other Junior Lien Secured Party may authorize or direct the Junior Collateral Trustee with respect to such matters; provided, however, that the Required Junior Lien Debtholders (or the Junior Lien Representative representing such Required Junior Lien Debtholders) may so direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral thereunder after the date (the “Junior Lien Enforcement Date”) that is 24 months after the later of: (i) the date on which any duly authorized agent or trustee has declared the existence of any Event of Default under (and as defined in) any Junior Lien Document and demanded the repayment of all the principal amount of all Junior Lien Obligations thereunder; and (ii) the date on which the Collateral Trustee and each Priority Lien Representative has received notice from the Junior Lien Representative of such

declarations of an Event of Default; provided further that notwithstanding anything in the Collateral Trust Agreement to the contrary, the Junior Lien Enforcement Date shall be stayed and shall be deemed not to have occurred (I) at any time the Priority Collateral Trustee has commenced and is diligently pursuing any enforcement action with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representative) or (II) at any time the Grantor which has granted a security interest in such Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding. Notwithstanding the foregoing, the requisite Junior Lien Secured Parties may direct the Junior Collateral Trustee or the Junior Lien Representative, as applicable (and, in the case of subclauses (5) and (6) below, any Junior Lien Secured Party may):

- (1) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations;
- (2) as necessary to redeem any Collateral in a creditors' redemption permitted by law or to deliver any notice or demand necessary to enforce any right to claim, take or receive proceeds of Collateral remaining after the Discharge of Priority Lien Obligations;
- (3) in order to perfect or establish the priority (subject to Priority Liens) of the Junior Liens upon any Collateral; provided that the Junior Lien Secured Parties may not require the Collateral Trustee to take any action to perfect any Collateral through possession or control other than the Priority Collateral Trustee taking any action for possession or control required by any Security Documents and the Priority Collateral Trustee agreeing pursuant to the Collateral Trust Agreement that the Priority Collateral Trustee agrees to act as bailee and/or agent for and on behalf of the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties as specified in the Collateral Trust Agreement;
- (4) in order to create, prove, preserve or protect (but not enforce) its rights in, and perfection and priority of the Junior Liens upon any Collateral;
- (5) file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Lien Secured Parties, including any claims secured by the Collateral, if any, or the avoidance of any Junior Lien, in each case to the extent not inconsistent with the terms of the Collateral Trust Agreement;
- (6) vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim (if applicable) or statement of interest, make other filings and make any arguments and motions that are, in each case, with respect to the Junior Lien Obligations and the Collateral; provided that no filing of any claim or vote, or pleading related to such claim or vote, to accept or reject a disclosure statement, plan of reorganization, arrangement, compromise or liquidation, or any other document, agreement or proposal similar to the foregoing by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or the Junior Lien Representative may be inconsistent with the provisions of the Collateral Trust Agreement, unless the Priority Lien Secured Parties or a Priority Lien Representative, in each case through an Act of Required Secured Parties as specified in clause (i) of the definition thereof shall have consented thereto in writing or to the extent any such plan or similar proposal is proposed; or
- (7) in any Insolvency or Liquidation Proceeding commenced by or against any Grantor, file a claim (if applicable) or statement of interest with respect to the Junior Lien Obligations; provided that no such filing may contain any statement regarding the priority of the Liens securing the Junior Lien Obligations relative to the priority of the Liens securing the Priority Lien Obligations that is inconsistent with the provisions of the Collateral Trust Agreement.

Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Issuer or any other Grantor, none of the Junior Collateral Trustee (unless

acting pursuant to an Act of Required Secured Parties), the Junior Lien Representative or the other Junior Lien Secured Parties will:

- (1) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other court, or take any other action, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the Priority Lien Secured Parties in respect of the Priority Liens (subject to the exceptions set forth above in clauses (1) through (7)) or that would limit, invalidate, avoid or set aside any Priority Lien or subordinate the Priority Liens to the Junior Liens or grant the Junior Liens equal ranking to the Priority Liens;
- (2) oppose or otherwise contest any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement of Priority Liens made by any Priority Lien Secured Party or any Priority Lien Representative in any Insolvency or Liquidation Proceedings;
- (3) oppose or otherwise contest any lawful exercise by any Priority Lien Secured Party or any Priority Lien Representative of the right to credit bid Priority Lien Debt at any sale of Collateral in foreclosure of Priority Liens;
- (4) oppose or otherwise contest any other request for judicial relief made in any court by any holder of Priority Lien Obligations or any Priority Lien Representative relating to the lawful enforcement of any Priority Lien;
- (5) contest, protest or object to any foreclosure proceeding or action brought by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party or any other exercise by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party of any rights and remedies relating to the Collateral under the Priority Lien Documents or otherwise and the Junior Lien Representative on behalf of itself and each other Junior Lien Secured Party waives any and all rights it may have to object to the time or manner in which the Priority Collateral Trustee or any Priority Lien Secured Party seeks to enforce the Priority Lien Obligations or the Priority Liens, in each case, subject to the exceptions set forth above in clauses (1) through (7);
- (6) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding) the validity, enforceability, perfection, priority or extent of the Priority Liens or the amount, nature or extent of the Priority Lien Obligations; or
- (7) object to the forbearance by the Priority Collateral Trustee from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral; provided, that notwithstanding the foregoing, the Junior Lien Representative representing the Junior Lien Secured Parties and acting at the direction of the Required Junior Lien Debtors may direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral from and after the Junior Lien Enforcement Date as described under the caption “—Restrictions on Enforcement of Junior Liens.”

At any time prior to the Discharge of Priority Lien Obligations and after (a) the commencement of any Insolvency or Liquidation Proceeding in respect of any Issuer or any other Grantor or (b) the Junior Collateral Trustee and each Junior Lien Representative have received written notice from any Priority Lien Representative at the direction of an Act of Required Secured Parties stating that (i) any Series of Priority Lien Debt has become due and payable in full (whether at maturity, upon acceleration or otherwise) or (ii) the Priority Lien Secured Parties securing one or more Series of Priority Lien Debt have become entitled under any Priority Lien Documents to and desire to enforce any or all of the Priority Liens by reason of a default under such Priority Lien Documents, no payment of money (or the equivalent of money) will be made from the proceeds of Collateral by the Issuers or any other Grantor to the Junior Collateral Trustee or any Junior Lien Secured Party (including, without limitation, payments and prepayments made from such proceeds for application to Junior Lien Obligations and all other payments and deposits made from such proceeds pursuant to any Junior Lien Document).

All proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative or any other Junior Lien Secured Party in violation of the two immediately preceding paragraphs and all proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative or other Junior Lien Secured Party in connection with any exercise of remedies against the Collateral will be held by the Junior Collateral Trustee, the Junior Lien Representative or any other applicable Junior Lien Secured Party in trust for the account of the Priority Lien Secured Parties and remitted to the Priority Collateral Trustee for application in accordance with the provisions described below under the caption “Collateral Trust Agreement—Order of Application.” The Junior Liens will remain attached to and enforceable against all proceeds so held or remitted until applied to satisfy the Priority Lien Obligations. All proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative and any other Junior Lien Secured Party not in violation of the two immediately preceding paragraphs will be received by the Junior Collateral Trustee, the Junior Lien Representative and such other Junior Lien Secured Parties free from the Priority Liens and all other Liens except the Junior Liens.

Waiver of Right of Marshalling

The Collateral Trust Agreement will provide that, prior to the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties, each Junior Lien Representative and the Junior Collateral Trustee may not assert or enforce any marshaling, appraisal, valuation or other similar right accorded to a junior lienholder under applicable law, as against the Priority Lien Secured Parties or the Priority Lien Representatives (in their respective capacities as such). Following the Discharge of Priority Lien Obligations, the Junior Lien Representative and the other Junior Lien Secured Parties may assert their right under the Uniform Commercial Code or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the Priority Lien Secured Parties.

Insolvency or Liquidation Proceedings

The Collateral Trust Agreement will provide that, if in any Insolvency or Liquidation Proceeding and prior to the Discharge of Priority Lien Obligations, the Priority Lien Secured Parties by an Act of Required Secured Parties shall desire to permit the use of “Cash Collateral” (as such term is defined in Section 363(a) of the Bankruptcy Code), or to permit any Issuer or any other Grantor to obtain financing, whether from the Priority Lien Secured Parties or any other Person under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law (“DIP Financing”) then each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative for itself and on behalf of the other Junior Lien Secured Parties represented by it, will raise no objection to such Cash Collateral use or DIP Financing including any proposed orders for such Cash Collateral use and/ or DIP Financing which are acceptable to the Priority Lien Secured Parties) and to the extent the Liens securing the Priority Lien Obligations are subordinated to or *pari passu* with such DIP Financing, the Junior Collateral Trustee will subordinate its Junior Liens in the Collateral to the Liens securing such DIP Financing (and all Obligations relating thereto) and will not request adequate protection or any other relief in connection therewith (except, as expressly agreed by the Priority Lien Secured Parties or to the extent permitted as described below under this caption “—Insolvency or Liquidation Proceedings”. No Junior Lien Secured Party may provide DIP Financing to either of the Issuers or any other Grantor secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations and no such DIP Financing shall “roll-up” or otherwise include or refinance any pre-petition Junior Lien Obligations. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative on behalf itself and the other Junior Lien Secured Parties will raise no objection to or oppose a motion to sell, liquidate or otherwise dispose of Collateral under Section 363 of the Bankruptcy Code if the requisite Priority Lien Secured Parties have consented to such sale, liquidation or other disposition; provided that, to the extent such sale, liquidation or other disposition is to be free and clear of Liens, the Liens securing the Priority Lien Obligations and the Junior Lien Obligations will attach to the proceeds of the sale, liquidation or other disposition on the same basis of priority as the Liens on the Collateral securing the Priority Lien Obligations rank to the Liens on the Collateral securing the Junior Lien Obligations pursuant to the Collateral Trust Agreement. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative on behalf of itself and the other

Junior Lien Secured Parties will not directly or indirectly oppose or impede entry of any order in connection with such sale, liquidation or other disposition, including orders to retain professionals or set bid procedures in connection with such sale, liquidation or disposition if the requisite Priority Lien Secured Parties have consented to such (i) retention of professionals and bid procedures in connection with such sale, liquidation or disposition of such assets and (ii) the sale, liquidation or disposition of such assets, in which event the Junior Lien Secured Parties will be deemed to have consented to the sale or disposition of Collateral pursuant to Section 363(f) of the Bankruptcy Code and such motion does not impair the rights of the Junior Lien Secured Parties under Section 363(k) of the Bankruptcy Code.

The Collateral Trust Agreement will provide that until the Discharge of Priority Lien Obligations has occurred, none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties, shall: (i) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral, without the prior written consent of the Priority Lien Secured Parties or a Priority Lien Representative, through an Act of Required Secured Parties as specified in clause (i) of the definition thereof, unless a motion for adequate protection permitted under this caption “—Insolvency or Liquidation Proceedings” has been denied by a bankruptcy court or (ii) oppose (or support any other Person in opposing) any request by the Priority Lien Secured Parties for relief from such stay.

The Collateral Trust Agreement will provide that none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties shall contest (or support any other Person contesting): (1) any request by the Priority Lien Representatives or the Priority Lien Secured Parties for adequate protection under any Bankruptcy Law; or (2) any objection by the Priority Lien Representatives or the Priority Lien Secured Parties to any motion, relief, action or proceeding based on the Priority Lien Secured Parties claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding: (1) if the Priority Lien Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral or superpriority claims in connection with any Cash Collateral use or DIP Financing, then the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or Junior Lien Representative, on behalf of itself or any of the other Junior Lien Secured Parties represented by it, may seek or request adequate protection in the form of a Lien on such additional collateral or superpriority claim, (A) which Lien will be subordinated to the Liens securing the Priority Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Junior Lien Obligations are so subordinated to the Priority Lien Obligations under the Collateral Trust Agreement and (B) which superpriority claim will be subordinated to all superpriority claims of the Priority Lien Secured Parties on the same basis as the other claims of the Junior Lien Secured Parties are so subordinated to the claims of the Priority Lien Secured Parties under the Collateral Trust Agreement; and (2) each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representatives and the Junior Lien Secured Parties shall only be permitted to seek adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding in the form of (A) additional collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted a senior Lien on such additional collateral; (B) replacement Liens on the Collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted senior replacement Liens on the Collateral; and (C) an administrative expense claim; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted an administrative expense claim which is senior and prior to the administrative expense claim of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of the Junior Lien Secured Parties represented by it. If any Junior Lien Secured Party receives post-petition interest and/or adequate protection payments in an Insolvency or Liquidation Proceeding (“Junior Lien Adequate Protection Payments”), and the Priority Lien Secured Parties do not receive payment in full in cash of all Priority Lien Obligations upon the effectiveness of the plan of reorganization for, or conclusion of, that Insolvency or Liquidation Proceeding, then, each Junior Lien Secured Party shall pay over to the Priority

Lien Secured Party an amount (the “Pay-Over Amount”) equal to the lesser of (i) the Junior Lien Adequate Protection Payments received by such Junior Lien Secured Parties and (ii) the amount of the short-fall (the “Short Fall”) in payment in full of the Priority Lien Obligations; provided that to the extent any portion of the Short Fall represents payments received by the Priority Lien Secured Parties in the form of promissory notes, equity or other property, equal in value to the cash paid in respect of the Pay-Over Amount, the Priority Lien Secured Parties shall, upon receipt of the Pay-Over Amount, transfer those promissory notes, equity or other property, pro rata, equal in value to the cash paid in respect of the Pay-Over Amount to the applicable Junior Lien Secured Parties in exchange for the Pay-Over Amount. Notwithstanding anything in the Collateral Trust Agreement to the contrary, the Priority Lien Secured Parties shall not be deemed to have consented to, and expressly retain their rights to object to the grant of adequate protection in the form of cash payments to the Junior Lien Secured Parties made pursuant to this paragraph.

Nothing in the Collateral Trust Agreement, except as expressly provided therein, will prohibit or in any way limit any Priority Lien Representative or any Priority Lien Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties, including the seeking by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of adequate protection or the asserting by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of any of its rights and remedies under the Junior Lien Documents or otherwise.

The Collateral Trust Agreement will provide that if any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of any Issuer or any other Grantor any amount paid in respect of Priority Lien Obligations (a “Recovery”), then such Priority Lien Secured Party shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts on the date of such Recovery, and from and after the date of such reinstatement the Discharge of Priority Lien Obligations shall be deemed not to have occurred for all purposes hereunder. If the Collateral Trust Agreement is terminated prior to such Recovery, the Collateral Trust Agreement will be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

The Collateral Trust Agreement will provide that the grants of Liens pursuant to the Priority Lien Security Documents and the Junior Lien Security Documents constitute two separate and distinct grants of Liens; and because of, among other things, their differing rights in the Collateral, the Junior Lien Obligations are fundamentally different from the Priority Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. If it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then all distributions will be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior secured claims) in respect of post-petition interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding) before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, and the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or each Junior Lien Representative, as applicable, for itself and on behalf of the Junior Lien Secured Parties for whom it acts as representative, will turn over to the Priority Collateral Trustee for application in accordance with the Collateral Trust Agreement, Collateral or proceeds of Collateral otherwise received or

receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties).

The Collateral Trust Agreement will provide that, notwithstanding any other provision to the contrary, each Junior Lien Representative and the Junior Collateral Trustee, for itself and on behalf of each other Junior Lien Secured Party represented by it, agrees that none of such Junior Lien Representative or the Junior Collateral Trustee, the Junior Lien Secured Parties represented by it or any agent or trustee on behalf of any of them shall, during any Insolvency or Liquidation Proceeding or otherwise, support, endorse, propose or submit, whether directly or indirectly, any plan of reorganization that provides for the impairment of repayment of the Priority Lien Obligations (with impairment to be determined under Section 1124 of the Bankruptcy Code) unless (i) the Priority Lien Secured Parties or the Priority Lien Representative, in each case, through an Act of Required Secured Parties as specified in clause (i) of the definition thereof shall have consented to such plan in writing or (ii) such plan of reorganization provides for the Discharge of Priority Lien Obligations (including all post-petition interest, fees and expenses) on the effective date of such plan of reorganization or liquidation, as applicable. Without limiting the foregoing, the Collateral Trust Agreement provides that if, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of Priority Lien Obligations and on account of Junior Lien Obligations, then, to the extent the debt obligations distributed on account of the Priority Lien Obligations and on account of the Junior Lien Obligations are secured by Liens upon the same property, the provisions of the Collateral Trust Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

The Collateral Trust Agreement will be a "subordination agreement" under Section 510(a) of the Bankruptcy Code, which will be effective before, during and after the commencement of an insolvency proceeding. All references in the Collateral Trust Agreement to any Grantor will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an insolvency proceeding.

Order of Application

The Collateral Trust Agreement will provide that if any Collateral is sold or otherwise realized upon by the Collateral Trustee in connection with any collection, sale, foreclosure or other enforcement of Liens granted to the Collateral Trustee in the Security Documents, the proceeds received by the Collateral Trustee from such collection, sale, foreclosure or other enforcement and the proceeds received by the Collateral Trustee or any Priority Lien Secured Party or Junior Lien Secured Party of any insurance policy maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral will be distributed by the Collateral Trustee in the following order of application:

FIRST, to the payment of all amounts payable under the Collateral Trust Agreement on account of the Collateral Trustee's fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Trustee or any co-trustee or agent of the Collateral Trustee in connection with any Security Document (including, but not limited to, indemnification obligations that are then due and payable to the Collateral Trustee or any co-trustee or agent of the Collateral Trustee);

SECOND, to the respective Priority Lien Representatives on a pro rata basis for each Series of Priority Lien Debt that are secured by such Collateral for application to the payment of all such outstanding Priority Lien Debt and any other such Priority Lien Obligations that are then due and payable and so secured (for application in such order as may be provided in the Priority Lien Documents applicable to the respective Priority Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Priority Lien Debt and all other Priority Lien Obligations that are then due and payable and so secured (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding);

THIRD, to the respective Junior Lien Representatives on a pro rata basis for each Series of Junior Lien Debt that are secured by such Collateral for application to the payment of all outstanding Junior Lien Debt and any other Junior Lien Obligations that are so secured and then due and payable (for application in such order as may be provided in the Junior Lien Documents applicable to the respective Junior Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Junior Lien Debt and all other Junior Lien Obligations that are then due and payable and so secured (including, to the extent legally permitted, all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Junior Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Junior Lien Document) of all outstanding letters of credit, if any, constituting Junior Lien Debt); and

FOURTH, any surplus remaining after the payment in full in cash of amounts described in the preceding clauses will be paid to the Issuers or the applicable Grantor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law or as a court of competent jurisdiction may direct.

Notwithstanding the foregoing, if any Series of Secured Debt has released its Lien on any Collateral as set forth in the Collateral Trust Agreement, then such Series of Secured Debt and any related Secured Obligations of that Series thereafter shall not be entitled to share in the proceeds of any Collateral so released by that Series.

If any Junior Collateral Trustee, the Junior Lien Representative or any Junior Lien Secured Party collects or receives on account of any Junior Lien Obligations any proceeds of any foreclosure, collection or other enforcement, proceeds of any insurance maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral and any proceeds of any assets that were subject to Priority Liens that have been avoided or otherwise invalidated that should have been applied to the payment of the Priority Lien Obligations in accordance with the immediately preceding paragraph, whether after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Junior Lien Representative or such Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Priority Collateral Trustee, for the account of the Priority Lien Secured Parties, to be applied in accordance with the provisions set forth in the immediately preceding paragraph. Until so delivered, such proceeds shall be segregated and will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

The provisions set forth under this caption “—Order of Application” are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Secured Obligations, each present and future Secured Debt Representative and the Collateral Trustee as holder of Priority Liens and Junior Liens. The Secured Debt Representative of each future Series of Secured Debt will be required to deliver a lien sharing and priority confirmation to the Collateral Trustee and each other Secured Debt Representative at the time of incurrence of such Series of Secured Debt.

Release of Liens on Collateral

The Collateral Trust Agreement will provide that the Priority Collateral Trustee’s and/or Junior Collateral Trustee’s Liens, as applicable, upon the Collateral will be released or subordinated in any of the following circumstances:

- (1) the Collateral Trustee’s Liens will be released in whole, upon (A) payment in full in cash and discharge of all outstanding Secured Debt and all other Secured Obligations that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged; and (B) termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation, termination or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the

percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Secured Debt Documents) of all outstanding letters of credit issued pursuant to any Secured Debt Documents or, solely to the extent if any agreed to by the issuer of any outstanding letter of credit issued pursuant to any Secured Debt Document, the issuance of a back to back letter of credit in favor of the issuer of any such outstanding letter of credit in an amount equal to such outstanding letter of credit and issued by a financial institution acceptable to such issuer;

- (2) the Collateral Trustee's Liens will be released as to any Collateral that is sold, transferred or otherwise disposed of by an Issuer or any other Grantor to a Person that is not (either before or after such sale, transfer or disposition) an Issuer or a Subsidiary in a transaction or other circumstance that is permitted by all of the Secured Debt Documents, at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; provided that the Collateral Trustee's Liens upon the Collateral will not be released if the sale or disposition is subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (3) as to a release of less than all or substantially all of the Collateral (other than pursuant to clause (2) above), the Collateral Trustee's Liens on such Collateral will be released if directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the release was permitted by each applicable Secured Debt Document; provided, that this clause (3) shall not apply to (i) Discharge of Priority Lien Obligations upon payment in full thereof or (ii) sales or dispositions subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (4) as to a release of all or substantially all of the Collateral (other than pursuant to clause (1) above), the Collateral Trustee's Liens on such Collateral will be released if (A) consent to release of that Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt at the time outstanding as provided for in the applicable Secured Debt Documents, and (B) the Issuers have delivered an Officer's Certificate to the Collateral Trustee in the form required under the Collateral Trust Agreement certifying that any such necessary consents have been obtained;
- (5) [reserved];
- (6) notwithstanding any of the foregoing, if, prior to the Discharge of Priority Lien Obligations, the Priority Collateral Trustee is exercising its rights or remedies with respect to the Collateral under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, and the Priority Collateral Trustee releases any part of the Collateral from all of the Priority Liens, in any such case, in connection with any collection, sale, foreclosure or other enforcement, then the Junior Liens on such Collateral shall be automatically, unconditionally and simultaneously released to the same extent. If in connection with any exercise of rights and remedies by the Priority Collateral Trustee under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, the equity interests of any Person are foreclosed upon or otherwise disposed of and the Priority Collateral Trustee releases the Priority Lien on the property or assets of such Person then the Junior Liens with respect to the property or assets of such Person will be concurrently and automatically released to the same extent as all of the Priority Liens on such property or assets are released;
- (7) the Collateral Trustee's Liens on any Collateral will be subordinated as directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the subordination was permitted by each applicable Secured Debt Document; and
- (8) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction.

Release of Liens in Respect of Notes

The indenture and the Collateral Trust Agreement will provide that the Collateral Trustee's Liens upon the Collateral will no longer secure the notes outstanding under the indenture or any other Obligations under the

indenture, and the right of the holders of the notes and such Obligations to the benefits and proceeds of the Collateral Trustee's Liens on the Collateral will terminate and be discharged:

- (1) upon satisfaction and discharge of the indenture as set forth under the caption “—Defeasance and Discharge;”
- (2) upon a Legal Defeasance or Covenant Defeasance of the notes as set forth under the caption “—Defeasance and Discharge;”
- (3) upon payment in full and discharge of all notes outstanding under the indenture and all Obligations that are outstanding, due and payable under the indenture at the time the notes are paid in full and discharged; or
- (4) in whole or in part, with the consent of the holders of the requisite percentage of notes in accordance with the provisions described below under the caption “—Amendments and Waivers.”

Amendment of Security Documents

The Collateral Trust Agreement will provide that no amendment or supplement to the provisions of any Security Document will be effective without the approval of the Collateral Trustee acting as directed by an Act of Required Secured Parties, except that:

- (1) any amendment or supplement that has the effect solely of:
 - (a) adding or maintaining Collateral or preserving, perfecting or establishing the Liens thereon or the rights of the Collateral Trustee therein;
 - (b) providing for the assumption of any Grantor's obligations under any Secured Debt Document in the case of a merger or consolidation or sale of all or substantially all of the assets of such Grantor to the extent not prohibited by the terms of the indenture governing the notes or any other Secured Debt Documents, as applicable; or
 - (c) curing any ambiguity, omission, mistake, defect or inconsistency;

in the case of clauses (a) through (c) above, will become effective when executed and delivered by the Issuers or any other applicable Grantor party thereto and the Collateral Trustee for the applicable Class of Security Document being so amended or supplemented;

- (2) no amendment or supplement that reduces, impairs or adversely affects the right of any Secured Party:
 - (a) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Required Secured Parties or direction by the Required Junior Lien Debtholders (or amends the provisions of this clause (2) or the definition of “Act of Required Secured Parties” or “Controlling Representative”),
 - (b) to share in the order of application described above under “—Order of Application” in the proceeds of enforcement of or realization on any Collateral, in each case that has not been released in accordance with the provisions described above under the caption “—Release of Liens on Collateral” or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt,
 - (c) to require that Liens securing Secured Obligations be released only as set forth in the provisions described above under the caption “—Release of Liens on Collateral” or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt, or
 - (d) to amend the terms described under this caption relating to amendments;

in the case of clauses (a) through (d) above, will become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Document; and

- (3) no amendment or supplement that imposes any obligation or duty upon or adversely affects the rights of (i) the Priority Collateral Trustee and/or the Junior Collateral Trustee or (ii) any Secured Debt Representative, in any case, in its capacity as such will become effective without the consent of (i) the Priority Collateral Trustee or the Junior Collateral Trustee so affected (or both, in the case of a such an amendment or supplement generally affecting the Collateral Trustee) or (ii) such Secured Debt Representative, respectively.

Any amendment or supplement to the provisions of the Security Documents that releases Collateral will be effective only in accordance with the requirements set forth in the applicable Secured Debt Document referenced above under the caption “—Release of Liens on Collateral.” Any amendment or supplement that results in the Collateral Trustee’s Liens upon the Collateral no longer securing the notes and the other Obligations under the indenture may only be effected in accordance with the provisions described above under the captions “—Release of Liens in Respect of Notes” or “—Release of Liens on Collateral.”

The Collateral Trust Agreement will provide that, notwithstanding anything to the contrary under the caption “—Amendment of Security Documents,” but subject to clauses (2) and (3) above:

- (1) any Security Document that secures Junior Lien Obligations (but not Priority Lien Obligations) may be amended or supplemented with the approval of the Junior Collateral Trustee acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment or supplement would not be permitted under the terms of the Collateral Trust Agreement or the other Priority Lien Documents; and
- (2) any amendment or waiver of, or any consent under any Priority Lien Security Document (to the extent such amendment, waiver or consent is applicable to all Series of Priority Lien Debt) will apply automatically to any comparable provision of any comparable Junior Lien Document without the consent of any Junior Lien Secured Party and without any action by the Issuers or any other Grantor or any Junior Lien Secured Party; provided that written notice of such amendment, waiver or consent shall have been given to each Junior Lien Representative promptly after the effectiveness of such amendment, waiver or consent.

Voting

In connection with any matter under the Collateral Trust Agreement requiring a vote of holders of Secured Debt, each Series of Secured Debt that is Priority Lien Debt will cast its votes in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt that is Priority Lien Debt to be voted by a Series of Secured Debt will equal (1) the aggregate principal amount of Secured Debt held by the holders of such Series of Secured Debt (including outstanding letters of credit whether or not then available or drawn), *plus* (2) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Funded Debt of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt that is Priority Lien Debt will vote the total amount of Secured Debt under that Series of Secured Debt as a block in respect of any vote under the Collateral Trust Agreement. The Junior Lien Representative will cast its vote in accordance with the Junior Lien Intercreditor Agreement. Upon request of the Collateral Trustee, each Priority Lien Representative and the Junior Lien Representative will provide a written notice to the Collateral Trustee of the aggregate principal amount of Priority Lien Debt or Junior Lien Debt for which it acts as Priority Lien Representative or Junior Lien Representative.

Relative Rights

Nothing in the indenture or the Security Documents will:

- (1) impair, as to the Issuers and the holders of the notes, the obligation of the Issuers to pay principal of, premium and interest on the notes in accordance with their terms or any other obligation of any Issuer or any other Grantor;
- (2) affect the relative rights of holders of notes as against any other creditors of any Issuer or any other Grantor (other than holders of Priority Liens or Junior Liens);
- (3) restrict the right of any holder of notes to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral to the extent specifically prohibited by the provisions described above under the captions “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”);
- (4) restrict or prevent any holder of notes or other Priority Lien Obligations, the Priority Collateral Trustee or any Priority Lien Representative from exercising any of its rights or remedies upon a Default or Event of Default not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”; or
- (5) restrict or prevent any holder of notes or other Junior Lien Obligations, the Junior Collateral Trustee or the Junior Lien Representative from taking any lawful action in an Insolvency or Liquidation Proceeding not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings.”

Further Assurances; Insurance

The indenture will provide that the Issuers and each of the other Grantors will do or cause to be done all acts and things that may be required, or that any Controlling Representative from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

The Issuers and each of the other Grantors will promptly execute, acknowledge and deliver such Security Documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that any Controlling Representative may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the Secured Parties; it being understood that none of the Collateral Trustee or any Secured Debt Representative shall have a duty to so request.

The Issuers and the other Grantors will:

- (1) keep their properties adequately insured at all times by financially sound and reputable insurers;
- (2) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;

- (3) maintain such other insurance as may be required by law; and
- (4) maintain such other insurance as may be required by the Security Documents.

Upon the request of the Collateral Trustee, the Issuers and the other Grantors will furnish to the Collateral Trustee full information as to their property and liability insurance carriers.

Optional Redemption

Except as set forth below and the last paragraph of the covenant described below under “—Repurchase of Notes at the Option of Holders—Change of Control,” the notes will not be redeemable at the option of the Issuers.

At any time prior to January 30, 2023, the Issuers may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” by paying a redemption price equal to 100% of the principal amount of the notes to be redeemed plus the Applicable Premium, and accrued and unpaid interest, if any, to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

At any time and from time to time on or after January 30, 2023, the Issuers may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” at a redemption price equal to the percentage of principal amount set forth below plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

<u>Period</u>	<u>Redemption Price</u>
6-month period commencing January 30, 2023	105.000%
Thereafter	100.000%

Unless the Issuers default in the payment of the applicable redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on and after the applicable redemption date.

Repurchase of Notes at the Option of Holders

Change of Control

Not later than 30 days following a Change of Control, the Issuers will make an Offer to Purchase (as defined below) all outstanding notes at a purchase price equal to 101% of the aggregate principal amount of the notes repurchased plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date); *provided*, however, that notwithstanding the occurrence of a Change of Control, the Issuers shall not be obligated to purchase the notes pursuant to this covenant in the event that (i) during the 30-day period following such Change of Control, the Issuers have given the notice to exercise their right to redeem all the notes under the terms described in “—Optional Redemption” and redeemed such notes in accordance with such notice, unless and until there is a default in payment of the applicable redemption price or (ii) a third party makes the Offer to Purchase in the manner, at the time and otherwise in compliance with the requirements set forth in the indenture applicable to an Offer to Purchase made by the Issuers and purchases all notes properly tendered and not withdrawn under the offer.

An “Offer to Purchase” means a written offer, which will specify the principal amount of notes subject to the offer and the purchase price. The offer must specify an expiration date (the “expiration date”) not less than 30 days or more than 60 days after the date of the offer, and a settlement date for purchase (the “purchase date”) not more than five business days after the expiration date. The offer must include information concerning the

business of the Issuers and their Subsidiaries which the Issuers in good faith believe will enable the holders to make an informed decision with respect to the Offer to Purchase. The offer will also contain instructions and materials necessary to enable holders to tender notes pursuant to the offer. If the Offer to Purchase is sent prior to the occurrence of the Change of Control, it may be conditioned upon the consummation of the Change of Control.

A holder may tender all or any portion of its notes pursuant to an Offer to Purchase, subject to the requirement that any portion of a note tendered must be in a minimum of \$2,000 principal amount or a multiple of \$1,000 principal amount in excess thereof. Holders are entitled to withdraw notes tendered up to the close of business on the expiration date. On the purchase date the purchase price will become due and payable on each note accepted for purchase pursuant to the Offer to Purchase, and interest on notes purchased will cease to accrue on and after the purchase date.

Notes repurchased by the Issuers pursuant to an Offer to Purchase will have the status of notes issued but not outstanding or will be retired and cancelled at the option of the Issuers.

Notes purchased by a third party pursuant to the preceding paragraphs will have the status of notes issued and outstanding.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to an Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

The Change of Control provisions described above may deter certain mergers, tender offers and other takeover attempts involving the Issuers by increasing the capital required to effectuate such transactions. The definition of Change of Control also includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of the Issuers and their Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a noteholder to require the Issuers to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Issuers and their Subsidiaries taken as a whole to another Person or group may be uncertain.

Holders may not be entitled to require us to purchase their notes in certain circumstances involving a significant change in the composition of our Boards of Directors, including in connection with a proxy contest where our Boards of Directors do not approve a dissident slate of directors but approve them as continuing directors, even if our Boards of Directors initially opposed the directors.

Future debt of the Issuers may prohibit the Issuers from purchasing notes in the event of a Change of Control, provide that a Change of Control is a default or require the Issuers to repurchase the notes upon a Change of Control. Moreover, the exercise by the noteholders of their right to require the Issuers to purchase the notes could cause a default under such future Debt, even if the Change of Control itself does not, due to the financial effect of the purchase on the Issuers.

Finally, the Issuers’ ability to pay cash to the noteholders following the occurrence of a Change of Control may be limited by the Issuers’ then existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the notes. See “Risk Factors—Risks Related to the Notes—We may be unable to purchase the notes upon a change of control.”

Except as described above with respect to a Change of Control, the indenture will not contain provisions that permit the holder of the notes to require that the Issuers purchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The provisions under the indenture relating to the Issuers' obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or amended as described below in "—Amendments and Waivers."

In the event that holders of not less than 90% of the aggregate principal amount of the outstanding notes accept an Offer to Purchase and the Issuers (or the third party making the Offer to Purchase in lieu of the Issuers) purchase all of the notes held by such holders, the Issuers will have the right, upon not less than 30 nor more than 60 days' prior written notice to the holders and the Trustee, given not more than 30 days following the purchase pursuant to the Offer to Purchase described above, to redeem all of the notes that remain outstanding following such purchase at a redemption price equal to the Offer to Purchase payment price plus accrued and unpaid interest on the notes redeemed to the date of redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

Asset Sales

The Main Issuer will not, and will not permit any Subsidiary to, make any Asset Sale unless the following conditions are met:

- (1) The Asset Sale is for at least Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale).
- (2) At least 90% of the aggregate consideration received by the Main Issuer or its Subsidiaries for such Asset Sale consists of cash or Cash Equivalents.

For purposes of this clause (2):

- (A) the assumption by the purchaser of Debt or other obligations or liabilities (as shown on the Main Issuer's most recent balance sheet or in the footnotes thereto) (other than Subordinated Debt or other obligations or liabilities subordinated in right of payment to the notes) of the Main Issuer or a Subsidiary pursuant to operation of law or a customary novation or assumption agreement; and
- (B) instruments, notes, securities or other obligations received by the Main Issuer or such Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Main Issuer or such Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received

shall in each case be considered cash or Cash Equivalents.

- (3) Within 365 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Main Issuer or a Subsidiary may apply an amount equal to such Net Cash Proceeds at its option:
 - (A) to permanently prepay, repay, redeem, reduce or repurchase Debt as follows:
 - (i) to prepay, repay, redeem, reduce or purchase Priority Lien Obligations on a pro rata basis; *provided* that all reductions of (or offers to reduce) Obligations under the notes shall be made as provided under "—Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued unpaid interest, to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid;

(ii) [reserved]; or

(iii) [reserved]; or

- (B) to acquire property, plant and equipment necessary for the conduct of the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business (collectively, “Relevant Equipment”).

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the Net Cash Proceeds of any Asset Sales by a Foreign Subsidiary to the Main Issuer is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the Net Cash Proceeds of any Assets Sales by a Foreign Subsidiary to the Main Issuer could result in material adverse tax consequences, as reasonably determined by the Main Issuer, the portion of such Net Cash Proceeds so affected will not be required to be applied in compliance with this covenant; *provided* that within 365 days of the receipt of such Net Cash Proceeds, the Main Issuer shall use commercially reasonable efforts to permit repatriation of the proceeds that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such proceeds may be repatriated, within such 365 day period, such proceeds shall be required to be applied in compliance with this covenant.

- (4) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (3) within 365 days of the Asset Sale constitute “Excess Proceeds.” Excess Proceeds of less than \$5.0 million will be carried forward and accumulated. When the aggregate amount of the accumulated Excess Proceeds equals or exceeds such amount, the Main Issuer must, within 30 days, make an Offer to Purchase notes (an “Asset Sale Offer”) having a principal amount equal to:

(A) accumulated Excess Proceeds; multiplied by

(B) a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the notes and (y) the denominator of which is equal to the outstanding aggregate principal amount of the notes and all other Priority Lien Obligations similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale,

rounded down to the nearest \$1,000. The purchase price for any Asset Sale Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer is for less than all of the outstanding notes and notes in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the Asset Sale Offer, the Main Issuer will purchase notes having an aggregate principal amount equal to the purchase amount on a pro rata basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Upon completion of the Asset Sale Offer, any Excess Proceeds remaining after consummation of the Asset Sale Offer will be carried forward as Excess Proceeds and accumulated.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Asset Sale Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such compliance.

Excess Cash Flow

On a semi-annual basis, not later than 30 days after each date on which (i) the quarterly financial statements for the preceding fiscal quarter ending June 30 and (ii) the annual financial statements for the preceding fiscal year are required to be delivered pursuant to clause (1) of covenant described under the caption “—Certain

Covenants—Reports”, commencing with the period from February 1, 2021 to June 30, 2021, the Issuers will make an Offer to Purchase notes, which shall include, without limitation, a detailed calculation of Excess Cash Flow for the relevant Excess Cash Flow Period (each such Offer to Purchase, an “Excess Cash Flow Offer”), having an aggregate principal amount equal to:

- (A) an amount equal to 100% of Excess Cash Flow of the Main Issuer and its Subsidiaries for the Excess Cash Flow Period then ended; *multiplied by*
- (B) a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the notes and (y) the denominator of which is equal to the outstanding aggregate principal amount of the notes and all other Priority Lien Obligations required to be repaid with such Excess Cash Flow,

rounded down to the nearest \$1,000. The purchase price for any Excess Cash Flow Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Excess Cash Flow Offer is for less than all of the outstanding notes and notes in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the Excess Cash Flow Offer, the Main Issuer will purchase notes having an aggregate principal amount equal to the purchase amount on a pro rata basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Any portion of such Excess Cash Flow remaining after consummation of the Excess Cash Flow Offer may be used for any purpose not otherwise prohibited by the indenture.

Notwithstanding the foregoing, to the extent that the Liquidity Amount as of the calculation date for any Excess Cash Flow Period, after giving pro forma effect to the Excess Cash Flow Offer for such Excess Cash Flow Period, is equal to or less than \$60.0 million, the aggregate principal amount of notes to be purchased in such Excess Cash Flow Offer shall be reduced such that the Liquidity Amount as of the calculation date for any Excess Cash Flow Period, after giving pro forma effect to such Excess Cash Flow Offer, is greater than \$60.0 million.

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the net cash provided by/used in operating activities (as determined in accordance with GAAP) of a Foreign Subsidiary to the Main Issuer is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the net cash provided by/used in operating activities (as determined in accordance with GAAP) by a Foreign Subsidiary to the Main Issuer could result in material adverse tax consequences, as reasonably determined by the Main Issuer, such net cash provided by/used in operating activities (as determined in accordance with GAAP) so affected will not be required to be applied in the calculation of Excess Cash Flow for the relevant Excess Cash Flow Period in compliance with this covenant; *provided* that within 365 days of the receipt of such net cash provided by/used in operating activities (as determined in accordance with GAAP), the Main Issuer shall use commercially reasonable efforts to permit repatriation of the amounts that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such amounts may be repatriated, within such 365 day period, such proceeds shall be required to be applied in compliance with this covenant.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Excess Cash Flow Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Excess Cash Flow provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Excess Cash Flow provisions of the indenture by virtue of such compliance.

Wilpinjong Mandatory Offer

Not later than 30 days following the occurrence of a Wilpinjong Triggering Event (the “Wilpinjong Triggering Date”), Peabody shall be obligated to make an Offer to Purchase outstanding notes in an aggregate principal amount up to the Maximum Amount (the “Wilpinjong Mandatory Offer”), provided that, during the

term of the notes, Peabody shall not be obligated to make more than one Wilpinjong Mandatory Offer pursuant to each of clauses (i) and (ii) of the definition of Wilpinjong Triggering Event, respectively.

The purchase price for any notes purchased in a Wilpinjong Mandatory Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

The purchase price for notes purchased in the Wilpinjong Mandatory Offer, including any accrued interest, if any, to, but excluding, the date of purchase, shall be paid in aggregate principal amount of Peabody 2024 Notes, rounded down to the nearest \$1,000.

If the aggregate principal amount of notes surrendered in a Wilpinjong Mandatory Offer exceeds the Maximum Amount, Peabody will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a pro rata basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate principal amount, as applicable of the notes tendered.

Upon any such issuance of Peabody 2024 Notes, delivery of the notes by the Issuers to the Trustee for cancellation and satisfaction by the Issuers of the requirements under the indenture, the Issuers' obligations with respect to such notes shall be discharged and such notes shall cease to be outstanding. In this regard, Peabody shall not (i) make any "Restricted Payments" (as defined under the Peabody Existing Indenture) under Section 4.07(b)(11) or (13) of the Peabody Existing Indenture until there is sufficient available capacity under such provisions of Section 4.07 of the Peabody Existing Indenture for "Restricted Payments" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under such provisions of Section 4.07 of the Peabody Existing Indenture, (ii) make any "Investments" (as defined in the Peabody Credit Agreement) under Section 7.02(j) or (m) until there is sufficient available capacity under such provisions of Section 7.02 of the Peabody Credit Agreement for "Investment" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under such provisions of Section 7.02 of the Peabody Credit Agreement, and (iii) incur or permit to exist any "Permitted Liens" (as defined in the Peabody Existing Indenture) under the Peabody Existing Indenture until Peabody is permitted to incur or permit to exist "Permitted Liens" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under the Peabody Existing Indenture.

Notwithstanding anything in the preceding paragraph to the contrary, in the event the Wilpinjong Mandatory Offer is consummated, no Applicable Premium shall be due and payable with respect to any notes tendered and exchanged pursuant to the Wilpinjong Mandatory Offer.

Peabody will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Wilpinjong Mandatory Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Wilpinjong Mandatory Offer provisions in the indenture, Peabody will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Wilpinjong Mandatory Offer provisions of the indenture by virtue of such compliance.

Term Loan Repayment Offer

Not later than 30 days after each date on which there is a voluntary prepayment, repayment or repurchase of the loans under the Term Loan Facility, the Issuers will make an Offer to Purchase the notes in an aggregate principal amount up to the aggregate principal amount of Term Loans repurchased or prepaid (the "Term Loan

Offer Amount”) at a price that, as a percentage of the principal acquired, is the same as the price paid in the repurchase or repayment of the Term Loans (each such offer, a “Term Loan Repayment Offer”).

If the aggregate principal amount of notes surrendered in a Term Loan Repayment Offer exceeds the Term Loan Offer Amount, the Issuers will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a pro rata basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate principal amount, as applicable of the notes tendered.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to a Term Loan Repayment Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Term Loan Repayment Offer provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Term Loan Repayment Offer provisions of the indenture by virtue of such compliance.

Selection and Notice

If less than all of the notes are to be redeemed at any time, the Trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange and the Issuers notify a responsible officer of the Trustee in writing of such listing, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or
- (2) if the notes are not listed on any national securities exchange, on a pro rata basis (or, in the case of global notes, the notes represented thereby will be selected by lot in accordance with DTC’s applicable procedures).

No notes of \$2,000 or less can be redeemed in part. Notices of optional redemption will be given by first class mail (or electronically in the case of global notes) at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that optional redemption notices may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or satisfaction and discharge of the indenture.

Notice of any redemption of the notes (including upon an Equity Offering) may, at the Main Issuer’s discretion, be given prior to a transaction or event and any such redemption or notice may, at the Main Issuer’s discretion, be subject to one or more conditions precedent, including, but not limited to, completion or occurrence of the related transaction or event, as the case may be. In addition, if such redemption or purchase is subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Main Issuer’s discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed, or such notice may be rescinded at any time in the Main Issuer’s discretion if in the good faith judgment of the Main Issuer any or all of such conditions will not be satisfied. In addition, the Main Issuer may provide in such notice that payment of the redemption price and performance of the Main Issuer’s obligations with respect to such redemption may be performed by another Person.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder upon cancellation of the original note. Notes called for redemption without a condition precedent will become due on the date fixed for

redemption. On and after the redemption date, interest will cease to accrue on notes or portions of them called for redemption, unless the Issuers default in making such redemption payment.

No Mandatory Redemption or Sinking Fund

The Issuers are not required to make mandatory redemption payments with respect to the notes. The Issuers may from time to time purchase notes on the open market or otherwise in accordance with applicable laws. There will be no sinking fund payments for the notes.

Changes in Covenants if Notes Are Rated Investment Grade

If at any time (i) the notes are rated Investment Grade by each of S&P and Moody's (or, if either (or both) of S&P and Moody's have been substituted in accordance with the definition of "Rating Agencies," by each of the then applicable Rating Agencies), (ii) no Default or Event of Default has occurred and is continuing under the indenture and (iii) the Issuers have delivered to the Trustee an Officer's Certificate certifying to the foregoing provisions of this sentence, the covenants specifically listed under the following captions in this "Description of the New Co-Issuer Notes" section of this offering memorandum will be suspended (the "Suspension Period"):

- (1) "—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;"
- (2) "—Certain Covenants—Limitation on Restricted Payments;"
- (3) "—Certain Covenants—Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries;"
- (4) "—Repurchase of Notes at the Option of Holders—Asset Sales," "—Repurchase of Notes at the Option of Holders—Excess Cash Flow Offer;"
- (5) "—Certain Covenants—Limitation on Transactions with Affiliates;" and
- (6) clause (a)(2)(C) of "—Certain Covenants—Consolidation, Merger or Sale of Assets—The Issuers."

Notwithstanding the foregoing, if the rating assigned to the notes by either Rating Agency should subsequently decline to below Investment Grade, the foregoing covenants will be reinstituted as of and from the date of such rating decline (the "Reversion Date"). Calculations under the reinstated "Limitation on Restricted Payments" covenant will be made as if the "Limitation on Restricted Payments" covenant had been in effect since the date of the indenture except that no Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. Furthermore, all Debt incurred during the Suspension Period will be deemed to have been incurred or issued pursuant to clause (2) of the definition of "Permitted Debt." Notwithstanding that the suspended covenants may be reinstated, no default will be deemed to have occurred as a result of a failure to comply with such suspended covenants during any Suspension Period (or upon termination of any covenant Suspension Period or after that time based solely on events that occurred during the Suspension Period).

There can be no assurance that the notes will ever achieve or maintain a rating of Investment Grade from any Rating Agency. The Issuers shall promptly deliver to the Trustee an Officer's Certificate notifying the Trustee of any event giving rise to a Suspension Period or a Reversion Date, the date thereof and identifying the suspended covenants. The Trustee shall not have any obligation to monitor the ratings of the notes, determine whether a Suspension Period or Reversion Date has occurred or notify holders of the occurrence or dates of any Suspension Period, suspended covenants or Reversion Date.

Certain Covenants

Limitation on Debt and Disqualified Stock or Preferred Stock

- (a) The Main Issuer

- (1) will not, and will not permit any of its Subsidiaries to, directly or indirectly, Incur any Debt (including Acquired Debt) or Disqualified Stock; and
 - (2) will not permit any of its Subsidiaries to Incur any Preferred Stock (other than Disqualified Stock or Preferred Stock of Subsidiaries held by the Main Issuer or a Subsidiary, so long as it is so held).
- (b) The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Debt ("Permitted Debt"):
- (1) Incurrence by the Issuers of Debt under Term Loan Facility in an aggregate principal amount at any one time outstanding not to exceed \$206.0 million (less the aggregate amount of mandatory prepayments of such Debt made thereunder from time to time) and any related guarantees thereof;
 - (2) [reserved];
 - (3) Debt of the Main Issuer or any Subsidiary owed to the Main Issuer or any Subsidiary so long as such Debt continues to be owed to the Main Issuer or a Subsidiary and which, if the obligor is the Main Issuer and if the Debt is owed to a Subsidiary is subordinated in right of payment to the notes;
 - (4) Debt constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, "refinance") then outstanding Debt ("Permitted Refinancing Debt") that was permitted by the indenture to be incurred under clauses (1), (2), (4), (8), (9) or (17) of this paragraph in an amount not to exceed the principal amount of the Debt so refinanced, plus premiums, fees and expenses; *provided that*:
 - (i) in case the Debt to be refinanced is subordinated in right of payment to the notes, the new Debt, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes;
 - (ii) (x) the new Debt does not have a Stated Maturity prior to the Stated Maturity of the Debt to be refinanced, and the Average Life of the new Debt is at least equal to the remaining Average Life of the Debt to be refinanced or (y) the new debt does not have a Stated Maturity prior to the Stated Maturity of the notes, and the Average Life of the new Debt is at least equal to the remaining Average Life of the notes;
 - (iii) in no event may Debt of any Issuer or Wilpinjong Credit Party, if any, be refinanced pursuant to this clause by means of any Debt of any Person that is not an Issuer or a Wilpinjong Credit Party; and
 - (iv) in case the Debt to be refinanced is secured, the Liens securing such new Debt have a Lien priority equal to or junior to the Liens securing the Debt being refinanced;
 - (5) Bank Products Obligations of the Main Issuer or any Subsidiary;
 - (6) Debt of Wilpinjong Opco or any of its Subsidiaries in connection with one or more standby or trade-related letters of credit, performance bonds, bid bonds, appeal bonds, bankers acceptances, insurance obligations, reclamation obligations, bank guarantees, surety bonds, completion guarantees or other similar bonds and obligations, including self-bonding arrangements, issued by a Subsidiary solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business or pursuant to self-insurance obligations and not in connection with the borrowing of money or the obtaining of advances;
 - (7) Debt arising from agreements of Wilpinjong Opco or any of its Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;

- (8) Debt of the Main Issuer or any Subsidiary Incurred and the proceeds of which are used solely to finance the purchase, lease or acquisition of any Relevant Equipment and that is secured by such Relevant Equipment, including Finance Lease Obligations and any Debt assumed in connection with the acquisition of any such equipment and secured by a Lien on any such equipment before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Debt Incurred pursuant to this clause, including all Permitted Refinancing Debt Incurred to refund, refinance or replace any Debt Incurred pursuant to this clause (8), may not exceed the greater of (a) \$20.0 million and (b) 5.0% of Consolidated Net Tangible Assets; *provided* further that the ratio of Debt Incurred pursuant to this clause to the Fair Market Value of the applicable Relevant Equipment shall at no time exceed 75%;
- (9) Debt arising as a result of a Lien on the Collateral securing Junior Lien Debt permitted under clause (2) of the definition of “Permitted Liens”;
- (10) [reserved];
- (11) [reserved];
- (12) Preferred Stock of a Subsidiary issued to the Main Issuer or another Subsidiary; *provided* that any subsequent transfer of any Capital Stock or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Preferred Stock (except to the Main Issuer or another Subsidiary) shall be deemed, in each case, to be an issue of Preferred Stock;
- (13) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;
- (14) [reserved];
- (15) Debt of the Main Issuer or any Subsidiary consisting of (i) the financing of insurance premiums solely with respect to the mining operations of the Subsidiaries or (ii) take-or-pay obligations contained in supply or other arrangements;
- (16) [reserved]; and
- (17) Debt of the Main Issuer not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed the greater of (i) \$5.0 million and (ii) 1.0% of Consolidated Net Tangible Assets.

None of the Issuers or their Subsidiaries will incur any Debt (including Permitted Debt) that is contractually subordinated in right of payment to any other Debt of the Main Issuer unless such Debt is also contractually subordinated in right of payment to the notes on substantially identical terms; *provided*, however, that no Debt will be deemed to be contractually subordinated in right of payment to any other Debt of the Main Issuer solely by virtue of being unsecured or by virtue of being secured on junior priority basis.

For purposes of determining compliance with this “—Limitation on Debt and Disqualified Stock or Preferred Stock” covenant and the covenant described under the caption “—Liens,” in the event that an item of Debt meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (17) above, the Main Issuer will be permitted to classify such item of Debt on the date of its Incurrence, or later reclassify all or a portion of such item of Debt, in any manner that complies with this covenant. Notwithstanding the foregoing, (x) all Debt under the Term Loan Facility will be deemed to have been incurred in reliance on the exception provided in clause (1) of the definition of Permitted Debt and (y) all Junior Lien Debt will be deemed to have been incurred in reliance on the exception provided in clause (9) of the definition of Permitted Debt. The accrual of interest or preferred stock dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest on any Debt in the form of additional Debt with the same terms, the reclassification of preferred stock as Debt due to a change in accounting principles, and the payment of

dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Debt or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of the Main Issuer as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Main Issuer or any Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Debt outstanding as of any date will be:

- (1) the accreted value of the Debt, in the case of any Debt issued with original issue discount;
- (1) the principal amount of the Debt, in the case of any other Debt; and
- (2) in respect of Debt of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Debt of the other Person.

Limitation on Restricted Payments

- (a) The Main Issuer will not, and will not permit any Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively “Restricted Payments”):
 - (1) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Main Issuer’s Qualified Equity Interests) held by Persons other than the Main Issuer or any of its Subsidiaries;
 - (2) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Main Issuer or any direct or indirect parent of Main Issuer held by Persons other than the Main Issuer or any of its Subsidiaries;
 - (3) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Debt that is unsecured, Junior Lien Debt or Subordinated Debt (other than (x) a payment of interest or principal at Stated Maturity thereof or the redemption, repurchase or other acquisition or retirement for value of any Debt that is unsecured or Subordinated Debt in anticipation of satisfying a scheduled maturity, sinking fund or amortization or other installment obligation, in each case due within one month of the date of such redemption, repurchase, acquisition or retirement or (y) Debt permitted under clause (3) of the definition of “Permitted Debt”); or
 - (4) make any Investment other than a Permitted Investment (a “Restricted Investment”).

The amount of any Restricted Payment, if other than in cash, will be the Fair Market Value, on the date of the Restricted Payment, of the assets or securities proposed to be transferred or issued to or by the Main Issuer or such Subsidiary, as the case may be, pursuant to the Restricted Payment, except that the Fair Market Value of any non-cash dividend or distribution paid within 60 days after the date of its declaration shall be determined as of such date.

- (b) The foregoing will not prohibit:
 - (1) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with paragraph (a);

- (2) dividends or distributions by a Subsidiary payable, on a pro rata basis or on a basis more favorable to the Main Issuer, to all holders of any class of Equity Interests of such Subsidiary a majority of which is held, directly or indirectly through Subsidiaries, by the Main Issuer;
- (3) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Debt that is unsecured, or Subordinated Debt with the net cash proceeds from, or in exchange for, Permitted Refinancing Debt;
- (4) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Main Issuer in exchange for Qualified Equity Interests of the Main Issuer or of a contribution to the common equity of the Main Issuer, including a contribution of the Capital Stock of the Main Issuer;
- (5) [reserved];
- (6) any Investment acquired as a capital contribution to the Main Issuer, or made in exchange for, or out of the net cash proceeds of, a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of Qualified Equity Interests of the Issuers;
- (7) (i) the payment of management or similar fees pursuant to the Management Services Agreements and any indemnification and reimbursement payments required thereunder provided that the aggregate amount of all such fees and payments may not exceed \$15.0 million in any calendar year and (ii) any tax sharing payments to Peabody or its Affiliates; provided that any tax sharing payments shall not exceed the amount that the Main Issuer and its Subsidiaries would have been required to pay in respect of foreign, federal, state or local income Taxes (as the case may be) in respect of the applicable fiscal year if the Main Issuer and its Subsidiaries paid such Taxes directly as a stand-alone taxpayer (or stand-alone group);
- (8) [reserved];
- (9) [reserved];
- (10) [reserved];
- (11) [reserved]; and
- (12) any payments made, or the performance of any of the transactions contemplated, in connection with the exchange offer contemplated by this offering;

provided that, in the case of clauses (8) and (11), no Default or Event of Default has occurred and is continuing or would occur as a result thereof.

For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Limitation on Liens

The Issuers will not, and will not permit any Subsidiary to, directly or indirectly, incur or permit to exist any Lien of any nature whatsoever on any of its properties or assets, whether owned at the Issue Date or thereafter acquired, to secure any Debt other than Permitted Liens.

Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries

- (a) Except as provided in paragraph (b), the Main Issuer will not, and will not permit any Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary to:
 - (1) pay dividends or make any other distributions on its Equity Interests to the Main Issuer or any other Subsidiary;

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- (2) pay any Debt or other liabilities owed to the Issuers or any other Subsidiary;
 - (3) make loans or advances to the Issuers or any other Subsidiary; or
 - (4) sell, lease or transfer any of its property or assets to the Main Issuer or any other Subsidiary.
- (b) The provisions of paragraph (a) do not apply to any encumbrances or restrictions:
- (1) agreements governing the Term Loan Facility and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of those agreements; provided that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;
 - (2) existing pursuant to the indenture, the notes or the Security Documents;
 - (3) existing under or by reason of applicable law, rule, regulation or order;
 - (4) existing under any agreements or other instruments of, or with respect to any Person, or the property or assets of any Person, at the time the Person is acquired by Wilpinjong Opco or any of its Subsidiaries;
 - (5) of the type described in clause (a)(4) arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, Joint Venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of, Wilpinjong Opco or any of its Subsidiaries;
 - (6) with respect to Wilpinjong Opco and its Subsidiaries and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Subsidiary pending closing of such sale or disposition that is permitted by the indenture;
 - (7) existing pursuant to any agreement with the Wilpinjong Mine Customer in effect on the Issue Date and any amendment, modification, restatement, extension, renewal or replacement of any such agreement that is no less favorable in any material respect to the noteholders than the agreement in effect on the Issue Date;
 - (8) existing pursuant to Permitted Refinancing Debt; provided that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Debt are, taken as a whole, no less favorable in any material respect to the noteholders than those contained in the agreements governing the Debt being refinanced;
 - (9) consisting of restrictions on cash or other deposits or net worth imposed by non-financial lessors, customers, suppliers or required by insurance surety bonding companies or in connection with any reclamation activity of the Main Issuer or a Subsidiary, in each case, in the ordinary course of business;
 - (10) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Finance Leases or operating leases or Mining Leases that impose encumbrances or restrictions discussed in clause (a)(4) above on the property so acquired or covered thereby;
 - (11) [reserved];
 - (12) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction;

- (13) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred subsequent to the Issue Date by the covenant described above under “—Limitation on Debt and Disqualified Stock and Preferred Stock” if such encumbrances and restrictions are, taken as a whole, no less favorable in any material respect to the noteholders than is customary in comparable financings (as determined in good faith by the Main Issuer), and the Main Issuer determines in good faith that such encumbrances and restrictions will not materially affect the Issuers’ ability to make principal or interest payments on the notes as and when they become due; and
- (14) existing under or by reason of any Debt secured by a Lien permitted to be Incurred pursuant to the covenants described under “—Limitation on Debt and Disqualified Stock and Preferred Stock” and “—Limitation on Liens” that limit the right of Wilpinjong Opco or any of its Subsidiaries to dispose of the assets securing such Debt.

Limitation on Transactions with Affiliates

- (a) The Main Issuer will not, and will not permit any Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Main Issuer or any Subsidiary (a “Related Party Transaction”) involving aggregate consideration in excess of \$2.5 million, unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Main Issuer) to the Issuers or any of the relevant Subsidiaries than those that could be obtained in a comparable arm’s-length transaction with a Person that is not an Affiliate of the Main Issuer.
- (b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$5.0 million must first be approved by a majority of the Board of Directors of the Main Issuer who are disinterested in the subject matter of the transaction pursuant to a resolution by the Board of Directors of the Main Issuer.
- (c) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$10.0 million, the Main Issuer must deliver to the Trustee an opinion from an accounting, appraisal, or investment banking firm of national standing in the applicable jurisdiction (i) stating that its terms are not materially less favorable to the Main Issuer or any of the relevant Subsidiaries that would have been obtained in a comparable transaction with an unrelated Person or (ii) as to the fairness to the Main Issuer or any of the relevant Subsidiaries of such Related Party Transaction from a financial point of view.
- (d) The foregoing paragraphs do not apply to:
 - (1) any transaction between the Main Issuer and any of its Subsidiaries or between Subsidiaries of the Main Issuer;
 - (2) the payment of reasonable and customary regular fees to directors of the Main Issuer who are not employees of the Main Issuer;
 - (3) [reserved];
 - (4) (i) any payment pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees and any indemnification and reimbursement payments required thereunder, and (ii) the payment of any tax sharing payments, in the case of each of (i) and (ii) permitted under the covenant described above under “—Limitation on Restricted Payments”;
 - (5) loans or advances to officers, directors or employees of the Main Issuer in the ordinary course of business of the Main Issuer or its Subsidiaries or Guarantees in respect thereof or otherwise made on their behalf (including payment on such Guarantees) but only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;

- (6) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Main Issuer or any of its Subsidiaries with officers and employees of the Main Issuer or any of its Subsidiaries that are Affiliates of the Main Issuer and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans) so long as such agreement has been entered into in the ordinary course of business;
- (7) transactions with customers, clients, suppliers, joint venture partners, managers, operators, or purchasers or sellers of goods or services (including pursuant to joint venture agreements) solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Main Issuer, as determined in good faith by the Main Issuer;
- (8) transactions arising under any contract, agreement, instrument or other arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Main Issuer and its Subsidiaries than those in effect on the Issue Date;
- (9) [reserved];
- (10) transactions with any Affiliate in its capacity as a holder of Debt; *provided* that such Affiliate owns less than a majority of the interests of the relevant class and is treated the same as other holders;
- (11) [reserved];
- (12) any lease or sublease of equipment to any Affiliate in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Main Issuer, as determined in good faith by the Main Issuer; and
- (13) any agreements entered into in connection with the exchange offer contemplated by this offering.

Limitations on Main Issuer Activities

Main Issuer may not (a) Incur any Debt other than described above under “—Limitation on Debt and Disqualified Stock or Preferred Stock”, (b) (i) beneficially own, directly or indirectly, any Equity Interests in any Entity unless the Main Issuer beneficially owns 100% of such Equity Interests or (ii) own any other material assets other than assets or receivables arising in connection with intercompany transactions, or (c) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons. Main Issuer may not engage in any business or transactions not related directly or indirectly to holding 100% of the capital stock of PIC Acquisition Corp. (other than, for the avoidance of doubt, (i) any transaction pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees and any indemnification and reimbursement payments required thereunder, and (ii) any tax sharing payments permitted under the covenant described above under “—Limitation on Restricted Payments”), provided that Main Issuer and its Subsidiaries, including Wilpinjong Opco, may hold intercompany receivables from, or incur intercompany payables to, each other.

Limitations on Co-Issuer Activities

Co-Issuer may not (a) Incur any Debt (other than the notes and the Term Loans), (b) have any direct or indirect Subsidiaries, (c) own, directly or indirectly, any Equity Interests or any other assets, or (d) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons. Co-Issuer may not engage in any business or transactions not related directly or indirectly to obtaining money or arranging financing for Main

Issuer (other than, for the avoidance of doubt, (i) any transaction pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees, any indemnification and reimbursement payments required thereunder and (ii) any tax sharing payments permitted under the covenant described above under “—Limitation on Restricted Payments”).

Limitations on PIC Acquisition Activities

PIC Acquisition may not (a) Incur any Debt, (b) beneficially own, directly or indirectly, any Equity Interests in any Entity other than holding 100% of the capital stock of Wilpinjong Opco, provided that PIC Acquisition and its Subsidiaries, including Wilpinjong Opco, may hold intercompany receivables from, or incur intercompany payables to, each other, or (c) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons.

Reports

The indenture will provide that so long as any notes are outstanding, the Issuers shall furnish:

- (1) within 90 days after the end of each fiscal year, annual audited consolidated financial statements of the Main Issuer (including balance sheets, statements of income and statements of cash flows) prepared in accordance with GAAP, together with a report of the Main Issuer’s independent accountants on such financial statements, and a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” with respect to such financial statements for the Main Issuer and its Subsidiaries for the periods presented, in each case, on a basis substantially consistent with, and at the same level of detail as, the corresponding information included in the Offering Memorandum or, at the option of the Main Issuer, the applicable requirements for such information presented in an Annual Report on the Commission’s Form 10-K and all pro forma and historical information in respect of any significant transaction (as determined in accordance with Rule 3-05 of Regulation S-X) consummated more than 75 days prior to the date such information is furnished for the time periods for which such information would be required (if the Main Issuer were subject to the filing requirements of the Exchange Act) in a filing on Form 8-K with the Commission at such time;
- (2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, unaudited quarterly consolidated financial statements of the Main Issuer (including balance sheets, statements of income and statements of cash flows) prepared in accordance with GAAP, and a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” with respect to the interim periods presented, in each case, on a basis substantially consistent with, and at the same level of detail as, the corresponding information included in the Offering Memorandum or, at the option of the Main Issuer, the applicable requirements for such information presented in a Quarterly Report on the Commission’s Form 10-Q and all pro forma and historical information in respect of any significant transaction (as determined in accordance with Rule 3-05 of Regulation S-X) consummated more than 75 days prior to the date such information is furnished for the time periods for which such information would be required (if the Main Issuer were subject to the filing requirements of the Exchange Act) in a filing on Form 8-K with the Commission at such time; and
- (3) within 10 business days, information substantially similar to the information that would be required to be included in a Current Report on the Commission’s Form 8-K with respect to such matters pursuant to Item 1.01 (Entry into a Material Definitive Agreement), 1.02 (Termination of a Material Definitive Agreement), 1.03 (Bankruptcy or Receivership), 2.01 (Completion of Acquisition or Disposition of Assets), 2.03 (Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement), 2.04 (Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement), 4.01 (Changes in a Registrant’s Certifying Accountant), 4.02 (Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review), 5.01 (Changes in Control of Registrant) or 5.02(a)-(d) (Departure of

Directors or Certain Officers; Election of Directors; Appointment of Certain Officers) of such form, *provided, however*, that no such report (i) shall be required to include any financial statements, *pro forma* financial information, or exhibits, that would be required by Item 9.01 (Financial Statements and Exhibits) of such form, and (ii) shall be required to be furnished if the Main Issuer determines in its good faith judgment that such event is not material to the holders of the notes or would not reasonably be expected to impair the ability of the Issuers to perform their obligations under the indenture and the notes.

Notwithstanding the foregoing, in no event shall any reports provided pursuant to this covenant be required to include any additional financial information that would be required under Rule 3-10 or Rule 3-16 of Regulation S-X, respectively, promulgated by the Commission, or any separate financial information with respect to any class or grouping of Subsidiaries of the Main Issuer; and *provided further*, that, in no event, shall reports be required to comply with (1) Sections 302, 906 and 404 of the Sarbanes-Oxley Act of 2002 or Items 307, 308 and 402 of Regulation S-K, or (2) Regulation G under the Exchange Act or Item 10(e) of Regulation S-K with respect to any non-GAAP financial information contained therein.

So long as any notes are outstanding, the Issuers will also use commercially reasonable efforts to arrange and participate in quarterly conference calls (each, a “*Noteholder Call*”) to discuss its results of operations for the previous quarters with holders of notes. The Noteholder Call may, but is not required to, be combined with a similar quarterly conference call conducted by Peabody, and in any event the Noteholder Call will be conducted no later than 10 business days following the date on which each of the quarterly and annual reports are made available as provided above. In addition, the Issuers agree that, for so long as any notes remain outstanding, they will furnish to any beneficial owners, securities analysts and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act and not otherwise previously provided pursuant to this covenant.

The Issuers will (1) distribute such reports and information required by this covenant electronically to the Trustee and (2) make available such reports and information and details relating to each Noteholder Call to any Holder, beneficial owner, prospective investor or security analyst, including by posting such reports and information on a password protected online data system; *provided* that (a) the Issuers shall only be required to make readily available any password or other login information to any such Holder, beneficial owner, prospective investor or security analyst and (b) the Issuers may deny access to any competitively-sensitive information otherwise to be provided pursuant to this paragraph to any such Holder, beneficial owner, prospective investor or security analyst that is a competitor of the Issuers and their Subsidiaries to the extent that the Issuers determine in good faith that the provision of such information to such Person would be competitively harmful to the Issuers and their Subsidiaries; *provided, further* that, such holders, beneficial owners and prospective investors shall agree to (i) treat all such reports (and the information contained therein) and information as confidential, (ii) not use such reports (and the information contained therein) and information for any purpose other than their investment or potential investment in the notes and (iii) not publicly disclose any such reports (and the information contained therein) and information *provided, further, however*, that the access details for each Noteholder Call shall be posted no fewer than three business days prior to the date of such Noteholder Call.

Delivery of reports, information and documents to the Trustee is for informational purposes only and its receipt of such reports shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuers’ compliance with any of their covenants under the indenture or the notes (as to which the Trustee is entitled to rely exclusively on Officer’s Certificates). The Trustee shall not be obligated review or analyze any reports furnished or made available to it, or to monitor or confirm, on a continuing basis or otherwise, our compliance with the covenants or with respect to any reports or other documents filed or made available on any website under the Indenture or participate in any conference calls.

Any and all Defaults or Events of Default arising from a failure to furnish or file in a timely manner any information or report required by this covenant shall be deemed cured (and the Issuers shall be deemed to be in compliance with this covenant) upon furnishing or filing such information or report as contemplated by this covenant (but without regard to the date on which such information or report is so furnished or filed); *provided* that such cure shall not otherwise affect the rights of the holders described below under “—Default and Remedies” if principal and interest have been accelerated in accordance with the terms of the indenture and such acceleration has not been rescinded or cancelled prior to such cure.

To the extent not satisfied by the reporting obligations outlined above, the Issuers shall furnish holders of notes and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the notes are not freely transferable under the Securities Act. The notes will be eligible for resale under Rule 144A. See “—Notice to Investors; Transfer Restrictions.”

Consolidation, Merger or Sale of Assets

The Issuers and PIC Acquisition

- (a) None of the Issuers or PIC Acquisition will:
 - (1) consolidate or merge with or into any Person; or
 - (2) sell, convey, transfer, or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related transactions, to any Person.
- (b) None of the Issuers or PIC Acquisition will lease all or substantially all of its assets, whether in one transaction or a series of transactions, to one or more other Persons.

Peabody

Peabody will not consolidate or merge with or into, or sell, assign, transfer, lease or otherwise dispose of, in a single transaction or series of related transactions, all or substantially all of its assets to any Person unless:

- (a) the resulting, surviving or transferee Person (if not Peabody) shall be a Person organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, and such Person shall expressly assume, by a supplemental indenture, executed and delivered to the Trustee, all the obligations of Peabody under the notes, including pursuant to the Wilpinjong Mandatory Offer;
- (b) except in the case of a merger entered into solely for reincorporating Peabody in another jurisdiction, immediately after giving effect to such transaction and the assumption contemplated by the immediately preceding clause (a), there shall not have occurred an Event of Default described in clause (8)(i) or (ii) in the definition thereof;
- (c) such transaction shall be permitted under the Peabody Existing Indenture and the Peabody 2024 Notes Indenture, excluding the effect of any amendments to or waivers with respect to either of such indentures after the Issue Date; and
- (d) the Issuers shall have delivered to the Trustee an Officer’s Certificate and an opinion of counsel, each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with the applicable provisions of the indenture and that all conditions precedent in the indenture relating to such transaction have been satisfied.

Obligation to Maintain Ratings

The Issuers shall take all necessary actions to have a rating assigned to the notes by either Rating Agency prior to the Issue Date and to maintain a rating of the notes by at least one Rating Agency so long as any of the notes are outstanding.

Events of Default

An “Event of Default” occurs if:

- (1) the Issuers default in the payment of the principal and premium, if any, of any note when the same becomes due and payable at final maturity, upon acceleration or redemption, or otherwise (other than pursuant to an Offer to Purchase);
- (2) the Issuers default in the payment of interest on any note when the same becomes due and payable, and the default continues for a period of 30 days;
- (3) the Issuers fail to make an Offer to Purchase and thereafter accept and pay for notes tendered when and as required pursuant to the covenant described above under “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders—Asset Sales” or “—Repurchase of Notes at the Option of Holders—Excess Cash Flow”, as applicable, or the Issuers fail to comply with the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets;”
- (4) the Main Issuer or any Subsidiary defaults in the performance of or breach any other of its covenants or agreements in the indenture or, under the notes or under the other Note Documents (other than a default specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 60 consecutive days (or 90 consecutive days in the case of a failure to comply with the reporting obligations described under the caption “— Certain Covenants—Reports”) after written notice to the Main Issuer by the Trustee or to the Main Issuer and the Trustee by the holders of 25% or more in aggregate principal amount of the notes;
- (5) there occurs with respect to any Debt of the Main Issuer or any of its Subsidiaries and/or Co-Issuer, as applicable, having an outstanding principal amount of \$20.0 million or more an event of default, including failure to make a principal payment on such Debt when due and such defaulted payment is not made, waived or extended within the applicable grace period;
- (6) one or more final judgments or orders for the payment of money are rendered against the Main Issuer or any of its Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes, in each case, the aggregate amount for such final judgments or orders outstanding and not paid or discharged against such Person to exceed \$20.0 million (in excess of amounts which the Issuers’ insurance carriers have agreed to pay under applicable policies), or its foreign currency equivalent, during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect;
- (7) certain bankruptcy defaults occur with respect to the Main Issuer, Co-Issuer or any other Subsidiary that is a Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would be a Significant Subsidiary;
- (8) (i) the permanent cessation of production of coal at the Wilpinjong Mine, or such cessation continues for more than 90 days and there is no reasonable likelihood that such production will continue, (ii) the occurrence of a cross-event of default to the step-in deed for the benefit of Wilpinjong Mine Customer under any long-term supply contract and the Wilpinjong Mine Customer exercising its step-in right to appoint a receiver to operate the Wilpinjong Mine and such receiver refuses to mine for third-party production, or (iii) the Wilpinjong Mine Customer receiving payments or additional collateral (to which the Wilpinjong Mine Customer is not entitled to at the Issue Date) and such payments or additional collateral are in excess of a fair market value (or face value with respect to letters of credit) of \$20.0 million from the Main Issuer or any of its Subsidiaries as consideration to forbear from exercising its rights or waive any such event of default under any long-term supply contract; or

- (9) the occurrence of the following:
- (a) except as permitted by the Note Documents, any Note Document establishing the Priority Liens ceases for any reason to be enforceable; *provided* that it will not be an Event of Default under this clause (9)(a) if the sole result of the failure of one or more Note Documents to be fully enforceable is that any Priority Lien purported to be granted under such Note Documents on Collateral ceases to be an enforceable and perfected Priority Lien; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Main Issuer or any Subsidiary becomes aware of such failure, which failure has not been cured during such time period;
 - (b) except as permitted by the Note Documents, any Priority Lien purported to be granted under any Note Document on Collateral ceases to be an enforceable and perfected first priority Lien, subject to Permitted Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Main Issuer or any Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and
 - (c) the Issuers, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Issuers set forth in or arising under any Note Document establishing Priority Liens;
- (10) (i) any termination of the Surety Transaction Support Agreement by any sureties signatory thereto, provided that such termination or terminations result in the Main Issuer or any of its Subsidiaries making payments or delivering collateral to such sureties beyond the collateral that such sureties are entitled to as of the Issue Date, and such payments or additional collateral are in excess of a fair market value (or face value with respect to delivered letters of credit or guarantees) of \$20.0 million in the aggregate, or (ii) any modification materially adverse to Peabody or any of its Subsidiaries;
- (11) Peabody fails to comply with any obligation under the Transaction Support Agreement that survives or arises after the Issue Date (including any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes; or
- (12) the termination of the Management Services Agreements unless at the time of such termination there are arrangements in place providing for substantially the same services to be provided to the Main Issuer and its Subsidiaries on terms not materially less favorable to the Main Issuer and its Subsidiaries than the Management Services Agreements or the Management Services Agreements are amended in any manner materially adverse to the Main Issuer and its Subsidiaries.

Consequences of an Event of Default

If an Event of Default, other than a bankruptcy default with respect to any Issuer, occurs and is continuing under the indenture, the Trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding, by written notice to the Main Issuer (and to the Trustee if the notice is given by the holders), may declare the principal of and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal and accrued interest will become immediately due and payable. If a bankruptcy default occurs with respect to the Main Issuer, Co-Issuer or any other Subsidiary that is a Significant Subsidiary, the principal of and accrued interest on the notes then outstanding will become immediately due and payable without any declaration or other act on the part of the Trustee or any holder.

Without limiting the generality of the foregoing, it is understood and agreed that if the notes are accelerated or otherwise become due prior to their stated maturity, in each case, as a result of an Event of Default (including, without limitation, an Event of Default under clause (7) of the definition thereof (including the acceleration of any portion of the notes by operation of law)), the greater of (i) the Applicable Premium and (ii) the amount by

which the applicable redemption price set forth in the table under “—Optional Redemption” exceeds the principal amount of the notes (the “Redemption Price Premium”), as applicable, with respect to an optional redemption of the notes shall also be due and payable as though the notes had been optionally redeemed on the date of such acceleration and shall constitute part of the Obligations with respect to the notes in view of the impracticability and difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each holder’s lost profits as a result thereof. If the Redemption Price Premium becomes due and payable, it shall be deemed to be principal of the notes, including for purposes of a Wilpinjong Mandatory Offer, and interest shall accrue on the full principal amount of the notes (including the Redemption Price Premium) from and after the applicable triggering event, including in connection with an Event of Default specified under clause (7) of the definition thereof. Any Redemption Price Premium payable above shall be presumed to be liquidated damages sustained by each holder as the result of the acceleration of the notes and the Issuers and the Wilpinjong Credit Parties to the extent they provide guarantees for the notes pursuant to “—Guarantees” agree that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the notes or the Indenture are satisfied, released or discharged through foreclosure, whether by judicial proceeding, deed in lieu of foreclosure or by any other means. IN THE INDENTURE, THE ISSUERS, AND TO THE EXTENT APPLICABLE, THE WILPINJONG CREDIT PARTIES IN ANY APPLICABLE SUPPLEMENTAL INDENTURE, EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Issuers and if applicable, the Wilpinjong Credit Parties will expressly agree (to the fullest extent they may lawfully do so) that: (A) the Redemption Price Premium is reasonable and is the product of an arm’s length transaction between sophisticated business entities ably represented by counsel; (B) the Redemption Price Premium shall be payable notwithstanding the then prevailing market rates at the time acceleration occurs; (C) there has been a course of conduct between holders and the Issuer giving specific consideration in this transaction for such agreement to pay the Redemption Price Premium; and (D) the Issuers shall be estopped from claiming differently than as agreed to in this paragraph. The Issuers and if applicable, the Wilpinjong Credit Parties expressly acknowledge that their agreement to pay the Redemption Price Premium to holders as herein described was a material inducement to investors to acquire the notes.

Notwithstanding anything in the preceding paragraph to the contrary, in the event the Wilpinjong Mandatory Offer is consummated, no Applicable Premium shall be due and payable with respect to any notes tendered and exchanged pursuant to the Wilpinjong Mandatory Offer.

Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a “Noteholder Direction”) provided by any one or more holders (each a “Directing Holder”) must be accompanied by a written representation from each such holder delivered to the Main Issuer and the Trustee that such holder is not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that are not) Net Short (a “Position Representation”), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default (a “Default Direction”) shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the notes are accelerated. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to covenant to provide the Main Issuer with such other information as the Main Issuer may reasonably request from time to time in order to verify the accuracy of such noteholder’s Position Representation within five business days of request therefor (a “Verification Covenant”). In any case in which the holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Main Issuer determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time,

in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Main Issuer has initiated litigation with a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Issuers provide to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such holder, the percentage of notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, any acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee in connection with a Default under clauses (3), (4), (5), (6) or (9) during the pendency of an Event of Default under clause (7) as a result of a bankruptcy or similar proceeding shall not require compliance with the two immediately preceding paragraphs.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with the Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Main Issuer, any holder or any other Person in acting in good faith on a Noteholder Direction.

The holders of a majority in principal amount of the outstanding notes by written notice to the Main Issuer and to the Trustee may waive all past defaults and rescind and annul a declaration of acceleration and its consequences if:

- (1) all existing Events of Default, other than the nonpayment of the principal of, and interest on, the notes that have become due solely by the declaration of acceleration, have been cured or waived; and
- (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Except as otherwise provided in "—Consequences of an Event of Default" or "—Amendments and Waivers—Amendments with Consent of Holders," the holders of a majority in aggregate principal amount of the outstanding notes may, by notice to the Trustee, waive an existing Default and its consequences. Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

In the event of a declaration of acceleration of the notes because an Event of Default described in clause (5) under "—Events of Default" has occurred and is continuing, the declaration of acceleration of the notes shall be automatically annulled, without any action by the Trustee or the holders, if the event of default or payment default triggering such Event of Default pursuant to clause (5) shall be remedied or cured, or rescinded or waived by the holders of the Debt, or the Debt that gave rise to such Event of Default shall have been discharged in full, within 30 days after the declaration of acceleration with respect thereto and if (i) the annulment of the acceleration of the notes would not conflict with any judgment or decree of a court of competent jurisdiction and

(ii) all existing Events of Default, except nonpayment of principal, premium or interest on the notes that became due solely because of the acceleration of the notes, have been cured or waived.

The holders of a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the indenture or the other Note Documents, that may involve the Trustee in personal liability, or that the Trustee determines in good faith may be unduly prejudicial to the rights of holders of notes not joining in the giving of such direction (it being understood that the Trustee shall have no duty to determine whether any direction is prejudicial to any holder). In addition, the Trustee may take any other action it deems proper that is not inconsistent with any such direction received from holders of notes. Neither the Trustee nor the Collateral Trustee shall be obligated to take any action at the direction of holders of notes unless such holders have offered, and if requested, provided to the Trustee and Collateral Trustee indemnity or security satisfactory to the Trustee and Collateral Trustee.

A holder of notes may not institute any proceeding, judicial or otherwise, with respect to the indenture, the notes or the other Note Documents, or for the appointment of a receiver or trustee, or for any other remedy under the indenture, the notes or the other Note Documents, unless:

- (1) the holder has previously given to the Trustee written notice of a continuing Event of Default;
- (2) holders of at least 25% in aggregate principal amount of outstanding notes have made written request to the Trustee to institute proceedings in respect of the Event of Default in its own name as Trustee under the indenture;
- (3) holders of notes have offered, and if requested, provided to the Trustee indemnity reasonably satisfactory to the Trustee against any costs, liabilities or expenses to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) during such 60-day period, the holders of a majority in aggregate principal amount of the outstanding notes have not given the Trustee a direction that is inconsistent with such written request.

Notwithstanding anything in the indenture to the contrary, the right of a holder of a note to receive payment of principal of or interest on its note on or after the Stated Maturities thereof, or to bring suit for the enforcement of any such payment on or after such dates, may not be impaired or affected without the consent of that holder.

If any Default occurs and is continuing and is actually known to a responsible officer of the Trustee, the Trustee will send notice of the Default to each holder within 90 days after it occurs, unless the Default has been cured; *provided* that, except in the case of a default in the payment of the principal of or interest on any note, the Trustee may withhold the notice if and so long as the Trustee in good faith determines that withholding the notice is in the interest of the holders. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless written notice of an event, which is in fact a Default, has been delivered to the Trustee at its office specified in the Indenture and such notice references the Notes and the Indenture and states it is a "Notice of Default."

No Liability of Directors, Officers, Employees, Incorporators, Members and Stockholders

No director, officer, employee, incorporator, member or stockholder of the Issuers or Peabody, as such, will have any liability for any obligations of the Issuers under the notes, the indenture or any other Note Document or for any claim based on, in respect of, or by reason of, such obligations. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. This waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

Amendments without Consent of Holders

- (a) The Issuers, the Trustee and the Collateral Trustee, as applicable, may amend or supplement the indenture, the notes and the other Note Documents without notice to or the consent of any noteholder:
 - (1) to cure any ambiguity, defect, omission, mistake or inconsistency in the Note Documents;
 - (2) to comply with the covenant described above under “—Certain Covenants—Consolidation, Merger or Sale of Assets;”
 - (3) to evidence and provide for the acceptance of an appointment by a successor trustee;
 - (4) to provide for uncertificated notes in addition to or in place of certificated notes, *provided* that the uncertificated notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated notes are described in Section 163(f)(2)(B) of the Code;
 - (5) to provide for any Guarantee of the notes, or to confirm and evidence the release, termination or discharge of any Guarantee when such release, termination or discharge is permitted by the indenture;
 - (6) [reserved];
 - (7) (a) to conform any provision to this “Description of the New Co-Issuer Notes” and (b) conform the text of the Note Documents or any other such documents (in recordable form) as may be necessary or advisable (in the Issuers’ reasonable discretion) to preserve and confirm the relative priorities of the Priority Lien Obligations and as such priorities are contemplated and set forth in the Collateral Trust Agreement;
 - (8) make, complete or confirm any grant of Collateral permitted or required by any of the Note Documents, including to secure additional Priority Lien Debt;
 - (9) release, discharge or terminate Liens on Collateral in accordance with the Note Documents and to confirm and evidence any such release, discharge or termination;
 - (10) as provided in the Collateral Trust Agreement;
 - (11) in the case of any Note Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;
 - (12) in the case of the indenture, to make any amendment to the provisions relating to the transfer and legending of the notes as permitted hereunder, including, without limitation, to facilitate the issuance and administration of the notes; *provided* that compliance with the indenture as so amended may not result in the notes being transferred in violation of the Securities Act or any applicable securities laws;
 - (13) to comply with the rules of any applicable securities depositary; or
 - (14) to make any other change that does not materially and adversely affect the rights of any holder.

In addition, the Collateral Trustee and the Trustee will be authorized to amend the Security Documents as provided under the caption “—Collateral Trust Agreement—Amendment of Security Documents.”

Except as otherwise provided in “—Default and Remedies—Consequences of an Event of Default” or the following paragraph, the Issuers and the Trustee may amend the indenture, the notes and the other Note Documents with the consent of the holders of 66.67% in aggregate principal amount of the outstanding notes, and

the holders of 66.67% in aggregate principal amount of the outstanding notes may waive compliance by the Issuers with any provision of the indenture, the notes or the other Note Documents.

- (b) Notwithstanding the provisions of paragraph (a), without the consent of each holder affected, an amendment or waiver may not:
- (1) reduce the principal amount of or change the Stated Maturity of any installment of principal of any note or alter or waive the provisions with respect to the redemption of the notes (other than the provisions described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders —Asset Sales” and “—Repurchase of Notes at the Option of Holders —Excess Cash Flow”, which are described below);
 - (2) reduce the rate of or change the Stated Maturity of any interest payment on any note;
 - (3) reduce the amount payable upon the redemption of any note or, in respect of an optional redemption, the times at which any note may be redeemed;
 - (4) after the time an Offer to Purchase is required to have been made, reduce the purchase amount or purchase price, or extend the latest expiration date or purchase date thereunder;
 - (5) make any note payable in money other than that stated in the note of such series;
 - (6) impair the right of any holder of notes to receive any principal payment or interest payment on such holder’s notes, on or after the Stated Maturity thereof, or institute suit for the enforcement of any such payment;
 - (7) make any change in the percentage of the principal amount of the notes whose holders must consent to an amendment or waiver;
 - (8) [reserved];
 - (9) [reserved];
 - (10) modify or amend the provisions in the indenture regarding the waiver of past Defaults and the waiver of certain covenants by the holders of such notes affected thereby, except to increase any percentage vote required or to provide that certain other provisions of the indenture may not be modified or waived without the consent of the holder of each note affected thereby; or
 - (11) modify or amend any of the above or this amendment and waiver provision.

In addition, the consent of holders representing at least 85.00% of outstanding notes will be required to (i) release the Liens for the benefit of the holders of the notes on all or substantially all of the Collateral, (ii) alter or waive the provisions with respect to the redemption of the notes described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders —Asset Sales” and “—Repurchase of Notes at the Option of Holders —Excess Cash Flow” or (iii) modify or change any provision of the indenture affecting the ranking of the notes in a manner materially adverse to the holders of the notes.

It is not necessary for noteholders to approve the particular form of any proposed amendment or waiver, but is sufficient if their consent approves the substance thereof.

Neither the Issuers nor any of their Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid or agreed to be paid to all holders of the notes that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to the consent, waiver or amendment.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants described under “—Certain Covenants,” or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any legal rights of any holders of the notes to receive payment of principal of or premium, if any, or interest on the notes or to institute suit for the enforcement of any payment on or with respect to such holder’s notes.

Defeasance and Discharge

The Issuers may at any time, at the option of their respective Boards of Directors evidenced by a resolution set forth in an Officer’s Certificate, elect to have all of its obligations discharged with respect to the outstanding notes (“Legal Defeasance”) except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium, if any, on, such notes when such payments are due from the trust referred to below;
- (2) the Issuers’ obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties, immunities and indemnities of the Trustee and Collateral Trustee, and the Issuers’ obligations in connection therewith; and
- (4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, the Issuers may, at their option and at any time, elect to have the obligations of the Issuers released with respect to certain covenants (including its obligation to make an Offer to Purchase pursuant to a Change of Control or Asset Sale) contained in the indenture (“*Covenant Defeasance*”) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event covenant Defeasance occurs, all Events of Default described under “—Default and Remedies” (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Issuers must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable government securities, or a combination of cash in U.S. dollars and non-callable government securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium, if any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Issuers must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) in the case of Legal Defeasance, the Issuers must deliver to the Trustee an opinion of counsel confirming that (a) the Issuers have received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, the Issuers must deliver to the Trustee an opinion of counsel confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

- (4) no Default or Event of Default under the notes has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Debt), and the granting of Liens to secure such borrowings);
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture and the agreements governing any other Debt being defeased, discharged or replaced) to which the Issuers is a party or by which the Issuers is bound;
- (6) the Issuers must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuers with the intent of preferring the holders of the notes over the other creditors of the Issuers with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuers or others; and
- (7) the Issuers must deliver to the Trustee and the Collateral Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

The Collateral will be released from the Lien securing the notes, as provided under the caption “—Collateral Trust Agreement—Release of Liens in Respect of Notes,” upon a Legal Defeasance or Covenant Defeasance in accordance with the provisions described above.

Concerning the Trustee and Paying Agent

Wilmington Trust, National Association will be the Trustee under the indenture.

Except during the continuance of an Event of Default actually known to a responsible officer of the Trustee, the Trustee will be required to perform only those duties that are specifically set forth in the indenture and no others, and no implied covenants or obligations will be read into the indenture against the Trustee. In case an Event of Default has occurred and is continuing and is actually known to a responsible officer of the Trustee, the Trustee shall exercise those rights and powers vested in it by the indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. No provision of the indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties thereunder, or in the exercise of its rights or powers, unless it receives indemnity satisfactory to it against any loss, liability or expense.

The indenture will limit the rights of the Trustee, should it become a creditor of any obligor on the notes, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee may engage in other transactions with the Issuers and their Affiliates; *provided* that if it acquires any conflicting interest after a Default or Event of Default has occurred and is continuing, it must either eliminate the conflict within 90 days, apply to the Commission for permission to continue or resign.

Wilmington Trust, National Association will also initially serve as the security registrar and paying agent for the notes. We may at any time designate additional paying agents or rescind the designation of paying agents or approve a change in the office through which any paying agent acts. We may also choose to act as our own paying agent, but must also maintain a paying agency in the contiguous United States. Whenever there are changes in the paying agent for the notes we must notify the Trustee.

References in the indenture to the Trustee shall, as appropriate, refer also to the paying agent and security registrar, and such other entities and any authentication agent shall be entitled to the same rights, protections and indemnities as those granted to the Trustee.

Form, Denomination and Registration of Notes

The notes will be issued in registered form, without interest coupons, in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, in the form of both global notes and certificated notes, as further described below under “—Book Entry, Delivery and Form.”

The Trustee will not be required (i) to issue, register the transfer of or exchange any note for a period of 15 days before a selection of notes to be redeemed, (ii) to register the transfer of or exchange any note so selected for redemption in whole or in part, except, in the case of a partial redemption, that portion of the note not being redeemed, or (iii) if a redemption is to occur after a regular record date but on or before the corresponding interest payment date, to register the transfer or exchange any note on or after the regular record date and before the date of redemption.

No service charge will be imposed in connection with any transfer or exchange of any note, but the Issuers may in general require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

Governing Law

The indenture, the notes and the other Note Documents shall be governed by, and construed in accordance with, the laws of the State of New York.

Certain Definitions

“*Acquired Debt*” means Debt of a Person existing at the time the Person is acquired by, or merges with or into, the Main Issuer or any Subsidiary or becomes a Subsidiary, whether or not such Debt is Incurred in connection with, or in contemplation of, the Person being acquired by or merging with or into or becoming a Subsidiary.

“*Act of Required Secured Parties*” means, as to any matter at any time:

- (i) until the Discharge of Priority Lien Obligations, a direction in writing delivered to the Priority Collateral Trustee by or with the written consent of the holders of (or the Priority Lien Representatives representing the holders of) Priority Lien Debt representing more than 50% of the aggregate outstanding principal amount of Priority Lien Debt; and
- (ii) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Junior Collateral Trustee by or with the written consent of the holders of (or the Junior Lien Representatives representing the holders of) Junior Lien Debt representing the Required Junior Lien Debtholders.

For purposes of this definition, (a) Secured Debt registered in the name of, or beneficially owned by, the Issuers or any Affiliate of the Issuers will be deemed not to be outstanding and neither the Issuers nor any Affiliate of the Issuers will be entitled to vote such Secured Debt (in each case, as identified in writing to the Collateral Trustee by the applicable Secured Debt Representative) and (b) votes will be determined in accordance with the provisions described under “—Collateral Trust Agreement—Voting.”

“*Affiliate*” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, such specified Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and a Person shall be presumed to “control” another Person if (A) the first Person either (i) is the Beneficial Owner, directly or indirectly, of 35% or more of the total voting power of the Voting Stock

of such specified Person or (ii) (x) is the Beneficial Owner, directly or indirectly, of 10% or more of the total voting power of the Voting Stock of such specified Person and (y) has the right to appoint or nominate, or has an officer or director that is, at least one member of the Board of Directors of such specified Person, or (B) if the specified Person is a limited liability company, the first Person is the managing member. “Controlled” has a meaning correlative thereto.

“*Applicable Premium*” means with respect to any note on any redemption date the greater of (A) 1% of the then outstanding principal amount of such note and (B) the excess (if any) of (a) the present value at such redemption date of (1) the redemption price of such note at January 30, 2023, as set forth under “—Optional Redemption” plus (2) all required interest payments due on such note from the redemption date through January 30, 2023 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate with respect to such redemption date plus 50 basis points over (b) the principal amount of such note. The Trustee shall have no duty to calculate or verify the calculation of the Applicable Premium.

“*Asset Sale*” means any sale, lease (other than operating leases or finance leases entered into in the ordinary course of a Permitted Business), transfer or other disposition of any assets by the Issuers or any Subsidiary outside of the ordinary course of business, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Subsidiary (each of the above referred to as a “disposition”), *provided* that the following are not included in the definition of “Asset Sale”:

- (1) [reserved];
- (2) the sale or discount of accounts receivable by Wilpinjong Opco or any of its Subsidiaries arising in the ordinary course of business in connection with the compromise or collection thereof;
- (3) a transaction covered by the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets—The Issuers;”
- (4) a Restricted Payment permitted under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments” or a Permitted Investment;
- (5) any transfer of property or assets that consists of grants by Wilpinjong Opco or any of its Subsidiaries in the ordinary course of business of licenses or sub-licenses, including with respect to intellectual property rights;
- (6) [reserved];
- (7) [reserved];
- (8) foreclosure of assets of the any Subsidiary to the extent not constituting a Default;
- (9) the sale or other disposition of cash or Cash Equivalents;
- (10) [reserved];
- (11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (12) the issuance of Disqualified Stock or Preferred Stock pursuant to the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;”
- (13) (a) the sale of damaged, obsolete, unusable or worn out equipment or equipment that is no longer needed in the conduct of the business of Wilpinjong Opco and its Subsidiaries and (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines;
- (14) dispositions by Wilpinjong Opco or any of its Subsidiaries of assets by virtue of an asset exchange or swap with a third party in any transaction (a) with an aggregate Fair Market Value less than or equal to \$15.0 million, (b) involving a coal-for-coal swap, (c) to the extent that an exchange is for Fair Market Value and for credit against the purchase price of similar replacement property or (d) consisting of a coal swap involving any Real Property;

- (15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than \$5.0 million; provided that the aggregate Fair Market Value of all dispositions made pursuant to this subclause (15) shall be less than \$15.0 million; and
- (16) exchanges and relocation of easements for pipelines, oil and gas infrastructure and similar arrangements in the ordinary course of business.

“*Average Life*” means, as of the date of determination with respect to any Debt, the quotient obtained by dividing (i) the sum of the products of (x) the number of years from the date of determination to the dates of each successive scheduled principal payment of such Debt and (y) the amount of such principal payment by (ii) the sum of all such principal payments.

“*Attributable Debt*” means, at any date, in respect of Finance Leases of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared in accordance with GAAP.

“*Bank Products Obligations*” means any and all obligations of any Issuer arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of any Issuer now or hereafter maintained with any of such lenders or their affiliates, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other treasury, deposit, disbursement, overdraft, and cash management services afforded to the applicable Issuer by any of such lenders or their affiliates, and (d) stored value card, commercial credit card and merchant card services.

“*Bankruptcy Code*” means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

“*Bankruptcy Law*” means the Bankruptcy Code and any federal, state or foreign law for the relief of debtors.

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have correlative meanings. For purposes of this definition, a Person shall be deemed not to Beneficially Own securities that are the subject of a stock purchase agreement, merger agreement, amalgamation agreement, arrangement agreement or similar agreement until consummation of the transactions or, as applicable, series of related transactions contemplated thereby.

“*Black Lung Act*” means, collectively, the Black Lung Benefits Revenue Act of 1977, as amended and the Black Lung Benefits Reform Act of 1977, as amended.

“*Board of Directors*” means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) with respect to a partnership, if the general partner of the partnership is a corporation, the board of directors of the general partner of the partnership and if the general partner of the partnership is a limited liability company, the managing member or members or any controlling committee of managing members thereof of such general partner, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or any manager thereof and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

“*Capital Expenditure*” means any expenditure that, in accordance with GAAP, is or should be included in “purchase of property and equipment” or similar items, or which should otherwise be capitalized, reflected in the

consolidated statement of cash flows of the Main Issuer and its Subsidiaries; *provided* that Capital Expenditure shall not include any expenditure (i) for replacements and substitutions for fixed assets, capital assets or equipment to the extent made with Net Insurance/Condemnation Proceeds or with Net Cash Proceeds or (ii) which constitute a Permitted Investment.

“*Capital Stock*” means

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“*Cash Equivalents*” means

- (1) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;
- (2) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of two years or less from the date of acquisition, (iii) bankers’ acceptances with maturities not exceeding two years from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital, surplus and undivided profits in excess of \$250 million (or the foreign currency equivalent thereof) whose short-term debt is rated A-2 or higher by S&P or P-2 or higher by Moody’s;
- (3) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody’s;
- (4) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case rated at least A-1 by S&P or P-1 by Moody’s with maturities not exceeding one year from the date of acquisition;
- (5) bonds, debentures, notes or other obligations with maturities not exceeding two years from the date of acquisition issued by any corporation, partnership, limited liability company or similar entity whose long-term unsecured debt has a credit rate of A2 or better by Moody’s and A or better by S&P;
- (6) investment funds at least 95% of the assets of which consist of investments of the type described in clauses (1) through (5) above (determined without regard to the maturity and duration limits for such investments set forth in such clauses, *provided* that the weighted average maturity of all investments held by any such fund is two years or less);
- (7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (1) above and entered into with a financial institution satisfying the criteria described in clause (2) above; and
- (8) in the case of a Foreign Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

“*Casualty Event*” means any event that gives rise to the receipt by the Main Issuer or any of its Subsidiaries of any insurance proceeds or condemnation awards in respect of any equipment, assets or real property (including any improvements thereon) to replace or repair such equipment, assets or real property.

“Change of Control” means:

- (1) the sale, lease, transfer, or conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of the Main Issuer and its Subsidiaries and/or Co-Issuer, taken as a whole, to any “person” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act);
- (2) any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or becomes the “beneficial owner” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of (i) the Main Issuer or any direct or indirect parent of the Main Issuer and/or (ii) Co-Issuer or any direct or indirect parent of Co-Issuer;
- (3) individuals who on the Issue Date constituted the Boards of Directors of (i) the Main Issuer or any direct or indirect parent of the Main Issuer and/or (ii) Co-Issuer or any direct or indirect parent of Co-Issuer, together with any new directors whose election by the Boards of Directors or whose nomination for election by the holders of the Voting Stock of any of such entities was approved by a majority of the directors then still in office who were either directors or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Boards of Directors of any of such entities then in office;
- (4) the adoption of a plan relating to the liquidation or dissolution of any Issuer;
- (5) the failure of the Main Issuer to own 100% of the capital stock of PIC Acquisition Corp.;
- (6) the failure of Peabody Investments Corp. to own 100% of the capital stock of the Main Issuer; or
- (7) the failure of PIC Acquisition to own 100% of the capital stock of Wilpinjong Opco.

Notwithstanding the preceding, a conversion of the Main Issuer or any of its Subsidiaries or Co-Issuer or any direct or indirect parent of the Main Issuer or any direct or indirect parent of Co-Issuer from a limited partnership, corporation, limited liability company or other form of entity to a limited partnership, corporation, limited liability company or other form of entity or an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests for another form of entity shall not constitute a Change of Control, so long as following such transaction the “persons” (as that term is used in Section 13(d) of the Exchange Act) who Beneficially Owned the Voting Stock of the Main Issuer or Co-Issuer, as the case may be, immediately prior to such transaction continue to Beneficially Own in the aggregate more than 50% of the Voting Stock of such entity, or continue to Beneficially Own sufficient Equity Interests in such entity to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity or its general partner, as applicable, and, in either case no “person,” Beneficially Owns more than 50% of the Voting Stock of such entity or its general partner, as applicable.

“Class” means (1) in the case of Junior Lien Obligations, every Series of Junior Lien Debt and all other Junior Lien Obligations, taken together, and (2) in the case of Priority Lien Obligations, every Series of Priority Lien Debt and all other Priority Lien Obligations, taken together. The Collateral Trust Agreement includes two Classes of Secured Parties, the holders of Priority Lien Obligations and holders of Junior Lien Obligations.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means (i) 100% of the capital stock of PIC Acquisition Corp. owned by the Main Issuer, which constitutes 100% of all capital stock issued by PIC Acquisition Corp. (the “Pledged Equity Interests”) and (ii) all other property subject or purported to be subject, from time to time, to a Lien under any Secured Document.

“Collateral Trust Agreement” means that certain collateral trust agreement to be dated the Issue Date, by and among the Issuers, the Priority Lien Collateral Trustee, the Junior Lien Collateral Trustee and the Trustee.

“*Collateral Trust Joinder*” means, with respect to the provisions of the Collateral Trust Agreement relating to the addition of additional obligations, an agreement substantially in the form attached to the Collateral Trust Agreement.

“*Collateral Trustee*” means each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

“*Commission*” or “*SEC*” means the Securities and Exchange Commission.

“*common equity*,” when used with respect to a contribution of capital to the Main Issuer, means a capital contribution to the Main Issuer in a manner that does not constitute Disqualified Equity Interests.

“*Common Stock*” means Capital Stock not entitled to any preference on dividends or distributions, upon liquidation or otherwise.

“*Consolidated Capital Expenditures*” means, for any period, the aggregate of all Capital Expenditures of the Borrower and its Subsidiaries during such period determined on a consolidated basis in accordance with GAAP.

“*Consolidated Net Income*” means, for any period, for the Main Issuer and its Subsidiaries on a consolidated basis, the net income (or loss) attributable to the Main Issuer and the Subsidiaries for that period, determined in accordance with GAAP, excluding, without duplication:

- (1) non-cash compensation expenses related to common stock and other equity securities issued to employees;
- (2) extraordinary or non-recurring gains and losses;
- (3) [reserved];
- (4) income or losses from discontinued operations or disposal of discontinued operations or costs and expenses associated with the closure of any mines (including any reclamation or disposal obligations);
- (5) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;
- (6) net unrealized gains or losses resulting in such period from non-cash foreign currency remeasurement gains or losses;
- (7) net unrealized gains or losses resulting in such period from the application FASB ASC 815. Derivatives and Hedging, in each case, for such period;
- (8) non-cash charges including non-cash charges due to cumulative effects of changes in accounting principles; and
- (9) any net income (or loss) of the Main Issuer or a Subsidiary for such period that is not a Subsidiary or that is accounted for by the equity method of accounting to the extent included therein; *provided* that Consolidated Net Income of the Main Issuer shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Main Issuer or a Subsidiary thereof in respect of such period.

“*Consolidated Net Tangible Assets*” means, as of any particular time, the total of all the assets appearing on the most recent consolidated balance sheet prepared in accordance with GAAP of the Main Issuer and its Subsidiaries as of the end of the last fiscal quarter for which financial information is available (less applicable reserves and other properly deductible items) after deducting from such amount:

- (1) all current liabilities, including current maturities of long-term debt and current maturities of obligations under finance leases (other than any portion thereof maturing after, or renewable or extendable at our option or the option of the relevant Subsidiary beyond, twelve months from the date of determination); and

- (2) the total of the net book values of all of our assets and the assets of our Subsidiaries properly classified as intangible assets under GAAP (including goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets).

“*Consolidated Total Debt*” means, as of the date of determination, an amount equal to the sum (without duplication) of (1) the aggregate amount of all outstanding Debt of the Main Issuer and its Subsidiaries on a consolidated basis plus (2) the aggregate amount of all outstanding Disqualified Stock of the Main Issuer and its Subsidiaries, on a consolidated basis, with the amount of such Disqualified Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and Maximum Fixed Repurchase Price.

For purposes hereof, the “Maximum Fixed Repurchase Price” of any Disqualified Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Consolidated Total Debt shall be required to be determined pursuant to the indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined reasonably and in good faith by the Main Issuer.

“*Controlling Representative*” means at any time (i) prior to the Discharge of Priority Lien Obligations, each of the Term Loan Agent and the Trustee and (ii) after the Discharge of Priority Lien Obligations, the Junior Lien Representative.

“*Debt*” means, with respect to any Person, without duplication,

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (other than any obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees, bank guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits);
- (3) all obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (solely to the extent such letters of credit, bankers’ acceptances or other similar instruments have been drawn and remain unreimbursed);
- (4) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued expenses incurred in the ordinary course of business, (ii) obligations under federal coal leases and (iii) obligations under coal leases which may be terminated at the discretion of the lessee and (iv) obligations for take-or-pay arrangements);
- (5) the Attributable Debt of such Person in respect of Finance Leases;
- (6) all Debt of other Persons Guaranteed by such Person to the extent so Guaranteed; and
- (7) all Debt of other Persons secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person.

The amount of Debt of any Person will be deemed to be:

- (a) with respect to Debt secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the Fair Market Value of such asset on the date the Lien attached and (y) the amount of such Debt;
- (b) with respect to any Debt issued with original issue discount, the face amount of such Debt less the remaining unamortized portion of the original issue discount of such Debt;
- (c) [reserved]; and
- (d) otherwise, the outstanding principal amount thereof.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Derivative Instrument” with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person’s investment in the notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value or cash flows of which (or any material portion thereof) are materially affected by the value or performance of the notes or the creditworthiness of any one or more of the Issuers (the “Performance References”).

“Discharge of Priority Lien Obligations” means the occurrence of all of the following:

- (1) [reserved];
- (2) with respect to each Series of Priority Lien Debt, either (x) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt of such Series or (y) there has been a legal defeasance or covenant defeasance pursuant to the terms of the applicable Priority Lien Debt Documents for such Series of Priority Lien Debt; and
- (3) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time).

“Discharge of Term Loan Obligations” means that the Priority Lien Obligations pursuant to the Term Loan Facility are no longer secured by, and no longer required to be secured by, the Collateral pursuant to the terms of the Term Loan Facility or the other applicable Term Loan Documents; provided that a Discharge of Term Loan Obligations shall be deemed not to have occurred if the Issuers have entered into any replacement term loan agreement that has been designated in accordance with the terms of the Collateral Trust Agreement.

“Disqualified Equity Interests” means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event

- (1) mature or are mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder for consideration other than Qualified Equity Interests; or
- (2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Debt;

in each case prior to the date that is 91 days after the Stated Maturity of the notes; provided that Equity Interests will not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to require the repurchase or redemption upon an “asset sale” or “change of control” occurring prior to 91 days after the Stated Maturity of the notes if those provisions (a) are no more favorable to the holders of such Equity Interests than the provisions of the indenture described above under “—Repurchase of Notes at the Option of Holders— Asset Sales” and “—Certain Covenants—Repurchase of Notes at the Option of Holders—Change of Control,” and (b) specifically state that repurchase or redemption pursuant thereto will not be required prior to the Issuers’ repurchase of the notes as required by the indenture.

“Disqualified Stock” means Capital Stock constituting Disqualified Equity Interests.

“EBITDA” means, with respect to any specified Person for any period, the sum of, without duplication:

- (1) Consolidated Net Income; plus
- (2) Fixed Charges, to the extent deducted in calculating Consolidated Net Income; plus

- (3) to the extent deducted in calculating Consolidated Net Income and as determined on a consolidated basis for the Main Issuer and its Subsidiaries in conformity with GAAP (and without duplication):
- (a) the provision for Taxes based on income, profits or capital, including, without limitation, state franchise and similar Taxes; plus
 - (b) depreciation, depletion, amortization (including, without limitation, amortization of intangibles, deferred financing fees and any amortization included in pension or other employee benefit expenses) and all other non-cash items reducing Consolidated Net Income (including, without limitation, write-downs and impairment of property, plant, equipment and intangibles and other long-lived assets and the impact of purchase accounting) but excluding, in each case, non-cash charges in a period which reflect cash expenses paid or to be paid in another period); plus
 - (c) any expenses, costs or charges related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or Debt permitted to be incurred by the indenture (whether or not successful); plus
 - (d) all non-recurring or unusual losses, charges and expenses (and less all non-recurring or unusual gains); plus
 - (e) all non-cash charges and expenses, including start-up and transition costs, business optimization expenses and other non-cash restructuring charges; plus
 - (f) the non-cash portion of “straight-line” rent expense; plus
 - (g) non-cash compensation expense or other non-cash expenses or charges arising from the granting of stock options, the granting of stock appreciation rights and similar arrangements (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation rights or similar arrangements); plus
 - (h) any debt extinguishment costs; plus
 - (i) accretion of asset retirement obligations in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic No. 410, Asset Retirement and Environmental Obligations, and any similar accounting in prior periods; plus
 - (j) net after-tax losses attributable to asset sales, and net after-tax extraordinary losses; plus
 - (k) any mark-to-market losses attributed to short positions in any actual or synthetic forward sales contracts relating to coal or any other similar device or instrument or other instrument classified as a “derivative” pursuant to FASB ASC Topic No. 815, Derivatives and Hedging; plus
 - (l) commissions, premiums, discounts, fees or other charges relating to performance bonds, bid bonds, appeal bonds, surety bonds, reclamation and completion guarantees and other similar obligations; plus
 - (m) Transaction Costs;

provided that, with respect to any Subsidiary, such items will be added only to the extent and in the same proportion that the relevant Subsidiary’s net income was included in calculating Consolidated Net Income;

minus

- (1) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (a) and (b) of this clause (1) increased such Consolidated Net Income for the respective period for which EBITDA is being determined):
 - (a) non-cash items increasing Consolidated Net Income for such period (but excluding any such items in respect of which cash was received in a prior period or will be received in a future period or which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period),

- (b) the cash portion of “straight-line” rent expense which exceeds the amount expensed in respect of such rent expense; and
- (c) net after-tax gains attributable to asset sales, and net after-tax extraordinary gains.

“*Environment*” means soil, land surface or subsurface strata, water, surface waters (including navigable waters, ocean waters within applicable territorial limits, streams, ponds, drainage basins, and wetlands), ground waters, drinking water supply, water related sediments, air, plant and animal life, and any other environmental medium.

“*Environmental Laws*” means all laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the Environment or human health and safety, the preservation, restoration or reclamation of natural resources, or the presence, use, storage, discharge, management, release or threatened release of any pollutants, contaminants or hazardous or toxic substances, wastes or material or the effect of the Environment on human health and safety.

“*Equity Interests*” means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Debt convertible into, or exchangeable for, Capital Stock.

“*Equity Offering*” means an offer and sale of Qualified Stock of the Main Issuer after the Issue Date other than (i) an issuance registered on Form S-4 or S-8 or any successor thereto or any issuance pursuant to employee benefit plans or otherwise relating to compensation to officers, directors or employees and (ii) issuances to the Main Issuer or any Subsidiary of the Main Issuer.

“*Excess Cash Flow*” means, for any period, an amount (if positive) equal to, without duplication:

(a) the amount for such period, as reflected in the Main Issuer’s and its Subsidiaries’ consolidated cash flow statement for the relevant period, of net cash provided by/used in operating activities (as determined in accordance with GAAP);

minus

(b) the sum, without duplication, of the amounts for such period paid from Internally Generated Cash of:

- (1) scheduled repayments of Debt for borrowed money (excluding repayments of revolving loans except to the extent the applicable revolving commitments are permanently reduced in connection with such repayments) and scheduled repayments of Finance Lease Obligations (excluding any interest expense portion thereof),
- (2) total Consolidated Capital Expenditures, provided that total Consolidated Capital Expenditures shall be capped at \$25.0 million per calendar year beginning with calendar year 2022,
- (3) Permitted Investments (other than any Investment in (i) the Main Issuer or any of its Subsidiaries or (ii) cash or Cash Equivalents),
- (4) [reserved],
- (5) [reserved],
- (6) scheduled federal coal lease expenditures, and
- (7) [reserved].

As used in clause (1) above, “scheduled repayments of Debt” does not include (x) repurchases of Term Loans pursuant to the Term Loan Agreement and (y) repayments or redemptions, as applicable, of notes, the Term Loans, or any other Debt with the cash proceeds of any Permitted Refinancing Debt.

“*Excess Cash Flow Period*” means (i) initially, the period commencing on February 1, 2021 and ending on June 30, 2021 and (ii) each six-month period ending on every June 30 and December 31 of the Main Issuer thereafter.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Existing Debt*” means Debt of the Main Issuer or the Subsidiaries in existence on the Issue Date (other than the notes issued on the Issue Date).

“*Fair Market Value*” means, with respect to any property, the price that could be negotiated in an arm’s-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction, or, where the price is established by an existing contract, the contract price. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than \$5.0 million, by any Officer; or (b) if such property has a Fair Market Value in excess of \$5.0 million, by at least a majority of the disinterested members of the Board of Directors of the Main Issuer and evidenced by a resolution of the Board of Directors delivered to the Trustee.

“*Finance Lease*” means, as applied to any Person, any lease of any property (whether real personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be accounted for as a finance lease on the balance sheet of that Person.

“*Finance Lease Obligations*” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Finance Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP; *provided* that Finance Lease Obligations shall, for the avoidance of doubt, exclude all Non-Finance Lease Obligations.

“*Fixed Charges*” means, with respect to any specified Person for any period, the sum of

- (1) Interest Expense for such period; and
- (2) the product of
 - (a) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock of the Main Issuer or any Preferred Stock of a Subsidiary, except for dividends payable in the Main Issuer’s Qualified Stock or paid to the Main Issuer or to a Subsidiary; and
 - (b) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate applicable to the Main Issuer and its Subsidiaries.

“*Foreign Subsidiary*” means a Subsidiary that is organized under the laws of a jurisdiction other than the United States or any State thereof or the District of Columbia and any Subsidiary thereof.

“*Funded Debt*” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent;

- (1) in respect of borrowed money or advances; or
- (2) evidenced by loan agreements, bonds, notes or debentures or similar instruments or letters of credit (solely to the extent such letters of credit or other similar instruments have been drawn and remain unreimbursed) or, without duplication, reimbursement agreements in respect thereof.

For the avoidance of doubt, “Funded Debt” shall not include cash management obligations.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the Issue Date.

“*Governmental Authority*” means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Grantor*” means the Issuers and any other Person (if any) that at any time provides collateral security for any Secured Obligations.

“*Guarantee*” by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing any Debt or other obligation of any other Person (the “primary obligor”), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (c) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or other obligation; *provided* that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“*Incur*” means, with respect to any Debt or Capital Stock, to incur, create, issue, assume or Guarantee such Debt or Capital Stock. If any Person becomes a Subsidiary of or merges with an Issuer or any Subsidiary of an Issuer on any date after the date of the indenture, the Debt and Capital Stock of such Person outstanding on such date will be deemed to have been Incurred by such Person on such date for purposes of the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Insolvency or Liquidation Proceeding*” means:

- (1) any voluntary or involuntary case commenced by or against any Issuer or any other Grantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding for the reorganization, recapitalization, receivership, liquidation or adjustment or marshalling of the assets or liabilities of any Issuer or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Issuers or any other Grantor or any similar case or proceeding relative to any Issuer or any other Grantor or its creditors, as such, in each case whether or not voluntary;
- (2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to any Issuer or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
- (3) any other proceeding of any type or nature in which substantially all claims of creditors of any Issuer or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

“*Interest Expense*” means, for any period, the consolidated interest expense (net of any interest income) of the Main Issuer and its Subsidiaries, plus, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by the Main Issuer or its Subsidiaries, without duplication, (i) interest expense attributable to Finance Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense, (v) any of the above expenses with respect to Debt of another Person Guaranteed by the Main Issuer or any of its Subsidiaries and (vi) any yields or other charges or other amounts comparable to, or in the nature of, interest payable by the Main Issuer or any Subsidiary under any receivables financing, but excluding (a) amortization of deferred financing charges incurred in respect of the notes, any credit facility and any other Funded Debt, and (b) the write off of any deferred financing fees or debt discount, all as determined on a consolidated basis and in accordance with GAAP.

“Internally Generated Cash” means, with respect to any period, any cash of the Main Issuer or any Subsidiary generated during such period, excluding Net Cash Proceeds and any cash that is generated from an incurrence of Debt, any Equity Offering or other issuance of Equity Interests or a capital contribution.

“Investment” means

- (1) any advance, loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers, Joint Venture partners or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Main Issuer or its Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or extensions of trade credit in the ordinary course of business by the Main Issuer or any of its Subsidiaries);
- (2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form;
- (3) any purchase or acquisition of Equity Interests, bonds, notes or other Debt, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services; or
- (4) any Guarantee of any Debt or Disqualified Stock of another Person.

If the Main Issuer or any Subsidiary sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a Subsidiary of the Main Issuer, all remaining Investments of the Main Issuer and the Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Main Issuer or any Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

“Investment Grade” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB– (or the equivalent) by S&P.

“Issue Date” means the date on which the notes are originally issued under the indenture.

“Joint Venture” means any Person in which any Subsidiary holds an ownership interest (a) that is not a Subsidiary and (b) of which such Subsidiary is a general partner or joint venturer.

“Junior Collateral Trustee” means Wilmington Trust, National Association, in its capacity as collateral trustee for the Junior Lien Representative and the other Junior Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“Junior Lien” means a Lien on Collateral granted by a Junior Lien Security Document to the Junior Collateral Trustee, at any time, upon any property of the Issuers to secure Junior Lien Obligations.

“Junior Lien Cap” means the amount of “Priority Lien Debt” that may be Incurred by Peabody under the “Priority Lien Cap” in the Peabody 2024 Notes Indenture (each as defined in the Peabody 2024 Notes Indenture).

“Junior Lien Debt” means Funded Debt of Peabody under the Peabody 2024 Notes, the Peabody L/C Facility (and any letter of credit and reimbursement obligations with respect thereto), the Peabody Credit Agreement and the Peabody Existing Indenture so long as such notes or facility is secured by a Junior Lien permitted to be so secured under each applicable Secured Debt Document; *provided*, that all relevant requirements set forth in the Collateral Trust Agreement are complied with.

“*Junior Lien Documents*” means, collectively, any indenture, credit agreement or other agreement pursuant to which any Junior Lien Debt is incurred and the Junior Lien Security Documents.

“*Junior Lien Intercreditor Agreement*” means that certain Collateral Trust Agreement, dated as of April 3, 2017 (as amended), among Wilmington Trust, National Association, as priority collateral trustee, the junior lien collateral trustee and the representatives of the Junior Lien Debt.

“*Junior Lien Obligations*” means Junior Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable), and all guarantees of any of the foregoing.

“*Junior Lien Representative*” means Wilmington Trust, National Association in its capacity as “Priority Lien Collateral Trustee” under the Junior Lien Intercreditor Agreement.

“*Junior Lien Secured Parties*” means the Junior Lien Representative and the other holders of Junior Lien Obligations.

“*Junior Lien Security Documents*” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Issuers creating (or purporting to create) a Lien upon Collateral in favor of the Junior Collateral Trustee, for the benefit of any of the Junior Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the Collateral Trust Agreement.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest, preferential right or option, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease (or other lease in respect of a Non-Finance Lease Obligation) constitute a Lien.

“*Liquidity Amount*” means, with respect to Wilpinjong Opco and its Subsidiaries on a consolidated basis as of such date of determination the amount of unrestricted cash and Cash Equivalents.

“*Long Derivative Instrument*” means a Derivative Instrument (i) the value of which generally increases, or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References or (ii) the value of which generally decreases, or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

“*Management Services Agreements*” means, collectively, (i) the Management Services Agreement, dated as of August 4, 2020, by and between Peabody Investments Corp. and each of the Client Companies listed on the signature page thereto and (ii) the Management Services Agreement, dated as August 4, 2020, by and between Peabody Energy Australia Pty Ltd and each of the Client Companies listed on the signature page thereto, in each case, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Main Issuer and its Subsidiaries than those in effect on the Issue Date.

“*Maximum Amount*” shall mean the lesser of (i) the sum of the aggregate principal amount of notes as may be outstanding at any time and the aggregate Debt outstanding under the Term Loan Facility, (ii) the maximum amount of “Restricted Payments” (as defined in the Peabody Existing Indenture), if any, that Peabody may be permitted under the Peabody Existing Indenture to utilize for purposes of issuing Peabody 2024 Notes pursuant

to the Wilpinjong Mandatory Offer and an additional \$206.0 million pursuant to the requirement to offer to exchange new Debt for the New Co-Issuer Term Loan Facility, in each case as of any date of determination, (iii) to the extent the Wilpinjong Mandatory Offer may result in any Lien (as defined in the Peabody Existing Indenture), the maximum amount of Permitted Liens (as defined in the Peabody Existing Indenture) that may take the form of any such Lien and (iv) the maximum amount of “Investments” (as defined in the Peabody Credit Agreement), if any, that Peabody may be permitted to utilize for purposes of issuing Peabody 2024 Notes and term loans under the Peabody L/C Facility, in each case as of any date of determination.

“*Mine*” means any excavation or opening into the earth now and hereafter made from which coal is or can be extracted from any of the Real Properties, together with access and other rights appurtenant thereto, and all tangible property located on, in, or under all or any part of such Real Property that is used or useful in connection Mining Operations.

“*Mining Laws*” means any and all applicable federal, state, local and foreign statutes, laws, regulations, legally-binding guidance, ordinances, rules, judgments, permits, grants, licenses, orders, decrees or common law causes of action relating to mining operations and activities.

“*Mining Lease*” means a lease, license or other use agreement which provides the Main Issuer or any Subsidiary the real property and water rights, other interests in land, including coal, mining, and surface rights, easements, rights of way and options, and rights to timber and natural gas (including coalbed methane and gob gas) necessary or integral in order to recover coal from any Mine. Leases (other than Finance Leases or operating leases of personal property even if such personal property would become fixtures) which provide the Main Issuer or any other Subsidiary the right to construct and operate a conveyor, crusher plant, silo, load out facility, rail spur, shops, offices and related facilities on the surface of the Real Property containing such reserves shall also be deemed a Mining Lease.

“*Mining Operations*” means (a) the removal of coal and other minerals from the natural deposits or from waste or stock piles by any surface or underground mining methods; (b) operations or activities conducted underground or on the surface associated with or incident to the preparation, development, operation, maintenance, opening and reopening of an underground or surface mine storage or stockpiling of mined materials, backfilling, sealing and other closure procedures related to a mine or the movement, assembly, disassembly or staging of any mining equipment; (c) milling; (d) coal preparation, coal processing or testing; (e) coal refuse disposal, coal fines disposal or the operation and maintenance of impoundments; (f) the operation of any mine drainage system; (vii) reclamation activities and operations; or (g) the operation of coal terminals, river or rail load-outs or any other transportation facilities.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors.

“*Net Cash Proceeds*” means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash), net of

- (1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;
- (2) provisions for Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Main Issuer and its Subsidiaries;
- (3) payments required to be made to holders of minority interests in Subsidiaries as a result of such Asset Sale or to repay Debt outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and

- (4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

Any Cash Equivalents received by the Main Issuer or any of its Subsidiaries in respect of any Casualty Event shall be deemed to be Net Cash Proceeds of an Asset Sale, and such Net Cash Proceeds shall be applied in accordance with the covenant described under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Net Insurance/Condemnation Proceeds*” means an amount equal to: (i) any cash payments or proceeds received by the Main Issuer or any of its Subsidiaries (a) under any casualty insurance policy in respect of a covered loss thereunder or (b) as a result of the taking of any assets of the Main Issuer or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, *minus* (ii) (a) any actual and reasonable costs incurred by the Main Issuer or any of its Subsidiaries in connection with the adjustment or settlement of any claims of the Main Issuer or such Subsidiary in respect thereof, and (b) any bona fide direct costs incurred in connection with any sale of such assets as referred to in clause (i)(b) of this definition, including income taxes payable as a result of any gain recognized in connection therewith.

“*Net Short*” means, with respect to a noteholder, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 International Swaps and Derivatives Association, Inc. Credit Derivatives Definitions, as supplemented by the 2019 Narrowly Tailored Credit Event Supplement) to have occurred with respect to any Issuer immediately prior to such date of determination.

“*Non-Finance Lease Obligation*” means a lease obligation that is not required to be accounted for as a finance lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Finance Lease Obligation.

“*Note Documents*” means the indenture, the notes and the Security Documents.

“*Obligations*” means, with respect to any Debt, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Debt, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

“*Officer*” means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Senior Vice President, any Vice President or any Assistant Vice President of such Person.

“*Officer’s Certificate*” means a certificate signed on behalf of the Issuers by an Officer of the Issuers.

“*Peabody*” means Peabody Energy Corporation, a Delaware corporation.

“*Peabody 2024 Notes*” means the 8.500% senior secured notes due 2024 issued by Peabody.

“*Peabody 2024 Notes Indenture*” means that certain indenture, to be dated as of the Issue Date, among Peabody, as issuer, the guarantors party thereto and Wilmington Trust, National Association, as trustee.

“*Peabody Credit Agreement*” means that certain Credit Agreement, dated as of April 3, 2017 among Peabody, as borrower, JPMorgan Chase Bank N.A., as administrative agent, and the lenders from time to time party thereto, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Peabody Existing Indenture*” means that certain indenture, dated as of February 15, 2017, by and between Peabody Securities Finance Corporation, a Delaware corporation (“*PSFC*”), and Wilmington Trust, National Association, as trustee (in such capacity, the “*Peabody Existing Trustee*”), as amended, modified or otherwise supplemented by (i) that certain supplemental indenture, dated as of April 3, 2017, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee, (ii) that certain supplemental indenture, dated as of May 7, 2018, among Peabody, NGS Acquisition Corp., LLC and the Peabody Existing Trustee, (iii) that certain supplemental indenture, dated as of August 9, 2018, between Peabody and the Peabody Existing Trustee, (iv) that certain supplemental indenture, dated as of December 7, 2018, among Peabody, Peabody Southeast Mining, LLC, and the Peabody Existing Trustee and (v) that certain supplemental indenture, dated as of the Issue Date, among Peabody, the subsidiary guarantors party thereto and the Peabody Existing Trustee.

“*Peabody L/C Agreement*” means that certain Letter of Credit Agreement, dated as of the Issue Date, among Peabody, as borrower, JPMorgan Chase N.A., as administrative agent, and the lenders from time to time party thereto, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Peabody L/C Facility*” means the letter of credit facility evidenced by the Peabody L/C Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Permitted Business*” means any of the following, whether domestic or foreign: the mining, production, marketing, sale, trading and transportation (including, without limitation, any business related to terminals) of natural resources including coal, ancillary natural resources and mineral products, exploration of natural resources, any acquired business activity so long as a material portion of such acquired business was otherwise a Permitted Business, and any business that is ancillary or complementary to the foregoing.

“*Permitted Investments*” means:

- (1) any Investment in the Main Issuer;
- (2) any Investment in cash or Cash Equivalents;
- (3) any Investment by Wilpinjong Opco or any of its Subsidiaries in a Person, if as a result of such Investment
 - (a) such Person becomes a wholly-owned Subsidiary of the Main Issuer, or
 - (b) such Person is merged or consolidated with or into, or transfers or conveys substantially all its assets to, or is liquidated into, Wilpinjong Opco or any of its Subsidiaries;
- (4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”

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- (5) [reserved];
 - (6) [reserved];
 - (7) (i) receivables owing to Wilpinjong Opco or any of its Subsidiaries if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;
 - (8) [reserved];
 - (9) [reserved];
 - (10) to the extent they involve an Investment, extensions of credit or letters of support to lessors, customers, suppliers and Joint Venture partners in the ordinary course of business, in each case, by Wilpinjong Opco or its Subsidiaries;
 - (11) [reserved];
 - (12) [reserved];
 - (13) (i) Investments of Wilpinjong Opco or any of its Subsidiaries in the nature of Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties, (ii) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry or (iii) payments or other arrangements whereby Wilpinjong Opco or any of its Subsidiaries provides a loan, advance payment or guarantee in return for future coal deliveries consistent with normal practices in the mining industry;
 - (14) (i) promissory notes and other similar non-cash consideration received by Wilpinjong Opco or any of its Subsidiaries in connection with Asset Sales not otherwise prohibited under the indenture and (ii) Investments of Wilpinjong Opco or any of its Subsidiaries received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuers, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, (B) litigation, arbitration or other disputes or (C) the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;
 - (15) to the extent they involve an Investment, purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;
 - (16) Investments of any Subsidiary made pursuant to surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and related letters of credit or similar obligations, in each case, to the extent such surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds, related letters of credit and similar obligations are permitted under the indenture and relate solely to the mining operations of Wilpinjong Opco and its Subsidiaries;
 - (17) Investments (including debt obligations and Capital Stock) of Wilpinjong Opco or any of its Subsidiaries received in satisfaction of judgments or in connection with the bankruptcy or reorganization of suppliers and customers of the Main Issuer and its Subsidiaries and in settlement of delinquent obligations of, and other disputes with, such customers and suppliers arising in the ordinary course of business;
 - (18) Investments of Wilpinjong Opco or any of its Subsidiaries consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss

- (19) Investments resulting from pledges and deposits permitted under the definition of “Permitted Liens;”
- (20) Investments of Wilpinjong Opco or any of its Subsidiaries consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits, in each case entered into solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under existing coal sales contracts (and extensions or renewals thereof on similar terms); and
- (21) [reserved].

“Permitted Liens” means

- (1) Priority Liens held by the Collateral Trustee securing Debt under the Term Loan Facility Incurred pursuant to clause (1) of the definition of Permitted Debt and all related Priority Lien Obligations;
- (2) Junior Liens on the Collateral of the Main Issuer held by the Junior Collateral Trustee securing Junior Lien Debt in an aggregate principal amount at any time not exceeding the Junior Lien Cap as of such date and all related Junior Lien Obligations;
- (3) Liens existing on the Issue Date with respect to the equity interests of the Issuers and arising as a result of the pledge of such equity interests under the Priority Lien Security Documents (as defined in the Peabody 2024 Notes Indenture);
- (4) Liens incurred or pledges or deposits under workers’ compensation laws, unemployment insurance laws, social security and employee health and disability benefits laws or similar legislation, or casualty or liability insurance or self-insurance including any Lien securing letters of credit, letters of guarantee or bankers’ acceptances issued in the ordinary course of business in connection therewith;
- (5) Liens imposed by law, such as carriers’, warehousemen’s, materialmen’s, repairmen’s and mechanics’ Liens and other similar Liens, on the property of Wilpinjong Opco or any of its Subsidiaries arising in the ordinary course of business of such entity and with respect to amounts which are not yet delinquent or are being contested in good faith by appropriate proceedings;
- (6) Liens to secure the performance of bids, trade contracts and leases (other than Debt), reclamation bonds, insurance bonds, statutory obligations, surety and appeal bonds, performance bonds, bank guarantees and letters of credit and other obligations of a like nature incurred in the ordinary course of business of Wilpinjong Opco or any of its Subsidiaries;
- (7) Liens for taxes, assessments or governmental charges or levies on the property of the Main Issuer or any Subsidiary if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings, *provided* that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefor;
- (8) easements, rights-of-way, zoning restrictions, leases, subleases, licenses, other restrictions and other similar encumbrances which do not in any case materially detract from the value or impairs the use of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person and none of which is violated by the existing structures, land use, or operations;
- (9) Liens on the property of Wilpinjong Opco or any of its Subsidiaries, as a tenant under a lease or sublease entered into in the ordinary course of business by such Person, in favor of the landlord under such lease or sublease, securing the tenant’s performance and payment of lease or royalty payments under such lease or sublease, as such Liens are provided to the landlord under applicable law and not waived by the landlord and not yet due and payable;
- (10) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker’s Liens and the like in favor of financial institutions and counterparties to financial obligations and instruments;

- (11) Liens on assets of Wilpinjong Opco or any of its Subsidiaries pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;
- (12) judgment Liens that are being contested in good faith by appropriate legal proceedings and for which adequate reserves have been made;
- (13) Liens in favor of the Wilpinjong Mine Customer pursuant to any agreement in effect on the Issue Date and any amendment, modification, restatement, extension, renewal or replacement of such agreement that is no less favorable in any material respect to the noteholders than the agreement in effect on the Issue Date;
- (14) [reserved];
- (15) Liens securing obligations in respect of trade-related letters of credit permitted under clause (6) of Permitted Debt covering only the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;
- (16) [reserved];
- (17) Liens on property of a Person at the time such Person becomes a Subsidiary, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Main Issuer or any other Subsidiary;
- (18) Liens on property at the time Wilpinjong Opco or any of its Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Main Issuer or a Subsidiary of such Person, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Main Issuer or any such Subsidiary;
- (19) Liens securing Debt or other obligations of PIC Acquisition Corp. or a Subsidiary to the Main Issuer;
- (20) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;
- (21) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (22) [reserved];
- (23) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Main Issuer or any Subsidiary on deposit with or in possession of such bank;
- (24) deposits made in the ordinary course of business to secure reclamation liabilities, insurance liabilities and/or surety liabilities;
- (25) [reserved];
- (26) extensions, renewals or replacements of any Lien referred to in clauses (1), (3), (17) or (18) in connection with the Permitted Refinancing Debt and the obligations secured thereby; *provided* that (i) such Lien does not extend to any other property (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), (ii) except as contemplated by the definition of "Permitted Refinancing Debt," the aggregate principal amount of Debt secured by such Lien is not increased and (iii) such Lien has no greater priority than the Lien being extended, renewed or replaced;
- (27) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Finance Lease Obligations), licenses, special assessments, trackage rights, transmission and

transportation lines related to Mining Leases or mineral rights or other Real Property including any re-conveyance obligations to a surface owner following mining, royalty payments and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on Real Property imposed by law or arising in the ordinary course of business that do not secure any monetary obligation and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Main Issuer or any Subsidiary at the affected property and which are not violated by the existing use of the property;

- (28) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Main Issuer or its Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (29) Liens (including those arising from precautionary UCC financing statement filings (and those which are security interests for purposes of the Personal Property Securities Act of 2009 (Cth)) with respect to bailments, leases or consignment or retention of title arrangements entered into by any Issuer in the ordinary course of business;
- (30) Liens securing Production Payments, royalties, and dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties or cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry;
- (31) [reserved]; and
- (32) [reserved].

In addition, (i) with respect to any Lien securing Debt that was permitted to secure such Debt at the time of the Incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt; and (ii) in no event shall any Lien on any property of the Issuers or PIC Acquisition Corp. be permitted other than as provided in clauses (1), (2), (7) and (23) above. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt.

“*Person*” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, including a government or political subdivision or an agency or instrumentality thereof.

“*Preferred Stock*” means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

“*Priority Collateral Trustee*” means Wilmington Trust, National Association, its capacity as collateral trustee for the Priority Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“*Priority Lien*” means a Lien granted, or purported to be granted, by a Security Document to the Collateral Trustee, at any time, upon any property of any Issuer to secure Priority Lien Obligations.

“*Priority Lien Debt*” means:

- (1) the notes issued on the Issue Date; and

- (2) any Funded Debt under the Term Loan Facility that is permitted to be incurred and permitted to be secured by a Priority Lien under each applicable Priority Lien Document; *provided*, that, in the case of this clause (2), all relevant requirements set forth in the Collateral Trust Agreement are complied with.

“*Priority Lien Documents*” means, collectively, the Note Documents, the Term Loan Documents, and any other indenture, credit agreement or other agreement pursuant to which any Priority Lien Debt is incurred and the Priority Lien Security Documents.

“*Priority Lien Obligations*” means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt and any indemnification obligations under the Transaction Support Agreement (subject to the limitations set forth therein), including without limitation any post-petition interest whether or not allowable, together with any guarantees of any of the foregoing.

“*Priority Lien Representative*” means:

- (1) in the case of the notes, the Trustee; and
- (2) in the case of the Term Loan Facility, the Term Loan Agent.

“*Priority Lien Security Documents*” means the security agreement and the pledge agreement delivered by the Main Issuer creating (or purporting to create) a Lien upon Collateral in favor of the Collateral Trustee, for the benefit of any of the Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the provisions described above under “—Collateral Trust Agreement—Voting.”

“*Production Payments*” means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

“*Qualified Equity Interests*” means all Equity Interests of a Person other than Disqualified Equity Interests.

“*Qualified Stock*” means all Capital Stock of a Person other than Disqualified Stock.

“*Rating Agencies*” means S&P and Moody’s; *provided*, that if either S&P or Moody’s (or both) shall cease issuing a rating on the notes for reasons outside the control of the Issuers, the Issuers may select a nationally recognized statistical rating agency to substitute for S&P or Moody’s (or both).

“*Real Property*” means, collectively, all right, title and interest (including any leasehold or mineral estate) in and to any and all parcels of real property owned, leased, licensed, used or operated, whether by lease, license or other use or occupancy agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), access rights, easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals, any improvements thereon and real property rights and interests appurtenant thereto, including, in each case, title or rights to surface and/or coal, coal products, methane gas, and other minerals that are or may be extracted from such Real Property (whether or not characterized as “as-extracted Collateral” or “inventory” under the UCC).

“*Required Junior Lien Debtholders*” means an “Act of Secured Parties” under the Junior Lien Intercreditor Agreement.

“*Reserve Area*” means (a) the real property fee owned by the Main Issuer or any of its Subsidiaries or in which the Main Issuer or any of its Subsidiaries has a leasehold interest as is disclosed in writing to the Trustee

on the Issue Date and (b) any real property constituting coal reserves or access to coal reserves fee owned by the Main Issuer or any of its Subsidiaries or in which the Main Issuer or any of its Subsidiaries has a leasehold interest, acquired after the Issue Date, that is not an active Mine.

“S&P” means S&P Global Ratings and its successors.

“Secured Debt” means Priority Lien Debt and Junior Lien Debt.

“Secured Debt Documents” means the Priority Lien Documents and the Junior Lien Documents.

“Secured Debt Representative” means each Priority Lien Representative and each Junior Lien Representative.

“Secured Obligations” means Priority Lien Obligations and Junior Lien Obligations.

“Screened Affiliate” means any Affiliate of a holder (i) that makes investment decisions independently from such holder and any other Affiliate of such holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such holder and any other Affiliate of such holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Main Issuer or any of its Subsidiaries, (iii) whose investment policies are not directed by such holder or any other Affiliate of such holder that is acting in concert with such holder in connection with its investment in the notes, and (iv) whose investment decisions are not influenced by the investment decisions of such holder or any other Affiliate of such holder that is acting in concert with such holders in connection with its investment in the notes.

“Secured Parties” means the holders of Secured Obligations and the Secured Debt Representatives and the Collateral Trustee.

“Security Documents” means the Collateral Trust Agreement, each Collateral Trust Joinder, each Priority Lien Security Document and each Junior Lien Security Document, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the terms of the Collateral Trust Agreement.

“Series of Junior Lien Debt” means, severally, each issue or series of Junior Lien Debt for which a single transfer register is maintained.

“Series of Priority Lien Debt” means, severally, each series of the notes and each other issue or series of Priority Lien Debt for which a single transfer register is maintained.

“Series of Secured Debt” means each Series of Priority Lien Debt and each Series of Junior Lien Debt.

“Short Derivative Instrument” means a Derivative Instrument (i) the value of which generally decreases, or the payment or delivery obligations under which generally increase, with positive changes to the Performance References or (ii) the value of which generally increases, or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

“Significant Subsidiary” means any Subsidiary of the Main Issuer that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“Stated Maturity” means (i) with respect to any Debt, the date specified as the fixed date on which the final installment of principal of such Debt is due and payable or (ii) with respect to any scheduled installment of principal of or interest on any Debt, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Debt, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

“Subordinated Debt” means any Debt of any Issuer which is subordinated in right of payment to the notes pursuant to a written agreement to that effect.

“Subsidiary” means with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, *“Subsidiary”* means a Subsidiary of the Main Issuer.

“Surety Transaction Support Agreement” means that certain Transaction Support Agreement, dated as of November 6, 2020, by and among Peabody and the Sureties signatory thereto (each as defined therein).

“Taxes” means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

“Term Loan Agent” means JPMorgan Chase Bank N.A., as administrative agent under the Term Loan Agreement, together with its successors and assigns.

“Term Loan Agreement” means that certain Term Loan Agreement, dated as of the Issue Date, among the Issuers, as borrowers, the Term Loan Agent and the lenders from time to time party thereto.

“Term Loan Documents” means the *“Loan Documents”* (or such similar term) to be defined in the Term Loan Agreement.

“Term Loan Facility” means the term loan facility evidenced by the Term Loan Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“Term Loan Required Lenders” means the *“Required Lenders”* (or such similar term) to be defined in the Term Loan Agreement.

“Term Loans” means the loans under the Term Loan Facility.

“Transaction Support Agreement” means that certain Transaction Support Agreement, dated as of December 24, 2020, by and among, among others, Peabody, the Issuers, and the Consenting Noteholders defined therein.

“Treasury Rate” means with respect to the notes, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H. 15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to January 30, 2023; provided, however, that if the period from the redemption date to January 30, 2023 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used. The Main Issuer will calculate the applicable Treasury Rate at least two but no more than four business days prior to the applicable redemption date and file with the Trustee, before such redemption date, a written statement setting forth the Applicable Premium, and showing the calculation of the Applicable Premium, in reasonable detail, and the Trustee will have no responsibility for verifying any such calculation.

“Transaction Costs” means all reasonable fees, costs and expenses incurred by the Issuers in connection with the Transactions.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided*, however, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“U.S. Government Obligations” means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agency or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

“Voting Stock” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“Wholly Owned” means, with respect to any Subsidiary, a Subsidiary all of the outstanding Capital Stock of which (other than any director’s qualifying shares) is owned by the Main Issuer and one or more Wholly Owned Subsidiaries (or a combination thereof).

“Wilpinjong Mine” means the Wilpinjong Open Pit Mine located in New South Wales, Australia.

“Wilpinjong Mine Customer” means the Australian domestic energy producer that is a customer of the Wilpinjong Mine under a long-term supply agreement.

“Wilpinjong Triggering Event” means (i) (a) the notes or the Term Loans are accelerated or otherwise become due prior to their Stated Maturity, in each case, as a result of an Event of Default or by operation of law, or (b) there occurs either (x) an Event of Default under clause (1) in the definition thereof or (y) an equivalent event of default under the Term Loan Agreement, or (ii) (a) total consolidated EBITDA of the Main Issuer and its Subsidiaries is less than \$70.0 million for the most recently completed four consecutive fiscal quarters (considered as one period) and (b) either (x) the holders of at least a majority in aggregate principal amount of the outstanding notes have delivered written notice to Peabody requiring Peabody to make a Wilpinjong Mandatory Offer or (y) the Term Loan Required Lenders have delivered written notice to Peabody requiring Peabody to convert the Term Loans into loans under the Peabody L/C Facility on the terms required in the event of a Wilpinjong Triggering Event.

Exhibit D

Revolving Lender Transferee Joinder

FORM OF REVOLVING LENDER TRANSFeree JOINDER

The undersigned (the "Transferee") hereby (a) acknowledges that it has read and understands the Transaction Support Agreement (the "Agreement"), dated as of December 24, 2020, entered into by and among (i) Peabody Energy Corporation ("PEC"), (ii) certain direct and indirect subsidiaries of PEC (collectively with PEC, the "Company"), (iii) **[Transferor's Name]** (the "Transferor"), and the other Revolving Lenders (as defined in the Agreement) against the Company, and (iv) the Consenting Noteholders (as defined in the Agreement); and (b) with respect to the Revolving Facility Claims and the Revolving Commitments acquired from the Transferor, agrees to be bound to the terms and conditions of the Agreement to the extent that Transferor was thereby bound, without modification, and shall be deemed a "Revolving Lender" under the terms of the Agreement. All Revolving Facility Claims against the Company and Revolving Commitments held by the Transferee (now or hereafter) shall be subject in all respects to the Agreement.

Date Executed: _____, 202[•]

[Name of Transferee]

By: _____
Name: _____
Title: _____

Claims Acquired:

Holdings: \$ _____
of Revolving Facility Claims

Exhibit E

Consenting Noteholder Transferee Joinder

FORM OF CONSENTING NOTEHOLDER TRANSFeree JOINDER

The undersigned (the “Transferee”) hereby (a) acknowledges that it has read and understands the Transaction Support Agreement (the “Agreement”), dated as of December 24, 2020, entered into by and among (i) Peabody Energy Corporation (“PEC”), (ii) certain direct and indirect subsidiaries of PEC (collectively with PEC, the “Company”), (iii) **[Transferor’s Name]** (the “Transferor”), and other holders of 2022 Notes (as defined in the Agreement), and (iv) the Revolving Lenders (as defined in the Agreement); and (b) with respect to the 2022 Notes acquired from the Transferor, agrees to be bound to the terms and conditions of the Agreement to the extent that Transferor was thereby bound, without modification, and shall be deemed a “Consenting Noteholder” under the terms of the Agreement. All 2022 Notes held by the Transferee (now or hereafter) shall be subject in all respects to the Agreement.

Date Executed: _____, 202[•]

[Name of Transferee]

By: _____
Name: _____
Title: _____

Notes Acquired:

Holdings: \$_____ of 2022 Notes

**SUMMARY HISTORICAL CONSOLIDATED
FINANCIAL DATA OF PEABODY ENERGY CORPORATION**

The following summary consolidated financial information as of December 31, 2019 and 2018 and for each of the fiscal years then ended was derived from Peabody's audited consolidated financial statements incorporated by reference in this Offering Memorandum. The information for each of the nine-month periods ended September 30, 2020 and 2019 was derived from Peabody's unaudited interim condensed consolidated financial statements, incorporated by reference in this Offering Memorandum and includes, in the opinion of management, all normal and recurring adjustments necessary to present fairly the information for such periods. The results of operations for the nine months ended September 30, 2020 are not necessarily indicative of the results to be expected for the fiscal year ending December 31, 2020. You should read the following summary consolidated and unaudited financial information together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Peabody's historical consolidated financial statements, including the related notes, in each case, in Peabody's Annual Report on Form 10-K for the fiscal year ended December 31, 2019 and Peabody's quarterly report on Form 10-Q for the quarterly period ended September 30, 2020, which are incorporated by reference in this Offering Memorandum. See "Where You Can Find More Information" and "Incorporation of Certain Documents by Reference."

The financial information for the twelve-month period ended September 30, 2020 in the following table is presented for informational purposes only. Such twelve-month period is not a financial reporting period in accordance with GAAP and should not be considered in isolation from or as a substitute for Peabody's historical consolidated financial statements. The results of operations information for such twelve-month period is derived by subtracting Peabody's results of operations information for the nine months ended September 30, 2019 from Peabody's statements of operations information for the year ended December 31, 2019 and adding Peabody's results of operations information for the nine months ended September 30, 2020.

	Last Twelve Months Ended September 30, 2020 (unaudited)	Year Ended December 31, 20192018		Nine Months Ended September 30, 20202019	
		2019	2018	2020	2019
		(in millions)			
Results of Operations Data:					
Total revenues	\$ 3,261.3	\$4,623.4	\$ 5,581.8	\$ 2,143.9	\$3,506.0
Costs and expenses	5,047.0	4,561.7	4,920.2	3,764.1	3,278.8
Operating (loss) profit	(1,785.7)	61.7	661.6	(1,620.2)	227.2
Interest expense, net	127.7	117.2	117.7	95.2	84.7
Net periodic benefit costs, excluding service cost	13.1	19.4	18.1	8.3	14.6
Net mark-to-market adjustment on actuarially determined liabilities	80.4	67.4	(125.5)	13.0	—
Reorganization items, net	—	—	(12.8)	—	—
(Loss) income from continuing operations before income taxes	(2,006.9)	(142.3)	664.1	(1,736.7)	127.9
Income tax provision	22.7	46.0	18.4	2.7	26.0
(Loss) income from continuing operations, net of income taxes	(2,029.6)	(188.3)	645.7	(1,739.4)	101.9
Income (loss) from discontinued operations, net of income taxes	7.0	3.2	18.1	(6.8)	(10.6)
Net (loss) income	(2,022.6)	(185.1)	663.8	(1,746.2)	91.3
Less: Series A Convertible Preferred Stock dividends	—	—	102.5	—	—
Less: Net income (loss) attributable to noncontrolling interests	8.3	26.2	16.9	(5.1)	12.8
Net (loss) income attributable to common stockholders	\$ (2,030.9)	\$ (211.3)	\$ 544.4	\$ (1,741.1)	\$ 78.5
Balance Sheet Data (at period end):					
Total assets	\$ 4,860.9	\$6,542.8	\$ 7,423.7	\$ 4,860.9	\$6,792.5
Total long-term debt (including finance leases)	1,600.1	1,310.8	1,367.0	1,600.1	1,352.8
Total stockholders' equity	1,100.8	2,672.5	3,451.6	1,100.8	2,985.0
Other Data:					
Tons produced	136.8	164.7	182.1	96.1	124.0
Tons sold	139.4	165.5	186.7	98.6	124.7
Net cash provided by (used in) continuing operations:					
Operating activities	\$ 117.9	\$ 705.4	\$ 1,516.9	\$ (9.7)	\$ 577.8
Investing activities	(273.1)	(261.3)	(517.3)	(159.4)	(147.6)
Financing activities	182.6	(701.3)	(1,025.2)	273.9	(610.0)
Adjusted EBITDA ⁽¹⁾	395.3	883.0	1,387.9	155.6	643.3
Adjusted EBITDA, excluding Co-Issuers ⁽¹⁾⁽²⁾	247.1				

- (1) Adjusted EBITDA is a non-GAAP financial measure and is defined as (loss) income from continuing operations before deducting net interest expense, income taxes, asset retirement obligation expenses, depreciation, depletion and amortization and reorganization items, net. Adjusted EBITDA is also adjusted for the discrete items that management excluded in analyzing each of Peabody's segments' operating performance as reflected in the reconciliations included herein. Subsequent to filing its Annual Report on Form 10-K for the fiscal year ended December 31, 2019, Peabody retrospectively modified its calculation of Adjusted EBITDA to exclude restructuring charges and transaction costs related to business combinations and joint ventures as management does not view these items as part of Peabody's normal operations. Adjusted EBITDA is the primary metric used by management to measure Peabody's segments' operating performance. Peabody also believes it is used by investors to measure its operating performance and lenders to measure its ability to incur and service debt. Adjusted EBITDA is not a recognized term under GAAP and is not, and does not purport to be an alternative to operating income or net income as determined in accordance with GAAP as a measure of profitability. Because Adjusted EBITDA is not calculated identically by all companies, Peabody's calculation may not be comparable to similarly titled measures of other companies. See "Non-GAAP and Non-IFRS Financial Measures" for additional information.
- (2) Adjusted EBITDA, excluding Co-Issuers is a non-GAAP financial measure and is defined as Adjusted EBITDA of Peabody after excluding the Co-Issuers' Adjusted EBITDA. See "—Summary Unaudited Pro Forma Financial Data of the Co-Issuers" for additional information.

The following table provides a reconciliation of Adjusted EBITDA to (loss) income from continuing operations, net of income taxes:

	Last Twelve Months Ended September 30, 2020 (unaudited)	Year Ended December 31, (in millions)		Nine Months Ended September 30, (unaudited)	
		2019	2018	2020	2019
(Loss) income from continuing operations, net of income taxes	\$ (2,029.6)	\$(188.3)	\$ 645.7	\$(1,739.4)	\$101.9
Depreciation, depletion and amortization	388.1	601.0	679.0	266.5	479.4
Asset retirement obligation expenses	59.8	58.4	53.0	46.0	44.6
Restructuring charges	54.1	24.3	1.2	31.1	1.3
Transaction costs related to business combinations and joint ventures	34.9	21.6	7.4	23.1	9.8
Gain on formation of United Wambo Joint Venture	(48.1)	(48.1)	—	—	—
Asset impairment	1,668.3	270.2	—	1,418.1	20.0
Provision for North Goonyella equipment loss	58.5	83.2	66.4	—	24.7
North Goonyella insurance recovery—equipment ^(a)	—	(91.1)	—	—	(91.1)
Changes in deferred tax asset valuation allowance and reserves and amortization of basis difference related to equity affiliates	(20.7)	(18.8)	(18.3)	(1.6)	0.3
Interest expense	139.1	144.0	149.3	102.3	107.2
Loss on early debt extinguishment	0.2	0.2	2.0	—	—
Interest income	(11.6)	(27.0)	(33.6)	(7.1)	(22.5)
Net mark-to-market adjustment on actuarially determined liabilities	80.4	67.4	(125.5)	13.0	—
Reorganization items, net	—	—	(12.8)	—	—
Unrealized losses (gains) on economic hedges	13.3	(42.2)	(18.3)	11.3	(44.2)
Unrealized (gains) losses on non-coal trading derivative contracts	(4.6)	(1.2)	0.7	(3.6)	(0.2)
Take-or-pay contract-based intangible recognition	(9.5)	(16.6)	(26.7)	(6.8)	(13.9)
Income tax provision	22.7	46.0	18.4	2.7	26.0
Adjusted EBITDA	\$ 395.3	\$ 883.0	\$1,387.9	\$ 155.6	\$643.3
Less: Co-Issuers' Adjusted EBITDA	148.2				
Adjusted EBITDA, excluding Co-Issuers	\$ 247.1				

(a) Peabody recorded a \$125.0 million insurance recovery during the nine months ended September 30, 2019 related to losses incurred at its North Goonyella Mine. Of this amount, Adjusted EBITDA excludes an allocated amount applicable to total equipment losses recognized at the time of the insurance recovery settlement, which consisted of \$24.7 million and \$66.4 million recognized during the nine months ended September 30, 2019 and the year ended December 31, 2018, respectively. The remaining \$33.9 million, applicable to incremental costs and business interruption losses, is included in Adjusted EBITDA for the nine months ended September 30, 2019.

SUMMARY HISTORICAL FINANCIAL DATA OF WILPINJONG

The following summary financial information as of December 31, 2019 and 2018 and for each of the fiscal years then ended was derived from Wilpinjong's audited financial statements, which were prepared in accordance with IFRS and are included elsewhere in this Offering Memorandum. The information for each of the nine-month periods ended September 30, 2020 and 2019, which were prepared in accordance with IFRS and included elsewhere in this Offering Memorandum, was derived from Wilpinjong's unaudited interim condensed financial statements and includes, in the opinion of management, all normal and recurring adjustments necessary to present fairly the information for such periods. The results of operations for the nine months ended September 30, 2020 are not necessarily indicative of the results to be expected for the fiscal year ending December 31, 2020.

The financial information for the twelve-month period ended September 30, 2020 in the following table is presented for informational purposes only. Such twelve-month period is not a financial reporting period in accordance with GAAP or IFRS and should not be considered in isolation from or as a substitute for Wilpinjong's historical financial statements. The results of operations information for such twelve-month period is derived by subtracting Wilpinjong's results of operations information for the nine months ended September 30, 2019 from Wilpinjong's statements of operations information for the year ended December 31, 2019 and adding Wilpinjong's results of operations information for the nine months ended September 30, 2020.

The historical financial data of Wilpinjong was prepared in accordance with IFRS. However, certain historical financial data of Wilpinjong has been aggregated in order to present "Operating costs and expenses (exclusive of items shown separately below)" and "Operating Profit" for presentation purposes and, as a result, are not directly comparable to the historical financial statements of Wilpinjong included elsewhere herein.

	Last Twelve Months Ended September 30, 2020 (unaudited)	Year Ended December 31, 2019	2018	Nine Months Ended September 30, 2020 (unaudited)	2019 (unaudited)
		(in millions of Australian dollars)			
Revenues	\$ 632.0	\$ 755.4	\$ 921.6	\$ 442.2	\$ 565.6
Costs and expenses					
Operating costs and expenses (exclusive of items shown separately below)	420.1	473.3	512.9	300.4	353.6
Depreciation, depletion and amortization	49.1	47.6	45.8	37.0	35.6
Selling and administrative expenses	1.2	1.4	1.2	0.9	1.1
Operating profit	161.6	233.1	361.7	103.9	175.3
Interest expense	3.7	4.0	4.3	2.7	2.9
Income from continuing operations before income taxes	157.9	229.1	357.4	101.2	172.4
Income tax provision	46.4	65.8	108.3	31.5	51.0
Income from continuing operations, net of income taxes	\$ 111.5	\$ 163.3	\$ 249.1	\$ 69.7	\$ 121.4
Other Data:					
Tons produced	14.4	14.1		10.4	10.1
Tons sold	14.1	14.0		10.2	10.1
Net cash provided by (used in) continuing operations:					
Operating activities	\$ 171.4	\$ 277.3		\$ 105.3	\$ 211.2
Investing activities	(31.8)	(40.2)		(22.2)	(30.6)
Financing activities	(43.2)	(237.1)		13.3	(180.6)
Balance Sheet Data (at period end):					
Total assets	\$ 591.9	\$ 1,149.6		\$ 591.9	
Total long-term debt (including finance leases)	—	—		—	
Total stockholders' equity	417.8	324.2		417.8	

SUMMARY UNAUDITED PRO FORMA FINANCIAL DATA OF THE CO-ISSUERS

The following summary presents selected unaudited pro forma financial data of the Co-Issuers after giving effect to the Recapitalization Transactions and the Exchange Offer as if they had been completed as of January 1, 2019. The Co-Issuers did not have any material assets or operations prior to the Reorganization; as such, historical financial data for the Co-Issuers is comprised of Wilpinjong's historical financial statements. The unaudited pro forma financial data (i) as of December 31, 2019 and for the fiscal year then ended and (ii) as of September 30, 2020 and for the nine month period then ended was derived from Wilpinjong's unaudited pro forma financial data included in this Offering Memorandum. The summary unaudited pro forma financial data is not necessarily indicative of operating results and financial position that would have been achieved had the Recapitalization Transactions and the Exchange Offer been completed as of January 1, 2019 and does not intend to project the Co-Issuers' future financial results after the Recapitalization Transaction and the Exchange Offer. The summary unaudited pro forma financial information should be read together with Wilpinjong's historical financial statements included in this Offering Memorandum.

The unaudited pro forma financial information for the twelve-month period ended September 30, 2020 in the following table is presented for informational purposes only. Such twelve-month period is not a financial reporting period in accordance with GAAP or IFRS and should not be considered in isolation from or as a substitute for Wilpinjong's historical financial statements. The results of operations information for such twelve-month period is derived by subtracting Wilpinjong's results of operations information for the nine months ended September 30, 2019 from Wilpinjong's statements of operations information for the year ended December 31, 2019 and adding Wilpinjong's results of operations information for the nine months ended September 30, 2020.

Wilpinjong's historical financial information was prepared in accordance with IFRS, but the pro forma presentation in the following tables is in accordance with GAAP.

The following unaudited pro forma financial data of the Co-Issuers is provided for illustrative purposes only and is based on available information and assumptions that management believes are reasonable. It does not reflect certain potential accounting impacts that may result from the foregoing, including embedded derivatives. It does not purport to represent what the Co-Issuers' actual results of operations or financial position would have been had the Recapitalization Transactions and the Exchange Offer occurred on the dates indicated.

	Last Twelve Months Ended September 30, 2020	Year Ended December 31, 2019	Nine Months Ended September 30, 2020
	(in millions of U.S. dollars)		
Revenues	\$ 427.2	\$ 524.5	\$ 297.3
Costs and expenses			
Operating costs and expenses (exclusive of items shown separately below)	278.2	335.2	200.7
Depreciation, depletion and amortization	66.4	66.6	48.8
Asset retirement obligation expenses	3.0	1.2	1.9
Selling and administrative expenses	0.8	1.0	0.6
Operating profit	78.8	120.5	45.3
Interest expense	47.9	48.9	36.6
Income from continuing operations before income taxes	30.9	71.6	8.7
Income tax provision	17.8	27.9	8.3
Income from continuing operations, net of income taxes	\$ 13.1	\$ 43.7	\$ 0.4
Other Data:			
Tons produced	14.4		10.4
Tons sold	14.1		10.2
Adjusted EBITDA ⁽¹⁾	\$ 148.2		

	Last Twelve Months Ended September 30, 2020	Year Ended December 31, 2019	Nine Months Ended September 30, 2020
	(in millions of U.S. dollars)		
Balance Sheet Data (at period end):			
Total assets	\$ 587.2		\$ 587.2
Total long-term debt (including finance leases)	400.0		400.0
Total stockholders' equity	52.9		52.9

- (1) Adjusted EBITDA is a non-GAAP financial measure and is defined as income from continuing operations before deducting net interest expense, income taxes, asset retirement obligation expenses, depreciation, depletion and amortization and reorganization items, net. Adjusted EBITDA is also adjusted for the discrete items that management excluded in analyzing the Co-Issuers' operating performance as reflected in the reconciliation included herein. Adjusted EBITDA is the primary metric used by management to measure the Co-Issuers' operating performance. The Co-Issuers also believe it is used by investors to measure its operating performance and lenders to measure its ability to incur and service debt. Adjusted EBITDA is not a recognized term under GAAP and is not, and does not purport to be an alternative to operating income or net income as determined in accordance with GAAP as a measure of profitability. Because Adjusted EBITDA is not calculated identically by all companies, the Co Issuers' calculation may not be comparable to similarly titled measures of other companies. See "Non-GAAP and Non-IFRS Financial Measures" for additional information.

The following table provides a reconciliation of Adjusted EBITDA to income from continuing operations, net of income taxes:

	Last Twelve Months Ended September 30, 2020 (in millions of U.S. dollars)
Income from continuing operations, net of income taxes	\$ 13.1
Depreciation, depletion and amortization	66.4
Asset retirement obligation expenses	3.0
Interest expense	47.9
Income tax provision	17.8
Adjusted EBITDA	<u>\$ 148.2</u>

The Co-Issuers' businesses, results of operations, financial conditions and prospects could be materially and adversely affected by the recent COVID-19 pandemic and the related effects on public health.

The Co-Issuers' operations are susceptible to widespread outbreaks of illness or other public health issues, such as the continuing global COVID-19 pandemic. The COVID-19 pandemic could have a material adverse effect on the Co-Issuers' businesses, results of operations, financial conditions and prospects, including the Co-Issuers' ability to comply with covenants under their debt agreements.

The COVID-19 pandemic has caused governments around the world, including in Australia, to implement quarantines, travel bans, shutdowns and "shelter in place" or "stay-at-home" orders, which have significantly restricted the movement of people and goods and have periodically necessitated teleworking by a portion of the Co-Issuers' workforce. These restrictions and measures, and the Co-Issuers' efforts to act in the best interests of their employees, customers, suppliers, vendors and joint venture and other business partners, have affected and are continuing to affect the Co-Issuers' businesses and operations, causing them to modify a number of their normal business practices and may adversely affect their businesses, financial conditions and results of operations in ways that may be material.

Governmental mandates also may require forced shutdowns of the Co-Issuers' mine and other facilities for extended or indefinite periods. Since the Co-Issuers' operations currently consist of one mine, a shutdown may have a material adverse effect on the Co-Issuers' businesses, financial conditions or results of operations. In addition, the COVID-19 pandemic may cause supply chains to be interrupted, slowed or rendered inoperable, and widespread outbreaks in locations significant to the Co-Issuers' operations could adversely affect their workforce, resulting in serious health issues and absenteeism. If the Co-Issuers' operations are curtailed, they may need to seek alternate sources of supply for commodities, services and labor, which may be more expensive. Alternate sources may not be available or may result in delays in shipments to the Co-Issuers' customers, each of which would affect their results of operations. Further, if the Co-Issuers' customers' businesses are similarly affected, they might delay, reduce or cancel purchases from the Co-Issuers.

In addition, the COVID-19 pandemic has substantially interfered with general commercial activity related to the transportation of coal and the Co-Issuers' customer base, which could materially and adversely affect the Co-Issuers' businesses, financial conditions, results of operations and prospects. The continuing spread of COVID-19 has contributed to adverse changes in general domestic and global economic conditions and disrupted domestic and international credit markets, which could negatively affect the Co-Issuers' customers' ability to pay them as well as the Co-Issuers' ability to access capital that could in the future negatively affect their liquidity.

Within the global coal industry, supply and demand disruptions resulting from the COVID-19 pandemic have been widespread and have adversely impacted the Co-Issuers and their customers. Seaborne thermal coal demand continues to be impacted by the COVID-19 induced reduction in overall electricity generation, along with competition from alternative fuel sources and low gas prices.

Despite the Co-Issuers' efforts to manage these realized and potential impacts, their ultimate impact also depends on factors beyond the Co-Issuers' knowledge or control, including the duration and severity of the COVID-19 pandemic as well as third-party actions taken to contain its spread and mitigate its public health effects. While the ultimate impacts of the COVID-19 pandemic on the Co-Issuers' businesses are unknown, the Co-Issuers expect continued interference with general commercial activity, which may further negatively affect both demand and prices for the Co-Issuers' products. The Co-Issuers also face disruption to supply chain and distribution channels, potentially increasing costs of production, storage and distribution, and potential adverse effects to their workforce, each of which could have a material adverse effect on the Co-Issuers' businesses, financial conditions or results of operations.

Since there are no comparable recent events that provide guidance regarding the effect the COVID-19 pandemic may have, the ultimate impact of the pandemic is highly uncertain and subject to change. As a result,

the Co-Issuers do not yet know the full extent of the impacts on their businesses, financial conditions, results of operations and prospects, or the global economy as a whole.

The Co-Issuers are indirectly owned and controlled by Peabody, and Peabody's interests may conflict with yours as a creditor.

The Co-Issuers are both indirect, wholly owned subsidiaries of Peabody and are controlled by Peabody. In addition, Peabody or its affiliates may from time to time hold debt of the Co-Issuers. Peabody will not have any liability for any obligations under the New Co-Issuer Notes, and its interests may not in all cases be aligned with your interests. For example, if the Co-Issuers encounter financial difficulties or are unable to pay debts as they mature, Peabody's interests might conflict with your interests as a noteholder. In addition, Peabody may have an interest in pursuing acquisitions, divestitures, financings or other transactions that, in its judgment, could enhance its equity investments, even though such transactions might involve risks to you as a holder of the New Co-Issuer Notes. Peabody may also make investments in businesses that directly or indirectly compete with the Co-Issuers' businesses, or may pursue acquisition opportunities that may be complementary to the Co-Issuers' businesses and, as a result, those acquisition opportunities may not be available to the Co-Issuers.

The Co-Issuers are dependent on Peabody and the Service Companies for certain administrative and support services for their businesses.

Following the Reorganization, the Co-Issuers are dependent on the Service Companies for certain administrative and support services for their businesses pursuant to the Management Services Agreements for an initial term of five years, including certain services related to accounting, finance, treasury, tax, human resources, information technology and telecommunications, product risk, corporate strategy and development, communications, customer/supplier relationships and support, records management, in-house legal support, geological matters, and mining reclamation bonding support. Although the Service Companies are contractually obligated to provide the Co-Issuers with these services during the terms of the Management Services Agreements, the Service Companies may terminate the Management Services Agreements at any time upon 30-days' notice. Further, the Co-Issuers cannot assure you that all of these functions will be successfully executed by the Service Companies or that they will not have to expend significant efforts or costs materially in excess of those estimated in the Management Services Agreements. Any interruption in these services could have a material adverse effect on the Co-Issuers' businesses, financial condition or results of operations. When the Service Companies cease to provide these services for the Co-Issuers, the Co-Issuers' costs may increase as a result of having to procure these services from third parties. In addition, the Co-Issuers may not be able to replace these services in a timely manner or enter into appropriate third-party agreements on terms and conditions, including cost, comparable to the Management Services Agreements. To the extent that the Co-Issuers require additional services to be performed by the Service Companies that are not included in the Management Services Agreements, the Co-Issuers will need to negotiate the terms for receiving such services with the Service Companies, which may result in increased costs to the Co-Issuers.

In addition, the Co-Issuers are also dependent on Peabody and Peabody affiliates for various other functions, including the provision of the Co-Issuers' port and rail usage and access rights under contracts with third party infrastructure providers to which other Peabody affiliates are party, and the provision of the management personnel for the Wilpinjong Mine (who are employed by a Peabody affiliate). In addition, a substantial portion of the annual export coal sales of the Wilpinjong Mine is marketed via Peabody Coalsales Pacific Pty Ltd, a marketing entity that is wholly owned by Peabody. Any interruption in these arrangements could have a material adverse effect on the Co-Issuers' businesses, financial condition or results of operations.

The Co-Issuers' profitability depends upon the prices received for their coal.

The Co-Issuers operate in a competitive and highly regulated industry that has previously experienced strong headwinds. If coal prices decrease, the Co-Issuers' operating results and profitability and value of their coal reserves could be materially and adversely affected.

Coal prices are dependent upon factors beyond the Co-Issuers' control, including:

- the demand for electricity and capacity utilization of electricity generating units (whether coal or non-coal);
- changes in the fuel consumption and dispatch patterns of electric power generators, whether based on economic or non-economic factors;
- the proximity, capacity and cost of rail transportation and port terminal facilities;
- the relative price of natural gas and other energy sources used to generate electricity;
- competition with and the availability, quality and price of coal and alternative fuels, including natural gas, fuel oil, nuclear, hydroelectric, wind, biomass and solar power;
- the strength of the global economy;
- the global supply and production costs of thermal coal;
- fluctuations in foreign currency exchange rates and interest rates;
- weather patterns, severe weather and natural disasters;
- governmental regulations and taxes, including tariffs or other trade restrictions as well as those establishing air emission standards for coal-fueled power plants or mandating or subsidizing increased use of electricity from renewable energy sources;
- regulatory, administrative and judicial decisions, including those affecting future mining permits and leases; and
- technological developments, including those related to alternative energy sources, those intended to convert coal-to-liquids or gas and those aimed at capturing, using and storing carbon dioxide.

Thermal coal accounted for all of Wilpinjong's coal sales by volume during 2019 and 2018. The vast majority of Wilpinjong's sales of thermal coal were to electric power generators. The demand for coal consumed for electric power generation is affected by many of the factors described above, but primarily by (i) the overall demand for electricity; (ii) the availability, quality and price of competing fuels, such as natural gas, nuclear fuel, oil and alternative energy sources, including renewables; (iii) utilization of all electricity generating units (whether using coal or not), including the relative cost of producing electricity from multiple fuels, including coal; (iv) stringent environmental and other governmental regulations; and (v) the coal inventories of utilities. In addition, some electric power generators are making uneconomic decisions to close coal-fueled generation units given ongoing pressure to shift away from coal generation. These trends have reduced demand for the Co-Issuers' coal and the related prices. Any further reduction in the amount of coal consumed by electric power generators could reduce the volume and price of coal that the Co-Issuers mine and sell.

The balance between coal demand and supply, factoring in demand and supply of closely related and competing segments, both domestically and internationally, could materially reduce coal prices and therefore materially reduce the Co-Issuers' revenues and profitability. The Co-Issuers' seaborne products compete with other producers as well as other fuel sources. Declines in the price of natural gas, or continued low natural gas prices, could cause demand for coal to decrease and adversely affect the price of coal. Sustained periods of low natural gas prices or low prices for other fuels may also cause utilities to phase out or close existing coal-fueled power plants or reduce construction of new coal-fueled power plants. These closures could have a material adverse effect on demand and prices for the Co-Issuers' coal, thereby reducing the Co-Issuers' revenues and materially and adversely affecting the Co-Issuers' business and results of operations.

If a substantial number of the Co-Issuers' long-term coal supply agreements terminate, or if the pricing, volumes or other elements of those agreements materially adjust, the Co-Issuers' revenues and operating profits could suffer if they are unable to find alternate buyers willing to purchase their coal on comparable terms to those

in their contracts. Most of the Co-Issuers' sales are made under coal supply agreements with related parties, which are important to the stability and profitability of their operations. The execution of a satisfactory coal supply agreement is sometimes the basis on which the Co-Issuers undertake the development of coal reserves required to be supplied under the contract.

Many of the Co-Issuers' coal supply agreements contain provisions that permit the parties to adjust the contract price upward or downward at specified times. The Co-Issuers may adjust these contract prices based on inflation or deflation, price indices and/or changes in the factors affecting the cost of producing coal, such as taxes, fees, royalties and changes in the laws regulating the mining, production, sale or use of coal. In a limited number of contracts, failure of the parties to agree on a price under those provisions may allow either party to terminate the contract. The Co-Issuers may experience reductions in coal prices in new long-term coal supply agreements replacing some of their expiring contracts. Coal supply agreements also typically contain force majeure provisions allowing temporary suspension of performance by the Co-Issuers or the customer during the duration of specified events beyond the control of the affected party. Some coal supply agreements allow customers to vary the volumes of coal that they are required to purchase during a particular period, and where coal supply agreements do not explicitly allow such variation, customers sometimes request that the Co-Issuers amend the agreements to allow for such variation. Most of the Co-Issuers' coal supply agreements contain provisions requiring them to deliver coal meeting quality thresholds for certain characteristics such as Btu, sulfur content, ash content, volatile matter, coking properties, grindability and ash fusion temperature. Failure to meet these specifications could result in economic penalties, including price adjustments, the rejection of deliveries or termination of the contracts. Moreover, some of these agreements allow the Co-Issuers' customers to terminate their contracts in the event of changes in regulations affecting the Co-Issuers' industry that restrict the use or type of coal permissible at the customer's plant or increase the price of coal beyond specified limits.

The operating profits the Co-Issuers realize from coal sold under supply agreements depend on a variety of factors. In addition, price adjustment and other provisions may increase the Co-Issuers' exposure to short-term coal price volatility provided by those contracts. If a substantial portion of the Co-Issuers' coal supply agreements were modified or terminated, the Co-Issuers could be materially adversely affected to the extent that they are unable to find alternate buyers for their coal at the same level of profitability. Prices for coal vary by mining region and country. As a result, the Co-Issuers cannot predict the future strength of the coal industry overall or by mining region and cannot provide assurance that they will be able to replace existing long-term coal supply agreements at the same prices or with similar profit margins when they expire.

The loss of, or significant reduction in, purchases by the Co-Issuers' largest customers could adversely affect the Co-Issuers' revenues.

For the year ended December 31, 2019, Wilpinjong derived 62% of its total revenues from Peabody affiliates and 29% from its largest unrelated customer. The contract with its largest unrelated customer expires in 2026. On an ongoing basis, the Co-Issuers discuss the extension of existing agreements or entering into new long-term agreements with various customers, but these negotiations may not be successful and these customers may not continue to purchase coal from the Co-Issuers under long-term supply agreements. If a number of these customers significantly reduce their purchases of coal from the Co-Issuers, or if the Co-Issuers are unable to sell coal to them on terms as favorable to the Co-Issuers as the terms under their current agreements, the Co-Issuers' financial condition and results of operations could suffer materially. In addition, the Co-Issuers' revenue could be adversely affected by a decline in customer purchases (including contractually obligated purchases) due to lack of demand and oversupply, cost of competing fuels and environmental and other governmental regulations.

The contractual arrangements with the Co-Issuers' largest unrelated customer impose a number of significant liabilities and potential operational restrictions.

The coal supply contract and an associated step-in deed with the Co-Issuers' largest unrelated customer requires Wilpinjong to maintain compliance with certain covenants and restrictions. In the event of

noncompliance, the customer may exercise contractual “step-in” rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed. In addition, Wilpinjong has issued an A\$50 million bank guarantee to the customer as required by the terms of the coal supply contract upon which the customer is entitled to make payment demands if certain events of default occur. If either the “step-in” rights or rights under the bank guarantee are exercised, the Co-Issuers’ businesses, financial condition or results of operations could be materially and adversely affected. In addition, the exercise of this “step-in” right would constitute an event of default under the New Co-Issuer Notes Indenture.

The Co-Issuers’ operating results could be adversely affected by unfavorable economic and financial market conditions.

The Co-Issuers’ profits are affected, in large part, by industry conditions. Industry conditions are subject to a variety of factors beyond the Co-Issuers’ control. A global economic recession and/or a worldwide financial and credit market disruption could have a negative impact on the Co-Issuers and on the coal industry generally. If any of these conditions occur, if coal prices recede to or below levels experienced in 2015 and early 2016 for a prolonged period or if there are downturns in economic conditions, particularly in developing countries such as China and India, the Co-Issuers’ business, financial condition or results of operations could be adversely affected. While the Co-Issuers are focused on cost control, productivity improvements and capital discipline, there can be no assurance that these actions, or any others the Co-Issuers may take, would be sufficient in response to challenging economic and financial conditions.

The Co-Issuers’ ability to collect payments from their customers could be impaired if their creditworthiness or contractual performance deteriorates.

The Co-Issuers’ ability to receive payment for coal sold will depend on the continued creditworthiness and contractual performance of their customers. If deterioration of the creditworthiness of the Co-Issuers’ customers occurs or if they fail to perform the terms of their contracts with the Co-Issuers, the Co-Issuers’ business could be adversely affected.

Risks inherent to mining could increase the cost of operating the Co-Issuers’ business, and events and conditions that could occur during the course of the Co-Issuers’ mining operations could have a material adverse impact on the Co-Issuers.

The Co-Issuers’ mining operations are subject to conditions that can impact the safety of their workforce, or delay coal deliveries or increase the cost of mining at particular mines for varying lengths of time. These conditions include:

- weather, flooding and natural disasters;
- accidental mine water discharges;
- hazardous events such as high wall or tailings dam failures;
- seismic activities, ground failures, rock bursts or structural cave-ins or slides;
- key equipment failures;
- variations in coal seam thickness, coal quality, the amount of rock and soil overlying coal deposits, and geologic conditions impacting mine sequencing;
- native title rights and protections of cultural heritage and archaeological sites;
- unexpected maintenance problems; and
- unforeseen delays in implementation of mining technologies that are new to the Co-Issuers’ operations.

The Co-Issuers are covered under insurance policies that provide limited coverage for some of the risks referenced above, and those insurance policies may lessen the impact associated with these risks. However, there can be no assurance as to the amount or timing of recovery under their insurance policies in connection with losses associated with these risks.

If transportation for the Co-Issuers' coal by rail or otherwise, or the ability to export coal through local ports, is constrained or becomes unavailable or uneconomic, the Co-Issuers' ability to sell coal may be diminished.

Transportation costs represent a significant portion of the total cost of coal use and the cost of transportation is a critical factor in a customer's purchasing decision. Increases in transportation costs and the lack of sufficient rail and port capacity could lead to reduced coal sales or reduced profitability for sales of coal production.

The Co-Issuers depend upon rail and ocean-going vessels to deliver coal to their customers. While the Co-Issuers' coal customers typically arrange and pay for transportation of coal from the mine or port to the point of use, disruption of these transportation services because of weather-related problems, infrastructure damage, strikes, lock-outs, lack of fuel or maintenance items, underperformance of the port and rail infrastructure, congestion and balancing systems which are imposed to manage vessel queuing and demurrage, non-performance or delays by co-shippers, transportation delays or other events could temporarily impair the Co-Issuers' ability to supply coal to their customers and thus could adversely affect their results of operations.

A decrease in the availability or increase in costs of key supplies, capital equipment or commodities such as diesel fuel, steel, explosives and tires could decrease the Co-Issuers' anticipated profitability or their ability to produce coal at planned levels.

The Co-Issuers' mining operations require a reliable supply of mining equipment, replacement parts, fuel, explosives, tires, steel-related products (including roof control materials), lubricants and electricity. The Co-Issuers are reliant upon Peabody to secure supplies and equipment through Peabody's global procurement contracts. There has been some consolidation in the supplier base providing mining materials to the coal industry, such as with suppliers of both surface and underground equipment globally, that has limited the number of sources for these materials. In situations where the Co-Issuers have chosen to concentrate a large portion of purchases with one supplier, it has been to take advantage of cost savings from larger volumes of purchases and to ensure security of supply. If the cost of any of these inputs increased significantly, or if a source for these supplies or mining equipment were unavailable to meet the Co-Issuers' replacement demands, the Co-Issuers' profitability could be reduced or the Co-Issuers could experience a delay or halt in their production.

The Co-Issuers may not recover their investments in their mining, exploration and other assets, which may require them to recognize impairment charges related to those assets.

The value of the Co-Issuers' assets have from time to time been adversely affected by numerous uncertain factors, some of which are beyond their control, including unfavorable changes in the economic environments in which the Co-Issuers operate, lower-than-expected coal pricing, technical and geological operating difficulties, an inability to economically extract their coal reserves and unanticipated increases in operating costs. These factors may trigger the recognition of additional impairment charges in the future, which could have a substantial impact on the Co-Issuers' results of operations.

Because of the volatile and cyclical nature of international coal markets, it is reasonably possible that the Co-Issuers' current estimates of projected future cash flows from their mining assets may change in the near term, which may result in the need for adjustments to the carrying value of their assets.

The Co-Issuers' ability to operate their businesses effectively could be impaired if they lose key personnel or fail to attract qualified personnel.

The Co-Issuers manage their businesses with a number of key personnel, the loss of whom could have a material adverse effect on their businesses, absent the completion of an orderly transition. In addition, the Co-Issuers believe that their future success will depend greatly on their continued ability to attract and retain highly skilled and qualified personnel, particularly personnel with mining experience. The Co-Issuers cannot provide assurance that key personnel will continue to be employed by them or that they will be able to attract and retain qualified personnel in the future. Failure to retain or attract key personnel could have a material adverse effect on the Co-Issuers' businesses.

In this regard, the management personnel for the Wilpinjong Mine are employed by a Peabody affiliate, which is not contractually obliged to provide such personnel to the Co-Issuers. If the Peabody affiliate ceased to make such personnel available to the Co-Issuers, the ensuing disruption and need to attract replacement qualified personnel may have a material adverse effect on the Co-Issuers' businesses, financial condition and results of operations.

The Co-Issuers could be negatively affected if they fail to maintain satisfactory labor relations.

As of September 30, 2020, the Co-Issuers had 563 employees, which included 473 hourly employees that are employed by Wilpinjong. The other employees of the Wilpinjong Mine are employed by a subsidiary of PEA. The Co-Issuers are party to labor agreements with various labor unions that represent certain of their employees. Such labor agreements are negotiated periodically, and, therefore, the Co-Issuers are subject to the risk that these agreements may not be able to be renewed on reasonably satisfactory terms.

Substantially all of the Co-Issuers' hourly employees were represented by organized labor unions and generated all of Wilpinjong's coal production for the year ended December 31, 2019. Relations with their employees and, where applicable, organized labor are important to the Co-Issuers' success. If some or all of the Co-Issuers' current non-union operations were to become unionized, the Co-Issuers could incur an increased risk of work stoppages, reduced productivity and higher labor costs. Also, if the Co-Issuers fail to maintain good relations or successfully negotiate contracts with their employees who are represented by unions, the Co-Issuers could potentially experience labor disputes, strikes, work stoppages, slowdowns or other disruptions in production that could negatively impact their profitability.

The Co-Issuers could be adversely affected if they fail to appropriately provide financial assurances for their obligations.

Australian laws require the Co-Issuers to provide financial assurances related to requirements to reclaim lands used for mining and to satisfy other miscellaneous obligations. The primary methods the Co-Issuers use to meet those obligations are to provide a third-party surety bond or provide a letter of credit, which may be provided by Peabody. As of September 30, 2020, the Co-Issuers indirectly had approximately \$38 million of outstanding surety bonds to provide required financial assurances for post-mining reclamation, and approximately \$59 million of surety bonds for other obligations and performance guarantees.

The Co-Issuers' financial assurance obligations may increase or become more costly due to a number of factors, and surety bonds and letters of credit may not be available to the Co-Issuers, particularly in light of some banks and insurance companies' announced unwillingness to support fossil fuel companies. The Co-Issuers' failure to retain, or inability to obtain surety bonds, bank guarantees or letters of credit, or to provide a suitable alternative, could have a material adverse effect on the Co-Issuers. That failure could result from a variety of factors including the following:

- lack of availability, higher expense or unfavorable market terms of new surety bonds, bank guarantees or letters of credit; and
- inability to provide or fund collateral for current and future third-party issuers of surety bonds, bank guarantees or letters of credit.

The Co-Issuers' failure to maintain adequate bonding would invalidate their mining permits and prevent mining operations from continuing, which would cast substantial doubt on their ability to continue as a going concern.

The Co-Issuers' mining operations are extensively regulated, which imposes significant costs on the Co-Issuers, and future regulations and developments could increase those costs or limit the Co-Issuers' ability to produce or sell coal and also exposes the Co-Issuers to a risk of enforcement action by a regulator in the event of non-compliance with approvals, permits, licenses and the like. The coal mining industry in Australia is subject to regulation by federal, state and local authorities with respect to matters such as:

- workplace health and safety;
- limitations on land use;
- mine permitting and licensing requirements;
- reclamation and restoration of mining properties after mining is completed;
- ongoing monetary and works-in-kind contributions for the benefit of the local community;
- mine rehabilitation, including progressive rehabilitation;
- the storage, treatment and disposal of wastes;
- remediation of contaminated soil, sediment and groundwater;
- air quality standards;
- water pollution;
- protection of Aboriginal cultural heritage;
- protection of human health, plant-life and wildlife, including endangered or threatened species and habitats;
- protection of wetlands;
- biodiversity conservation and the offsetting of impacts on biodiversity;
- the discharge of materials into the environment; and
- water usage, and the effects of mining on surface water and groundwater quality and availability.

Regulatory agencies have the authority under certain circumstances, including following significant health and safety incidents, to order a mine to be temporarily or permanently closed. In the event that such agencies ordered the closing of the Co-Issuers' mine and as a result of such mine being the only mine in the Co-Issuers' operations, the Co-Issuers' production and sale of coal would be disrupted and the Co-Issuers may be required to incur cash outlays, or to obtain new regulatory approvals, to re-open the mine. Any of these actions could have a material adverse effect on the Co-Issuers' financial condition, results of operations and cash flows. Regulatory agencies also have the power to take a range of enforcement action for non-compliance with permits, licenses, approvals and the like including to prosecute breaches by the Co-Issuers, exposing the Co-Issuers to liability, and costs associated with defending enforcement action or paying penalties.

The possibility exists that new legislation, regulations or orders related to the environment, Aboriginal cultural heritage, or employee health and safety may be adopted and may materially adversely affect the Co-Issuers' mining operations, the Co-Issuers' cost structure or their customers' ability to use coal. New legislation or administrative regulations (or new interpretations by relevant Australian government agencies or courts of existing laws, regulations and approvals), including proposals related to the protection of the environment or the reduction of greenhouse gas emissions that would further regulate and tax the coal industry, may also require the Co-Issuers or their customers to change operations significantly or incur increased costs. Some of the Co-Issuers' coal supply agreements contain provisions that allow a purchaser to terminate its contract if legislation is passed that either restricts the use or type of coal permissible at the purchaser's plant or results in specified increases in the cost of coal or its use. These factors and legislation, if enacted, could have a material adverse effect on the Co-Issuers' financial condition and results of operations.

The Co-Issuers' operations may impact the environment or cause exposure to hazardous substances, and its properties may have environmental contamination, which could result in material liabilities to the Co-Issuers.

The Co-Issuers' operations currently use hazardous materials and generate limited quantities of hazardous wastes from time to time. A number of laws impose liability relating to contamination by hazardous substances. Such liability may involve the costs of investigating or remediating contamination and damages to natural resources, as well as claims seeking to recover for property damage or personal injury caused by hazardous substances. Such liability may arise from conditions at formerly, as well as currently, owned or operated properties, and at properties to which hazardous substances have been sent for treatment, disposal or other handling.

The Co-Issuers may be unable to obtain, renew or maintain permits necessary for their operations, or the Co-Issuers may be unable to obtain, renew or maintain such permits without conditions on the manner in which they run their operations, which would reduce their production, cash flows and profitability.

Numerous governmental permits and approvals are required for mining operations. The permitting rules, and the interpretations of these rules, are complex, change frequently and are often subject to discretionary interpretations by regulators, all of which may make compliance more difficult or impractical, or increase the potential exposure to liability for a breach of those permits and approvals. As part of this permitting process, when the Co-Issuers apply for permits and approvals, they are required to prepare and present to governmental authorities data pertaining to the potential impact or effect that any proposed exploration for or production of coal may have upon the environment. The public, including non-governmental organizations, opposition groups and individuals, have statutory rights to comment upon and submit objections to requested permits and approvals (including modifications and renewals of certain permits and approvals) and otherwise engage in the permitting process, to challenge the issuance of permits, the validity of environmental impact statements or the performance of mining activities. In recent years, the permitting required for coal mining has been the subject of increasing objection from landowners and environmental groups.

The costs, liabilities and requirements associated with these permitting requirements and any related opposition may be extensive and time-consuming and may delay commencement or continuation of exploration or production which would adversely affect the Co-Issuers' coal production, cash flows and profitability. Further, required permits may not be issued, modified or renewed in a timely fashion or at all, or permits issued, modified or renewed may be conditioned in a manner that may restrict the Co-Issuers' ability to efficiently and economically conduct their mining activities, any of which would materially reduce their production, cash flows and profitability.

The Co-Issuers' mining operations are subject to extensive forms of taxation, which imposes significant costs on the Co-Issuers, and future regulations and developments could increase those costs or limit the Co-Issuers' ability to produce coal competitively.

Federal, state, provincial or local governmental authorities in nearly all countries across the global coal mining industry impose various forms of taxation, including production taxes, sales-related taxes, royalties, environmental taxes, mining profits taxes, transfer and stamp duty, employment related taxes, withholding taxes and income taxes. The Co-Issuers could be adversely affected by changes to tax laws and regulations, to regulatory policies and in the supervisory activities and expectations of regulators. If new legislation or regulations related to various forms of coal taxation, which increase the Co-Issuers' costs or limit the Co-Issuers' ability to compete in the areas in which the Co-Issuers sell their coal, are adopted, or existing legislation or regulations amended, the Co-Issuers' businesses, financial conditions or results of operations could be adversely affected. If the assumptions underlying the Co-Issuers' asset retirement obligations for reclamation and mine closures are materially inaccurate, their costs could be significantly greater than anticipated.

The Co-Issuers' asset retirement obligations primarily consist of spending estimates for surface land reclamation and support facilities at their mine in accordance with federal and state reclamation laws in Australia

as defined by their mining regulatory approvals. These obligations are determined for the mine using various estimates and assumptions including, among other items, estimates of disturbed acreage as determined from engineering data, estimates of future costs to reclaim the disturbed acreage and the timing of these cash flows, which is driven by the estimated economic life of the mine and the applicable reclamation laws. These cash flows are discounted using a credit-adjusted, risk-free rate. The Co-Issuers' management and engineers periodically review these estimates. If the Co-Issuers' assumptions do not materialize as expected, actual cash expenditures and costs that the Co-Issuers incur could be materially different than currently estimated. Moreover, regulatory changes could increase or affect the timing of the Co-Issuers' obligation to perform reclamation, mine closing and post-closure activities. The resulting estimated asset retirement obligation could change significantly if actual amounts change significantly from the Co-Issuers' assumptions, which could have a material adverse effect on the Co-Issuers' results of operations and financial conditions.

The Co-Issuers' future success depends upon their ability to continue acquiring and developing coal reserves that are economically recoverable.

The Co-Issuers' recoverable reserves decline as they produce coal. The Co-Issuers have not yet applied for the permits required or developed the mines necessary to use all of their reserves. Moreover, the amount of proven and probable coal reserves described in "Information Regarding the Co-Issuers—Properties" involves the use of certain estimates and those estimates could be inaccurate. Information about the Co-Issuers' reserves consists of estimates based on engineering, economic and geological data assembled and analyzed by the Co-Issuers' staff. Some of the factors and assumptions which impact economically recoverable coal reserve estimates include geological conditions, historical production from the area compared with production from other producing areas, the assumed effects of regulations and taxes by governmental agencies and assumptions governing future prices and future operating costs. Actual production, revenues and expenditures with respect to the Co-Issuers' coal reserves may vary materially from estimates.

The Co-Issuers' future success depends upon the Co-Issuers conducting successful exploration and development activities or acquiring properties containing economically recoverable reserves. The Co-Issuers' current strategy includes increasing their reserves through acquisitions of government and other leases and producing properties and continuing to use their existing properties and infrastructure. In certain locations, leases for oil, natural gas and coalbed methane reserves are located on, or adjacent to, some of the Co-Issuers' reserves, potentially creating conflicting interests between the Co-Issuers and lessees of those interests. Other lessees' rights relating to these mineral interests could prevent, delay or increase the cost of developing the Co-Issuers' coal reserves. These lessees may also seek damages from the Co-Issuers based on claims that the Co-Issuers' coal mining operations impair their interests.

The Co-Issuers' planned mine development projects and acquisition activities may not result in significant additional reserves, and the Co-Issuers may not have success developing additional mines. The Co-Issuers' mining operations are conducted on properties owned or leased by the Co-Issuers. The Co-Issuers' right to mine some of their reserves may be materially adversely affected if defects in title or boundaries exist. In order to conduct their mining operations on properties where these defects exist, the Co-Issuers may incur unanticipated costs. In addition, in order to develop their reserves, the Co-Issuers must also own the rights to the related surface property and receive various governmental permits. The Co-Issuers cannot predict whether they will continue to receive the permits or appropriate land access necessary for them to operate profitably in the future. The Co-Issuers may not be able to negotiate or secure new leases from the government or from private parties, obtain mining contracts for properties containing additional reserves or maintain their leasehold interest in properties on which mining operations have not commenced or have not met minimum quantity or product royalty requirements. From time to time, the Co-Issuers may experience litigation with lessors of their coal properties and with royalty holders. In addition, from time to time, the Co-Issuers' permit applications and federal and state coal leases may be challenged, which may result in production delays.

To the extent that the Co-Issuers' existing sources of liquidity are not sufficient to fund their planned mine development projects and reserve acquisition activities, the Co-Issuers may require access to capital markets,

which may not be available to them or, if available, may not be available on satisfactory terms. If the Co-Issuers are unable to fund these activities, they may not be able to maintain or increase their existing production rates and they could be forced to change their business strategy, which could have a material adverse effect on their financial condition, results of operations and cash flows.

The Co-Issuers face numerous uncertainties in estimating their economically recoverable coal reserves and inaccuracies in their estimates could result in lower than expected revenues, higher than expected costs and decreased profitability.

Coal is economically recoverable when the price at which the Co-Issuers' coal can be sold exceeds the costs and expenses of mining and selling the coal. Forecasts of the Co-Issuers' future performance are based on, among other things, estimates of the Co-Issuers' recoverable coal reserves. The Co-Issuers base their reserve information on engineering, economic and geological data assembled and analyzed by their staff and third parties, which includes various engineers and geologists. The reserve estimates as to both quantity and quality are updated from time to time to reflect production of coal from the reserves and new drilling or other data received. There are numerous uncertainties inherent in estimating quantities and qualities of coal and costs to mine recoverable reserves, including many factors beyond the Co-Issuers' control. Estimates of economically recoverable coal reserves necessarily depend upon a number of variable factors and assumptions, any one of which may, if incorrect, result in an estimate that varies considerably from actual results. These factors and assumptions include:

- geologic and mining conditions, which may not be fully identified by available exploration data and may differ from the Co-Issuers' experience in areas they currently mine;
- demand for coal;
- current and future market prices for coal, contractual arrangements, operating costs and capital expenditures;
- severance and excise taxes, royalties and development and reclamation costs;
- future mining technology improvements;
- the effects of regulation by governmental agencies;
- the ability to obtain, maintain and renew all required permits;
- employee health and safety; and
- historical production from the area compared with production from other producing areas.

As a result, actual coal tonnage recovered from identified reserve areas or properties and revenues and expenditures with respect to the Co-Issuers' reserves may vary materially from estimates. Thus, these estimates may not accurately reflect the Co-Issuers' actual reserves. Any material inaccuracy in the Co-Issuers' estimates related to their reserves could result in lower than expected revenues, higher than expected costs or decreased profitability which could materially and adversely affect their businesses, results of operations, financial positions and cash flows.

The Co-Issuers could be exposed to significant liability, reputational harm, loss of revenue, increased costs or other risks if they sustain cyber-attacks or other security breaches that disrupt their operations or result in the dissemination of proprietary, confidential or personal information about the Co-Issuers, their employees, their customers or other third-parties.

The Co-Issuers use digital technology to conduct their business operations and engage with their customers, vendors, employees, financial institutions, partners and other third parties. Their business depends on the reliable and secure operation of computer systems, network infrastructure, digital communication technologies and other

information technology. Problems may arise in both the Co-Issuers' internally managed systems and those of third parties. The Co-Issuers have implemented security protocols and systems with the intent of maintaining the security of their operations and protecting their and their counterparties' proprietary and confidential information and the personal information related to identifiable individuals against unauthorized access. Despite such efforts, the Co-Issuers and third parties with whom they share proprietary, confidential, or personal information, may be subject to physical or information technology security breaches which, could result in unauthorized access to their facilities or the information the Co-Issuers are trying to protect. Unauthorized physical access to one of their facilities or unauthorized access to their information technology systems could result in, among other things, unfavorable publicity, litigation by affected parties, regulatory proceedings, damage to sources of competitive advantage, misappropriation of funds, disruptions to their operations, loss of customers, financial obligations for damages related to the theft or misuse of such information and costs to remediate such security vulnerabilities, any of which could have a substantial impact on the Co-Issuers' results of operations, financial condition or cash flows. The pace of technological development and the Co-Issuers' increased reliance on information technology to conduct their business operations makes it challenging to prevent increasingly sophisticated and more frequent attacks on information technology systems.

Concerns about the impacts of coal combustion on global climate are increasingly leading to consequences that have affected and could continue to affect demand for the Co-Issuers' products and their ability to produce, including increased governmental regulation of coal combustion, the consideration of the impacts of coal combustion in the grant of regulatory approvals for coal mining operations and unfavorable investment decisions by electricity generators.

Global climate issues continue to attract public and scientific attention. Numerous reports, such as the Fourth and the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, have also engendered concern about the impacts of human activity, especially fossil fuel combustion, on global climate issues. In turn, increasing government attention is being paid to global climate issues and to emissions of greenhouse gases, including emissions of carbon dioxide from coal combustion by power plants.

The enactment of future laws or the passage of regulations regarding emissions from the use of coal by the U.S., some of its states or other countries, or other actions to limit such emissions, could result in electricity generators switching from coal to other fuel sources. Further, policies limiting available financing for the development of new coal mines or coal-fueled power stations could adversely impact the global supply and demand for coal. The potential financial impact on the Co-Issuers of such future laws, regulations or other policies will depend upon the degree to which any such laws or regulations force electricity generators to diminish their reliance on coal as a fuel source. That, in turn, will depend on a number of factors, including the specific requirements imposed by any such laws, regulations or other policies, the time periods over which those laws, regulations or other policies would be phased in, the state of development and deployment of carbon capture, utilization and storage ("CCUS") technologies as well as acceptance of CCUS technologies to meet regulations and the alternative uses for coal. Similarly, higher-efficiency coal-fired power plants may also be an option for meeting laws or regulations related to emissions from coal use. Several countries, including some major coal users such as China, India and Japan, included using higher-efficiency coal-fueled power plants in their plans under the Paris Agreement. From time to time, the Co-Issuers attempt to analyze the potential impact on their business of as-yet-unadopted, potential laws, regulations and policies. Such analyses require that the Co-Issuers make significant assumptions as to the specific provisions of such potential laws, regulations and policies, which sometimes show that if implemented in the manner assumed by the analyses, the potential laws, regulations and policies could result in material adverse impacts on the Co-Issuers' operations, financial condition or cash flows. The Co-Issuers do not believe that such analyses reasonably predict the quantitative impact that future laws, regulations or other policies may have on their results of operations, financial condition or cash flows.

Numerous activist groups are devoting substantial resources to anti-mining or anti-coal activities which may disrupt production or the grant of regulatory approvals for coal mining operations, and anti-coal activities to minimize or eliminate the use of coal as a source of electricity generation, domestically and internationally, thereby further reducing the demand and pricing for coal, and potentially materially and adversely impacting the Co-Issuers' future financial results, liquidity and growth prospects.

Several non-governmental organizations have undertaken campaigns to minimize or eliminate the use of coal as a source of electricity generation across the globe. In an effort to stop or delay coal mining activities, activist groups have brought lawsuits challenging the issuance of individual coal leases. Other lawsuits challenge determined and pending regulatory approvals, permits and processes that are necessary to conduct coal mining operations.

The effect of these and other similar developments has been to make it more costly and difficult to maintain the Co-Issuers' businesses. These cost increases and/or a substantial or extended decline in the prices the Co-Issuers receives for their coal due to these or other factors could reduce their revenue and profitability, cash flows, liquidity, and value of their coal reserves and could result in losses.

The Co-Issuers' financial performance could be adversely affected by their indebtedness.

As of September 30, 2020, the Co-Issuers had no indebtedness outstanding.

The degree to which the Co-Issuers become leveraged as a result of the Recapitalization Transactions could have important consequences, including, but not limited to:

- making it more difficult for the Co-Issuers to pay interest and satisfy their debt obligations;
- increasing the cost of borrowing;
- increasing the Co-Issuers' vulnerability to general adverse economic and industry or regulatory conditions;
- requiring the dedication of a substantial portion of the Co-Issuers' cash flow from operations to the payment of principal and interest on their indebtedness, thereby reducing the availability of their cash flow to fund working capital, capital expenditures, business development or other general corporate requirements;
- limiting the Co-Issuers' ability to obtain additional financing to fund future working capital, capital expenditures, business development or other general corporate requirements;
- making it more difficult to obtain surety bonds, letters of credit, bank guarantees or other financing, particularly during periods in which credit markets are weak;
- limiting the Co-Issuers' flexibility in planning for, or reacting to, changes in their business and in the coal industry;
- causing a decline in the Co-Issuers' credit ratings; and
- placing the Co-Issuers at a competitive disadvantage compared to less leveraged competitors.

In addition, the Co-Issuers' indebtedness subjects them to certain restrictive covenants. Failure by the Co-Issuers to comply with these covenants could result in an event of default that, if not cured or waived, could have a material adverse effect on the Co-Issuers and result in amounts outstanding thereunder to be immediately due and payable. The terms of the Co-Issuers' indebtedness provide that if the Co-Issuers cannot meet their debt service obligations, the lenders could foreclose against the assets securing their borrowings and the Co-Issuers could be forced into bankruptcy or liquidation.

A downgrade in the Co-Issuers' credit ratings or other unfavorable indicators could result in, among other matters, additional required financial assurances related to the Co-Issuers' reclamation bonding requirements, a

requirement to post additional collateral on derivative trading instruments that the Co-Issuers may enter into, the loss of trading counterparties for corporate hedging and trading and brokerage activities or an increase in the cost of, or a limit on the Co-Issuers' access to, various forms of credit used in operating their business.

If the Co-Issuers' cash flows and capital resources are insufficient to fund their debt service obligations, the Co-Issuers may be forced to sell assets, seek additional capital or seek to restructure or refinance their indebtedness. These alternative measures may not be successful and may not permit the Co-Issuers to meet their scheduled debt service obligations. The Co-Issuers' indebtedness may restrict the use of the proceeds from any such sales. The Co-Issuers may not be able to complete those sales and the proceeds may not be adequate to meet any debt service obligations then due.

Despite the Co-Issuers' indebtedness, the Co-Issuers may still be able to incur substantially more debt, including secured debt, which could further increase the risks associated with their indebtedness.

The Co-Issuers may be able to incur substantial additional indebtedness in the future, including additional secured debt. Although covenants under the New Co-Issuer Notes Indenture limit their ability to incur additional indebtedness, these restrictions are subject to a number of qualifications and exceptions and, under certain circumstances, debt incurred in compliance with these restrictions can be substantial. In addition, the New Co-Issuer Notes Indenture and the agreements governing the Co-Issuers' other indebtedness do not limit the Co-Issuers from incurring obligations that do not constitute indebtedness as defined therein.

The Co-Issuers may not be able to generate sufficient cash to service all of their indebtedness or other obligations.

The Co-Issuers' ability to make scheduled payments on, or refinance their debt obligations, depends on their financial condition and operating performance, which are subject to prevailing economic, industry and competitive conditions and to certain financial, business, legislative, regulatory and other factors beyond their control. The Co-Issuers may be unable to maintain a level of cash flow from operating activities sufficient to permit them to pay the principal, premium, if any, and interest on their indebtedness or other obligations.

The terms of the New Co-Issuer Notes Indenture and the agreements and instruments governing the Co-Issuers' other indebtedness impose restrictions that may limit the Co-Issuers' operating and financial flexibility.

The New Co-Issuer Notes Indenture and the agreements governing the Co-Issuers' other indebtedness contain certain restrictions and covenants that restrict the Co-Issuers' ability to incur liens and/or debt or provide guarantees in respect of obligations of any other person and other restrictions, all of which could adversely affect the Co-Issuers' ability to operate their business, as well as significantly affect their liquidity, and therefore could adversely affect its results of operations.

These covenants limit, among other things, the Co-Issuers' ability to:

- incur additional indebtedness;
- make certain restricted payments or investments, including dividends indirectly to Peabody;
- enter into agreements that restrict distributions from certain subsidiaries;
- sell or otherwise dispose of assets;
- enter into transactions with affiliates;
- create or incur liens;
- merge, consolidate or sell all or substantially all of its assets; and
- place restrictions on the ability of subsidiaries to pay dividends or make other payments to them.

The Co-Issuers' ability to comply with these covenants may be affected by events beyond their control and they may need to refinance existing debt in the future. A breach of any of these covenants together with the expiration of any cure period, if applicable, could result in a default under the New Co-Issuer Notes offered hereby. If any such default occurs, subject to applicable grace periods, the holder of the New Co-Issuer Notes may elect to declare all outstanding New Co-Issuer Notes, together with accrued interest and other amounts payable thereunder, to be immediately due and payable. If the obligations under the New Co-Issuer Notes were to be accelerated, the Co-Issuers' financial resources may be insufficient to repay the New Co-Issuer Notes and any other indebtedness becoming due in full.

In addition, if the Co-Issuers breach the covenants in the New Co-Issuer Notes Indenture and do not cure such breach within the applicable time periods specified therein, the Co-Issuers would cause an event of default under the New Co-Issuer Notes Indenture and a cross-default to certain of their other indebtedness and the lenders or holders thereunder could accelerate their obligations. If the Co-Issuers' indebtedness is accelerated, the Co-Issuers may not be able to repay their indebtedness or borrow sufficient funds to refinance it. Even if the Co-Issuers are able to obtain new financing, it may not be on commercially reasonable terms or on terms that are acceptable to the Co-Issuers. If the Co-Issuers' indebtedness is in default for any reason, their businesses, financial conditions and results of operations could be materially and adversely affected. In addition, complying with these covenants may make it more difficult for the Co-Issuers to successfully execute their business strategy and compete against companies who are not subject to such restrictions.

The number and quantity of viable financing alternatives available to the Co-Issuers may be significantly impacted by unfavorable lending and investment policies by financial institutions and insurance companies associated with concerns about environmental impacts of coal combustion, and negative views around the Co-Issuers' efforts with respect to environmental and social matters and related governance considerations could harm the perception of the Co-Issuers by certain investors or result in the exclusion of the Co-Issuers' securities from consideration by those investors.

Global climate issues, including with respect to greenhouse gases such as carbon dioxide and methane and the relationship that greenhouse gases have with climate change, continue to attract significant public and scientific attention.

Certain banks, other financing sources and insurance companies have taken actions to limit available financing and insurance coverage for the development of new coal-fueled power plants and coal producers and utilities that derive a majority of their revenue from thermal coal, which also may adversely impact the future global demand for coal. Increasingly, the actions of such financial institutions and insurance companies are informed by non-standardized "sustainability" scores, ratings and benchmarking studies provided by various organizations that assess corporate governance related to environmental and social matters. Further, there have been efforts in recent years by members of the general financial and investment communities, including investment advisors, sovereign wealth funds, public pension funds, universities and other institutional investors, to divest themselves and to promote the divestment of securities issued by companies involved in the fossil fuel extraction market, or that have low ratings or scores in studies and assessments of the type noted above, including coal producers. These entities also have been pressuring lenders to limit financing available to such companies. These efforts may have adverse consequences, including, but not limited to:

- restricting the Co-Issuers' ability to access capital and financial markets in the future;
- increasing the cost of borrowing;
- causing a decline in the Co-Issuers' credit ratings;
- reducing the availability, and/or increasing the cost of, third-party insurance;
- increasing the Co-Issuers' retention of risk through self-insurance;
- making it more difficult to obtain surety bonds, letters of credit, bank guarantees or other financing; and

-
- limiting the Co-Issuers' flexibility in business development activities such as mergers, acquisitions and divestures.

Diversity in interpretation and application of accounting literature in the mining industry may impact the Co-Issuers' reported financial results.

The mining industry has limited industry-specific accounting literature and, as a result, the Co-Issuers understands diversity in practice exists in the interpretation and application of accounting literature to mining-specific issues. As diversity in mining industry accounting is addressed, the Co-Issuers may need to restate its reported results if the resulting interpretations differ from its current accounting practices.

Risks Related to Peabody

You should also read and consider risk factors specific to Peabody's business. These risks are described in Part I, Item 1A of Peabody's Annual Report on Form 10-K for the year ended December 31, 2019, Part II, Item 1A of Peabody's Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2020, June 30, 2020, and September 30, 2020, and in other documents that are incorporated by reference herein.

The incoming U.S. administration could result in legislative and regulatory proposals that could adversely affect Peabody's mining operations, cost structure or its customers' ability to use coal, which could have a material adverse effect on Peabody's financial condition and results of operations.

President-elect Biden's proposed climate plan includes rejoining the Paris climate agreement, as well as a target of achieving carbon-free electricity generation in the U.S. by 2035 and net zero greenhouse gas emissions economy wide by 2050. The plan calls for establishment of a technology-neutral Energy Efficiency and Clean Electricity Standards, accompanied by clean energy tax credits and other incentives for utilities and grid operators to generate electricity with renewable energy. Depending upon what legislative and regulatory proposals in pursuit of these targets come into effect, there could be increased pressure on U.S. utilities and power generators to reduce greenhouse gas emissions, resulting in a further acceleration in the decline in demand for thermal coal in the U.S. In addition, the Biden administration could attempt to unwind a number of regulatory rollbacks enacted or proposed by the Trump administration, including, among others, the Affordable Clean Energy Rule, the Navigable Waters Protection Rule, the proposed rule for the disposal of coal combustion residuals, and the National Environmental Policy Act overhaul, or otherwise impose and enforce more stringent permitting or other requirements, including those relating to reclamation, water quality, water availability and other environmental matters. New more stringent legislation or changes in administrative regulations related to the protection of the environment, health and safety or the reduction of greenhouse gas emissions, as well as changes in the interpretation and enforcement of such laws and regulations, may require Peabody or its customers to change operations significantly or incur increased costs, which may adversely affect Peabody's mining operations, cost structure or its customers' ability to use coal. Such changes could have a material adverse effect on Peabody's financial condition and results of operations.

PEABODY CAPITALIZATION

The following table sets forth Peabody's consolidated cash and cash equivalents and capitalization as of September 30, 2020 on (i) an actual basis and (ii) an as adjusted basis to give effect to (x) the consummation of the Recapitalization Transactions, including the consummation of the Exchange Offer (assuming that all Existing Notes are validly tendered, accepted and exchanged in the Exchange Offer as described above under "Description of the Exchange Offer and Consent Solicitation") and (y) the Repurchase. The table is provided for illustrative purposes only and is based on available information and assumptions that Peabody believes are reasonable. It does not reflect certain potential accounting impacts that may result from the foregoing, including gains or losses related to the extinguishment, embedded derivatives or modification of debt or the disposition of existing debt issuance costs.

You should read this table in conjunction with the section entitled "Summary—The Recapitalization Transactions," "Summary—Repurchase of New Peabody Notes" and Peabody's consolidated financial statements, the related notes and other financial information contained in Peabody's Quarterly Report on Form 10-Q for the quarter ended September 30, 2020, which are incorporated by reference in this Offering Memorandum, as well as the other financial information incorporated by reference in this Offering Memorandum.

	As of September 30, 2020	
	Actual	As Adjusted
	(in millions, unaudited)	
Cash and cash equivalents ⁽¹⁾	\$ 814.6	\$ 714.6
Debt:		
Amended and Restated Securitization Facility ⁽²⁾	60.0	60.0
Revolving Credit Facility ⁽³⁾	230.0	—
Senior Secured Term Loan due 2025, net of OID	389.2	389.2
6.000% Senior Secured Notes due 2022 ⁽⁴⁾	459.0	—
6.375% Senior Secured Notes due 2025	500.0	500.0
New Peabody Notes offered hereby ⁽⁴⁾	—	233.1
New Co-Issuer Notes offered hereby ⁽⁴⁾	—	194.0
New Co-Issuer Term Loans ⁽⁵⁾	—	206.0
Finance lease	8.0	8.0
Total debt	1,646.2	1,590.3
Stockholders' equity:		
Preferred stock	—	—
Series common stock	—	—
Common stock	1.4	1.4
Additional paid-in capital	3,361.0	3,361.0
Treasury stock	(1,368.9)	(1,368.9)
(Accumulated deficit) retained earnings	(1,144.1)	(1,144.1)
Accumulated other comprehensive income	201.3	201.3
Peabody Energy Corporation stockholders' equity	1,050.7	1,050.7
Non-controlling interests	50.1	50.1
Total stockholders' equity	1,100.8	1,100.8
Total capitalization	\$ 2,747.0	\$ 2,691.1

- (1) As Adjusted accounts for cash payments of \$100.0 million comprised of (i) \$38.0 million for fees and expenses, including the Early Tender Premium, related to the Exchange Offer and payable by Peabody, (ii) \$18.0 million for the Repurchase, (iii) \$14.0 million repayment of outstanding borrowings under the Revolving Credit Facility (as defined below) during November 2020 in connection with the maturity of \$25 million of commitments, (iv) \$10.0 million for the prepayments of the Revolving Credit Facility contemplated on the Settlement Date, (v) \$9.4 million for the Pro Rata Payment and (vi) approximately \$10.6 million of accrued and unpaid interest due on the Existing Notes from September 30, 2020, the last interest payment date for the Existing Notes, and accrued and unpaid interest due on the Revolving Credit Facility to be paid on the Settlement Date.

- (2) At September 30, 2020, Peabody had \$60.0 million in outstanding borrowings and \$3.4 million of letters of credit provided under its accounts receivable securitization program. The letters of credit were primarily in support of portions of Peabody's obligations for property and casualty insurance. Peabody had no collateral posted under the program at September 30, 2020.
- (3) As of September 30, 2020, Peabody had \$230.0 million of outstanding borrowings under its Revolving Credit Facility. As of September 30, 2020, Peabody had also utilized its Revolving Credit Facility for letters of credit amounting to \$329.9 million, which were primarily in support of its reclamation obligations. Upon the consummation of the Exchange Offer, the Revolving Credit Facility will be terminated, and existing letters of credit will be transferred to the Peabody L/C Agreement.
- (4) Assumes the entire principal amount of Existing Notes is exchanged in the Exchange Offer and the consummation of the Repurchase.
- (5) Assumes the exchange of the Revolving Credit Facility for the New Co-Issuer Term Loans after giving effect to (i) \$14.0 million repayment of outstanding borrowings under Revolving Credit Facility during November 2020 in connection with the maturity of \$25 million of commitments and (ii) \$10.0 million for the prepayments of the Revolving Credit Facility contemplated on the Settlement Date.

THE CO-ISSUERS' CAPITALIZATION

The following table sets forth the Co-Issuers' cash and cash equivalents and capitalization as of September 30, 2020 on (i) an actual basis and (ii) an as adjusted basis to give effect to the consummation of the Recapitalization Transactions, including the consummation of the Exchange Offer (assuming that all Existing Notes are validly tendered, accepted and exchanged in the Exchange Offer as described above under "Description of the Exchange Offer and Consent Solicitation"). The table is provided for illustrative purposes only and is based on available information and assumptions that the Co-Issuers believe are reasonable. It does not reflect certain potential accounting impacts that may result from the foregoing, including embedded derivatives and the treatment for debt issuance costs or related fees.

You should read this table in conjunction with the section entitled "Summary—The Recapitalization Transactions" and the Co-Issuers' financial statements, the related notes and other financial information included in this Offering Memorandum.

	As of September 30, 2020	
	Actual	As Adjusted
	(in millions of U.S. dollars, unaudited)	
Cash and cash equivalents	\$ 68.5	\$ 68.5
Debt:		
New Co-Issuer Notes offered hereby ⁽¹⁾	—	194.0
New Co-Issuer Term Loans ⁽²⁾	—	206.0
Total debt	—	400.0
Stockholders' equity:		
Contributed equity	—	—
Additional paid-in-capital ⁽³⁾	870.4	470.4
Accumulated losses	(417.4)	(417.4)
Capital attributable to owners of Wilpinjong	453.0	53.0
Non-controlling interests	—	—
Total stockholders' equity	453.0	53.0
Total capitalization	\$ 453.0	\$ 453.0

(1) Assumes the entire principal amount of Existing Notes is exchanged in the Exchange Offer.

(2) Assumes the exchange of the Revolving Credit Facility for the New Co-Issuer Term Loans after giving effect to (i) \$14.0 million repayment of outstanding borrowings under the Revolving Credit Facility during November 2020 in connection with the maturity of \$25 million of commitments and (ii) \$10.0 million for the prepayments of the Revolving Credit Facility contemplated on the Exchange Date.

(3) Reflects the impact of consummating the Recapitalization Transactions and the Exchange Offer.

The following presents selected unaudited pro forma financial data of the Co-Issuers after giving effect to the Recapitalization Transactions and the Exchange Offer as if they had been completed as of January 1, 2019. The Co-Issuers did not have any material assets or operations prior to the Reorganization; as such, historical financial data for the Co-Issuers is comprised of Wilpinjong's historical financial statements. The unaudited pro forma financial data (i) as of December 31, 2019 and for the fiscal year then ended and (ii) as of September 30, 2020 and for the nine month period then ended was derived from Wilpinjong's unaudited pro forma financial data included in this Offering Memorandum. The unaudited pro forma financial data is not necessarily indicative of operating results and financial position that would have been achieved had the Recapitalization Transactions and the Exchange Offer been completed as of January 1, 2019 and does not intend to project the Co-Issuers' future financial results after the Recapitalization Transaction and the Exchange Offer. The unaudited pro forma financial information should be read together with Wilpinjong's historical financial statements included in this Offering Memorandum.

The unaudited pro forma financial information for the twelve-month period ended September 30, 2020 in the following table is presented for informational purposes only. Such twelve-month period is not a financial reporting period in accordance with GAAP or IFRS and should not be considered in isolation from or as a substitute for Wilpinjong's historical financial statements. The results of operations information for such twelve-month period is derived by subtracting Wilpinjong's results of operations information for the nine months ended September 30, 2019 from Wilpinjong's statements of operations information for the year ended December 31, 2019 and adding Wilpinjong's results of operations information for the nine months ended September 30, 2020.

The historical financial data of Wilpinjong was prepared in accordance with IFRS. However, the information presented in the following table includes certain reclassifications to present the data in accordance with GAAP. The pro forma presentation in the following tables is in accordance with GAAP.

The following unaudited pro forma financial data of the Co-Issuers is provided for illustrative purposes only and is based on available information and assumptions that management believes are reasonable. It does not reflect certain potential accounting impacts that may result from the foregoing, including embedded derivatives. It does not purport to represent what the Co-Issuers' actual results of operations or financial position would have been had the Recapitalization Transactions and the Exchange Offer occurred on the dates indicated.

Unaudited Pro Forma Financial Data as of and for the Twelve Months Ended September 30, 2020

	As Reported in IFRS Last Twelve Months Ended September 30, 2020	IFRS to GAAP Adjustments ⁽¹⁾		Foreign Currency Conversion ⁽²⁾	Total Recapitalization Transaction Adjustments	Pro Forma Last Twelve Months Ended September 30, 2020
	Australian dollars	Australian dollars		U.S. dollars (in millions)	U.S. dollars	U.S. dollars
Revenues	\$ 632.0	\$ —		\$ (204.8)	\$ —	\$ 427.2
Costs and expenses						
Operating costs and expenses (exclusive of items shown separately below)	420.1	5.1 (a)		(104.6)	(42.4) (3), (4)	278.2
Depreciation, depletion and amortization	49.1	39.2 (a), (b)		(21.9)	—	66.4
Asset retirement obligation expenses	—	3.0 (c)		—	—	3.0
Selling and administrative expenses	1.2	—		(0.4)	—	0.8
Operating profit	161.6	(47.3)		(77.9)	42.4	78.8
Interest expense	3.7	564.3 (a), (c), (d)		(150.9)	(369.2) (5), (6)	47.9
Income from continuing operations before income taxes	157.9	(611.6)		73.0	411.6	30.9
Income tax provision	46.4	(11.2) (e)		(6.6)	(10.8) (7), (8)	17.8
Income from continuing operations, net of income taxes	<u>\$ 111.5</u>	<u>\$ (600.4)</u>		<u>\$ 79.6</u>	<u>\$ 422.4</u>	<u>\$ 13.1</u>
Other Data:						
Tons produced	14.4	—		—	—	14.4
Tons sold	14.1	—		—	—	14.1
Adjusted EBITDA						\$ 148.2
Balance Sheet Data (at period end):						
Total assets	\$ 591.9	\$ 161.6		\$ (166.3)	\$ —	\$ 587.2
Total long-term debt (including finance leases)	—	—		—	400.0 (9)	400.0
Total stockholders' equity	417.8	189.4		(154.2)	(400.1) (9)	52.9

Unaudited Pro Forma Financial Data for the Year Ended December 31, 2019

	As Reported in IFRS Year Ended December 31, 2019	IFRS to GAAP Adjustments(1)		Foreign Currency Conversion(2)	Total Recapitalization Transaction Adjustments	Pro Forma Year Ended December 31, 2019
	Australian dollars	Australian dollars		U.S. dollars (in millions)	U.S. dollars	U.S. dollars
Revenues	\$ 755.4	\$ —		\$ (230.9)	\$ —	\$ 524.5
Costs and expenses						
Operating costs and expenses (exclusive of items shown separately below)	473.3	7.8 (a)		(148.4)	2.5 (3)	335.2
Depreciation, depletion and amortization	47.6	39.9 (a), (b)		(20.9)	—	66.6
Asset retirement obligation expenses	—	1.2 (c)		—	—	1.2
Selling and administrative expenses	1.4	—		(0.4)	—	1.0
Operating profit	233.1	(48.9)		(61.2)	(2.5)	120.5
Interest expense	4.0	(1.6) (a), (c)		(1.0)	47.5 (6)	48.9
Income from continuing operations before income taxes	229.1	(47.3)		(60.2)	(50.0)	71.6
Income tax provision	65.8	(10.6) (e)		(17.3)	(10.0) (7), (8)	27.9
Income from continuing operations, net of income taxes	<u>\$ 163.3</u>	<u>\$ (36.7)</u>		<u>\$ (42.9)</u>	<u>\$ (40.0)</u>	<u>\$ 43.7</u>

Unaudited Pro Forma Financial Data as of and for the Nine Months Ended September 30, 2020

	As Reported in IFRS Nine Months Ended September 30, 2020	IFRS to GAAP Adjustments(1)		Foreign Currency Conversion(2)	Total Recapitalization Transaction Adjustments		Pro Forma Nine Months Ended September 30, 2020
	Australian dollars	Australian dollars		U.S. dollars (in millions)	U.S. dollars		U.S. dollars
Revenues	\$ 442.2	\$ —		\$ (144.9)	\$ —		\$ 297.3
Costs and expenses							
Operating costs and expenses (exclusive of items shown separately below)	300.4	2.9	(a)	(78.5)	(24.1)	(3), (4)	200.7
Depreciation, depletion and amortization	37.0	28.0	(a), (b)	(16.2)	—		48.8
Asset retirement obligation expenses	—	1.9	(c)	—	—		1.9
Selling and administrative expenses	0.9	—		(0.3)	—		0.6
Operating profit	103.9	(32.8)		(49.9)	24.1		45.3
Interest expense	2.7	565.7	(a), (c), (d)	(150.7)	(381.1)	(5), (6)	36.6
Income from continuing operations before income taxes	101.2	(598.5)		100.8	405.2		8.7
Income tax provision	31.5	(9.9)	(e)	(5.2)	(8.1)	(7), (8)	8.3
Income from continuing operations, net of income taxes	\$ 69.7	\$ (588.6)		\$ 106.0	\$ 413.3		\$ 0.4
Other Data:							
Tons produced	10.4	—		—	—		10.4
Tons sold	10.2	—		—	—		10.2
Balance Sheet Data (at period end):							
Total assets	\$ 591.9	\$ 161.6		\$ (166.3)	\$ —		\$ 587.2
Total long-term debt (including finance leases)	—	—		—	400.0	(9)	400.0
Total stockholders' equity	417.8	189.4		(154.2)	(400.1)	(9)	52.9

Notes to the Co-Issuers' Unaudited Pro Forma Financial Information

- (1) Wilpinjong's historical financial statements were prepared under IFRS. These adjustments illustrate the changes needed to convert the historical information to GAAP. Such adjustments include:
 - a. Under IFRS, all on balance sheet leases are classified as finance leases. Under GAAP, a portion of finance leases are recharacterized as operating leases which results in changes to the timing of when expense is recognized and requires expenses to be shown in operating costs, instead of interest expense and depreciation expense as required under IFRS.
 - b. In Wilpinjong's historical financial statements, the historical costs of certain property, plant and equipment differs from the historical costs under GAAP due to the application of Fresh Start Accounting that was applied under GAAP upon Peabody's emergence from Chapter 11 in April 2017. These differences resulted in incremental depreciation and depletion expense.
 - c. In Wilpinjong's historical financial statements, accretion of asset retirement obligation liabilities is included in interest expense. Such items have been reclassified to asset retirement obligation expense to conform to GAAP presentation.
 - d. Under IFRS, the extinguishment of Wilpinjong's net intercompany receivable from its affiliates was taken as a direct charge to stockholders equity while GAAP requires a charge on the income statement. The related adjustment of A\$566.2 million is reflected here to account for the difference between IFRS and GAAP.
 - e. This adjustment represents the tax impact of the GAAP to IFRS differences noted above.
- (2) Wilpinjong's historical financial statements were prepared in Australian dollars. These adjustments illustrate the changes needed to convert the historical information to U.S. dollars. The accounts are remeasured at the average rates in effect during the period, except those expenses related to balance sheet amounts that are remeasured at historical exchange rates.
- (3) These amounts represent the estimated fees in accordance with the Management Services Agreements between the Co-Issuers and the Service Companies, which were entered into in connection with the Reorganization.
- (4) Adjustment to remove the foreign currency impact of the extinguishment of Wilpinjong's net intercompany receivable from its affiliates, which is assumed to have occurred as of January 1, 2019 for purposes of the pro forma information.
- (5) Adjustment to remove the impacts of the extinguishment of Wilpinjong's net intercompany receivable from its affiliates, which is assumed to have occurred as of January 1, 2019 for purposes of the pro forma information.
- (6) Adjustment to reflect the estimated interest expense and amortization of the debt issuance costs related to the issuance of the New Co-Issuer Notes, which is assumed to have occurred as of January 1, 2019 for purposes of the pro forma information.
- (7) Reflects the estimated tax impact of the fee associated with the Management Services Agreements.
- (8) Reflects the estimated tax impact of the estimated interest expense and amortization of the debt issuance costs related to the New Co-Issuer Notes.
- (9) These amounts represent the New Co-Issuer Notes and the impact on equity of consummating the Recapitalization Transactions and the Exchange Offer.

Business

Geographic Information

The map that follows displays the Co-Issuers' active mine location and primary ports used for their coal exports as of September 30, 2020.



The table below summarizes information regarding the operating characteristics of the Co-Issuers' mine.

<u>Mining Complex</u>	<u>Location</u>	<u>Mine Type</u>	<u>Mining Method</u>	<u>Coal Type</u>	<u>Primary Transport Method</u>	<u>2019 Tons Sold (In millions)</u>
Wilpinjong Mine	New South Wales, Australia	Surface Mine	Dozer/Casting, Truck and Shovel	Thermal/ Steam	Rail, Export Vessel	14.0

Refer to the table under “—Properties—Summary of Coal Production and Assigned Reserves” for additional information regarding coal reserves, product characteristics and production volume associated with the mine.

Coal Supply Agreements

Customers. The Co-Issuers' coal supply agreements are primarily with related parties and a domestic electricity generator. During the year ended December 31, 2019, the contract with the electricity generator accounted for 57% of the Co Issuers' sales volume and 29% of its revenue. The contract expires in 2026. The Co-Issuers' remaining production is primarily sold into the seaborne thermal markets through its affiliates. Industry commercial practice, and Peabody's typical practice, is to negotiate pricing for seaborne thermal coal contracts on an annual, spot or index basis.

Transportation

Methods of Distribution. The Co-Issuers' export coal is usually sold at the loading port, with purchasers paying ocean freight. The Co-Issuers usually pay transportation costs from the mine to the port, including any demurrage costs (fees paid to third-party shipping companies for loading time that exceeded the stipulated time).

The Co-Issuers believe they have good relationships with Australian rail carriers and port and barge companies due, in part, to the Co-Issuers' modern coal-loading facilities and the experience of their transportation coordinators.

Export Facilities. Wilpinjong sold approximately 43%, 46%, 42% and 43% of its tons into the seaborne coal markets for the years ended December 31, 2019 and 2018, and the nine months ended September 30, 2020 and 2019, respectively. The Co-Issuers are reliant on Peabody to provide rail and port capacity. Peabody has generally secured its ability to transport coal in Australia through rail and port contracts and access to two east coast coal export terminals that are primarily funded through take-or-pay arrangements. In New South Wales, the Co-Issuers' primary ports for exporting thermal coal are at Newcastle, which includes both the Port Waratah Coal Services terminal and the terminal operated by Newcastle Coal Infrastructure Group.

Competition

Demand for coal and the prices that the Co-Issuers will be able to obtain for their coal are highly competitive and influenced by factors beyond their control, including but not limited to global economic conditions; demand for electricity, including the impact of energy efficient products; the cost of electricity generation from coal and alternative forms of generation; the impact of weather on heating and cooling demand; and taxes and environmental regulations. The Co-Issuers' products compete with producers of other forms of electricity generation, including natural gas, oil, nuclear, hydro, wind, solar and biomass, that provide an alternative to coal use. The use and price of thermal coal is heavily influenced by the availability and relative cost of alternative fuels and the generation of electricity utilizing alternative fuels, with customers focused on securing the lowest cost fuel supply in order to coordinate the most efficient utilization of generating resources in the economic dispatch of the power grid at the most competitive price. Regulatory policies and environmental, social and governance considerations can also have an impact on generation choices and coal consumption.

Internationally, thermal coal competes with alternative forms of electricity generation. The competitiveness and availability of natural gas, oil, nuclear, hydro, wind, solar and biomass varies by country and region. Seaborne thermal coal consumption is also impacted by the competitiveness of delivered seaborne thermal coal supply from key exporting countries such as Indonesia, Australia, Russia, Colombia, the U.S. and South Africa, among others. In addition, seaborne thermal coal import demand can be significantly impacted by the availability of domestic coal production, particularly in the two leading coal import countries, China and India, and the competitiveness of seaborne supply from leading thermal coal exporting countries, including Indonesia, Australia, Russia, Colombia, the U.S. and South Africa, among others.

In addition to alternative fuel source competitors, major international direct coal supply competitors (listed alphabetically) include Anglo American plc, BHP, China Shenhua Energy, Coal India Limited, Drummond Company, Glencore, PT Adaro Energy Tbk, SUEK, Whitehaven Coal Limited and Yancoal Australia Ltd, among others.

Properties

Coal Reserves

The Co-Issuers controlled an estimated 104 million tons of proven and probable coal reserves as of December 31, 2019, all of which are in New South Wales, Australia. (Estimated proven and probable coal reserves have been adjusted to account for estimated process dilutions and losses during mining and processing involved in producing a saleable coal product.) All of the Co-Issuers' Australian proven and probable coal reserves consist of thermal coal and are comprised of leased properties. All of the Co-Issuers' reserves are compliance coal (assuming application of the U.S. industry standard definition of compliance coal to all of the Co-Issuers' reserves). Compliance coal is defined by Phase II of the Clean Air Act ("CAA") as coal having sulfur dioxide content of 1.2 pounds or less per million Btu. Electricity generators are able to use coal that exceeds these specifications by using emissions reduction technology, using emission allowance credits or blending higher sulfur coal with lower sulfur coal.

Reserves are defined by SEC Industry Guide 7 as that part of a mineral deposit which could be economically and legally extracted or produced at the time of the reserve determination. Proven and probable coal reserves are defined by SEC Industry Guide 7 as follows:

- *Proven (Measured) Reserves* — Reserves for which (a) quantity is computed from dimensions revealed in outcrops, trenches, workings or drill holes; grade and/or quality are computed from the results of detailed sampling and (b) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth and mineral content of reserves are well-established.
- *Probable (Indicated) Reserves* — Reserves for which quantity and grade and/or quality are computed from information similar to that used for proven (measured) reserves, but the sites for inspection, sampling and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven (measured) reserves, is high enough to assume continuity between points of observation.

The Co-Issuers' estimates of proven and probable coal reserves are established within these guidelines. Estimates within the proven category have the highest degree of assurance, while estimates within the probable category have only a moderate degree of geologic assurance. Further exploration is necessary to place probable reserves into the proven reserve category. The Co-Issuers' active properties generally have a much higher degree of reliability because of increased drilling density.

The Co-Issuers' guidelines for geologic assurance surrounding estimated proven and probable Australian coal reserves generally follow the respective industry-accepted practices of that country. In Australia, the

Co-Issuers' estimated proven coal reserves generally lie within 250 meters of a point of observation, while the Co-Issuers' estimated probable coal reserves may lie more than 250 meters, but less than 500 meters, from a point of observation. For some of the Co-Issuers' Australian coal reserves, the distance between points of observation is determined by a geostatistical study.

The preparation of the Co-Issuers' coal reserve estimates is completed in accordance with the Co-Issuers' prescribed internal control procedures, which include verification of input data into a coal reserve forecasting and economic evaluation software system, as well as multi-functional management review. The Co-Issuers' reserve estimates are prepared by their staff of experienced geologists and engineers. The Co-Issuers' corporate Geological Services group is responsible for tracking changes in reserve estimates, supervising their other geologists and coordinating periodic third-party reviews of their reserve estimates by qualified mining consultants.

The Co-Issuers' coal reserve estimates are predicated on information obtained from an extensive historical database of drill holes and information obtained from their ongoing drilling program. The Co-Issuers compile data from individual drill holes in a computerized drill-hole database from which the depth, thickness and, where core drilling is used, the quality of the coal is determined. The density of a drill pattern determines whether the related coal reserves will be classified as proven or probable. The Co-Issuers' coal reserve estimates are then input into their computerized land management system, which overlays that geological data with data on ownership or control of the mineral and surface interests to determine the extent of the Co-Issuers' attributable coal reserves in a given area. The Co-Issuers' land management system contains reserve information, including the quantity and quality (where available) of reserves, as well as production data, surface and coal ownership, lease payments and other information relating to the Co-Issuers' coal reserves and land holdings. The Co-Issuers periodically update their coal reserve estimates to reflect production of coal from those reserves and new drilling or other data received. Accordingly, the Co-Issuers' coal reserve estimates will change from time to time to reflect the effects of their mining activities, analysis of new engineering and geological data, changes in coal reserve holdings, modification of mining methods and other factors.

The Co-Issuers' estimate of the economic recoverability of their coal reserves is generally based upon a comparison of unassigned reserves to assigned reserves currently in production in the same geologic setting to determine an estimated mining cost. These estimated mining costs are compared to expected market prices for the quality of coal expected to be mined and take into consideration typical contractual sales agreements for the region and product. Only coal reserves expected to be mined economically are included in the Co-Issuers' reserve estimates. Finally, the Co-Issuers' coal reserve estimates consider dilutions and losses during mining and processing for recoverability factors to estimate a saleable product. Factors impacting the Co-Issuers' assessment include geological conditions, production expectations for certain areas, the effects of regulation and taxes by governmental agencies, future price and operating cost assumptions and adverse changes in market conditions and mine closure activities. The estimates are also impacted by decreases resulting from current year production and increases resulting from information obtained from additional drilling.

The Co-Issuers periodically engage independent mining and geological consultants and consider their input regarding the procedures used by the Co-Issuers to prepare their internal estimates of coal reserves, selected property reserve estimates and tabulation of reserve groups according to standard classifications of reliability. The last audit of the Co-Issuers' reserves estimates was conducted in 2015, and in coming years the Co-Issuers plan to complete additional audits of their reserve estimates on a cyclical basis.

With respect to the accuracy of the Co-Issuers' coal reserve estimates, the Co-Issuers' experience is that recovered reserves are within plus or minus 10% of their proven and probable estimates, on average, and their probable estimates are generally within the same statistical degree of accuracy when the necessary drilling is completed to move reserves from the probable to the proven classification.

The Co-Issuers employ a market-driven, risk adjusted capital allocation process to guide long-term mine planning of active operations and development projects for economically mineable coal. The Co-Issuers refer to

this process as Life-of-Mine (“LOM”) planning. The LOM plan projects, among other things, annual quantities and qualities for each coal product. The saleable product mix for a mine may include multiple thermal and metallurgical products with different targeted qualities. The expected volumes for each mine and product, as well as annual pricing forecasts for each product, developed as described below, and related cost forecasts, developed as described below, are then evaluated to determine the economically recoverable coal in the LOM plan.

Pricing

The pricing information used to establish the Co-Issuers’ reserves includes internal, proprietary price forecasts and existing contract economics, on a product-by-product basis. In general, the Co-Issuers’ price forecasts are based on a thorough analytical process utilizing detailed supply and demand models, global economic indicators, projected foreign exchange rates, analyses of price relationships among various commodities, competing fuels analyses, analyses of supplier costs and other variables. Price forecasts, supply and demand models and other key assumptions and analyses are stress tested against independent third-party research not commissioned by the Co-Issuers to confirm the conclusions reached through the Co-Issuers’ analytical processes, and the Co-Issuers’ price forecasts fall within the ranges of the projections included in this third-party research. The development of the analyses, price forecasts, supply and demand models and related assumptions are subject to multiple levels of management review.

Below is a description of some of the specific factors that the Co-Issuers evaluate in developing their price forecasts for thermal coal products on a product-by-product basis. Differences between the assumptions and analyses included in the Co-Issuers price forecasts and realized factors could cause actual pricing to differ from the Co-Issuers’ forecasts.

Several factors can influence thermal coal supply and demand and pricing. Demand is sensitive to total electric power generation volumes, which are determined in part by the impact of weather on heating and cooling demand, inter-fuel competition in the electric power generation mix (such as from natural gas and renewable sources), changes in capacity (additions and retirements), competition from other producers, coal stockpiles and policy and regulations. Supply considerations impacting pricing include reserve positions, mining methods, strip ratios, production costs and capacity and the cost of new supply (greenfield developments or extensions at existing mines).

Internationally, thermal coal-fueled generation competes with alternative forms of electricity generation. The competitiveness and availability of generation fueled by natural gas, oil, nuclear, hydro, wind, solar and biomass vary by country and region and can have a meaningful impact on coal pricing. Policy and regulations, which vary from country to country, can also influence prices. In addition, seaborne thermal coal import demand can be significantly impacted by the availability of domestic coal production, particularly in the two leading coal import countries, China and India, and the competitiveness of seaborne supply from leading thermal coal exporting countries, including Indonesia, Australia, Russia, Colombia, the U.S. and South Africa, among others.

In addition to the factors noted above, the prices which may be obtained at each individual mine or future mine can be impacted by factors such as (i) the mine’s location, which impacts the total delivered energy costs to its customers, (ii) quality characteristics, particularly if they are unique relative to competing mines, (iii) assumed transportation costs and (iv) other mine costs that are contractually passed on to customers in certain commercial relationships.

Costs

The cost estimates the Co-Issuers use to establish their reserves are generally estimated according to internal processes that project future costs based on historical costs and expected trends. The estimated costs normally include mining, processing, transportation, royalty, add-on tax and other mining-related costs. The Co-Issuers’ estimated mining and processing costs reflect projected changes in prices of consumable commodities (mainly

diesel fuel, explosives and steel), labor costs, geological and mining conditions, targeted product qualities and other mining-related costs. Estimates for other sales-related costs (mainly transportation, royalty and add-on tax) are based on contractual prices or fixed rates. Specific factors that may impact the cost at the Co-Issuers' various operations include:

- *Geological settings.* The geological characteristics are among the most important factors that determine the mining cost. The Co-Issuers' geology department conducts the exploration program and provides geological models for the LOM process. Coal seam depth, thickness, dipping angle, partings and quality constrain the available mining methods and size of operations. Shallow coal is typically mined by surface mining methods by which the primary cost is overburden removal.
- *Scale of operations and the equipment sizes.* The Co-Issuers' dragline systems generally have a lower unit cost than truck-and-shovel systems for overburden removal.
- *Commodity prices.* The costs of diesel fuel and explosives are major components of the total mining cost. Forecasted commodity prices are used to project those costs in the financial models the Co-Issuers use to establish their reserves.
- *Target product quality.* By targeting a premium quality product, the Co-Issuers' mining and processing processes may experience more coal losses. By lowering product quality the coal losses can be minimized and therefore a lower cost per ton can be achieved. In the Co-Issuers' mine plans, the product qualities are estimated to correspond to existing contracts and forecasted market demands.
- *Transportation costs.* The estimated costs for the Co-Issuers' seaborne operations include rail and barge transportation and related fees at ports.
- *Royalty costs.* The Co-Issuers' royalty costs are based upon contractual agreements for the coal leased from governments. Estimated add-on taxes and other sales-related costs are determined according to government regulations or historical costs.
- *Exchange rates.* Costs related to the Co-Issuers' production are predominantly denominated in Australian dollars, while the coal it sells into the seaborne export markets is sold in U.S. dollars. As a result, Australian/U.S. dollar exchange rates impact the U.S. dollar cost of Australian production.

Based on the Co-Issuers' product-by-product evaluations of the estimated prices for their coal, and the costs and expenses of mining and selling their coal, the Co-Issuers have concluded their reserves were economically recoverable as of December 31, 2019.

Mining and exploration in Australia is generally carried out under leases or licenses granted by state governments. Mining leases are typically for an initial term of up to 21 years (but which may be renewed) and contain conditions relating to such matters as minimum annual expenditures, restoration and rehabilitation. Royalties are paid to the state government as a percentage of the sales price. Generally, landowners do not own the mineral rights or have the ability to grant rights to mine those minerals. These rights are retained by state governments. Compensation is payable to landowners for loss of access to the land or other compensable losses, and the amount of compensation can be determined by agreement or court process. Surface rights are typically acquired directly from landowners through agreement or court determination, subject to some exceptions.

Consistent with industry practice, the Co-Issuers conduct only limited investigation of title to their coal properties prior to leasing. Title to lands and reserves of the lessors or grantors and the boundaries of their leased properties are not completely verified until the Co-Issuers prepare to mine those reserves.

The following charts provide a summary of production for the years ended December 31, 2019, 2018 and 2017, tonnage of coal reserves that are assigned to the Co-Issuers' active operating mine, the Co-Issuers' property interest in those reserves and other characteristics of the facilities.

Summary of Coal Production and Assigned Reserves(1)

(Tons in millions)

Mining Complex	Coal Seam Location	Type of Coal	Reserve Control	Mining Method	Production Year Ended December 31,		As of December 31, 2019							
					2019	2018	Interest	Assigned	Proven	Probable	Sulfur Content(2)	As Received Btu per pound(3)	Modifying Factors(4)	
											<1.2 lbs. Sulfur Dioxide per Million Btu		ROM Factor	Yield
Wilpinjong Mine	New South Wales	Thermal	Leased	Surface	14.1	14.1	100%	104	102	2	104	10,000	104%	90%

- (1) Assigned reserves represent recoverable coal reserves that are controlled and accessible at active operations as of December 31, 2019. Unassigned reserves represent coal at currently non-producing locations that would require significant new mine development, mining equipment or plant facilities before operations could begin on the property. As of December 31, 2019, all tons for the Wilpinjong Mine were assigned.
- (2) Compliance coal is defined by Phase II of the CAA as coal having sulfur dioxide content of 1.2 pounds or less per million Btu. Non-compliance coal is defined as coal having sulfur dioxide content in excess of this standard. Electricity generators are able to use coal that exceeds these specifications by using emissions reduction technology, using emission allowance credits or blending higher sulfur coal with lower sulfur coal.
- (3) As-received Btu per pound includes the weight of moisture in the coal on an as-sold basis. The range of variability of the moisture content in coal across a given region may affect the actual shipped Btu content of current production from assigned reserves.
- (4) The modifying factors reflect the assumptions which are utilized to convert coal quantities and qualities as in ground to run of mine ("ROM") coal after mining, and eventually to saleable product coal after processing. Coal reserves are reported as an estimation of the final saleable quantity, which takes into account any losses and dilutions during mining and processing. The Co-Issuers generally keep track of coal reserves through in place coal, ROM coal and product coal. The ROM factor represents the estimated ROM coal in relation to the coal in place with considerations of coal losses and dilutions during mining processes. The yield is the ratio of estimated saleable product coal over ROM coal tons with mainly processing loss considered.

Management and Board of Directors of the Co-Issuers

Set forth below are the names, ages and positions of the Co-Issuers' directors and executive officers.

<u>Name</u>	<u>Age(1)</u>	<u>Position(1)</u>
Robert F. Bruer	47	President and Director
James A. Tichenor	52	Treasurer and Director
Eric R. Waller	41	Secretary

(1) As of November 30, 2020.

Directors and Executive Officers

***Robert F. Bruer,
President and Director***

Robert Bruer has served as President and Director of each of PIC AU Holdings LLC and PIC AU Holdings Corporation since July 2020. He also currently serves as Vice President of Tax for Peabody, which position he has held since 2014. In these roles, he has responsibility for the overall management of global income tax compliance, planning, accounting and audit functions. He plays a significant role in the company's merger, acquisition, divestiture and other business development activities particularly in the areas of structuring and overall tax planning related to such transactions. Since joining Peabody in 2002, prior to his current position, Mr. Bruer has held various positions with increasing responsibility in tax, including Director—Tax Compliance & Reporting. Prior to joining Peabody, Robert worked as a Certified Public Accountant for KPMG, with experience in various tax roles in public accounting over the course of five years. He holds a Masters in Accountancy and a Bachelor of Science in Accounting from Truman State University and is a Certified Public Accountant.

***James A. Tichenor,
Treasurer and Director***

James Tichenor has served as Treasurer and Director of each of PIC AU Holdings LLC and PIC AU Holdings Corporation since July 2020. He also currently serves as Vice President & Treasurer of Peabody, which position he has held since July 2012. Mr. Tichenor serves on the Retirement, Disclosure, and Investment Committees at Peabody. Prior to joining Peabody in 2012, he served in various finance roles of increasing responsibility at Monsanto Company, a global seed and chemical company, and its spun-off company, Solutia Inc., for a total of 20 years in various finance roles of increasing responsibility with a final position of Vice President & Treasurer. Mr. Tichenor holds a Master of Business Administration degree from Washington University and a Bachelor of Science degree in finance from Truman State University. He is also a Certified Management Accountant and a Certified Treasury Professional.

***Eric R. Waller,
Secretary***

Eric Waller has served as Secretary of each of PIC AU Holdings LLC and PIC AU Holdings Corporation since July 2020. He also currently serves as Vice President & Deputy General Counsel—Governance, Securities, Corporate, & Finance of Peabody, which position he has held since September 2018. Prior to joining Peabody, he served as the Vice President, General Counsel, and Secretary of Armstrong Energy, Inc., a midwestern U.S. coal producer and marketer, from December 2015 to March 2018. Prior to this role, he was Senior Counsel for Columbia Pipeline Group from April 2015 to December 2015 and previously held various in-house counsel roles with Patriot Coal Corporation from November 2007 to April 2015. Prior to his in-house counsel positions, Mr. Waller was an attorney with Steptoe & Johnson PLLC. Mr. Waller is a licensed attorney, and holds a Bachelor of Science in Business Administration (Finance) and a Doctor of Jurisprudence, both from West Virginia University.

Overview

In 2019, the Co-Issuers produced and sold 14.1 million and 14.0 million tons of coal, respectively, from their mining operation.

The business of the Co-Issuers includes the export and domestic markets. Generally, revenues from individual countries vary year by year based on electricity demand, the strength of the global economy, governmental policies and several other factors, including those specific to each country.

The Co-Issuers' operations consist of a mine in New South Wales, Australia. That mine utilizes surface extraction processes to mine low-sulfur, high Btu thermal coal.

The financial information in this Management's Discussion and Analysis of Financial Conditions and Results of Operations of the Co-Issuers section was derived from the historical U.S. GAAP results of Wilpinjong and is presented in U.S. dollars unless otherwise noted.

Going Concern

At September 30, 2020, the Co-Issuers had a net current asset position of \$90.0 million, a net asset position of \$453.0 million, and available liquidity of approximately \$69.0 million comprised primarily of cash on hand.

In considering the Co-Issuers' ability to continue as a going concern, management assessed their access to capital. The Co-Issuers continue to have access to cash reserves through their own bank account and Peabody's central treasury function.

Access to funding through the Peabody central treasury function and continued access to the Co-Issuers' existing cash reserves relies on the good financial standing of Peabody. In considering the financial standing of Peabody, it is probable, as of December 31, 2020, if Peabody does not successfully take mitigation actions, it will be noncompliant with particular restrictions and covenants under certain of its debt agreements. Such noncompliance with these particular restrictions and covenants would constitute a default or cross default under certain of Peabody's debt agreements, at which time the lenders could elect to accelerate the maturity of the related indebtedness or exercise other rights and remedies under the debt agreements. This risk of noncompliance, accompanied by recent negative financial performance and market trends, as well as substantial collateral demands from its surety bond providers, raise questions about whether Peabody will meet its obligations as they become due within one year from the date of the Offering Memorandum and its ability to continue as a going concern.

Management believes that the successful consummation of the Recapitalization Transactions, as described in this Offering Memorandum, will allow the Co-Issuers to continue as a going concern and to realize their assets and extinguish their liabilities in the ordinary course of business.

Results of Operations

Summary

The Co-Issuers' revenues for the year ended December 31, 2019 and the nine months ended September 30, 2020 decreased compared to the same prior year periods (\$169.9 million and \$97.7 million, respectively) due to lower realized prices and unfavorable mix variances.

Results from continuing operations, net of income taxes decreased for the year ended December 31, 2019 compared to the same prior year period (\$111.4 million) due to the unfavorable revenue variance described above, partially offset by lower operating costs and expenses (\$41.4 million) and a decrease in income tax provision (\$15.4 million).

Results from continuing operations, net of income taxes decreased for the nine months ended September 30, 2020 compared to the same prior year period (\$502.9 million) primarily due to the impact of intercompany debt forgiveness (\$416.7 million) and the unfavorable revenue variance described above. These unfavorable variances were partially offset by lower operating costs and expenses (\$12.6 million).

Tons Sold, Revenues and Adjusted EBITDA

The following table presents tons sold, revenues, and Adjusted EBITDA for the Wilpinjong Mine:

	Year Ended December 31,		Increase (Decrease)		Nine Months Ended September 30,		Increase (Decrease)	
	2019	2018	Tons/\$	%	2020	2019	Tons/\$	%
	(Amounts in millions)				(Amounts in millions)			
Tons sold	14.0	13.9	0.1	1%	10.2	10.1	0.1	1%
Revenues	\$524.5	\$694.4	\$ (169.9)	-24%	\$ 297.3	\$ 395.0	\$ (97.7)	-25%
Adjusted EBITDA ⁽¹⁾	195.5	308.4	(112.9)	-37%	92.2	146.9	(54.7)	-37%

(1) This is a financial measure not recognized in accordance with GAAP. Refer to the "Reconciliation of Non-GAAP Financial Measures" section below for definitions and reconciliations to the most comparable measures under GAAP.

Revenues: The decrease in revenues for the year ended December 31, 2019 compared to the prior year was driven by unfavorable realized coal pricing (\$85.0 million) and unfavorable mix variances (\$84.9 million). The decrease in revenues for the nine months ended September 30, 2020 compared to the prior year was driven by unfavorable realized coal pricing (\$85.5 million) and unfavorable mix variances (\$12.2 million).

Adjusted EBITDA. Adjusted EBITDA decreased during the year ended December 31, 2019 compared to the prior year as a result of lower realized net coal pricing (\$76.0 million), higher equipment maintenance costs (\$30.9 million) and the unfavorable impact of mix variances (\$17.0 million). Adjusted EBITDA decreased during the nine months ended September 30, 2020 compared to the prior year as a result of lower realized net coal pricing (\$75.6 million), partially offset by lower costs for leases, materials, services and repairs (\$12.3 million).

Income (Loss) from Continuing Operations, Net of Income Taxes

The following table presents income (loss) from continuing operations, net of income taxes for the Wilpinjong Mine:

	Year Ended December 31,		(Decrease) Increase to		Nine Months Ended September 30,		(Decrease) Increase to	
	2019	2018	Tons/\$	%	2020	2019	Tons/\$	%
	(Amounts in millions)				(Amounts in millions)			
Adjusted EBITDA ⁽¹⁾	\$ 195.5	\$ 308.4	\$ (112.9)	-37%	\$ 92.2	\$ 146.9	\$ (54.7)	-37%
Depreciation, depletion and amortization	(66.6)	(66.8)	0.2	0%	(48.8)	(49.0)	0.2	0%
Asset retirement obligation expenses	(1.2)	(1.1)	(0.1)	-9%	(1.9)	(0.9)	(1.0)	-111%
Interest expense	(1.4)	(2.4)	1.0	42%	(417.7)	(1.2)	(416.5)	-34,708%
Management overhead charges	(4.6)	(6.0)	1.4	23%	(2.4)	(3.4)	1.0	29%
Foreign exchange gain (loss)	0.4	17.4	(17.0)	-98%	(18.0)	13.6	(31.6)	-232%
Other	(0.5)	(1.1)	0.6	55%	0.1	(0.3)	0.4	133%
Income tax provision	(37.9)	(53.3)	15.4	29%	(21.6)	(20.9)	(0.7)	-3%
Income (loss) from continuing operations, net of income taxes	<u>\$ 83.7</u>	<u>\$ 195.1</u>	<u>\$ (111.4)</u>	<u>-57%</u>	<u>\$(418.1)</u>	<u>\$ 84.8</u>	<u>\$(502.9)</u>	<u>-593%</u>

(1) This is a financial measure not recognized in accordance with GAAP. Refer to the “Reconciliation of Non-GAAP Financial Measures” section below for definitions and reconciliations to the most comparable measures under GAAP.

Interest expense: In August of 2020, Wilpinjong recorded a loss on the extinguishment of its net intercompany receivable from its affiliates in contemplation of the Recapitalization Transactions.

Foreign exchange gain (loss): Foreign currency gains and losses were due to changes in the exchange rates during the current period in comparison to the prior year period. During the year ended December 31, 2019 the rate change was a decrease of \$0.0052 versus a decrease of \$0.0742 during the year ended December 31, 2018. During the nine months ended September 30, 2020 the rate change was an increase of \$0.0102 versus a decrease of \$0.0309 during the nine months ended September 30, 2019.

Income tax provision: The decrease in the income tax provision during the year ended December 31, 2019 compared to the prior year period was primarily due to the decrease in taxable income, partially offset by an increase in the provision related to the remeasurement of foreign income tax accounts.

Reconciliation of Non-GAAP Financial Measures

Adjusted EBITDA is defined as income (loss) from continuing operations before deducting net interest expense, income taxes, asset retirement obligation expenses and depreciation, depletion and amortization. Adjusted EBITDA is also adjusted for the discrete items that management excluded in analyzing the mine’s operating performance, as displayed in the reconciliations below.

	Year Ended December 31,		Nine Months Ended September 30,	
	2019	2018	2020	2019
	(Dollars in millions)			
Income (loss) from continuing operations, net of income taxes	\$ 83.7	\$ 195.1	\$ (418.1)	\$ 84.8
Depreciation, depletion and amortization	66.6	66.8	48.8	49.0
Asset retirement obligation expenses	1.2	1.1	1.9	0.9
Interest expense	1.4	2.4	417.7	1.2
Management overhead charges	4.6	6.0	2.4	3.4
Foreign exchange (gain) loss	(0.4)	(17.4)	18.0	(13.6)
Other	0.5	1.1	(0.1)	0.3
Income tax provision	37.9	53.3	21.6	20.9
Adjusted EBITDA	<u>\$ 195.5</u>	<u>\$ 308.4</u>	<u>\$ 92.2</u>	<u>\$ 146.9</u>

Outlook

As part of their normal planning and forecasting process, the Co-Issuers utilize a broad approach to develop macroeconomic assumptions for key variables, including country-level gross domestic product, industrial production, fixed asset investment and third-party inputs, driving detailed supply and demand projections for key demand centers for coal and electricity generation. Supply models and cost curves concentrate on major supply regions/countries that impact the regions in which the Co-Issuers operate.

The Co-Issuers’ estimates involve risks and uncertainties and are subject to change based on various factors as described more fully in the “Disclosure Regarding Forward-Looking Statements” section contained within this document.

The Co-Issuers’ near-term outlook is intended to coincide with the next 12 to 24 months, with subsequent periods addressed in their long-term outlook. The Co-Issuers are continuing to monitor the rapidly evolving COVID-19 pandemic and any impacts related to both their near-term and long-term outlook.

Near-Term Outlook

While timing of recovery varies across countries and sectors, the global economy is showing improvement in industrial production. However, seaborne coal pricing remains muted and below pre-pandemic levels and rising COVID-19 cases worldwide continue to pose a threat to commodity pricing.

Within seaborne thermal, weak demand continues to pressure prices. During the nine months ended September 30, 2020, India imports have declined 24 million tonnes due to existing stockpiles and higher domestic production, and China imports are down 9 million tonnes from the corresponding prior year period. Countries comprising the Association of Southeast Asian Nations (“ASEAN”) are the only major importing regions showing sizable year-over-year growth, with imports up 9 million tonnes year-to-date through September 30, 2020.

Long-Term Outlook

Current projections indicate a slow seaborne market recovery over the next 12 months. Future demand will be impacted by economic conditions and public policy related to the COVID-19 pandemic in key demand centers. Further, the Co-Issuers believe coal demand and use will be adversely impacted by the policy decisions of various governments, regulatory bodies, financial institutions and others with respect to concerns over the environmental and social impacts of coal combustion.

Seaborne Fundamentals. The Co-Issuers expect ASEAN countries and India to be drivers for seaborne coal demand growth due to increased electrification and economic gains. This growth is anticipated to more than offset declines from developed economies, including the U.S. and Europe. Seaborne thermal coal will continue to be sourced primarily from seaborne exporters Indonesia and Australia, along with Russia, Colombia, South Africa and the U.S., among others.

Liquidity and Capital Resources

The Co-Issuer’s primary source of cash is proceeds from the sale of coal to its Peabody affiliates and unrelated customers. The primary uses of cash include cash costs of coal production, capital expenditures, royalty payments, lease payments, and other expenses.

Historically, excess cash produced by the Co-Issuers was provided to its parent entities to fund its obligations and capital requirements.

Capital Requirements

For 2020, the Co-Issuers are targeting capital expenditures of approximately \$21 million, which includes approximately \$17 million for ongoing extension projects and approximately \$4 million in sustaining capital.

Financial Assurances

Australian laws require the Co-Issuers to provide financial assurances related to requirements to reclaim lands used for mining and to satisfy other miscellaneous obligations. The primary methods the Co-Issuers use to meet those obligations are to provide a third-party surety bond or provide a letter of credit, which may be provided by Peabody. As of September 30, 2020, the Co-Issuers indirectly had approximately \$38 million of outstanding surety bonds to provide required financial assurances for post-mining reclamation, and approximately \$59 million of surety bonds for other obligations and performance guarantees.

Commodity Price Risk

The Co-Issuers estimate 2021 thermal coal sales volumes of 13.6 million tons, comprised of thermal export volume of 5.9 million tons and domestic volume of 7.7 million tons. The domestic volume is sold to a single unrelated customer under a long-term coal supply agreement which expires in 2026. The agreement mitigates a portion of the Co-Issuers' commodity price risk.

Existing Credit Facilities

Peabody currently is party to the Peabody Credit Agreement with JPMorgan Chase Bank, N.A., acting as the administrative agent (as successor to Goldman Sachs Bank USA in its capacity as administrative agent), and other lenders party thereto, which includes a \$400.0 million first lien senior secured term loan B facility (the "*Term Loan B Facility*") and a \$540.0 million revolving credit facility (the "*Revolving Credit Facility*" and, together with the Term Loan B Facility, the "*Existing Credit Facilities*"). As of September 30, 2020, Peabody had \$230.0 million of borrowings outstanding under the Revolving Credit Facility. The Peabody Credit Agreement was entered into on April 3, 2017.

The loans under Peabody's Term Loan B Facility mature on March 31, 2025. Loans under Peabody's Revolving Credit Facility mature, and the related commitments will expire, on September 17, 2023. The obligations of Peabody under the Existing Credit Facilities are guaranteed by substantially all of its material domestic restricted subsidiaries and are secured by a lien on substantially all of the assets of Peabody and the Existing Notes Guarantors, subject to certain exceptions.

All amounts outstanding under the Term Loan B Facility bear interest, at the borrower's option, as follows: (A) at the Base Rate plus 1.75%; or (B) at the Eurocurrency Rate plus 2.75%. All amounts outstanding under the Revolving Credit Facility bear interest, at the borrower's option, as follows: (A) at the Base Rate plus 2.25%; or (B) at the Eurocurrency Rate plus 3.25%. The terms "Base Rate" and "Eurocurrency Rate" have meanings customary for financings of this type. In no event can Base Rate be less than the sum of (i) the one-month Eurocurrency Rate (after giving effect to any Eurocurrency Rate "floor") plus (ii) the difference between the applicable stated margin for Eurocurrency Rate loans and the applicable stated margin for Base Rate loans.

The Term Loan B Facility is subject to quarterly amortization of 0.25%, with the final payment of all amounts outstanding (including accrued interest) being due on the maturity date. The Term Loan B Facility principal is voluntarily prepayable at any time without premium or penalty. The Term Loan B Facility requires mandatory principal prepayments in certain circumstances, including prepayments from, without limitation, excess cash flows and excess proceeds from sales of Peabody's assets, in each case subject to certain thresholds and exceptions.

Under the Peabody Credit Agreement, the borrower is subject to a 2.00:1.00 first lien leverage ratio requirement, modified to limit unrestricted cash netting to \$800.0 million. Capacity under the Revolving Credit Facility may be utilized for letters of credit. Unused capacity under the revolver bears a commitment fee of 0.4% per annum.

The Existing Credit Facilities impose certain restrictions on Peabody that are customary for a transaction of this type, including, without limitation and subject to certain exceptions, restrictions on Peabody's ability to: incur liens, incur debt, make investments (including acquisitions), engage in fundamental changes such as mergers and dissolutions, dispose of assets, make restricted payments, change the nature of its business, enter into transactions with affiliates, enter into agreements that restrict its ability to make dividends or distributions and enter into agreements with negative pledge clauses.

As part of the Creditor Transaction Support Agreement, the Revolving Lenders will exchange \$216.0 million of their drawn commitments for (i) a ratable share of a \$10 million cash paydown for the prepayment of the Revolving Credit Facility and (ii) the New Co-Issuer Term Loans. The New Co-Issuer Term Loans will be secured by the Co-Issuer Collateral. The remaining revolving commitments under the Peabody Credit Agreement will be converted into the Peabody L/C Agreement. See "Summary—The Recapitalization Transactions—The RCF Exchange."

Amended and Restated Securitization Facility

On April 3, 2017, Peabody entered into the Sixth Amended and Restated Receivables Purchase Agreement, dated as of April 3, 2017 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the

“Receivables Purchase Agreement”), among P&L Receivables Company, LLC (“P&L Receivables”), as the Seller, Peabody, as the Servicer, the sub-servicers party thereto, the various purchasers and purchaser agents party thereto and PNC Bank, National Association (“PNC”), as administrator. The Receivables Purchase Agreement includes certain receivables from Peabody’s Australian operations.

The receivables securitization program (the “Securitization Program”) is subject to certain liquidity requirements and other customary events of default set forth in the Receivables Purchase Agreement. The Securitization Program provides for up to \$250.0 million in funding accounted for as a secured borrowing, limited to the availability of eligible receivables, and may be secured by a combination of collateral and the trade receivables underlying the program, from time to time. Funding capacity under the Securitization Program may also be utilized for letters of credit in support of other obligations. During 2019, Peabody entered into an amendment to the Securitization Program to extend its term through April 1, 2022 and reduce program fees.

Under the terms of the Securitization Program, Peabody contributes the trade receivables of its participating subsidiaries on a revolving basis to P&L Receivables, its wholly owned, bankruptcy-remote subsidiary, which then sells the receivables to unaffiliated banks. P&L Receivables retains the ability to repurchase the receivables in certain circumstances. The assets and liabilities of P&L Receivables are consolidated with Peabody, and the Securitization Program is treated as a secured borrowing for accounting purposes, but the assets of P&L Receivables will be used first to satisfy the creditors of P&L Receivables, not Peabody’s creditors. The borrowings under the Securitization Program remain outstanding throughout the term of the agreement, subject to Peabody maintaining sufficient eligible receivables, by continuing to contribute trade receivables to P&L Receivables, unless an event of default occurs.

At September 30, 2020, Peabody had \$60.0 million outstanding borrowings and \$3.4 million of letters of credit issued under the Securitization Program. The letters of credit were primarily in support of portions of Peabody’s obligations for property and casualty insurance. Peabody had no collateral posted under the Securitization Program at September 30, 2020 or December 31, 2019. Peabody incurred interest and fees associated with the Securitization Program of \$0.8 million and \$1.0 million during the three months ended September 30, 2020 and 2019, respectively, and \$2.9 million and \$3.6 million during the nine months ended September 30, 2020 and 2019, respectively, which have been recorded as interest expense in the accompanying unaudited condensed consolidated statements of operations.

2025 Notes

As of September 30, 2020, Peabody had outstanding \$500.0 million aggregate principal amount of 6.375% Senior Secured Notes due March 31, 2025 (the “2025 Notes”), which were initially issued together with the Existing Notes on February 15, 2017 pursuant to the Initial Indenture and which are currently governed by the Existing Indenture. The 2025 Notes were sold in a private transaction exempt from the registration requirements of the Securities Act and were issued at par value. Interest payments on the 2025 Notes are scheduled to occur each year on March 31 and September 30 until maturity. The 2025 Notes may be redeemed, in whole or in part, in 2020 at 104.8% of par, in 2021 at 103.2% of par, in 2022 at 101.6% of par, and in 2023 and thereafter at par.

On August 9, 2018, Peabody executed an amendment to the Existing Indenture following the solicitation of consents from the requisite majority of holders of the 2025 Notes. The amendment permits a category of restricted payments at any time not to exceed the sum of \$650.0 million, plus an additional \$150.0 million per calendar year, commencing with calendar year 2019, with unused amounts in any calendar year carrying forward to and available for restricted payments in any subsequent calendar year. Peabody paid consenting 2025 Note holders \$30.00 in cash per \$1,000 principal amount of 2025 Notes.

The Existing Indenture contains customary events of default and imposes certain restrictions on Peabody’s activities, including its ability to incur liens, incur debt, make investments, engage in fundamental changes such as mergers and dissolutions, dispose of assets, enter into transactions with affiliates and make certain restricted payments, such as cash dividends and share repurchases.

The 2025 Notes rank senior in right of payment to any future subordinated indebtedness of Peabody and the Existing Notes Guarantors and equally in right of payment with any senior indebtedness. The 2025 Notes are jointly and severally and fully and unconditionally guaranteed on a senior secured basis by substantially all of Peabody's material domestic subsidiaries. The obligations under the 2025 Notes are and, following the transactions contemplated hereby, will be secured on a *pari passu* basis by the same collateral securing the Peabody Credit Agreement and the New Peabody Notes, subject to certain exceptions.

If the Existing Indenture Amendments are adopted with respect to the Existing Notes in connection with the Exchange Offer and Consent Solicitation, the Existing Indenture will remain in its current form with respect to the 2025 Notes, other than with respect to the Collateral Increase.

Collateral Increase

If the Existing Indenture Amendments to the Existing Indenture are adopted with respect to the Existing Notes in connection with the Exchange Offer and Consent Solicitation, the Existing Indenture will remain in its current form with respect to the 2025 Notes, other than any changes required to add additional collateral in favor of the 2025 Notes, on a *pari passu* basis with the New Peabody Notes, the Peabody Credit Agreement, and the Peabody L/C Agreement, including (i) the remaining portion of the voting capital stock of each first tier foreign subsidiary of Peabody or each foreign subsidiary holding company of Peabody, except in each case to the extent that such capital stock constitutes an excluded asset, (ii) the remaining portion of the voting capital stock of Peabody Investments (Gibraltar) Limited, provided that, if at any time after the Settlement Date, in the good faith determination by Peabody that the pledge of 100% of the voting capital stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the legal charge over the stock of Peabody Investments (Gibraltar) Limited shall be reduced to levels such that there is no such material cash tax liability and, (iii) certain additional collateral, in each case, subject to certain exceptions (the "*Collateral Increase*"). To the extent the existing security documents are not sufficient to cover the grant and perfection of the assets that are part of the Collateral Increase, Peabody and the Peabody Guarantors will take commercially reasonable efforts to enter into additional security documents on a post-closing basis.

DESCRIPTION OF THE CO-ISSUERS' OTHER INDEBTEDNESS

The Co-Issuers plan to enter into a credit agreement, among Co-Issuers, the administrative agent party thereto, and the lenders party thereto (the “Co-Issuers Credit Agreement”), which includes a \$206.0 million first lien senior secured term loan facility.

The loans under the Co-Issuers Credit Agreement will mature on December 31, 2024. The obligations of the Co-Issuers under the Co-Issuers Credit Agreement will be guaranteed to the same extent as the Co-Issuer Notes and will be secured by the Co-Issuer Collateral on a *pari passu* basis.

All amounts outstanding under the Co-Issuers Credit Agreement will bear interest at 10.0% per annum, payable quarterly in cash.

The Co-Issuers Credit Agreement will impose certain restrictions on the Co-Issuers and their subsidiaries, including, without limitation and subject to certain exceptions, restrictions on the Co-Issuer’s ability to: incur liens, incur debt, make investments (including acquisitions), engage in fundamental changes such as mergers and dissolutions, dispose of assets, make restricted payments, change the nature of its business, enter into transactions with affiliates, enter into agreements that restrict its ability to make dividends or distributions and enter into agreements with negative pledge clauses.

This summary of material terms of the Co-Issuers Credit Agreement is based on the current drafts of the definitive agreements, which are expected to be executed concurrently with the consummation of the Exchange Offer. Certain of the above described terms for the Co-Issuer Credit Agreement are subject to continuing negotiation between the Co-Issuers and their prospective lenders and could change in the definitive documentation for the Co-Issuers Credit Agreement.

DESCRIPTION OF THE NEW CO-ISSUER NOTES

Solely for purposes of this “Description of the New Co-Issuer Notes,” references to “Main Issuer” are to PIC AU Holdings LLC, a Delaware limited liability company, references to “Co-Issuer” are to PIC AU Holdings Corporation, a Delaware corporation, and the terms “we,” “us,” “our” and the “Issuers” refer only to Main Issuer and Co-Issuer and any of their successor obligors, and not to any of their subsidiaries. You can find the definitions of certain other terms used in this description under “—Certain Definitions.”

On the Issue Date, the Issuers will issue \$194.0 million in aggregate principal amount of 10.000% senior secured notes due 2024 (the “notes”) under an indenture (the “indenture”) among themselves and Wilmington Trust, National Association, as trustee (in such capacity, the “Trustee”) and as collateral trustee (in such capacity the “Collateral Trustee”), in a private transaction that is not subject to the registration requirements of the Securities Act. Holders of the notes will not be entitled to any registration rights. See “Notice to Investors.” It is not anticipated that the indenture will be qualified under, or subject to, the Trust Indenture Act of 1939, as amended (the “TIA”), and, as a result, holders of the notes will not receive the protection afforded thereby. The Security Documents referred to below define the terms of the agreements that will secure the notes. Only registered holders of notes will have rights under the indenture, and all references to “holders” or “noteholders” in the following description are to registered holders of notes.

The following description is a summary of the material provisions of the indenture, the notes and the Security Documents. Because this is a summary, it may not contain all the information that is important to you. You should read each of these documents in its entirety because such documents, and not this description, will define the Issuers’ obligations and your rights as holders of the notes.

Brief Description of the New Co-Issuer Notes

The notes:

- (1) will be general senior secured obligations of the Issuers;
- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under the Term Loan Facility), by Liens on the assets of the Issuers that constitute Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be *pari passu* in right of payment with all existing and future senior Debt of either of the Issuers; the payment obligations of the Issuers under the notes shall at all times rank at least equally with all other present and future Indebtedness of the Issuers;
- (4) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations (including with respect to Collateral securing the Obligations on a second lien basis) of either of the Issuers to the extent of the value of the Collateral;
- (5) will be structurally subordinated to any existing and future Debt and other liabilities of the Issuers’ Subsidiaries, unless such subsidiaries guarantee the notes in the future;
- (6) will be senior in right of payment to any future subordinated Debt of either of the Issuers;
- (7) structurally senior to all of Peabody’s indebtedness, including such indebtedness under the Peabody Credit Agreement, the Peabody L/C Agreement, the Peabody Existing Indenture and the Peabody 2024 Notes Indenture; and
- (8) effectively junior to all of the Issuers’ secured indebtedness and obligations which are secured by liens on assets that do not constitute Collateral, in each case, to the extent of the value of the assets securing that indebtedness.

The notes will mature on December 31, 2024. The notes will bear interest commencing the date of issue at the rate of 10.000% per annum. Interest on the notes will be payable quarterly on each March 31, June 30,

September 30 and December 31, commencing March 31, 2021. The Issuers will make each interest payment to holders of record of the notes on the March 15, June 15, September 15 and December 15 immediately preceding the interest payment date. The notes will bear interest on overdue principal, and, to the extent lawful, on overdue interest, at a rate that is 2.00% per annum higher than the rate otherwise applicable to the notes. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Except as set forth in “—Book-Entry, Delivery and Form,” the notes will be issued in registered, global form in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

Guarantees

The notes will not be guaranteed by any of the Issuers’ Subsidiaries and thus will be structurally subordinated to any existing or future indebtedness or other liabilities, including trade payables, of any such Subsidiaries, provided that to the extent not resulting in a materially adverse tax consequence (as determined by Peabody in its reasonable business judgment), if any of PIC Acquisition Corp., a Delaware corporation (“PIC Acquisition”), Wilpinjong Coal Pty Ltd (“Wilpinjong Opco”) or any of its subsidiaries at any time is not contractually prohibited from becoming a Guarantor (as determined by the Company in its reasonable business judgment), PIC Acquisition, Wilpinjong Opco or such subsidiary shall become a Guarantor (each of PIC Acquisition, Wilpinjong Opco or such subsidiary that becomes a guarantor as required in the succeeding sentence, collectively, with the Issuers, the “Wilpinjong Credit Parties”).

Collateral

The obligations of the Issuers with respect to the notes, and the performance of all other obligations of the Issuers under the indenture will be secured equally and ratably by first priority Liens in the Collateral granted to the Priority Collateral Trustee for the benefit of the holders of the notes and any other Priority Lien Obligations. These Liens will be senior in priority to the Liens securing Junior Lien Obligations with respect to the Collateral. The Liens securing Junior Lien Obligations will be held by the Junior Collateral Trustee. The notes offered hereby will be considered to be Priority Lien Debt for purposes of the Collateral Trust Agreement. All Liens securing Priority Lien Obligations will be held by the Priority Collateral Trustee and administered pursuant to the Collateral Trust Agreement. References to “Collateral Trustee” herein shall mean each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

The Collateral initially comprises (i) 100% of the capital stock of PIC Acquisition Corp. owned by the Main Issuer, which constitutes 100% of all capital stock issued by PIC Acquisition Corp. (the “Pledged Equity Interests”) and (ii) all other property subject or purported to be subject, from time to time, to a Lien under any Secured Document (collectively, the “Collateral”).

Collateral Trust Agreement

The Issuers will enter into a Collateral Trust Agreement with the Junior Collateral Trustee, the Priority Collateral Trustee and each other Secured Debt Representative. The Collateral Trust Agreement will set forth the terms on which each of the Priority Collateral Trustee and the Junior Collateral Trustee will receive, hold, administer, maintain, enforce and distribute the proceeds of all Liens upon the Collateral at any time held by it, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof).

Collateral Trustee

Wilmington Trust, National Association, will be appointed pursuant to the Collateral Trust Agreement to serve as Priority Collateral Trustee for the benefit of the holders of the notes offered hereby and all other Priority Lien Obligations outstanding from time to time.

Wilmington Trust, National Association will be appointed pursuant to the Collateral Trust Agreement to serve as Junior Collateral Trustee for the benefit of the holders of the Junior Lien Obligations outstanding from time to time.

Neither the Issuers nor any of their Affiliates may act as Collateral Trustee.

Each of the Priority Collateral Trustee and the Junior Collateral Trustee will hold (directly or through co-trustees or agents), and will be entitled to enforce, all Liens on the Collateral at any time held by it created by the relevant Security Documents, subject to the Collateral Trust Agreement.

Except as provided in the Collateral Trust Agreement or as directed by an Act of Required Secured Parties in accordance with the Collateral Trust Agreement (or, following the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders in accordance with the Collateral Trust Agreement, subject to the terms described below under the caption “—Restrictions on Enforcement of Junior Liens”), the Collateral Trustee will not be obligated:

- (1) to act upon directions purported to be delivered to it by any Person;
- (2) to foreclose upon or otherwise enforce any Lien; or
- (3) to take any other action whatsoever with regard to any or all of the Security Documents, the Liens created thereby or the Collateral.

The Issuers will deliver to each Secured Debt Representative copies of all Security Documents delivered to the Collateral Trustee acting for the benefit of such Secured Debt Representative.

Enforcement of Liens

The Collateral Trust Agreement will provide that if a Secured Debt Representative delivers at any time to the Collateral Trustee written notice that any event has occurred that constitutes a default under any Secured Debt Document entitling the Collateral Trustee to foreclose upon, collect or otherwise enforce its Liens under the applicable Security Documents, such Secured Debt Representative will promptly deliver written notice thereof to each other Secured Debt Representative and the other Collateral Trustee. Thereafter, the Collateral Trustee may await direction by an Act of Required Secured Parties and will act, or decline to act, as directed by an Act of Required Secured Parties, in the exercise and enforcement of the Collateral Trustee’s interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Trustee will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Required Secured Parties; provided, however, that from and after the Junior Lien Enforcement Date (as defined below), the Junior Collateral Trustee shall exercise or decline to exercise enforcement rights, powers and remedies as directed by the Required Junior Lien Debtholders, as described below under the caption “—Restrictions on Enforcement of Junior Liens,” unless the Priority Lien Secured Parties or a Priority Lien Representative shall have caused the Priority Collateral Trustee to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives). Unless it has been directed to the contrary by an Act of Required Secured Parties (or, from and after the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders, subject to the terms described under the caption “—Restrictions on Enforcement of Junior Liens”) or as otherwise expressly provided in the Collateral Trust Agreement, the Collateral Trustee in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Secured Debt Document as it may deem advisable and in the best interest of the Secured Parties.

Priority of Liens

The Collateral Trust Agreement will provide that notwithstanding anything therein or in any other Security Document to the contrary, and notwithstanding the date, time, method, manner or order of grant, attachment or

perfection of any Liens securing the Junior Lien Obligations granted on the Collateral or of any Liens securing the Priority Lien Obligations granted on the Collateral and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or any other applicable law or the Junior Lien Documents or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against any Issuer or any other Grantor, the Collateral Trust Agreement and the other Security Documents will create two separate and distinct Trust Estates and Liens:

- (1) each Grantor's right, title and interest in, to and under all Collateral, granted to the Priority Collateral Trustee under any Priority Lien Security Document for the benefit of the Priority Lien Secured Parties, together with all of the Priority Collateral Trustee's right, title and interest in, to and under the Priority Lien Security Documents, and all interests, rights, powers and remedies of the Priority Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "Senior Trust Estate"), and Priority Lien securing the payment and performance of the Priority Lien Obligations;
- (2) Lien Obligations now or hereafter held by the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties or held by any Priority Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are senior and prior to any Liens on Collateral securing the Junior Lien Obligations; and
- (3) each Grantor's right, title and interest in, to and under all Collateral granted to the Junior Collateral Trustee under any Junior Lien Security Document for the benefit of the Junior Lien Secured Parties, together with all of the Junior Collateral Trustee's right, title and interest in, to and under the Junior Lien Security Documents, and all interests, rights, powers and remedies of the Junior Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively the "Junior Trust Estate" and together with the Senior Trust Estate, the "Trust Estates"), and Junior Lien securing the payment and performance of the Junior Lien Obligations; and the Collateral Trust Agreement will provide that any Liens on Collateral securing the Junior Lien Obligations held by the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties or held by any Junior Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are subject to the priority of and subordinate to any Liens on Collateral securing the Priority Lien Obligations.

The Collateral Trust Agreement will further provide that in the event that any Junior Lien Secured Party becomes a judgment lien creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of any Junior Lien Obligations, such judgment lien shall be subordinated to the Priority Liens on the same basis as the Junior Liens are subordinated to the Priority Liens.

Collateral Sharing Equally and Ratably within Class

The Collateral Trust Agreement will provide that the payment and satisfaction of all of the Secured Obligations within each Class will be secured equally and ratably by the Liens established in favor of the Collateral Trustee for the benefit of the Secured Parties belonging to such Class, notwithstanding the time of incurrence of any Secured Obligations within such Class or the date, time, method or order of grant, attachment or perfection of any Liens securing such Secured Obligations within such Class and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation, or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations or the Junior Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any

Insolvency or Liquidation Proceeding has been commenced against any Issuer or any other Grantor, and the Collateral Trust Agreement will further provide that:

- (1) all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by any Issuer or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Junior Lien Debt, and that all such Junior Liens will be enforceable by the Junior Collateral Trustee for the benefit of all Junior Lien Secured Parties equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement will provide that this provision will not be violated with respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and
- (2) all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by any Issuer or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt, whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt, and that all such Priority Liens will be enforceable by the Priority Collateral Trustee for the benefit of all Priority Lien Secured Parties equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement will provide that this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property.

The Collateral Trust Agreement will further provide that the foregoing provision will not alter the priorities of the Liens of the Priority Collateral Trustee and the Junior Collateral Trustee or among Secured Parties belonging to different Classes as provided above under the caption “—Priority of Liens.”

For the avoidance of doubt, the Liens on the Collateral securing the notes shall be *pari passu* with the Liens on the Collateral securing the Obligations under the Term Loan Facility.

Restrictions on Enforcement of Junior Liens

The Collateral Trust Agreement will provide that, until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Issuer or any other Grantor, the Priority Lien Secured Parties will have, subject to the exceptions set forth below in clauses (1) through (7), the exclusive right to authorize and direct the Collateral Trustee with respect to the Security Documents and the Collateral including, without limitation, the exclusive right to authorize or direct the Priority Collateral Trustee to enforce, collect or realize on any Collateral or exercise any other right or remedy with respect to the Collateral (including, without limitation, the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee’s letter or similar agreement or arrangement) and neither the Junior Lien Representative nor any other Junior Lien Secured Party may authorize or direct the Junior Collateral Trustee with respect to such matters; provided, however, that the Required Junior Lien Debtholders (or the Junior Lien Representative representing such Required Junior Lien Debtholders) may so direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral thereunder after the date (the “Junior Lien Enforcement Date”) that is 24 months after the later of: (i) the date on which any duly authorized agent or trustee has declared the existence of any Event of Default under (and as defined in) any Junior Lien Document and demanded the repayment of all the principal amount of all Junior Lien Obligations thereunder; and (ii) the date on which the Collateral Trustee and each Priority Lien Representative has received notice from the Junior Lien Representative of such

declarations of an Event of Default; provided further that notwithstanding anything in the Collateral Trust Agreement to the contrary, the Junior Lien Enforcement Date shall be stayed and shall be deemed not to have occurred (I) at any time the Priority Collateral Trustee has commenced and is diligently pursuing any enforcement action with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representative) or (II) at any time the Grantor which has granted a security interest in such Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding. Notwithstanding the foregoing, the requisite Junior Lien Secured Parties may direct the Junior Collateral Trustee or the Junior Lien Representative, as applicable (and, in the case of subclauses (5) and (6) below, any Junior Lien Secured Party may):

- (1) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations;
- (2) as necessary to redeem any Collateral in a creditors' redemption permitted by law or to deliver any notice or demand necessary to enforce any right to claim, take or receive proceeds of Collateral remaining after the Discharge of Priority Lien Obligations;
- (3) in order to perfect or establish the priority (subject to Priority Liens) of the Junior Liens upon any Collateral; provided that the Junior Lien Secured Parties may not require the Collateral Trustee to take any action to perfect any Collateral through possession or control other than the Priority Collateral Trustee taking any action for possession or control required by any Security Documents and the Priority Collateral Trustee agreeing pursuant to the Collateral Trust Agreement that the Priority Collateral Trustee agrees to act as bailee and/or agent for and on behalf of the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties as specified in the Collateral Trust Agreement;
- (4) in order to create, prove, preserve or protect (but not enforce) its rights in, and perfection and priority of the Junior Liens upon any Collateral;
- (5) file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Lien Secured Parties, including any claims secured by the Collateral, if any, or the avoidance of any Junior Lien, in each case to the extent not inconsistent with the terms of the Collateral Trust Agreement;
- (6) vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim (if applicable) or statement of interest, make other filings and make any arguments and motions that are, in each case, with respect to the Junior Lien Obligations and the Collateral; provided that no filing of any claim or vote, or pleading related to such claim or vote, to accept or reject a disclosure statement, plan of reorganization, arrangement, compromise or liquidation, or any other document, agreement or proposal similar to the foregoing by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or the Junior Lien Representative may be inconsistent with the provisions of the Collateral Trust Agreement, unless the Priority Lien Secured Parties or a Priority Lien Representative, in each case through an Act of Required Secured Parties as specified in clause (i) of the definition thereof shall have consented thereto in writing or to the extent any such plan or similar proposal is proposed; or
- (7) in any Insolvency or Liquidation Proceeding commenced by or against any Grantor, file a claim (if applicable) or statement of interest with respect to the Junior Lien Obligations; provided that no such filing may contain any statement regarding the priority of the Liens securing the Junior Lien Obligations relative to the priority of the Liens securing the Priority Lien Obligations that is inconsistent with the provisions of the Collateral Trust Agreement.

Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Issuer or any other Grantor, none of the Junior Collateral Trustee (unless

acting pursuant to an Act of Required Secured Parties), the Junior Lien Representative or the other Junior Lien Secured Parties will:

- (1) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other court, or take any other action, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the Priority Lien Secured Parties in respect of the Priority Liens (subject to the exceptions set forth above in clauses (1) through (7)) or that would limit, invalidate, avoid or set aside any Priority Lien or subordinate the Priority Liens to the Junior Liens or grant the Junior Liens equal ranking to the Priority Liens;
- (2) oppose or otherwise contest any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement of Priority Liens made by any Priority Lien Secured Party or any Priority Lien Representative in any Insolvency or Liquidation Proceedings;
- (3) oppose or otherwise contest any lawful exercise by any Priority Lien Secured Party or any Priority Lien Representative of the right to credit bid Priority Lien Debt at any sale of Collateral in foreclosure of Priority Liens;
- (4) oppose or otherwise contest any other request for judicial relief made in any court by any holder of Priority Lien Obligations or any Priority Lien Representative relating to the lawful enforcement of any Priority Lien;
- (5) contest, protest or object to any foreclosure proceeding or action brought by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party or any other exercise by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party of any rights and remedies relating to the Collateral under the Priority Lien Documents or otherwise and the Junior Lien Representative on behalf of itself and each other Junior Lien Secured Party waives any and all rights it may have to object to the time or manner in which the Priority Collateral Trustee or any Priority Lien Secured Party seeks to enforce the Priority Lien Obligations or the Priority Liens, in each case, subject to the exceptions set forth above in clauses (1) through (7);
- (6) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding) the validity, enforceability, perfection, priority or extent of the Priority Liens or the amount, nature or extent of the Priority Lien Obligations; or
- (7) object to the forbearance by the Priority Collateral Trustee from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral; provided, that notwithstanding the foregoing, the Junior Lien Representative representing the Junior Lien Secured Parties and acting at the direction of the Required Junior Lien Debtors may direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral from and after the Junior Lien Enforcement Date as described under the caption “—Restrictions on Enforcement of Junior Liens.”

At any time prior to the Discharge of Priority Lien Obligations and after (a) the commencement of any Insolvency or Liquidation Proceeding in respect of any Issuer or any other Grantor or (b) the Junior Collateral Trustee and each Junior Lien Representative have received written notice from any Priority Lien Representative at the direction of an Act of Required Secured Parties stating that (i) any Series of Priority Lien Debt has become due and payable in full (whether at maturity, upon acceleration or otherwise) or (ii) the Priority Lien Secured Parties securing one or more Series of Priority Lien Debt have become entitled under any Priority Lien Documents to and desire to enforce any or all of the Priority Liens by reason of a default under such Priority Lien Documents, no payment of money (or the equivalent of money) will be made from the proceeds of Collateral by the Issuers or any other Grantor to the Junior Collateral Trustee or any Junior Lien Secured Party (including, without limitation, payments and prepayments made from such proceeds for application to Junior Lien Obligations and all other payments and deposits made from such proceeds pursuant to any Junior Lien Document).

All proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative or any other Junior Lien Secured Party in violation of the two immediately preceding paragraphs and all proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative or other Junior Lien Secured Party in connection with any exercise of remedies against the Collateral will be held by the Junior Collateral Trustee, the Junior Lien Representative or any other applicable Junior Lien Secured Party in trust for the account of the Priority Lien Secured Parties and remitted to the Priority Collateral Trustee for application in accordance with the provisions described below under the caption “Collateral Trust Agreement—Order of Application.” The Junior Liens will remain attached to and enforceable against all proceeds so held or remitted until applied to satisfy the Priority Lien Obligations. All proceeds of Collateral received by the Junior Collateral Trustee, the Junior Lien Representative and any other Junior Lien Secured Party not in violation of the two immediately preceding paragraphs will be received by the Junior Collateral Trustee, the Junior Lien Representative and such other Junior Lien Secured Parties free from the Priority Liens and all other Liens except the Junior Liens.

Waiver of Right of Marshalling

The Collateral Trust Agreement will provide that, prior to the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties, each Junior Lien Representative and the Junior Collateral Trustee may not assert or enforce any marshaling, appraisal, valuation or other similar right accorded to a junior lienholder under applicable law, as against the Priority Lien Secured Parties or the Priority Lien Representatives (in their respective capacities as such). Following the Discharge of Priority Lien Obligations, the Junior Lien Representative and the other Junior Lien Secured Parties may assert their right under the Uniform Commercial Code or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the Priority Lien Secured Parties.

Insolvency or Liquidation Proceedings

The Collateral Trust Agreement will provide that, if in any Insolvency or Liquidation Proceeding and prior to the Discharge of Priority Lien Obligations, the Priority Lien Secured Parties by an Act of Required Secured Parties shall desire to permit the use of “Cash Collateral” (as such term is defined in Section 363(a) of the Bankruptcy Code), or to permit any Issuer or any other Grantor to obtain financing, whether from the Priority Lien Secured Parties or any other Person under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law (“DIP Financing”) then each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative for itself and on behalf of the other Junior Lien Secured Parties represented by it, will raise no objection to such Cash Collateral use or DIP Financing including any proposed orders for such Cash Collateral use and/ or DIP Financing which are acceptable to the Priority Lien Secured Parties) and to the extent the Liens securing the Priority Lien Obligations are subordinated to or *pari passu* with such DIP Financing, the Junior Collateral Trustee will subordinate its Junior Liens in the Collateral to the Liens securing such DIP Financing (and all Obligations relating thereto) and will not request adequate protection or any other relief in connection therewith (except, as expressly agreed by the Priority Lien Secured Parties or to the extent permitted as described below under this caption “—Insolvency or Liquidation Proceedings”. No Junior Lien Secured Party may provide DIP Financing to either of the Issuers or any other Grantor secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations and no such DIP Financing shall “roll-up” or otherwise include or refinance any pre-petition Junior Lien Obligations. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative on behalf itself and the other Junior Lien Secured Parties will raise no objection to or oppose a motion to sell, liquidate or otherwise dispose of Collateral under Section 363 of the Bankruptcy Code if the requisite Priority Lien Secured Parties have consented to such sale, liquidation or other disposition; provided that, to the extent such sale, liquidation or other disposition is to be free and clear of Liens, the Liens securing the Priority Lien Obligations and the Junior Lien Obligations will attach to the proceeds of the sale, liquidation or other disposition on the same basis of priority as the Liens on the Collateral securing the Priority Lien Obligations rank to the Liens on the Collateral securing the Junior Lien Obligations pursuant to the Collateral Trust Agreement. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative on behalf of itself and the other

Junior Lien Secured Parties will not directly or indirectly oppose or impede entry of any order in connection with such sale, liquidation or other disposition, including orders to retain professionals or set bid procedures in connection with such sale, liquidation or disposition if the requisite Priority Lien Secured Parties have consented to such (i) retention of professionals and bid procedures in connection with such sale, liquidation or disposition of such assets and (ii) the sale, liquidation or disposition of such assets, in which event the Junior Lien Secured Parties will be deemed to have consented to the sale or disposition of Collateral pursuant to Section 363(f) of the Bankruptcy Code and such motion does not impair the rights of the Junior Lien Secured Parties under Section 363(k) of the Bankruptcy Code.

The Collateral Trust Agreement will provide that until the Discharge of Priority Lien Obligations has occurred, none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties, shall: (i) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral, without the prior written consent of the Priority Lien Secured Parties or a Priority Lien Representative, through an Act of Required Secured Parties as specified in clause (i) of the definition thereof, unless a motion for adequate protection permitted under this caption “—Insolvency or Liquidation Proceedings” has been denied by a bankruptcy court or (ii) oppose (or support any other Person in opposing) any request by the Priority Lien Secured Parties for relief from such stay.

The Collateral Trust Agreement will provide that none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and the Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties shall contest (or support any other Person contesting): (1) any request by the Priority Lien Representatives or the Priority Lien Secured Parties for adequate protection under any Bankruptcy Law; or (2) any objection by the Priority Lien Representatives or the Priority Lien Secured Parties to any motion, relief, action or proceeding based on the Priority Lien Secured Parties claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding: (1) if the Priority Lien Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral or superpriority claims in connection with any Cash Collateral use or DIP Financing, then the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or Junior Lien Representative, on behalf of itself or any of the other Junior Lien Secured Parties represented by it, may seek or request adequate protection in the form of a Lien on such additional collateral or superpriority claim, (A) which Lien will be subordinated to the Liens securing the Priority Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Junior Lien Obligations are so subordinated to the Priority Lien Obligations under the Collateral Trust Agreement and (B) which superpriority claim will be subordinated to all superpriority claims of the Priority Lien Secured Parties on the same basis as the other claims of the Junior Lien Secured Parties are so subordinated to the claims of the Priority Lien Secured Parties under the Collateral Trust Agreement; and (2) each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representatives and the Junior Lien Secured Parties shall only be permitted to seek adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding in the form of (A) additional collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted a senior Lien on such additional collateral; (B) replacement Liens on the Collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted senior replacement Liens on the Collateral; and (C) an administrative expense claim; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted an administrative expense claim which is senior and prior to the administrative expense claim of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of the Junior Lien Secured Parties represented by it. If any Junior Lien Secured Party receives post-petition interest and/or adequate protection payments in an Insolvency or Liquidation Proceeding (“Junior Lien Adequate Protection Payments”), and the Priority Lien Secured Parties do not receive payment in full in cash of all Priority Lien Obligations upon the effectiveness of the plan of reorganization for, or conclusion of, that Insolvency or Liquidation Proceeding, then, each Junior Lien Secured Party shall pay over to the Priority

Lien Secured Party an amount (the “Pay-Over Amount”) equal to the lesser of (i) the Junior Lien Adequate Protection Payments received by such Junior Lien Secured Parties and (ii) the amount of the short-fall (the “Short Fall”) in payment in full of the Priority Lien Obligations; provided that to the extent any portion of the Short Fall represents payments received by the Priority Lien Secured Parties in the form of promissory notes, equity or other property, equal in value to the cash paid in respect of the Pay-Over Amount, the Priority Lien Secured Parties shall, upon receipt of the Pay-Over Amount, transfer those promissory notes, equity or other property, pro rata, equal in value to the cash paid in respect of the Pay-Over Amount to the applicable Junior Lien Secured Parties in exchange for the Pay-Over Amount. Notwithstanding anything in the Collateral Trust Agreement to the contrary, the Priority Lien Secured Parties shall not be deemed to have consented to, and expressly retain their rights to object to the grant of adequate protection in the form of cash payments to the Junior Lien Secured Parties made pursuant to this paragraph.

Nothing in the Collateral Trust Agreement, except as expressly provided therein, will prohibit or in any way limit any Priority Lien Representative or any Priority Lien Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties, including the seeking by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of adequate protection or the asserting by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of any of its rights and remedies under the Junior Lien Documents or otherwise.

The Collateral Trust Agreement will provide that if any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of any Issuer or any other Grantor any amount paid in respect of Priority Lien Obligations (a “Recovery”), then such Priority Lien Secured Party shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts on the date of such Recovery, and from and after the date of such reinstatement the Discharge of Priority Lien Obligations shall be deemed not to have occurred for all purposes hereunder. If the Collateral Trust Agreement is terminated prior to such Recovery, the Collateral Trust Agreement will be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

The Collateral Trust Agreement will provide that the grants of Liens pursuant to the Priority Lien Security Documents and the Junior Lien Security Documents constitute two separate and distinct grants of Liens; and because of, among other things, their differing rights in the Collateral, the Junior Lien Obligations are fundamentally different from the Priority Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. If it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then all distributions will be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior secured claims) in respect of post-petition interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding) before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, and the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or each Junior Lien Representative, as applicable, for itself and on behalf of the Junior Lien Secured Parties for whom it acts as representative, will turn over to the Priority Collateral Trustee for application in accordance with the Collateral Trust Agreement, Collateral or proceeds of Collateral otherwise received or

receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties).

The Collateral Trust Agreement will provide that, notwithstanding any other provision to the contrary, each Junior Lien Representative and the Junior Collateral Trustee, for itself and on behalf of each other Junior Lien Secured Party represented by it, agrees that none of such Junior Lien Representative or the Junior Collateral Trustee, the Junior Lien Secured Parties represented by it or any agent or trustee on behalf of any of them shall, during any Insolvency or Liquidation Proceeding or otherwise, support, endorse, propose or submit, whether directly or indirectly, any plan of reorganization that provides for the impairment of repayment of the Priority Lien Obligations (with impairment to be determined under Section 1124 of the Bankruptcy Code) unless (i) the Priority Lien Secured Parties or the Priority Lien Representative, in each case, through an Act of Required Secured Parties as specified in clause (i) of the definition thereof shall have consented to such plan in writing or (ii) such plan of reorganization provides for the Discharge of Priority Lien Obligations (including all post-petition interest, fees and expenses) on the effective date of such plan of reorganization or liquidation, as applicable. Without limiting the foregoing, the Collateral Trust Agreement provides that if, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of Priority Lien Obligations and on account of Junior Lien Obligations, then, to the extent the debt obligations distributed on account of the Priority Lien Obligations and on account of the Junior Lien Obligations are secured by Liens upon the same property, the provisions of the Collateral Trust Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

The Collateral Trust Agreement will be a “subordination agreement” under Section 510(a) of the Bankruptcy Code, which will be effective before, during and after the commencement of an insolvency proceeding. All references in the Collateral Trust Agreement to any Grantor will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an insolvency proceeding.

Order of Application

The Collateral Trust Agreement will provide that if any Collateral is sold or otherwise realized upon by the Collateral Trustee in connection with any collection, sale, foreclosure or other enforcement of Liens granted to the Collateral Trustee in the Security Documents, the proceeds received by the Collateral Trustee from such collection, sale, foreclosure or other enforcement and the proceeds received by the Collateral Trustee or any Priority Lien Secured Party or Junior Lien Secured Party of any insurance policy maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral will be distributed by the Collateral Trustee in the following order of application:

FIRST, to the payment of all amounts payable under the Collateral Trust Agreement on account of the Collateral Trustee’s fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Trustee or any co-trustee or agent of the Collateral Trustee in connection with any Security Document (including, but not limited to, indemnification obligations that are then due and payable to the Collateral Trustee or any co-trustee or agent of the Collateral Trustee);

SECOND, to the respective Priority Lien Representatives on a pro rata basis for each Series of Priority Lien Debt that are secured by such Collateral for application to the payment of all such outstanding Priority Lien Debt and any other such Priority Lien Obligations that are then due and payable and so secured (for application in such order as may be provided in the Priority Lien Documents applicable to the respective Priority Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Priority Lien Debt and all other Priority Lien Obligations that are then due and payable and so secured (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding);

THIRD, to the respective Junior Lien Representatives on a pro rata basis for each Series of Junior Lien Debt that are secured by such Collateral for application to the payment of all outstanding Junior Lien Debt and any other Junior Lien Obligations that are so secured and then due and payable (for application in such order as may be provided in the Junior Lien Documents applicable to the respective Junior Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Junior Lien Debt and all other Junior Lien Obligations that are then due and payable and so secured (including, to the extent legally permitted, all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Junior Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Junior Lien Document) of all outstanding letters of credit, if any, constituting Junior Lien Debt); and

FOURTH, any surplus remaining after the payment in full in cash of amounts described in the preceding clauses will be paid to the Issuers or the applicable Grantor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law or as a court of competent jurisdiction may direct.

Notwithstanding the foregoing, if any Series of Secured Debt has released its Lien on any Collateral as set forth in the Collateral Trust Agreement, then such Series of Secured Debt and any related Secured Obligations of that Series thereafter shall not be entitled to share in the proceeds of any Collateral so released by that Series.

If any Junior Collateral Trustee, the Junior Lien Representative or any Junior Lien Secured Party collects or receives on account of any Junior Lien Obligations any proceeds of any foreclosure, collection or other enforcement, proceeds of any insurance maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral and any proceeds of any assets that were subject to Priority Liens that have been avoided or otherwise invalidated that should have been applied to the payment of the Priority Lien Obligations in accordance with the immediately preceding paragraph, whether after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Junior Lien Representative or such Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Priority Collateral Trustee, for the account of the Priority Lien Secured Parties, to be applied in accordance with the provisions set forth in the immediately preceding paragraph. Until so delivered, such proceeds shall be segregated and will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

The provisions set forth under this caption “—Order of Application” are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Secured Obligations, each present and future Secured Debt Representative and the Collateral Trustee as holder of Priority Liens and Junior Liens. The Secured Debt Representative of each future Series of Secured Debt will be required to deliver a lien sharing and priority confirmation to the Collateral Trustee and each other Secured Debt Representative at the time of incurrence of such Series of Secured Debt.

Release of Liens on Collateral

The Collateral Trust Agreement will provide that the Priority Collateral Trustee’s and/or Junior Collateral Trustee’s Liens, as applicable, upon the Collateral will be released or subordinated in any of the following circumstances:

- (1) the Collateral Trustee’s Liens will be released in whole, upon (A) payment in full in cash and discharge of all outstanding Secured Debt and all other Secured Obligations that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged; and (B) termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation, termination or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the

percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Secured Debt Documents) of all outstanding letters of credit issued pursuant to any Secured Debt Documents or, solely to the extent if any agreed to by the issuer of any outstanding letter of credit issued pursuant to any Secured Debt Document, the issuance of a back to back letter of credit in favor of the issuer of any such outstanding letter of credit in an amount equal to such outstanding letter of credit and issued by a financial institution acceptable to such issuer;

- (2) the Collateral Trustee's Liens will be released as to any Collateral that is sold, transferred or otherwise disposed of by an Issuer or any other Grantor to a Person that is not (either before or after such sale, transfer or disposition) an Issuer or a Subsidiary in a transaction or other circumstance that is permitted by all of the Secured Debt Documents, at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; provided that the Collateral Trustee's Liens upon the Collateral will not be released if the sale or disposition is subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (3) as to a release of less than all or substantially all of the Collateral (other than pursuant to clause (2) above), the Collateral Trustee's Liens on such Collateral will be released if directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the release was permitted by each applicable Secured Debt Document; provided, that this clause (3) shall not apply to (i) Discharge of Priority Lien Obligations upon payment in full thereof or (ii) sales or dispositions subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (4) as to a release of all or substantially all of the Collateral (other than pursuant to clause (1) above), the Collateral Trustee's Liens on such Collateral will be released if (A) consent to release of that Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt at the time outstanding as provided for in the applicable Secured Debt Documents, and (B) the Issuers have delivered an Officer's Certificate to the Collateral Trustee in the form required under the Collateral Trust Agreement certifying that any such necessary consents have been obtained;
- (5) [reserved];
- (6) notwithstanding any of the foregoing, if, prior to the Discharge of Priority Lien Obligations, the Priority Collateral Trustee is exercising its rights or remedies with respect to the Collateral under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, and the Priority Collateral Trustee releases any part of the Collateral from all of the Priority Liens, in any such case, in connection with any collection, sale, foreclosure or other enforcement, then the Junior Liens on such Collateral shall be automatically, unconditionally and simultaneously released to the same extent. If in connection with any exercise of rights and remedies by the Priority Collateral Trustee under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, the equity interests of any Person are foreclosed upon or otherwise disposed of and the Priority Collateral Trustee releases the Priority Lien on the property or assets of such Person then the Junior Liens with respect to the property or assets of such Person will be concurrently and automatically released to the same extent as all of the Priority Liens on such property or assets are released;
- (7) the Collateral Trustee's Liens on any Collateral will be subordinated as directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the subordination was permitted by each applicable Secured Debt Document; and
- (8) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction.

Release of Liens in Respect of Notes

The indenture and the Collateral Trust Agreement will provide that the Collateral Trustee's Liens upon the Collateral will no longer secure the notes outstanding under the indenture or any other Obligations under the

indenture, and the right of the holders of the notes and such Obligations to the benefits and proceeds of the Collateral Trustee's Liens on the Collateral will terminate and be discharged:

- (1) upon satisfaction and discharge of the indenture as set forth under the caption “—Defeasance and Discharge;”
- (2) upon a Legal Defeasance or Covenant Defeasance of the notes as set forth under the caption “—Defeasance and Discharge;”
- (3) upon payment in full and discharge of all notes outstanding under the indenture and all Obligations that are outstanding, due and payable under the indenture at the time the notes are paid in full and discharged; or
- (4) in whole or in part, with the consent of the holders of the requisite percentage of notes in accordance with the provisions described below under the caption “—Amendments and Waivers.”

Amendment of Security Documents

The Collateral Trust Agreement will provide that no amendment or supplement to the provisions of any Security Document will be effective without the approval of the Collateral Trustee acting as directed by an Act of Required Secured Parties, except that:

- (1) any amendment or supplement that has the effect solely of:
 - (a) adding or maintaining Collateral or preserving, perfecting or establishing the Liens thereon or the rights of the Collateral Trustee therein;
 - (b) providing for the assumption of any Grantor's obligations under any Secured Debt Document in the case of a merger or consolidation or sale of all or substantially all of the assets of such Grantor to the extent not prohibited by the terms of the indenture governing the notes or any other Secured Debt Documents, as applicable; or
 - (c) curing any ambiguity, omission, mistake, defect or inconsistency;

in the case of clauses (a) through (c) above, will become effective when executed and delivered by the Issuers or any other applicable Grantor party thereto and the Collateral Trustee for the applicable Class of Security Document being so amended or supplemented;

- (2) no amendment or supplement that reduces, impairs or adversely affects the right of any Secured Party:
 - (a) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Required Secured Parties or direction by the Required Junior Lien Debtholders (or amends the provisions of this clause (2) or the definition of “Act of Required Secured Parties” or “Controlling Representative”),
 - (b) to share in the order of application described above under “—Order of Application” in the proceeds of enforcement of or realization on any Collateral, in each case that has not been released in accordance with the provisions described above under the caption “—Release of Liens on Collateral” or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt,
 - (c) to require that Liens securing Secured Obligations be released only as set forth in the provisions described above under the caption “—Release of Liens on Collateral” or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt, or
 - (d) to amend the terms described under this caption relating to amendments;

in the case of clauses (a) through (d) above, will become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Document; and

- (3) no amendment or supplement that imposes any obligation or duty upon or adversely affects the rights of (i) the Priority Collateral Trustee and/or the Junior Collateral Trustee or (ii) any Secured Debt Representative, in any case, in its capacity as such will become effective without the consent of (i) the Priority Collateral Trustee or the Junior Collateral Trustee so affected (or both, in the case of a such an amendment or supplement generally affecting the Collateral Trustee) or (ii) such Secured Debt Representative, respectively.

Any amendment or supplement to the provisions of the Security Documents that releases Collateral will be effective only in accordance with the requirements set forth in the applicable Secured Debt Document referenced above under the caption “—Release of Liens on Collateral.” Any amendment or supplement that results in the Collateral Trustee’s Liens upon the Collateral no longer securing the notes and the other Obligations under the indenture may only be effected in accordance with the provisions described above under the captions “—Release of Liens in Respect of Notes” or “—Release of Liens on Collateral.”

The Collateral Trust Agreement will provide that, notwithstanding anything to the contrary under the caption “—Amendment of Security Documents,” but subject to clauses (2) and (3) above:

- (1) any Security Document that secures Junior Lien Obligations (but not Priority Lien Obligations) may be amended or supplemented with the approval of the Junior Collateral Trustee acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment or supplement would not be permitted under the terms of the Collateral Trust Agreement or the other Priority Lien Documents; and
- (2) any amendment or waiver of, or any consent under any Priority Lien Security Document (to the extent such amendment, waiver or consent is applicable to all Series of Priority Lien Debt) will apply automatically to any comparable provision of any comparable Junior Lien Document without the consent of any Junior Lien Secured Party and without any action by the Issuers or any other Grantor or any Junior Lien Secured Party; provided that written notice of such amendment, waiver or consent shall have been given to each Junior Lien Representative promptly after the effectiveness of such amendment, waiver or consent.

Voting

In connection with any matter under the Collateral Trust Agreement requiring a vote of holders of Secured Debt, each Series of Secured Debt that is Priority Lien Debt will cast its votes in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt that is Priority Lien Debt to be voted by a Series of Secured Debt will equal (1) the aggregate principal amount of Secured Debt held by the holders of such Series of Secured Debt (including outstanding letters of credit whether or not then available or drawn), *plus* (2) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Funded Debt of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt that is Priority Lien Debt will vote the total amount of Secured Debt under that Series of Secured Debt as a block in respect of any vote under the Collateral Trust Agreement. The Junior Lien Representative will cast its vote in accordance with the Junior Lien Intercreditor Agreement. Upon request of the Collateral Trustee, each Priority Lien Representative and the Junior Lien Representative will provide a written notice to the Collateral Trustee of the aggregate principal amount of Priority Lien Debt or Junior Lien Debt for which it acts as Priority Lien Representative or Junior Lien Representative.

Relative Rights

Nothing in the indenture or the Security Documents will:

- (1) impair, as to the Issuers and the holders of the notes, the obligation of the Issuers to pay principal of, premium and interest on the notes in accordance with their terms or any other obligation of any Issuer or any other Grantor;
- (2) affect the relative rights of holders of notes as against any other creditors of any Issuer or any other Grantor (other than holders of Priority Liens or Junior Liens);
- (3) restrict the right of any holder of notes to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral to the extent specifically prohibited by the provisions described above under the captions “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”);
- (4) restrict or prevent any holder of notes or other Priority Lien Obligations, the Priority Collateral Trustee or any Priority Lien Representative from exercising any of its rights or remedies upon a Default or Event of Default not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”; or
- (5) restrict or prevent any holder of notes or other Junior Lien Obligations, the Junior Collateral Trustee or the Junior Lien Representative from taking any lawful action in an Insolvency or Liquidation Proceeding not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens” or “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings.”

Further Assurances; Insurance

The indenture will provide that the Issuers and each of the other Grantors will do or cause to be done all acts and things that may be required, or that any Controlling Representative from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

The Issuers and each of the other Grantors will promptly execute, acknowledge and deliver such Security Documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that any Controlling Representative may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the Secured Parties; it being understood that none of the Collateral Trustee or any Secured Debt Representative shall have a duty to so request.

The Issuers and the other Grantors will:

- (1) keep their properties adequately insured at all times by financially sound and reputable insurers;
- (2) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;

- (3) maintain such other insurance as may be required by law; and
- (4) maintain such other insurance as may be required by the Security Documents.

Upon the request of the Collateral Trustee, the Issuers and the other Grantors will furnish to the Collateral Trustee full information as to their property and liability insurance carriers.

Optional Redemption

Except as set forth below and the last paragraph of the covenant described below under “—Repurchase of Notes at the Option of Holders—Change of Control,” the notes will not be redeemable at the option of the Issuers.

At any time prior to January 30, 2023, the Issuers may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” by paying a redemption price equal to 100% of the principal amount of the notes to be redeemed plus the Applicable Premium, and accrued and unpaid interest, if any, to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

At any time and from time to time on or after January 30, 2023, the Issuers may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” at a redemption price equal to the percentage of principal amount set forth below plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

<u>Period</u>	<u>Redemption Price</u>
6-month period commencing January 30, 2023	105.000%
Thereafter	100.000%

Unless the Issuers default in the payment of the applicable redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on and after the applicable redemption date.

Repurchase of Notes at the Option of Holders

Change of Control

Not later than 30 days following a Change of Control, the Issuers will make an Offer to Purchase (as defined below) all outstanding notes at a purchase price equal to 101% of the aggregate principal amount of the notes repurchased plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date); *provided*, however, that notwithstanding the occurrence of a Change of Control, the Issuers shall not be obligated to purchase the notes pursuant to this covenant in the event that (i) during the 30-day period following such Change of Control, the Issuers have given the notice to exercise their right to redeem all the notes under the terms described in “—Optional Redemption” and redeemed such notes in accordance with such notice, unless and until there is a default in payment of the applicable redemption price or (ii) a third party makes the Offer to Purchase in the manner, at the time and otherwise in compliance with the requirements set forth in the indenture applicable to an Offer to Purchase made by the Issuers and purchases all notes properly tendered and not withdrawn under the offer.

An “Offer to Purchase” means a written offer, which will specify the principal amount of notes subject to the offer and the purchase price. The offer must specify an expiration date (the “expiration date”) not less than 30 days or more than 60 days after the date of the offer, and a settlement date for purchase (the “purchase date”) not more than five business days after the expiration date. The offer must include information concerning the

business of the Issuers and their Subsidiaries which the Issuers in good faith believe will enable the holders to make an informed decision with respect to the Offer to Purchase. The offer will also contain instructions and materials necessary to enable holders to tender notes pursuant to the offer. If the Offer to Purchase is sent prior to the occurrence of the Change of Control, it may be conditioned upon the consummation of the Change of Control.

A holder may tender all or any portion of its notes pursuant to an Offer to Purchase, subject to the requirement that any portion of a note tendered must be in a minimum of \$2,000 principal amount or a multiple of \$1,000 principal amount in excess thereof. Holders are entitled to withdraw notes tendered up to the close of business on the expiration date. On the purchase date the purchase price will become due and payable on each note accepted for purchase pursuant to the Offer to Purchase, and interest on notes purchased will cease to accrue on and after the purchase date.

Notes repurchased by the Issuers pursuant to an Offer to Purchase will have the status of notes issued but not outstanding or will be retired and cancelled at the option of the Issuers.

Notes purchased by a third party pursuant to the preceding paragraphs will have the status of notes issued and outstanding.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to an Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

The Change of Control provisions described above may deter certain mergers, tender offers and other takeover attempts involving the Issuers by increasing the capital required to effectuate such transactions. The definition of Change of Control also includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of the Issuers and their Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a noteholder to require the Issuers to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Issuers and their Subsidiaries taken as a whole to another Person or group may be uncertain.

Holders may not be entitled to require us to purchase their notes in certain circumstances involving a significant change in the composition of our Boards of Directors, including in connection with a proxy contest where our Boards of Directors do not approve a dissident slate of directors but approve them as continuing directors, even if our Boards of Directors initially opposed the directors.

Future debt of the Issuers may prohibit the Issuers from purchasing notes in the event of a Change of Control, provide that a Change of Control is a default or require the Issuers to repurchase the notes upon a Change of Control. Moreover, the exercise by the noteholders of their right to require the Issuers to purchase the notes could cause a default under such future Debt, even if the Change of Control itself does not, due to the financial effect of the purchase on the Issuers.

Finally, the Issuers’ ability to pay cash to the noteholders following the occurrence of a Change of Control may be limited by the Issuers’ then existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the notes. See “Risk Factors—Risks Related to the Notes—We may be unable to purchase the notes upon a change of control.”

Except as described above with respect to a Change of Control, the indenture will not contain provisions that permit the holder of the notes to require that the Issuers purchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The provisions under the indenture relating to the Issuers' obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or amended as described below in "—Amendments and Waivers."

In the event that holders of not less than 90% of the aggregate principal amount of the outstanding notes accept an Offer to Purchase and the Issuers (or the third party making the Offer to Purchase in lieu of the Issuers) purchase all of the notes held by such holders, the Issuers will have the right, upon not less than 30 nor more than 60 days' prior written notice to the holders and the Trustee, given not more than 30 days following the purchase pursuant to the Offer to Purchase described above, to redeem all of the notes that remain outstanding following such purchase at a redemption price equal to the Offer to Purchase payment price plus accrued and unpaid interest on the notes redeemed to the date of redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

Asset Sales

The Main Issuer will not, and will not permit any Subsidiary to, make any Asset Sale unless the following conditions are met:

- (1) The Asset Sale is for at least Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale).
- (2) At least 90% of the aggregate consideration received by the Main Issuer or its Subsidiaries for such Asset Sale consists of cash or Cash Equivalents.

For purposes of this clause (2):

- (A) the assumption by the purchaser of Debt or other obligations or liabilities (as shown on the Main Issuer's most recent balance sheet or in the footnotes thereto) (other than Subordinated Debt or other obligations or liabilities subordinated in right of payment to the notes) of the Main Issuer or a Subsidiary pursuant to operation of law or a customary novation or assumption agreement; and
- (B) instruments, notes, securities or other obligations received by the Main Issuer or such Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Main Issuer or such Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received

shall in each case be considered cash or Cash Equivalents.

- (3) Within 365 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Main Issuer or a Subsidiary may apply an amount equal to such Net Cash Proceeds at its option:
 - (A) to permanently prepay, repay, redeem, reduce or repurchase Debt as follows:
 - (i) to prepay, repay, redeem, reduce or purchase Priority Lien Obligations on a pro rata basis; *provided* that all reductions of (or offers to reduce) Obligations under the notes shall be made as provided under "—Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued unpaid interest, to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid;

(ii) [reserved]; or

(iii) [reserved]; or

- (B) to acquire property, plant and equipment necessary for the conduct of the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business (collectively, “Relevant Equipment”).

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the Net Cash Proceeds of any Asset Sales by a Foreign Subsidiary to the Main Issuer is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the Net Cash Proceeds of any Assets Sales by a Foreign Subsidiary to the Main Issuer could result in material adverse tax consequences, as reasonably determined by the Main Issuer, the portion of such Net Cash Proceeds so affected will not be required to be applied in compliance with this covenant; *provided* that within 365 days of the receipt of such Net Cash Proceeds, the Main Issuer shall use commercially reasonable efforts to permit repatriation of the proceeds that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such proceeds may be repatriated, within such 365 day period, such proceeds shall be required to be applied in compliance with this covenant.

- (4) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (3) within 365 days of the Asset Sale constitute “Excess Proceeds.” Excess Proceeds of less than \$5.0 million will be carried forward and accumulated. When the aggregate amount of the accumulated Excess Proceeds equals or exceeds such amount, the Main Issuer must, within 30 days, make an Offer to Purchase notes (an “Asset Sale Offer”) having a principal amount equal to:

(A) accumulated Excess Proceeds; multiplied by

(B) a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the notes and (y) the denominator of which is equal to the outstanding aggregate principal amount of the notes and all other Priority Lien Obligations similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale,

rounded down to the nearest \$1,000. The purchase price for any Asset Sale Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer is for less than all of the outstanding notes and notes in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the Asset Sale Offer, the Main Issuer will purchase notes having an aggregate principal amount equal to the purchase amount on a pro rata basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Upon completion of the Asset Sale Offer, any Excess Proceeds remaining after consummation of the Asset Sale Offer will be carried forward as Excess Proceeds and accumulated.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Asset Sale Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such compliance.

Excess Cash Flow

On a semi-annual basis, not later than 30 days after each date on which (i) the quarterly financial statements for the preceding fiscal quarter ending June 30 and (ii) the annual financial statements for the preceding fiscal year are required to be delivered pursuant to clause (1) of covenant described under the caption “—Certain

Covenants—Reports”, commencing with the period from February 1, 2021 to June 30, 2021, the Issuers will make an Offer to Purchase notes, which shall include, without limitation, a detailed calculation of Excess Cash Flow for the relevant Excess Cash Flow Period (each such Offer to Purchase, an “Excess Cash Flow Offer”), having an aggregate principal amount equal to:

- (A) an amount equal to 100% of Excess Cash Flow of the Main Issuer and its Subsidiaries for the Excess Cash Flow Period then ended; *multiplied by*
- (B) a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the notes and (y) the denominator of which is equal to the outstanding aggregate principal amount of the notes and all other Priority Lien Obligations required to be repaid with such Excess Cash Flow,

rounded down to the nearest \$1,000. The purchase price for any Excess Cash Flow Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Excess Cash Flow Offer is for less than all of the outstanding notes and notes in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the Excess Cash Flow Offer, the Main Issuer will purchase notes having an aggregate principal amount equal to the purchase amount on a pro rata basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Any portion of such Excess Cash Flow remaining after consummation of the Excess Cash Flow Offer may be used for any purpose not otherwise prohibited by the indenture.

Notwithstanding the foregoing, to the extent that the Liquidity Amount as of the calculation date for any Excess Cash Flow Period, after giving pro forma effect to the Excess Cash Flow Offer for such Excess Cash Flow Period, is equal to or less than \$60.0 million, the aggregate principal amount of notes to be purchased in such Excess Cash Flow Offer shall be reduced such that the Liquidity Amount as of the calculation date for any Excess Cash Flow Period, after giving pro forma effect to such Excess Cash Flow Offer, is greater than \$60.0 million.

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the net cash provided by/used in operating activities (as determined in accordance with GAAP) of a Foreign Subsidiary to the Main Issuer is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the net cash provided by/used in operating activities (as determined in accordance with GAAP) by a Foreign Subsidiary to the Main Issuer could result in material adverse tax consequences, as reasonably determined by the Main Issuer, such net cash provided by/used in operating activities (as determined in accordance with GAAP) so affected will not be required to be applied in the calculation of Excess Cash Flow for the relevant Excess Cash Flow Period in compliance with this covenant; *provided* that within 365 days of the receipt of such net cash provided by/used in operating activities (as determined in accordance with GAAP), the Main Issuer shall use commercially reasonable efforts to permit repatriation of the amounts that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such amounts may be repatriated, within such 365 day period, such proceeds shall be required to be applied in compliance with this covenant.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Excess Cash Flow Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Excess Cash Flow provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Excess Cash Flow provisions of the indenture by virtue of such compliance.

Wilpinjong Mandatory Offer

Not later than 30 days following the occurrence of a Wilpinjong Triggering Event (the “Wilpinjong Triggering Date”), Peabody shall be obligated to make an Offer to Purchase outstanding notes in an aggregate principal amount up to the Maximum Amount (the “Wilpinjong Mandatory Offer”), provided that, during the

term of the notes, Peabody shall not be obligated to make more than one Wilpinjong Mandatory Offer pursuant to each of clauses (i) and (ii) of the definition of Wilpinjong Triggering Event, respectively.

The purchase price for any notes purchased in a Wilpinjong Mandatory Offer will be 100% of the principal amount, plus accrued interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

The purchase price for notes purchased in the Wilpinjong Mandatory Offer, including any accrued interest, if any, to, but excluding, the date of purchase, shall be paid in aggregate principal amount of Peabody 2024 Notes, rounded down to the nearest \$1,000.

If the aggregate principal amount of notes surrendered in a Wilpinjong Mandatory Offer exceeds the Maximum Amount, Peabody will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a pro rata basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate principal amount, as applicable of the notes tendered.

Upon any such issuance of Peabody 2024 Notes, delivery of the notes by the Issuers to the Trustee for cancellation and satisfaction by the Issuers of the requirements under the indenture, the Issuers' obligations with respect to such notes shall be discharged and such notes shall cease to be outstanding. In this regard, Peabody shall not (i) make any "Restricted Payments" (as defined under the Peabody Existing Indenture) under Section 4.07(b)(11) or (13) of the Peabody Existing Indenture until there is sufficient available capacity under such provisions of Section 4.07 of the Peabody Existing Indenture for "Restricted Payments" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under such provisions of Section 4.07 of the Peabody Existing Indenture, (ii) make any "Investments" (as defined in the Peabody Credit Agreement) under Section 7.02(j) or (m) until there is sufficient available capacity under such provisions of Section 7.02 of the Peabody Credit Agreement for "Investment" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under such provisions of Section 7.02 of the Peabody Credit Agreement, and (iii) incur or permit to exist any "Permitted Liens" (as defined in the Peabody Existing Indenture) under the Peabody Existing Indenture until Peabody is permitted to incur or permit to exist "Permitted Liens" in an amount equal to or greater than the sum of the outstanding principal amount of the notes and all Priority Lien Obligations incurred under the Term Loan Facility, and, thereafter, shall maintain at all times such capacity under the Peabody Existing Indenture.

Notwithstanding anything in the preceding paragraph to the contrary, in the event the Wilpinjong Mandatory Offer is consummated, no Applicable Premium shall be due and payable with respect to any notes tendered and exchanged pursuant to the Wilpinjong Mandatory Offer.

Peabody will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Wilpinjong Mandatory Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Wilpinjong Mandatory Offer provisions in the indenture, Peabody will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Wilpinjong Mandatory Offer provisions of the indenture by virtue of such compliance.

Term Loan Repayment Offer

Not later than 30 days after each date on which there is a voluntary prepayment, repayment or repurchase of the loans under the Term Loan Facility, the Issuers will make an Offer to Purchase the notes in an aggregate principal amount up to the aggregate principal amount of Term Loans repurchased or prepaid (the "Term Loan

Offer Amount”) at a price that, as a percentage of the principal acquired, is the same as the price paid in the repurchase or repayment of the Term Loans (each such offer, a “Term Loan Repayment Offer”).

If the aggregate principal amount of notes surrendered in a Term Loan Repayment Offer exceeds the Term Loan Offer Amount, the Issuers will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a pro rata basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate principal amount, as applicable of the notes tendered.

The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to a Term Loan Repayment Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Term Loan Repayment Offer provisions in the indenture, the Issuers will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Term Loan Repayment Offer provisions of the indenture by virtue of such compliance.

Selection and Notice

If less than all of the notes are to be redeemed at any time, the Trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange and the Issuers notify a responsible officer of the Trustee in writing of such listing, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or
- (2) if the notes are not listed on any national securities exchange, on a pro rata basis (or, in the case of global notes, the notes represented thereby will be selected by lot in accordance with DTC’s applicable procedures).

No notes of \$2,000 or less can be redeemed in part. Notices of optional redemption will be given by first class mail (or electronically in the case of global notes) at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that optional redemption notices may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or satisfaction and discharge of the indenture.

Notice of any redemption of the notes (including upon an Equity Offering) may, at the Main Issuer’s discretion, be given prior to a transaction or event and any such redemption or notice may, at the Main Issuer’s discretion, be subject to one or more conditions precedent, including, but not limited to, completion or occurrence of the related transaction or event, as the case may be. In addition, if such redemption or purchase is subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Main Issuer’s discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed, or such notice may be rescinded at any time in the Main Issuer’s discretion if in the good faith judgment of the Main Issuer any or all of such conditions will not be satisfied. In addition, the Main Issuer may provide in such notice that payment of the redemption price and performance of the Main Issuer’s obligations with respect to such redemption may be performed by another Person.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder upon cancellation of the original note. Notes called for redemption without a condition precedent will become due on the date fixed for

redemption. On and after the redemption date, interest will cease to accrue on notes or portions of them called for redemption, unless the Issuers default in making such redemption payment.

No Mandatory Redemption or Sinking Fund

The Issuers are not required to make mandatory redemption payments with respect to the notes. The Issuers may from time to time purchase notes on the open market or otherwise in accordance with applicable laws. There will be no sinking fund payments for the notes.

Changes in Covenants if Notes Are Rated Investment Grade

If at any time (i) the notes are rated Investment Grade by each of S&P and Moody's (or, if either (or both) of S&P and Moody's have been substituted in accordance with the definition of "Rating Agencies," by each of the then applicable Rating Agencies), (ii) no Default or Event of Default has occurred and is continuing under the indenture and (iii) the Issuers have delivered to the Trustee an Officer's Certificate certifying to the foregoing provisions of this sentence, the covenants specifically listed under the following captions in this "Description of the New Co-Issuer Notes" section of this offering memorandum will be suspended (the "Suspension Period"):

- (1) "—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;"
- (2) "—Certain Covenants—Limitation on Restricted Payments;"
- (3) "—Certain Covenants—Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries;"
- (4) "—Repurchase of Notes at the Option of Holders—Asset Sales," "—Repurchase of Notes at the Option of Holders—Excess Cash Flow Offer;"
- (5) "—Certain Covenants—Limitation on Transactions with Affiliates;" and
- (6) clause (a)(2)(C) of "—Certain Covenants—Consolidation, Merger or Sale of Assets—The Issuers."

Notwithstanding the foregoing, if the rating assigned to the notes by either Rating Agency should subsequently decline to below Investment Grade, the foregoing covenants will be reinstituted as of and from the date of such rating decline (the "Reversion Date"). Calculations under the reinstated "Limitation on Restricted Payments" covenant will be made as if the "Limitation on Restricted Payments" covenant had been in effect since the date of the indenture except that no Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. Furthermore, all Debt incurred during the Suspension Period will be deemed to have been incurred or issued pursuant to clause (2) of the definition of "Permitted Debt." Notwithstanding that the suspended covenants may be reinstated, no default will be deemed to have occurred as a result of a failure to comply with such suspended covenants during any Suspension Period (or upon termination of any covenant Suspension Period or after that time based solely on events that occurred during the Suspension Period).

There can be no assurance that the notes will ever achieve or maintain a rating of Investment Grade from any Rating Agency. The Issuers shall promptly deliver to the Trustee an Officer's Certificate notifying the Trustee of any event giving rise to a Suspension Period or a Reversion Date, the date thereof and identifying the suspended covenants. The Trustee shall not have any obligation to monitor the ratings of the notes, determine whether a Suspension Period or Reversion Date has occurred or notify holders of the occurrence or dates of any Suspension Period, suspended covenants or Reversion Date.

Certain Covenants

Limitation on Debt and Disqualified Stock or Preferred Stock

- (a) The Main Issuer

- (1) will not, and will not permit any of its Subsidiaries to, directly or indirectly, Incur any Debt (including Acquired Debt) or Disqualified Stock; and
 - (2) will not permit any of its Subsidiaries to Incur any Preferred Stock (other than Disqualified Stock or Preferred Stock of Subsidiaries held by the Main Issuer or a Subsidiary, so long as it is so held).
- (b) The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Debt ("Permitted Debt"):
- (1) Incurrence by the Issuers of Debt under Term Loan Facility in an aggregate principal amount at any one time outstanding not to exceed \$206.0 million (less the aggregate amount of mandatory prepayments of such Debt made thereunder from time to time) and any related guarantees thereof;
 - (2) [reserved];
 - (3) Debt of the Main Issuer or any Subsidiary owed to the Main Issuer or any Subsidiary so long as such Debt continues to be owed to the Main Issuer or a Subsidiary and which, if the obligor is the Main Issuer and if the Debt is owed to a Subsidiary is subordinated in right of payment to the notes;
 - (4) Debt constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, "refinance") then outstanding Debt ("Permitted Refinancing Debt") that was permitted by the indenture to be incurred under clauses (1), (2), (4), (8), (9) or (17) of this paragraph in an amount not to exceed the principal amount of the Debt so refinanced, plus premiums, fees and expenses; *provided that*:
 - (i) in case the Debt to be refinanced is subordinated in right of payment to the notes, the new Debt, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes;
 - (ii) (x) the new Debt does not have a Stated Maturity prior to the Stated Maturity of the Debt to be refinanced, and the Average Life of the new Debt is at least equal to the remaining Average Life of the Debt to be refinanced or (y) the new debt does not have a Stated Maturity prior to the Stated Maturity of the notes, and the Average Life of the new Debt is at least equal to the remaining Average Life of the notes;
 - (iii) in no event may Debt of any Issuer or Wilpinjong Credit Party, if any, be refinanced pursuant to this clause by means of any Debt of any Person that is not an Issuer or a Wilpinjong Credit Party; and
 - (iv) in case the Debt to be refinanced is secured, the Liens securing such new Debt have a Lien priority equal to or junior to the Liens securing the Debt being refinanced;
 - (5) Bank Products Obligations of the Main Issuer or any Subsidiary;
 - (6) Debt of Wilpinjong Opco or any of its Subsidiaries in connection with one or more standby or trade-related letters of credit, performance bonds, bid bonds, appeal bonds, bankers acceptances, insurance obligations, reclamation obligations, bank guarantees, surety bonds, completion guarantees or other similar bonds and obligations, including self-bonding arrangements, issued by a Subsidiary solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business or pursuant to self-insurance obligations and not in connection with the borrowing of money or the obtaining of advances;
 - (7) Debt arising from agreements of Wilpinjong Opco or any of its Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;

- (8) Debt of the Main Issuer or any Subsidiary Incurred and the proceeds of which are used solely to finance the purchase, lease or acquisition of any Relevant Equipment and that is secured by such Relevant Equipment, including Finance Lease Obligations and any Debt assumed in connection with the acquisition of any such equipment and secured by a Lien on any such equipment before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Debt Incurred pursuant to this clause, including all Permitted Refinancing Debt Incurred to refund, refinance or replace any Debt Incurred pursuant to this clause (8), may not exceed the greater of (a) \$20.0 million and (b) 5.0% of Consolidated Net Tangible Assets; *provided* further that the ratio of Debt Incurred pursuant to this clause to the Fair Market Value of the applicable Relevant Equipment shall at no time exceed 75%;
- (9) Debt arising as a result of a Lien on the Collateral securing Junior Lien Debt permitted under clause (2) of the definition of “Permitted Liens”;
- (10) [reserved];
- (11) [reserved];
- (12) Preferred Stock of a Subsidiary issued to the Main Issuer or another Subsidiary; *provided* that any subsequent transfer of any Capital Stock or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Preferred Stock (except to the Main Issuer or another Subsidiary) shall be deemed, in each case, to be an issue of Preferred Stock;
- (13) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;
- (14) [reserved];
- (15) Debt of the Main Issuer or any Subsidiary consisting of (i) the financing of insurance premiums solely with respect to the mining operations of the Subsidiaries or (ii) take-or-pay obligations contained in supply or other arrangements;
- (16) [reserved]; and
- (17) Debt of the Main Issuer not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed the greater of (i) \$5.0 million and (ii) 1.0% of Consolidated Net Tangible Assets.

None of the Issuers or their Subsidiaries will incur any Debt (including Permitted Debt) that is contractually subordinated in right of payment to any other Debt of the Main Issuer unless such Debt is also contractually subordinated in right of payment to the notes on substantially identical terms; *provided*, however, that no Debt will be deemed to be contractually subordinated in right of payment to any other Debt of the Main Issuer solely by virtue of being unsecured or by virtue of being secured on junior priority basis.

For purposes of determining compliance with this “—Limitation on Debt and Disqualified Stock or Preferred Stock” covenant and the covenant described under the caption “—Liens,” in the event that an item of Debt meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (17) above, the Main Issuer will be permitted to classify such item of Debt on the date of its Incurrence, or later reclassify all or a portion of such item of Debt, in any manner that complies with this covenant. Notwithstanding the foregoing, (x) all Debt under the Term Loan Facility will be deemed to have been incurred in reliance on the exception provided in clause (1) of the definition of Permitted Debt and (y) all Junior Lien Debt will be deemed to have been incurred in reliance on the exception provided in clause (9) of the definition of Permitted Debt. The accrual of interest or preferred stock dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest on any Debt in the form of additional Debt with the same terms, the reclassification of preferred stock as Debt due to a change in accounting principles, and the payment of

dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Debt or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of the Main Issuer as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Main Issuer or any Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Debt outstanding as of any date will be:

- (1) the accreted value of the Debt, in the case of any Debt issued with original issue discount;
- (1) the principal amount of the Debt, in the case of any other Debt; and
- (2) in respect of Debt of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Debt of the other Person.

Limitation on Restricted Payments

- (a) The Main Issuer will not, and will not permit any Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively “Restricted Payments”):
 - (1) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Main Issuer’s Qualified Equity Interests) held by Persons other than the Main Issuer or any of its Subsidiaries;
 - (2) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Main Issuer or any direct or indirect parent of Main Issuer held by Persons other than the Main Issuer or any of its Subsidiaries;
 - (3) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Debt that is unsecured, Junior Lien Debt or Subordinated Debt (other than (x) a payment of interest or principal at Stated Maturity thereof or the redemption, repurchase or other acquisition or retirement for value of any Debt that is unsecured or Subordinated Debt in anticipation of satisfying a scheduled maturity, sinking fund or amortization or other installment obligation, in each case due within one month of the date of such redemption, repurchase, acquisition or retirement or (y) Debt permitted under clause (3) of the definition of “Permitted Debt”); or
- (4) make any Investment other than a Permitted Investment (a “Restricted Investment”).

The amount of any Restricted Payment, if other than in cash, will be the Fair Market Value, on the date of the Restricted Payment, of the assets or securities proposed to be transferred or issued to or by the Main Issuer or such Subsidiary, as the case may be, pursuant to the Restricted Payment, except that the Fair Market Value of any non-cash dividend or distribution paid within 60 days after the date of its declaration shall be determined as of such date.

- (b) The foregoing will not prohibit:
 - (1) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with paragraph (a);

- (2) dividends or distributions by a Subsidiary payable, on a pro rata basis or on a basis more favorable to the Main Issuer, to all holders of any class of Equity Interests of such Subsidiary a majority of which is held, directly or indirectly through Subsidiaries, by the Main Issuer;
- (3) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Debt that is unsecured, or Subordinated Debt with the net cash proceeds from, or in exchange for, Permitted Refinancing Debt;
- (4) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Main Issuer in exchange for Qualified Equity Interests of the Main Issuer or of a contribution to the common equity of the Main Issuer, including a contribution of the Capital Stock of the Main Issuer;
- (5) [reserved];
- (6) any Investment acquired as a capital contribution to the Main Issuer, or made in exchange for, or out of the net cash proceeds of, a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of Qualified Equity Interests of the Issuers;
- (7) (i) the payment of management or similar fees pursuant to the Management Services Agreements and any indemnification and reimbursement payments required thereunder provided that the aggregate amount of all such fees and payments may not exceed \$15.0 million in any calendar year and (ii) any tax sharing payments to Peabody or its Affiliates; provided that any tax sharing payments shall not exceed the amount that the Main Issuer and its Subsidiaries would have been required to pay in respect of foreign, federal, state or local income Taxes (as the case may be) in respect of the applicable fiscal year if the Main Issuer and its Subsidiaries paid such Taxes directly as a stand-alone taxpayer (or stand-alone group);
- (8) [reserved];
- (9) [reserved];
- (10) [reserved];
- (11) [reserved]; and
- (12) any payments made, or the performance of any of the transactions contemplated, in connection with the exchange offer contemplated by this offering;

provided that, in the case of clauses (8) and (11), no Default or Event of Default has occurred and is continuing or would occur as a result thereof.

For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Limitation on Liens

The Issuers will not, and will not permit any Subsidiary to, directly or indirectly, incur or permit to exist any Lien of any nature whatsoever on any of its properties or assets, whether owned at the Issue Date or thereafter acquired, to secure any Debt other than Permitted Liens.

Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries

- (a) Except as provided in paragraph (b), the Main Issuer will not, and will not permit any Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary to:
 - (1) pay dividends or make any other distributions on its Equity Interests to the Main Issuer or any other Subsidiary;

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- (2) pay any Debt or other liabilities owed to the Issuers or any other Subsidiary;
 - (3) make loans or advances to the Issuers or any other Subsidiary; or
 - (4) sell, lease or transfer any of its property or assets to the Main Issuer or any other Subsidiary.
- (b) The provisions of paragraph (a) do not apply to any encumbrances or restrictions:
- (1) agreements governing the Term Loan Facility and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of those agreements; provided that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;
 - (2) existing pursuant to the indenture, the notes or the Security Documents;
 - (3) existing under or by reason of applicable law, rule, regulation or order;
 - (4) existing under any agreements or other instruments of, or with respect to any Person, or the property or assets of any Person, at the time the Person is acquired by Wilpinjong Opco or any of its Subsidiaries;
 - (5) of the type described in clause (a)(4) arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, Joint Venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of, Wilpinjong Opco or any of its Subsidiaries;
 - (6) with respect to Wilpinjong Opco and its Subsidiaries and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Subsidiary pending closing of such sale or disposition that is permitted by the indenture;
 - (7) existing pursuant to any agreement with the Wilpinjong Mine Customer in effect on the Issue Date and any amendment, modification, restatement, extension, renewal or replacement of any such agreement that is no less favorable in any material respect to the noteholders than the agreement in effect on the Issue Date;
 - (8) existing pursuant to Permitted Refinancing Debt; provided that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Debt are, taken as a whole, no less favorable in any material respect to the noteholders than those contained in the agreements governing the Debt being refinanced;
 - (9) consisting of restrictions on cash or other deposits or net worth imposed by non-financial lessors, customers, suppliers or required by insurance surety bonding companies or in connection with any reclamation activity of the Main Issuer or a Subsidiary, in each case, in the ordinary course of business;
 - (10) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Finance Leases or operating leases or Mining Leases that impose encumbrances or restrictions discussed in clause (a)(4) above on the property so acquired or covered thereby;
 - (11) [reserved];
 - (12) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction;

- (13) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred subsequent to the Issue Date by the covenant described above under “—Limitation on Debt and Disqualified Stock and Preferred Stock” if such encumbrances and restrictions are, taken as a whole, no less favorable in any material respect to the noteholders than is customary in comparable financings (as determined in good faith by the Main Issuer), and the Main Issuer determines in good faith that such encumbrances and restrictions will not materially affect the Issuers’ ability to make principal or interest payments on the notes as and when they become due; and
- (14) existing under or by reason of any Debt secured by a Lien permitted to be Incurred pursuant to the covenants described under “—Limitation on Debt and Disqualified Stock and Preferred Stock” and “—Limitation on Liens” that limit the right of Wilpinjong Opco or any of its Subsidiaries to dispose of the assets securing such Debt.

Limitation on Transactions with Affiliates

- (a) The Main Issuer will not, and will not permit any Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Main Issuer or any Subsidiary (a “Related Party Transaction”) involving aggregate consideration in excess of \$2.5 million, unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Main Issuer) to the Issuers or any of the relevant Subsidiaries than those that could be obtained in a comparable arm’s-length transaction with a Person that is not an Affiliate of the Main Issuer.
- (b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$5.0 million must first be approved by a majority of the Board of Directors of the Main Issuer who are disinterested in the subject matter of the transaction pursuant to a resolution by the Board of Directors of the Main Issuer.
- (c) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$10.0 million, the Main Issuer must deliver to the Trustee an opinion from an accounting, appraisal, or investment banking firm of national standing in the applicable jurisdiction (i) stating that its terms are not materially less favorable to the Main Issuer or any of the relevant Subsidiaries that would have been obtained in a comparable transaction with an unrelated Person or (ii) as to the fairness to the Main Issuer or any of the relevant Subsidiaries of such Related Party Transaction from a financial point of view.
- (d) The foregoing paragraphs do not apply to:
 - (1) any transaction between the Main Issuer and any of its Subsidiaries or between Subsidiaries of the Main Issuer;
 - (2) the payment of reasonable and customary regular fees to directors of the Main Issuer who are not employees of the Main Issuer;
 - (3) [reserved];
 - (4) (i) any payment pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees and any indemnification and reimbursement payments required thereunder, and (ii) the payment of any tax sharing payments, in the case of each of (i) and (ii) permitted under the covenant described above under “—Limitation on Restricted Payments”;
 - (5) loans or advances to officers, directors or employees of the Main Issuer in the ordinary course of business of the Main Issuer or its Subsidiaries or Guarantees in respect thereof or otherwise made on their behalf (including payment on such Guarantees) but only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;

- (6) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Main Issuer or any of its Subsidiaries with officers and employees of the Main Issuer or any of its Subsidiaries that are Affiliates of the Main Issuer and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans) so long as such agreement has been entered into in the ordinary course of business;
- (7) transactions with customers, clients, suppliers, joint venture partners, managers, operators, or purchasers or sellers of goods or services (including pursuant to joint venture agreements) solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Main Issuer, as determined in good faith by the Main Issuer;
- (8) transactions arising under any contract, agreement, instrument or other arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Main Issuer and its Subsidiaries than those in effect on the Issue Date;
- (9) [reserved];
- (10) transactions with any Affiliate in its capacity as a holder of Debt; *provided* that such Affiliate owns less than a majority of the interests of the relevant class and is treated the same as other holders;
- (11) [reserved];
- (12) any lease or sublease of equipment to any Affiliate in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Main Issuer, as determined in good faith by the Main Issuer; and
- (13) any agreements entered into in connection with the exchange offer contemplated by this offering.

Limitations on Main Issuer Activities

Main Issuer may not (a) Incur any Debt other than described above under “—Limitation on Debt and Disqualified Stock or Preferred Stock”, (b) (i) beneficially own, directly or indirectly, any Equity Interests in any Entity unless the Main Issuer beneficially owns 100% of such Equity Interests or (ii) own any other material assets other than assets or receivables arising in connection with intercompany transactions, or (c) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons. Main Issuer may not engage in any business or transactions not related directly or indirectly to holding 100% of the capital stock of PIC Acquisition Corp. (other than, for the avoidance of doubt, (i) any transaction pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees and any indemnification and reimbursement payments required thereunder, and (ii) any tax sharing payments permitted under the covenant described above under “—Limitation on Restricted Payments”), provided that Main Issuer and its Subsidiaries, including Wilpinjong Opco, may hold intercompany receivables from, or incur intercompany payables to, each other.

Limitations on Co-Issuer Activities

Co-Issuer may not (a) Incur any Debt (other than the notes and the Term Loans), (b) have any direct or indirect Subsidiaries, (c) own, directly or indirectly, any Equity Interests or any other assets, or (d) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons. Co-Issuer may not engage in any business or transactions not related directly or indirectly to obtaining money or arranging financing for Main

Issuer (other than, for the avoidance of doubt, (i) any transaction pursuant to the terms of either Management Services Agreement, including the payment of management or similar fees, any indemnification and reimbursement payments required thereunder and (ii) any tax sharing payments permitted under the covenant described above under “—Limitation on Restricted Payments”).

Limitations on PIC Acquisition Activities

PIC Acquisition may not (a) Incur any Debt, (b) beneficially own, directly or indirectly, any Equity Interests in any Entity other than holding 100% of the capital stock of Wilpinjong Opco, provided that PIC Acquisition and its Subsidiaries, including Wilpinjong Opco, may hold intercompany receivables from, or incur intercompany payables to, each other, or (c) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons.

Reports

The indenture will provide that so long as any notes are outstanding, the Issuers shall furnish:

- (1) within 90 days after the end of each fiscal year, annual audited consolidated financial statements of the Main Issuer (including balance sheets, statements of income and statements of cash flows) prepared in accordance with GAAP, together with a report of the Main Issuer’s independent accountants on such financial statements, and a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” with respect to such financial statements for the Main Issuer and its Subsidiaries for the periods presented, in each case, on a basis substantially consistent with, and at the same level of detail as, the corresponding information included in the Offering Memorandum or, at the option of the Main Issuer, the applicable requirements for such information presented in an Annual Report on the Commission’s Form 10-K and all pro forma and historical information in respect of any significant transaction (as determined in accordance with Rule 3-05 of Regulation S-X) consummated more than 75 days prior to the date such information is furnished for the time periods for which such information would be required (if the Main Issuer were subject to the filing requirements of the Exchange Act) in a filing on Form 8-K with the Commission at such time;
- (2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, unaudited quarterly consolidated financial statements of the Main Issuer (including balance sheets, statements of income and statements of cash flows) prepared in accordance with GAAP, and a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” with respect to the interim periods presented, in each case, on a basis substantially consistent with, and at the same level of detail as, the corresponding information included in the Offering Memorandum or, at the option of the Main Issuer, the applicable requirements for such information presented in a Quarterly Report on the Commission’s Form 10-Q and all pro forma and historical information in respect of any significant transaction (as determined in accordance with Rule 3-05 of Regulation S-X) consummated more than 75 days prior to the date such information is furnished for the time periods for which such information would be required (if the Main Issuer were subject to the filing requirements of the Exchange Act) in a filing on Form 8-K with the Commission at such time; and
- (3) within 10 business days, information substantially similar to the information that would be required to be included in a Current Report on the Commission’s Form 8-K with respect to such matters pursuant to Item 1.01 (Entry into a Material Definitive Agreement), 1.02 (Termination of a Material Definitive Agreement), 1.03 (Bankruptcy or Receivership), 2.01 (Completion of Acquisition or Disposition of Assets), 2.03 (Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement), 2.04 (Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement), 4.01 (Changes in a Registrant’s Certifying Accountant), 4.02 (Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review), 5.01 (Changes in Control of Registrant) or 5.02(a)-(d) (Departure of

Directors or Certain Officers; Election of Directors; Appointment of Certain Officers) of such form, *provided, however*, that no such report (i) shall be required to include any financial statements, *pro forma* financial information, or exhibits, that would be required by Item 9.01 (Financial Statements and Exhibits) of such form, and (ii) shall be required to be furnished if the Main Issuer determines in its good faith judgment that such event is not material to the holders of the notes or would not reasonably be expected to impair the ability of the Issuers to perform their obligations under the indenture and the notes.

Notwithstanding the foregoing, in no event shall any reports provided pursuant to this covenant be required to include any additional financial information that would be required under Rule 3-10 or Rule 3-16 of Regulation S-X, respectively, promulgated by the Commission, or any separate financial information with respect to any class or grouping of Subsidiaries of the Main Issuer; and *provided further*, that, in no event, shall reports be required to comply with (1) Sections 302, 906 and 404 of the Sarbanes-Oxley Act of 2002 or Items 307, 308 and 402 of Regulation S-K, or (2) Regulation G under the Exchange Act or Item 10(e) of Regulation S-K with respect to any non-GAAP financial information contained therein.

So long as any notes are outstanding, the Issuers will also use commercially reasonable efforts to arrange and participate in quarterly conference calls (each, a “*Noteholder Call*”) to discuss its results of operations for the previous quarters with holders of notes. The Noteholder Call may, but is not required to, be combined with a similar quarterly conference call conducted by Peabody, and in any event the Noteholder Call will be conducted no later than 10 business days following the date on which each of the quarterly and annual reports are made available as provided above. In addition, the Issuers agree that, for so long as any notes remain outstanding, they will furnish to any beneficial owners, securities analysts and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act and not otherwise previously provided pursuant to this covenant.

The Issuers will (1) distribute such reports and information required by this covenant electronically to the Trustee and (2) make available such reports and information and details relating to each Noteholder Call to any Holder, beneficial owner, prospective investor or security analyst, including by posting such reports and information on a password protected online data system; *provided* that (a) the Issuers shall only be required to make readily available any password or other login information to any such Holder, beneficial owner, prospective investor or security analyst and (b) the Issuers may deny access to any competitively-sensitive information otherwise to be provided pursuant to this paragraph to any such Holder, beneficial owner, prospective investor or security analyst that is a competitor of the Issuers and their Subsidiaries to the extent that the Issuers determine in good faith that the provision of such information to such Person would be competitively harmful to the Issuers and their Subsidiaries; *provided, further* that, such holders, beneficial owners and prospective investors shall agree to (i) treat all such reports (and the information contained therein) and information as confidential, (ii) not use such reports (and the information contained therein) and information for any purpose other than their investment or potential investment in the notes and (iii) not publicly disclose any such reports (and the information contained therein) and information *provided, further, however*, that the access details for each Noteholder Call shall be posted no fewer than three business days prior to the date of such Noteholder Call.

Delivery of reports, information and documents to the Trustee is for informational purposes only and its receipt of such reports shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuers’ compliance with any of their covenants under the indenture or the notes (as to which the Trustee is entitled to rely exclusively on Officer’s Certificates). The Trustee shall not be obligated review or analyze any reports furnished or made available to it, or to monitor or confirm, on a continuing basis or otherwise, our compliance with the covenants or with respect to any reports or other documents filed or made available on any website under the Indenture or participate in any conference calls.

Any and all Defaults or Events of Default arising from a failure to furnish or file in a timely manner any information or report required by this covenant shall be deemed cured (and the Issuers shall be deemed to be in compliance with this covenant) upon furnishing or filing such information or report as contemplated by this covenant (but without regard to the date on which such information or report is so furnished or filed); *provided* that such cure shall not otherwise affect the rights of the holders described below under “—Default and Remedies” if principal and interest have been accelerated in accordance with the terms of the indenture and such acceleration has not been rescinded or cancelled prior to such cure.

To the extent not satisfied by the reporting obligations outlined above, the Issuers shall furnish holders of notes and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the notes are not freely transferable under the Securities Act. The notes will be eligible for resale under Rule 144A. See “—Notice to Investors; Transfer Restrictions.”

Consolidation, Merger or Sale of Assets

The Issuers and PIC Acquisition

- (a) None of the Issuers or PIC Acquisition will:
 - (1) consolidate or merge with or into any Person; or
 - (2) sell, convey, transfer, or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related transactions, to any Person.
- (b) None of the Issuers or PIC Acquisition will lease all or substantially all of its assets, whether in one transaction or a series of transactions, to one or more other Persons.

Peabody

Peabody will not consolidate or merge with or into, or sell, assign, transfer, lease or otherwise dispose of, in a single transaction or series of related transactions, all or substantially all of its assets to any Person unless:

- (a) the resulting, surviving or transferee Person (if not Peabody) shall be a Person organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, and such Person shall expressly assume, by a supplemental indenture, executed and delivered to the Trustee, all the obligations of Peabody under the notes, including pursuant to the Wilpinjong Mandatory Offer;
- (b) except in the case of a merger entered into solely for reincorporating Peabody in another jurisdiction, immediately after giving effect to such transaction and the assumption contemplated by the immediately preceding clause (a), there shall not have occurred an Event of Default described in clause (8)(i) or (ii) in the definition thereof;
- (c) such transaction shall be permitted under the Peabody Existing Indenture and the Peabody 2024 Notes Indenture, excluding the effect of any amendments to or waivers with respect to either of such indentures after the Issue Date; and
- (d) the Issuers shall have delivered to the Trustee an Officer’s Certificate and an opinion of counsel, each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with the applicable provisions of the indenture and that all conditions precedent in the indenture relating to such transaction have been satisfied.

Obligation to Maintain Ratings

The Issuers shall take all necessary actions to have a rating assigned to the notes by either Rating Agency prior to the Issue Date and to maintain a rating of the notes by at least one Rating Agency so long as any of the notes are outstanding.

Events of Default

An “Event of Default” occurs if:

- (1) the Issuers default in the payment of the principal and premium, if any, of any note when the same becomes due and payable at final maturity, upon acceleration or redemption, or otherwise (other than pursuant to an Offer to Purchase);
- (2) the Issuers default in the payment of interest on any note when the same becomes due and payable, and the default continues for a period of 30 days;
- (3) the Issuers fail to make an Offer to Purchase and thereafter accept and pay for notes tendered when and as required pursuant to the covenant described above under “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders—Asset Sales” or “—Repurchase of Notes at the Option of Holders—Excess Cash Flow”, as applicable, or the Issuers fail to comply with the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets;”
- (4) the Main Issuer or any Subsidiary defaults in the performance of or breach any other of its covenants or agreements in the indenture or, under the notes or under the other Note Documents (other than a default specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 60 consecutive days (or 90 consecutive days in the case of a failure to comply with the reporting obligations described under the caption “— Certain Covenants—Reports”) after written notice to the Main Issuer by the Trustee or to the Main Issuer and the Trustee by the holders of 25% or more in aggregate principal amount of the notes;
- (5) there occurs with respect to any Debt of the Main Issuer or any of its Subsidiaries and/or Co-Issuer, as applicable, having an outstanding principal amount of \$20.0 million or more an event of default, including failure to make a principal payment on such Debt when due and such defaulted payment is not made, waived or extended within the applicable grace period;
- (6) one or more final judgments or orders for the payment of money are rendered against the Main Issuer or any of its Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes, in each case, the aggregate amount for such final judgments or orders outstanding and not paid or discharged against such Person to exceed \$20.0 million (in excess of amounts which the Issuers’ insurance carriers have agreed to pay under applicable policies), or its foreign currency equivalent, during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect;
- (7) certain bankruptcy defaults occur with respect to the Main Issuer, Co-Issuer or any other Subsidiary that is a Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would be a Significant Subsidiary;
- (8) (i) the permanent cessation of production of coal at the Wilpinjong Mine, or such cessation continues for more than 90 days and there is no reasonable likelihood that such production will continue, (ii) the occurrence of a cross-event of default to the step-in deed for the benefit of Wilpinjong Mine Customer under any long-term supply contract and the Wilpinjong Mine Customer exercising its step-in right to appoint a receiver to operate the Wilpinjong Mine and such receiver refuses to mine for third-party production, or (iii) the Wilpinjong Mine Customer receiving payments or additional collateral (to which the Wilpinjong Mine Customer is not entitled to at the Issue Date) and such payments or additional collateral are in excess of a fair market value (or face value with respect to letters of credit) of \$20.0 million from the Main Issuer or any of its Subsidiaries as consideration to forbear from exercising its rights or waive any such event of default under any long-term supply contract; or

- (9) the occurrence of the following:
- (a) except as permitted by the Note Documents, any Note Document establishing the Priority Liens ceases for any reason to be enforceable; *provided* that it will not be an Event of Default under this clause (9)(a) if the sole result of the failure of one or more Note Documents to be fully enforceable is that any Priority Lien purported to be granted under such Note Documents on Collateral ceases to be an enforceable and perfected Priority Lien; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Main Issuer or any Subsidiary becomes aware of such failure, which failure has not been cured during such time period;
 - (b) except as permitted by the Note Documents, any Priority Lien purported to be granted under any Note Document on Collateral ceases to be an enforceable and perfected first priority Lien, subject to Permitted Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Main Issuer or any Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and
 - (c) the Issuers, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Issuers set forth in or arising under any Note Document establishing Priority Liens;
- (10) (i) any termination of the Surety Transaction Support Agreement by any sureties signatory thereto, provided that such termination or terminations result in the Main Issuer or any of its Subsidiaries making payments or delivering collateral to such sureties beyond the collateral that such sureties are entitled to as of the Issue Date, and such payments or additional collateral are in excess of a fair market value (or face value with respect to delivered letters of credit or guarantees) of \$20.0 million in the aggregate, or (ii) any modification materially adverse to Peabody or any of its Subsidiaries;
- (11) Peabody fails to comply with any obligation under the Transaction Support Agreement that survives or arises after the Issue Date (including any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes; or
- (12) the termination of the Management Services Agreements unless at the time of such termination there are arrangements in place providing for substantially the same services to be provided to the Main Issuer and its Subsidiaries on terms not materially less favorable to the Main Issuer and its Subsidiaries than the Management Services Agreements or the Management Services Agreements are amended in any manner materially adverse to the Main Issuer and its Subsidiaries.

Consequences of an Event of Default

If an Event of Default, other than a bankruptcy default with respect to any Issuer, occurs and is continuing under the indenture, the Trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding, by written notice to the Main Issuer (and to the Trustee if the notice is given by the holders), may declare the principal of and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal and accrued interest will become immediately due and payable. If a bankruptcy default occurs with respect to the Main Issuer, Co-Issuer or any other Subsidiary that is a Significant Subsidiary, the principal of and accrued interest on the notes then outstanding will become immediately due and payable without any declaration or other act on the part of the Trustee or any holder.

Without limiting the generality of the foregoing, it is understood and agreed that if the notes are accelerated or otherwise become due prior to their stated maturity, in each case, as a result of an Event of Default (including, without limitation, an Event of Default under clause (7) of the definition thereof (including the acceleration of any portion of the notes by operation of law)), the greater of (i) the Applicable Premium and (ii) the amount by

which the applicable redemption price set forth in the table under “—Optional Redemption” exceeds the principal amount of the notes (the “Redemption Price Premium”), as applicable, with respect to an optional redemption of the notes shall also be due and payable as though the notes had been optionally redeemed on the date of such acceleration and shall constitute part of the Obligations with respect to the notes in view of the impracticability and difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each holder’s lost profits as a result thereof. If the Redemption Price Premium becomes due and payable, it shall be deemed to be principal of the notes, including for purposes of a Wilpinjong Mandatory Offer, and interest shall accrue on the full principal amount of the notes (including the Redemption Price Premium) from and after the applicable triggering event, including in connection with an Event of Default specified under clause (7) of the definition thereof. Any Redemption Price Premium payable above shall be presumed to be liquidated damages sustained by each holder as the result of the acceleration of the notes and the Issuers and the Wilpinjong Credit Parties to the extent they provide guarantees for the notes pursuant to “—Guarantees” agree that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the notes or the Indenture are satisfied, released or discharged through foreclosure, whether by judicial proceeding, deed in lieu of foreclosure or by any other means. IN THE INDENTURE, THE ISSUERS, AND TO THE EXTENT APPLICABLE, THE WILPINJONG CREDIT PARTIES IN ANY APPLICABLE SUPPLEMENTAL INDENTURE, EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Issuers and if applicable, the Wilpinjong Credit Parties will expressly agree (to the fullest extent they may lawfully do so) that: (A) the Redemption Price Premium is reasonable and is the product of an arm’s length transaction between sophisticated business entities ably represented by counsel; (B) the Redemption Price Premium shall be payable notwithstanding the then prevailing market rates at the time acceleration occurs; (C) there has been a course of conduct between holders and the Issuer giving specific consideration in this transaction for such agreement to pay the Redemption Price Premium; and (D) the Issuers shall be estopped from claiming differently than as agreed to in this paragraph. The Issuers and if applicable, the Wilpinjong Credit Parties expressly acknowledge that their agreement to pay the Redemption Price Premium to holders as herein described was a material inducement to investors to acquire the notes.

Notwithstanding anything in the preceding paragraph to the contrary, in the event the Wilpinjong Mandatory Offer is consummated, no Applicable Premium shall be due and payable with respect to any notes tendered and exchanged pursuant to the Wilpinjong Mandatory Offer.

Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a “Noteholder Direction”) provided by any one or more holders (each a “Directing Holder”) must be accompanied by a written representation from each such holder delivered to the Main Issuer and the Trustee that such holder is not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that are not) Net Short (a “Position Representation”), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default (a “Default Direction”) shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the notes are accelerated. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to covenant to provide the Main Issuer with such other information as the Main Issuer may reasonably request from time to time in order to verify the accuracy of such noteholder’s Position Representation within five business days of request therefor (a “Verification Covenant”). In any case in which the holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Main Issuer determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time,

in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Main Issuer has initiated litigation with a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Issuers provide to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such holder, the percentage of notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, any acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee in connection with a Default under clauses (3), (4), (5), (6) or (9) during the pendency of an Event of Default under clause (7) as a result of a bankruptcy or similar proceeding shall not require compliance with the two immediately preceding paragraphs.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with the Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Main Issuer, any holder or any other Person in acting in good faith on a Noteholder Direction.

The holders of a majority in principal amount of the outstanding notes by written notice to the Main Issuer and to the Trustee may waive all past defaults and rescind and annul a declaration of acceleration and its consequences if:

- (1) all existing Events of Default, other than the nonpayment of the principal of, and interest on, the notes that have become due solely by the declaration of acceleration, have been cured or waived; and
- (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Except as otherwise provided in "—Consequences of an Event of Default" or "—Amendments and Waivers—Amendments with Consent of Holders," the holders of a majority in aggregate principal amount of the outstanding notes may, by notice to the Trustee, waive an existing Default and its consequences. Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

In the event of a declaration of acceleration of the notes because an Event of Default described in clause (5) under "—Events of Default" has occurred and is continuing, the declaration of acceleration of the notes shall be automatically annulled, without any action by the Trustee or the holders, if the event of default or payment default triggering such Event of Default pursuant to clause (5) shall be remedied or cured, or rescinded or waived by the holders of the Debt, or the Debt that gave rise to such Event of Default shall have been discharged in full, within 30 days after the declaration of acceleration with respect thereto and if (i) the annulment of the acceleration of the notes would not conflict with any judgment or decree of a court of competent jurisdiction and

(ii) all existing Events of Default, except nonpayment of principal, premium or interest on the notes that became due solely because of the acceleration of the notes, have been cured or waived.

The holders of a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the indenture or the other Note Documents, that may involve the Trustee in personal liability, or that the Trustee determines in good faith may be unduly prejudicial to the rights of holders of notes not joining in the giving of such direction (it being understood that the Trustee shall have no duty to determine whether any direction is prejudicial to any holder). In addition, the Trustee may take any other action it deems proper that is not inconsistent with any such direction received from holders of notes. Neither the Trustee nor the Collateral Trustee shall be obligated to take any action at the direction of holders of notes unless such holders have offered, and if requested, provided to the Trustee and Collateral Trustee indemnity or security satisfactory to the Trustee and Collateral Trustee.

A holder of notes may not institute any proceeding, judicial or otherwise, with respect to the indenture, the notes or the other Note Documents, or for the appointment of a receiver or trustee, or for any other remedy under the indenture, the notes or the other Note Documents, unless:

- (1) the holder has previously given to the Trustee written notice of a continuing Event of Default;
- (2) holders of at least 25% in aggregate principal amount of outstanding notes have made written request to the Trustee to institute proceedings in respect of the Event of Default in its own name as Trustee under the indenture;
- (3) holders of notes have offered, and if requested, provided to the Trustee indemnity reasonably satisfactory to the Trustee against any costs, liabilities or expenses to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) during such 60-day period, the holders of a majority in aggregate principal amount of the outstanding notes have not given the Trustee a direction that is inconsistent with such written request.

Notwithstanding anything in the indenture to the contrary, the right of a holder of a note to receive payment of principal of or interest on its note on or after the Stated Maturities thereof, or to bring suit for the enforcement of any such payment on or after such dates, may not be impaired or affected without the consent of that holder.

If any Default occurs and is continuing and is actually known to a responsible officer of the Trustee, the Trustee will send notice of the Default to each holder within 90 days after it occurs, unless the Default has been cured; *provided* that, except in the case of a default in the payment of the principal of or interest on any note, the Trustee may withhold the notice if and so long as the Trustee in good faith determines that withholding the notice is in the interest of the holders. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless written notice of an event, which is in fact a Default, has been delivered to the Trustee at its office specified in the Indenture and such notice references the Notes and the Indenture and states it is a "Notice of Default."

No Liability of Directors, Officers, Employees, Incorporators, Members and Stockholders

No director, officer, employee, incorporator, member or stockholder of the Issuers or Peabody, as such, will have any liability for any obligations of the Issuers under the notes, the indenture or any other Note Document or for any claim based on, in respect of, or by reason of, such obligations. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. This waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

Amendments without Consent of Holders

- (a) The Issuers, the Trustee and the Collateral Trustee, as applicable, may amend or supplement the indenture, the notes and the other Note Documents without notice to or the consent of any noteholder:
 - (1) to cure any ambiguity, defect, omission, mistake or inconsistency in the Note Documents;
 - (2) to comply with the covenant described above under “—Certain Covenants—Consolidation, Merger or Sale of Assets;”
 - (3) to evidence and provide for the acceptance of an appointment by a successor trustee;
 - (4) to provide for uncertificated notes in addition to or in place of certificated notes, *provided* that the uncertificated notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated notes are described in Section 163(f)(2)(B) of the Code;
 - (5) to provide for any Guarantee of the notes, or to confirm and evidence the release, termination or discharge of any Guarantee when such release, termination or discharge is permitted by the indenture;
 - (6) [reserved];
 - (7) (a) to conform any provision to this “Description of the New Co-Issuer Notes” and (b) conform the text of the Note Documents or any other such documents (in recordable form) as may be necessary or advisable (in the Issuers’ reasonable discretion) to preserve and confirm the relative priorities of the Priority Lien Obligations and as such priorities are contemplated and set forth in the Collateral Trust Agreement;
 - (8) make, complete or confirm any grant of Collateral permitted or required by any of the Note Documents, including to secure additional Priority Lien Debt;
 - (9) release, discharge or terminate Liens on Collateral in accordance with the Note Documents and to confirm and evidence any such release, discharge or termination;
 - (10) as provided in the Collateral Trust Agreement;
 - (11) in the case of any Note Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;
 - (12) in the case of the indenture, to make any amendment to the provisions relating to the transfer and legending of the notes as permitted hereunder, including, without limitation, to facilitate the issuance and administration of the notes; *provided* that compliance with the indenture as so amended may not result in the notes being transferred in violation of the Securities Act or any applicable securities laws;
 - (13) to comply with the rules of any applicable securities depositary; or
 - (14) to make any other change that does not materially and adversely affect the rights of any holder.

In addition, the Collateral Trustee and the Trustee will be authorized to amend the Security Documents as provided under the caption “—Collateral Trust Agreement—Amendment of Security Documents.”

Except as otherwise provided in “—Default and Remedies—Consequences of an Event of Default” or the following paragraph, the Issuers and the Trustee may amend the indenture, the notes and the other Note Documents with the consent of the holders of 66.67% in aggregate principal amount of the outstanding notes, and

the holders of 66.67% in aggregate principal amount of the outstanding notes may waive compliance by the Issuers with any provision of the indenture, the notes or the other Note Documents.

- (b) Notwithstanding the provisions of paragraph (a), without the consent of each holder affected, an amendment or waiver may not:
- (1) reduce the principal amount of or change the Stated Maturity of any installment of principal of any note or alter or waive the provisions with respect to the redemption of the notes (other than the provisions described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders —Asset Sales” and “—Repurchase of Notes at the Option of Holders —Excess Cash Flow”, which are described below);
 - (2) reduce the rate of or change the Stated Maturity of any interest payment on any note;
 - (3) reduce the amount payable upon the redemption of any note or, in respect of an optional redemption, the times at which any note may be redeemed;
 - (4) after the time an Offer to Purchase is required to have been made, reduce the purchase amount or purchase price, or extend the latest expiration date or purchase date thereunder;
 - (5) make any note payable in money other than that stated in the note of such series;
 - (6) impair the right of any holder of notes to receive any principal payment or interest payment on such holder’s notes, on or after the Stated Maturity thereof, or institute suit for the enforcement of any such payment;
 - (7) make any change in the percentage of the principal amount of the notes whose holders must consent to an amendment or waiver;
 - (8) [reserved];
 - (9) [reserved];
 - (10) modify or amend the provisions in the indenture regarding the waiver of past Defaults and the waiver of certain covenants by the holders of such notes affected thereby, except to increase any percentage vote required or to provide that certain other provisions of the indenture may not be modified or waived without the consent of the holder of each note affected thereby; or
 - (11) modify or amend any of the above or this amendment and waiver provision.

In addition, the consent of holders representing at least 85.00% of outstanding notes will be required to (i) release the Liens for the benefit of the holders of the notes on all or substantially all of the Collateral, (ii) alter or waive the provisions with respect to the redemption of the notes described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control,” “—Repurchase of Notes at the Option of Holders —Asset Sales” and “—Repurchase of Notes at the Option of Holders —Excess Cash Flow” or (iii) modify or change any provision of the indenture affecting the ranking of the notes in a manner materially adverse to the holders of the notes.

It is not necessary for noteholders to approve the particular form of any proposed amendment or waiver, but is sufficient if their consent approves the substance thereof.

Neither the Issuers nor any of their Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid or agreed to be paid to all holders of the notes that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to the consent, waiver or amendment.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants described under “—Certain Covenants,” or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any legal rights of any holders of the notes to receive payment of principal of or premium, if any, or interest on the notes or to institute suit for the enforcement of any payment on or with respect to such holder’s notes.

Defeasance and Discharge

The Issuers may at any time, at the option of their respective Boards of Directors evidenced by a resolution set forth in an Officer’s Certificate, elect to have all of its obligations discharged with respect to the outstanding notes (“Legal Defeasance”) except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium, if any, on, such notes when such payments are due from the trust referred to below;
- (2) the Issuers’ obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties, immunities and indemnities of the Trustee and Collateral Trustee, and the Issuers’ obligations in connection therewith; and
- (4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, the Issuers may, at their option and at any time, elect to have the obligations of the Issuers released with respect to certain covenants (including its obligation to make an Offer to Purchase pursuant to a Change of Control or Asset Sale) contained in the indenture (“*Covenant Defeasance*”) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event covenant Defeasance occurs, all Events of Default described under “—Default and Remedies” (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Issuers must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable government securities, or a combination of cash in U.S. dollars and non-callable government securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium, if any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Issuers must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) in the case of Legal Defeasance, the Issuers must deliver to the Trustee an opinion of counsel confirming that (a) the Issuers have received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, the Issuers must deliver to the Trustee an opinion of counsel confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

- (4) no Default or Event of Default under the notes has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Debt), and the granting of Liens to secure such borrowings);
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture and the agreements governing any other Debt being defeased, discharged or replaced) to which the Issuers is a party or by which the Issuers is bound;
- (6) the Issuers must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuers with the intent of preferring the holders of the notes over the other creditors of the Issuers with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuers or others; and
- (7) the Issuers must deliver to the Trustee and the Collateral Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

The Collateral will be released from the Lien securing the notes, as provided under the caption “—Collateral Trust Agreement—Release of Liens in Respect of Notes,” upon a Legal Defeasance or Covenant Defeasance in accordance with the provisions described above.

Concerning the Trustee and Paying Agent

Wilmington Trust, National Association will be the Trustee under the indenture.

Except during the continuance of an Event of Default actually known to a responsible officer of the Trustee, the Trustee will be required to perform only those duties that are specifically set forth in the indenture and no others, and no implied covenants or obligations will be read into the indenture against the Trustee. In case an Event of Default has occurred and is continuing and is actually known to a responsible officer of the Trustee, the Trustee shall exercise those rights and powers vested in it by the indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. No provision of the indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties thereunder, or in the exercise of its rights or powers, unless it receives indemnity satisfactory to it against any loss, liability or expense.

The indenture will limit the rights of the Trustee, should it become a creditor of any obligor on the notes, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee may engage in other transactions with the Issuers and their Affiliates; *provided* that if it acquires any conflicting interest after a Default or Event of Default has occurred and is continuing, it must either eliminate the conflict within 90 days, apply to the Commission for permission to continue or resign.

Wilmington Trust, National Association will also initially serve as the security registrar and paying agent for the notes. We may at any time designate additional paying agents or rescind the designation of paying agents or approve a change in the office through which any paying agent acts. We may also choose to act as our own paying agent, but must also maintain a paying agency in the contiguous United States. Whenever there are changes in the paying agent for the notes we must notify the Trustee.

References in the indenture to the Trustee shall, as appropriate, refer also to the paying agent and security registrar, and such other entities and any authentication agent shall be entitled to the same rights, protections and indemnities as those granted to the Trustee.

Form, Denomination and Registration of Notes

The notes will be issued in registered form, without interest coupons, in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, in the form of both global notes and certificated notes, as further described below under “—Book Entry, Delivery and Form.”

The Trustee will not be required (i) to issue, register the transfer of or exchange any note for a period of 15 days before a selection of notes to be redeemed, (ii) to register the transfer of or exchange any note so selected for redemption in whole or in part, except, in the case of a partial redemption, that portion of the note not being redeemed, or (iii) if a redemption is to occur after a regular record date but on or before the corresponding interest payment date, to register the transfer or exchange any note on or after the regular record date and before the date of redemption.

No service charge will be imposed in connection with any transfer or exchange of any note, but the Issuers may in general require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

Governing Law

The indenture, the notes and the other Note Documents shall be governed by, and construed in accordance with, the laws of the State of New York.

Certain Definitions

“*Acquired Debt*” means Debt of a Person existing at the time the Person is acquired by, or merges with or into, the Main Issuer or any Subsidiary or becomes a Subsidiary, whether or not such Debt is Incurred in connection with, or in contemplation of, the Person being acquired by or merging with or into or becoming a Subsidiary.

“*Act of Required Secured Parties*” means, as to any matter at any time:

- (i) until the Discharge of Priority Lien Obligations, a direction in writing delivered to the Priority Collateral Trustee by or with the written consent of the holders of (or the Priority Lien Representatives representing the holders of) Priority Lien Debt representing more than 50% of the aggregate outstanding principal amount of Priority Lien Debt; and
- (ii) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Junior Collateral Trustee by or with the written consent of the holders of (or the Junior Lien Representatives representing the holders of) Junior Lien Debt representing the Required Junior Lien Debtholders.

For purposes of this definition, (a) Secured Debt registered in the name of, or beneficially owned by, the Issuers or any Affiliate of the Issuers will be deemed not to be outstanding and neither the Issuers nor any Affiliate of the Issuers will be entitled to vote such Secured Debt (in each case, as identified in writing to the Collateral Trustee by the applicable Secured Debt Representative) and (b) votes will be determined in accordance with the provisions described under “—Collateral Trust Agreement—Voting.”

“*Affiliate*” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, such specified Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and a Person shall be presumed to “control” another Person if (A) the first Person either (i) is the Beneficial Owner, directly or indirectly, of 35% or more of the total voting power of the Voting Stock

of such specified Person or (ii) (x) is the Beneficial Owner, directly or indirectly, of 10% or more of the total voting power of the Voting Stock of such specified Person and (y) has the right to appoint or nominate, or has an officer or director that is, at least one member of the Board of Directors of such specified Person, or (B) if the specified Person is a limited liability company, the first Person is the managing member. “Controlled” has a meaning correlative thereto.

“*Applicable Premium*” means with respect to any note on any redemption date the greater of (A) 1% of the then outstanding principal amount of such note and (B) the excess (if any) of (a) the present value at such redemption date of (1) the redemption price of such note at January 30, 2023, as set forth under “—Optional Redemption” plus (2) all required interest payments due on such note from the redemption date through January 30, 2023 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate with respect to such redemption date plus 50 basis points over (b) the principal amount of such note. The Trustee shall have no duty to calculate or verify the calculation of the Applicable Premium.

“*Asset Sale*” means any sale, lease (other than operating leases or finance leases entered into in the ordinary course of a Permitted Business), transfer or other disposition of any assets by the Issuers or any Subsidiary outside of the ordinary course of business, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Subsidiary (each of the above referred to as a “disposition”), *provided* that the following are not included in the definition of “Asset Sale”:

- (1) [reserved];
- (2) the sale or discount of accounts receivable by Wilpinjong Opco or any of its Subsidiaries arising in the ordinary course of business in connection with the compromise or collection thereof;
- (3) a transaction covered by the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets—The Issuers;”
- (4) a Restricted Payment permitted under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments” or a Permitted Investment;
- (5) any transfer of property or assets that consists of grants by Wilpinjong Opco or any of its Subsidiaries in the ordinary course of business of licenses or sub-licenses, including with respect to intellectual property rights;
- (6) [reserved];
- (7) [reserved];
- (8) foreclosure of assets of the any Subsidiary to the extent not constituting a Default;
- (9) the sale or other disposition of cash or Cash Equivalents;
- (10) [reserved];
- (11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (12) the issuance of Disqualified Stock or Preferred Stock pursuant to the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;”
- (13) (a) the sale of damaged, obsolete, unusable or worn out equipment or equipment that is no longer needed in the conduct of the business of Wilpinjong Opco and its Subsidiaries and (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines;
- (14) dispositions by Wilpinjong Opco or any of its Subsidiaries of assets by virtue of an asset exchange or swap with a third party in any transaction (a) with an aggregate Fair Market Value less than or equal to \$15.0 million, (b) involving a coal-for-coal swap, (c) to the extent that an exchange is for Fair Market Value and for credit against the purchase price of similar replacement property or (d) consisting of a coal swap involving any Real Property;

- (15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than \$5.0 million; provided that the aggregate Fair Market Value of all dispositions made pursuant to this subclause (15) shall be less than \$15.0 million; and
- (16) exchanges and relocation of easements for pipelines, oil and gas infrastructure and similar arrangements in the ordinary course of business.

“*Average Life*” means, as of the date of determination with respect to any Debt, the quotient obtained by dividing (i) the sum of the products of (x) the number of years from the date of determination to the dates of each successive scheduled principal payment of such Debt and (y) the amount of such principal payment by (ii) the sum of all such principal payments.

“*Attributable Debt*” means, at any date, in respect of Finance Leases of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared in accordance with GAAP.

“*Bank Products Obligations*” means any and all obligations of any Issuer arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of any Issuer now or hereafter maintained with any of such lenders or their affiliates, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other treasury, deposit, disbursement, overdraft, and cash management services afforded to the applicable Issuer by any of such lenders or their affiliates, and (d) stored value card, commercial credit card and merchant card services.

“*Bankruptcy Code*” means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

“*Bankruptcy Law*” means the Bankruptcy Code and any federal, state or foreign law for the relief of debtors.

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have correlative meanings. For purposes of this definition, a Person shall be deemed not to Beneficially Own securities that are the subject of a stock purchase agreement, merger agreement, amalgamation agreement, arrangement agreement or similar agreement until consummation of the transactions or, as applicable, series of related transactions contemplated thereby.

“*Black Lung Act*” means, collectively, the Black Lung Benefits Revenue Act of 1977, as amended and the Black Lung Benefits Reform Act of 1977, as amended.

“*Board of Directors*” means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) with respect to a partnership, if the general partner of the partnership is a corporation, the board of directors of the general partner of the partnership and if the general partner of the partnership is a limited liability company, the managing member or members or any controlling committee of managing members thereof of such general partner, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or any manager thereof and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

“*Capital Expenditure*” means any expenditure that, in accordance with GAAP, is or should be included in “purchase of property and equipment” or similar items, or which should otherwise be capitalized, reflected in the

consolidated statement of cash flows of the Main Issuer and its Subsidiaries; *provided* that Capital Expenditure shall not include any expenditure (i) for replacements and substitutions for fixed assets, capital assets or equipment to the extent made with Net Insurance/Condemnation Proceeds or with Net Cash Proceeds or (ii) which constitute a Permitted Investment.

“*Capital Stock*” means

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“*Cash Equivalents*” means

- (1) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;
- (2) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of two years or less from the date of acquisition, (iii) bankers’ acceptances with maturities not exceeding two years from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital, surplus and undivided profits in excess of \$250 million (or the foreign currency equivalent thereof) whose short-term debt is rated A-2 or higher by S&P or P-2 or higher by Moody’s;
- (3) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody’s;
- (4) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case rated at least A-1 by S&P or P-1 by Moody’s with maturities not exceeding one year from the date of acquisition;
- (5) bonds, debentures, notes or other obligations with maturities not exceeding two years from the date of acquisition issued by any corporation, partnership, limited liability company or similar entity whose long-term unsecured debt has a credit rate of A2 or better by Moody’s and A or better by S&P;
- (6) investment funds at least 95% of the assets of which consist of investments of the type described in clauses (1) through (5) above (determined without regard to the maturity and duration limits for such investments set forth in such clauses, *provided* that the weighted average maturity of all investments held by any such fund is two years or less);
- (7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (1) above and entered into with a financial institution satisfying the criteria described in clause (2) above; and
- (8) in the case of a Foreign Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

“*Casualty Event*” means any event that gives rise to the receipt by the Main Issuer or any of its Subsidiaries of any insurance proceeds or condemnation awards in respect of any equipment, assets or real property (including any improvements thereon) to replace or repair such equipment, assets or real property.

“Change of Control” means:

- (1) the sale, lease, transfer, or conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of the Main Issuer and its Subsidiaries and/or Co-Issuer, taken as a whole, to any “person” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act);
- (2) any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or becomes the “beneficial owner” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of (i) the Main Issuer or any direct or indirect parent of the Main Issuer and/or (ii) Co-Issuer or any direct or indirect parent of Co-Issuer;
- (3) individuals who on the Issue Date constituted the Boards of Directors of (i) the Main Issuer or any direct or indirect parent of the Main Issuer and/or (ii) Co-Issuer or any direct or indirect parent of Co-Issuer, together with any new directors whose election by the Boards of Directors or whose nomination for election by the holders of the Voting Stock of any of such entities was approved by a majority of the directors then still in office who were either directors or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Boards of Directors of any of such entities then in office;
- (4) the adoption of a plan relating to the liquidation or dissolution of any Issuer;
- (5) the failure of the Main Issuer to own 100% of the capital stock of PIC Acquisition Corp.;
- (6) the failure of Peabody Investments Corp. to own 100% of the capital stock of the Main Issuer; or
- (7) the failure of PIC Acquisition to own 100% of the capital stock of Wilpinjong Opco.

Notwithstanding the preceding, a conversion of the Main Issuer or any of its Subsidiaries or Co-Issuer or any direct or indirect parent of the Main Issuer or any direct or indirect parent of Co-Issuer from a limited partnership, corporation, limited liability company or other form of entity to a limited partnership, corporation, limited liability company or other form of entity or an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests for another form of entity shall not constitute a Change of Control, so long as following such transaction the “persons” (as that term is used in Section 13(d) of the Exchange Act) who Beneficially Owned the Voting Stock of the Main Issuer or Co-Issuer, as the case may be, immediately prior to such transaction continue to Beneficially Own in the aggregate more than 50% of the Voting Stock of such entity, or continue to Beneficially Own sufficient Equity Interests in such entity to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity or its general partner, as applicable, and, in either case no “person,” Beneficially Owns more than 50% of the Voting Stock of such entity or its general partner, as applicable.

“Class” means (1) in the case of Junior Lien Obligations, every Series of Junior Lien Debt and all other Junior Lien Obligations, taken together, and (2) in the case of Priority Lien Obligations, every Series of Priority Lien Debt and all other Priority Lien Obligations, taken together. The Collateral Trust Agreement includes two Classes of Secured Parties, the holders of Priority Lien Obligations and holders of Junior Lien Obligations.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means (i) 100% of the capital stock of PIC Acquisition Corp. owned by the Main Issuer, which constitutes 100% of all capital stock issued by PIC Acquisition Corp. (the “Pledged Equity Interests”) and (ii) all other property subject or purported to be subject, from time to time, to a Lien under any Secured Document.

“Collateral Trust Agreement” means that certain collateral trust agreement to be dated the Issue Date, by and among the Issuers, the Priority Lien Collateral Trustee, the Junior Lien Collateral Trustee and the Trustee.

“*Collateral Trust Joinder*” means, with respect to the provisions of the Collateral Trust Agreement relating to the addition of additional obligations, an agreement substantially in the form attached to the Collateral Trust Agreement.

“*Collateral Trustee*” means each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

“*Commission*” or “*SEC*” means the Securities and Exchange Commission.

“*common equity*,” when used with respect to a contribution of capital to the Main Issuer, means a capital contribution to the Main Issuer in a manner that does not constitute Disqualified Equity Interests.

“*Common Stock*” means Capital Stock not entitled to any preference on dividends or distributions, upon liquidation or otherwise.

“*Consolidated Capital Expenditures*” means, for any period, the aggregate of all Capital Expenditures of the Borrower and its Subsidiaries during such period determined on a consolidated basis in accordance with GAAP.

“*Consolidated Net Income*” means, for any period, for the Main Issuer and its Subsidiaries on a consolidated basis, the net income (or loss) attributable to the Main Issuer and the Subsidiaries for that period, determined in accordance with GAAP, excluding, without duplication:

- (1) non-cash compensation expenses related to common stock and other equity securities issued to employees;
- (2) extraordinary or non-recurring gains and losses;
- (3) [reserved];
- (4) income or losses from discontinued operations or disposal of discontinued operations or costs and expenses associated with the closure of any mines (including any reclamation or disposal obligations);
- (5) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;
- (6) net unrealized gains or losses resulting in such period from non-cash foreign currency remeasurement gains or losses;
- (7) net unrealized gains or losses resulting in such period from the application FASB ASC 815. Derivatives and Hedging, in each case, for such period;
- (8) non-cash charges including non-cash charges due to cumulative effects of changes in accounting principles; and
- (9) any net income (or loss) of the Main Issuer or a Subsidiary for such period that is not a Subsidiary or that is accounted for by the equity method of accounting to the extent included therein; *provided* that Consolidated Net Income of the Main Issuer shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Main Issuer or a Subsidiary thereof in respect of such period.

“*Consolidated Net Tangible Assets*” means, as of any particular time, the total of all the assets appearing on the most recent consolidated balance sheet prepared in accordance with GAAP of the Main Issuer and its Subsidiaries as of the end of the last fiscal quarter for which financial information is available (less applicable reserves and other properly deductible items) after deducting from such amount:

- (1) all current liabilities, including current maturities of long-term debt and current maturities of obligations under finance leases (other than any portion thereof maturing after, or renewable or extendable at our option or the option of the relevant Subsidiary beyond, twelve months from the date of determination); and

- (2) the total of the net book values of all of our assets and the assets of our Subsidiaries properly classified as intangible assets under GAAP (including goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets).

“*Consolidated Total Debt*” means, as of the date of determination, an amount equal to the sum (without duplication) of (1) the aggregate amount of all outstanding Debt of the Main Issuer and its Subsidiaries on a consolidated basis plus (2) the aggregate amount of all outstanding Disqualified Stock of the Main Issuer and its Subsidiaries, on a consolidated basis, with the amount of such Disqualified Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and Maximum Fixed Repurchase Price.

For purposes hereof, the “Maximum Fixed Repurchase Price” of any Disqualified Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Consolidated Total Debt shall be required to be determined pursuant to the indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined reasonably and in good faith by the Main Issuer.

“*Controlling Representative*” means at any time (i) prior to the Discharge of Priority Lien Obligations, each of the Term Loan Agent and the Trustee and (ii) after the Discharge of Priority Lien Obligations, the Junior Lien Representative.

“*Debt*” means, with respect to any Person, without duplication,

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (other than any obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees, bank guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits);
- (3) all obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (solely to the extent such letters of credit, bankers’ acceptances or other similar instruments have been drawn and remain unreimbursed);
- (4) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued expenses incurred in the ordinary course of business, (ii) obligations under federal coal leases and (iii) obligations under coal leases which may be terminated at the discretion of the lessee and (iv) obligations for take-or-pay arrangements);
- (5) the Attributable Debt of such Person in respect of Finance Leases;
- (6) all Debt of other Persons Guaranteed by such Person to the extent so Guaranteed; and
- (7) all Debt of other Persons secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person.

The amount of Debt of any Person will be deemed to be:

- (a) with respect to Debt secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the Fair Market Value of such asset on the date the Lien attached and (y) the amount of such Debt;
- (b) with respect to any Debt issued with original issue discount, the face amount of such Debt less the remaining unamortized portion of the original issue discount of such Debt;
- (c) [reserved]; and
- (d) otherwise, the outstanding principal amount thereof.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Derivative Instrument” with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person’s investment in the notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value or cash flows of which (or any material portion thereof) are materially affected by the value or performance of the notes or the creditworthiness of any one or more of the Issuers (the “Performance References”).

“Discharge of Priority Lien Obligations” means the occurrence of all of the following:

- (1) [reserved];
- (2) with respect to each Series of Priority Lien Debt, either (x) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt of such Series or (y) there has been a legal defeasance or covenant defeasance pursuant to the terms of the applicable Priority Lien Debt Documents for such Series of Priority Lien Debt; and
- (3) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time).

“Discharge of Term Loan Obligations” means that the Priority Lien Obligations pursuant to the Term Loan Facility are no longer secured by, and no longer required to be secured by, the Collateral pursuant to the terms of the Term Loan Facility or the other applicable Term Loan Documents; provided that a Discharge of Term Loan Obligations shall be deemed not to have occurred if the Issuers have entered into any replacement term loan agreement that has been designated in accordance with the terms of the Collateral Trust Agreement.

“Disqualified Equity Interests” means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event

- (1) mature or are mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder for consideration other than Qualified Equity Interests; or
- (2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Debt;

in each case prior to the date that is 91 days after the Stated Maturity of the notes; provided that Equity Interests will not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to require the repurchase or redemption upon an “asset sale” or “change of control” occurring prior to 91 days after the Stated Maturity of the notes if those provisions (a) are no more favorable to the holders of such Equity Interests than the provisions of the indenture described above under “—Repurchase of Notes at the Option of Holders— Asset Sales” and “—Certain Covenants—Repurchase of Notes at the Option of Holders—Change of Control,” and (b) specifically state that repurchase or redemption pursuant thereto will not be required prior to the Issuers’ repurchase of the notes as required by the indenture.

“Disqualified Stock” means Capital Stock constituting Disqualified Equity Interests.

“EBITDA” means, with respect to any specified Person for any period, the sum of, without duplication:

- (1) Consolidated Net Income; plus
- (2) Fixed Charges, to the extent deducted in calculating Consolidated Net Income; plus

- (3) to the extent deducted in calculating Consolidated Net Income and as determined on a consolidated basis for the Main Issuer and its Subsidiaries in conformity with GAAP (and without duplication):
- (a) the provision for Taxes based on income, profits or capital, including, without limitation, state franchise and similar Taxes; plus
 - (b) depreciation, depletion, amortization (including, without limitation, amortization of intangibles, deferred financing fees and any amortization included in pension or other employee benefit expenses) and all other non-cash items reducing Consolidated Net Income (including, without limitation, write-downs and impairment of property, plant, equipment and intangibles and other long-lived assets and the impact of purchase accounting) but excluding, in each case, non-cash charges in a period which reflect cash expenses paid or to be paid in another period); plus
 - (c) any expenses, costs or charges related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or Debt permitted to be incurred by the indenture (whether or not successful); plus
 - (d) all non-recurring or unusual losses, charges and expenses (and less all non-recurring or unusual gains); plus
 - (e) all non-cash charges and expenses, including start-up and transition costs, business optimization expenses and other non-cash restructuring charges; plus
 - (f) the non-cash portion of “straight-line” rent expense; plus
 - (g) non-cash compensation expense or other non-cash expenses or charges arising from the granting of stock options, the granting of stock appreciation rights and similar arrangements (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation rights or similar arrangements); plus
 - (h) any debt extinguishment costs; plus
 - (i) accretion of asset retirement obligations in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic No. 410, Asset Retirement and Environmental Obligations, and any similar accounting in prior periods; plus
 - (j) net after-tax losses attributable to asset sales, and net after-tax extraordinary losses; plus
 - (k) any mark-to-market losses attributed to short positions in any actual or synthetic forward sales contracts relating to coal or any other similar device or instrument or other instrument classified as a “derivative” pursuant to FASB ASC Topic No. 815, Derivatives and Hedging; plus
 - (l) commissions, premiums, discounts, fees or other charges relating to performance bonds, bid bonds, appeal bonds, surety bonds, reclamation and completion guarantees and other similar obligations; plus
 - (m) Transaction Costs;

provided that, with respect to any Subsidiary, such items will be added only to the extent and in the same proportion that the relevant Subsidiary’s net income was included in calculating Consolidated Net Income;

minus

- (1) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (a) and (b) of this clause (1) increased such Consolidated Net Income for the respective period for which EBITDA is being determined):
 - (a) non-cash items increasing Consolidated Net Income for such period (but excluding any such items in respect of which cash was received in a prior period or will be received in a future period or which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period),

- (b) the cash portion of “straight-line” rent expense which exceeds the amount expensed in respect of such rent expense; and
- (c) net after-tax gains attributable to asset sales, and net after-tax extraordinary gains.

“*Environment*” means soil, land surface or subsurface strata, water, surface waters (including navigable waters, ocean waters within applicable territorial limits, streams, ponds, drainage basins, and wetlands), ground waters, drinking water supply, water related sediments, air, plant and animal life, and any other environmental medium.

“*Environmental Laws*” means all laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the Environment or human health and safety, the preservation, restoration or reclamation of natural resources, or the presence, use, storage, discharge, management, release or threatened release of any pollutants, contaminants or hazardous or toxic substances, wastes or material or the effect of the Environment on human health and safety.

“*Equity Interests*” means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Debt convertible into, or exchangeable for, Capital Stock.

“*Equity Offering*” means an offer and sale of Qualified Stock of the Main Issuer after the Issue Date other than (i) an issuance registered on Form S-4 or S-8 or any successor thereto or any issuance pursuant to employee benefit plans or otherwise relating to compensation to officers, directors or employees and (ii) issuances to the Main Issuer or any Subsidiary of the Main Issuer.

“*Excess Cash Flow*” means, for any period, an amount (if positive) equal to, without duplication:

(a) the amount for such period, as reflected in the Main Issuer’s and its Subsidiaries’ consolidated cash flow statement for the relevant period, of net cash provided by/used in operating activities (as determined in accordance with GAAP);

minus

(b) the sum, without duplication, of the amounts for such period paid from Internally Generated Cash of:

- (1) scheduled repayments of Debt for borrowed money (excluding repayments of revolving loans except to the extent the applicable revolving commitments are permanently reduced in connection with such repayments) and scheduled repayments of Finance Lease Obligations (excluding any interest expense portion thereof),
- (2) total Consolidated Capital Expenditures, provided that total Consolidated Capital Expenditures shall be capped at \$25.0 million per calendar year beginning with calendar year 2022,
- (3) Permitted Investments (other than any Investment in (i) the Main Issuer or any of its Subsidiaries or (ii) cash or Cash Equivalents),
- (4) [reserved],
- (5) [reserved],
- (6) scheduled federal coal lease expenditures, and
- (7) [reserved].

As used in clause (1) above, “scheduled repayments of Debt” does not include (x) repurchases of Term Loans pursuant to the Term Loan Agreement and (y) repayments or redemptions, as applicable, of notes, the Term Loans, or any other Debt with the cash proceeds of any Permitted Refinancing Debt.

“*Excess Cash Flow Period*” means (i) initially, the period commencing on February 1, 2021 and ending on June 30, 2021 and (ii) each six-month period ending on every June 30 and December 31 of the Main Issuer thereafter.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Existing Debt*” means Debt of the Main Issuer or the Subsidiaries in existence on the Issue Date (other than the notes issued on the Issue Date).

“*Fair Market Value*” means, with respect to any property, the price that could be negotiated in an arm’s-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction, or, where the price is established by an existing contract, the contract price. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than \$5.0 million, by any Officer; or (b) if such property has a Fair Market Value in excess of \$5.0 million, by at least a majority of the disinterested members of the Board of Directors of the Main Issuer and evidenced by a resolution of the Board of Directors delivered to the Trustee.

“*Finance Lease*” means, as applied to any Person, any lease of any property (whether real personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be accounted for as a finance lease on the balance sheet of that Person.

“*Finance Lease Obligations*” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Finance Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP; *provided* that Finance Lease Obligations shall, for the avoidance of doubt, exclude all Non-Finance Lease Obligations.

“*Fixed Charges*” means, with respect to any specified Person for any period, the sum of

- (1) Interest Expense for such period; and
- (2) the product of
 - (a) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock of the Main Issuer or any Preferred Stock of a Subsidiary, except for dividends payable in the Main Issuer’s Qualified Stock or paid to the Main Issuer or to a Subsidiary; and
 - (b) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate applicable to the Main Issuer and its Subsidiaries.

“*Foreign Subsidiary*” means a Subsidiary that is organized under the laws of a jurisdiction other than the United States or any State thereof or the District of Columbia and any Subsidiary thereof.

“*Funded Debt*” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent;

- (1) in respect of borrowed money or advances; or
- (2) evidenced by loan agreements, bonds, notes or debentures or similar instruments or letters of credit (solely to the extent such letters of credit or other similar instruments have been drawn and remain unreimbursed) or, without duplication, reimbursement agreements in respect thereof.

For the avoidance of doubt, “Funded Debt” shall not include cash management obligations.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the Issue Date.

“*Governmental Authority*” means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Grantor*” means the Issuers and any other Person (if any) that at any time provides collateral security for any Secured Obligations.

“*Guarantee*” by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing any Debt or other obligation of any other Person (the “primary obligor”), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (c) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or other obligation; *provided* that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“*Incur*” means, with respect to any Debt or Capital Stock, to incur, create, issue, assume or Guarantee such Debt or Capital Stock. If any Person becomes a Subsidiary of or merges with an Issuer or any Subsidiary of an Issuer on any date after the date of the indenture, the Debt and Capital Stock of such Person outstanding on such date will be deemed to have been Incurred by such Person on such date for purposes of the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Insolvency or Liquidation Proceeding*” means:

- (1) any voluntary or involuntary case commenced by or against any Issuer or any other Grantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding for the reorganization, recapitalization, receivership, liquidation or adjustment or marshalling of the assets or liabilities of any Issuer or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Issuers or any other Grantor or any similar case or proceeding relative to any Issuer or any other Grantor or its creditors, as such, in each case whether or not voluntary;
- (2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to any Issuer or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
- (3) any other proceeding of any type or nature in which substantially all claims of creditors of any Issuer or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

“*Interest Expense*” means, for any period, the consolidated interest expense (net of any interest income) of the Main Issuer and its Subsidiaries, plus, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by the Main Issuer or its Subsidiaries, without duplication, (i) interest expense attributable to Finance Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense, (v) any of the above expenses with respect to Debt of another Person Guaranteed by the Main Issuer or any of its Subsidiaries and (vi) any yields or other charges or other amounts comparable to, or in the nature of, interest payable by the Main Issuer or any Subsidiary under any receivables financing, but excluding (a) amortization of deferred financing charges incurred in respect of the notes, any credit facility and any other Funded Debt, and (b) the write off of any deferred financing fees or debt discount, all as determined on a consolidated basis and in accordance with GAAP.

“Internally Generated Cash” means, with respect to any period, any cash of the Main Issuer or any Subsidiary generated during such period, excluding Net Cash Proceeds and any cash that is generated from an incurrence of Debt, any Equity Offering or other issuance of Equity Interests or a capital contribution.

“Investment” means

- (1) any advance, loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers, Joint Venture partners or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Main Issuer or its Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or extensions of trade credit in the ordinary course of business by the Main Issuer or any of its Subsidiaries);
- (2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form;
- (3) any purchase or acquisition of Equity Interests, bonds, notes or other Debt, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services; or
- (4) any Guarantee of any Debt or Disqualified Stock of another Person.

If the Main Issuer or any Subsidiary sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a Subsidiary of the Main Issuer, all remaining Investments of the Main Issuer and the Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Main Issuer or any Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

“Investment Grade” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB– (or the equivalent) by S&P.

“Issue Date” means the date on which the notes are originally issued under the indenture.

“Joint Venture” means any Person in which any Subsidiary holds an ownership interest (a) that is not a Subsidiary and (b) of which such Subsidiary is a general partner or joint venturer.

“Junior Collateral Trustee” means Wilmington Trust, National Association, in its capacity as collateral trustee for the Junior Lien Representative and the other Junior Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“Junior Lien” means a Lien on Collateral granted by a Junior Lien Security Document to the Junior Collateral Trustee, at any time, upon any property of the Issuers to secure Junior Lien Obligations.

“Junior Lien Cap” means the amount of “Priority Lien Debt” that may be Incurred by Peabody under the “Priority Lien Cap” in the Peabody 2024 Notes Indenture (each as defined in the Peabody 2024 Notes Indenture).

“Junior Lien Debt” means Funded Debt of Peabody under the Peabody 2024 Notes, the Peabody L/C Facility (and any letter of credit and reimbursement obligations with respect thereto), the Peabody Credit Agreement and the Peabody Existing Indenture so long as such notes or facility is secured by a Junior Lien permitted to be so secured under each applicable Secured Debt Document; *provided*, that all relevant requirements set forth in the Collateral Trust Agreement are complied with.

“*Junior Lien Documents*” means, collectively, any indenture, credit agreement or other agreement pursuant to which any Junior Lien Debt is incurred and the Junior Lien Security Documents.

“*Junior Lien Intercreditor Agreement*” means that certain Collateral Trust Agreement, dated as of April 3, 2017 (as amended), among Wilmington Trust, National Association, as priority collateral trustee, the junior lien collateral trustee and the representatives of the Junior Lien Debt.

“*Junior Lien Obligations*” means Junior Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable), and all guarantees of any of the foregoing.

“*Junior Lien Representative*” means Wilmington Trust, National Association in its capacity as “Priority Lien Collateral Trustee” under the Junior Lien Intercreditor Agreement.

“*Junior Lien Secured Parties*” means the Junior Lien Representative and the other holders of Junior Lien Obligations.

“*Junior Lien Security Documents*” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Issuers creating (or purporting to create) a Lien upon Collateral in favor of the Junior Collateral Trustee, for the benefit of any of the Junior Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the Collateral Trust Agreement.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest, preferential right or option, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease (or other lease in respect of a Non-Finance Lease Obligation) constitute a Lien.

“*Liquidity Amount*” means, with respect to Wilpinjong Opco and its Subsidiaries on a consolidated basis as of such date of determination the amount of unrestricted cash and Cash Equivalents.

“*Long Derivative Instrument*” means a Derivative Instrument (i) the value of which generally increases, or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References or (ii) the value of which generally decreases, or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

“*Management Services Agreements*” means, collectively, (i) the Management Services Agreement, dated as of August 4, 2020, by and between Peabody Investments Corp. and each of the Client Companies listed on the signature page thereto and (ii) the Management Services Agreement, dated as August 4, 2020, by and between Peabody Energy Australia Pty Ltd and each of the Client Companies listed on the signature page thereto, in each case, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Main Issuer and its Subsidiaries than those in effect on the Issue Date.

“*Maximum Amount*” shall mean the lesser of (i) the sum of the aggregate principal amount of notes as may be outstanding at any time and the aggregate Debt outstanding under the Term Loan Facility, (ii) the maximum amount of “Restricted Payments” (as defined in the Peabody Existing Indenture), if any, that Peabody may be permitted under the Peabody Existing Indenture to utilize for purposes of issuing Peabody 2024 Notes pursuant

to the Wilpinjong Mandatory Offer and an additional \$206.0 million pursuant to the requirement to offer to exchange new Debt for the New Co-Issuer Term Loan Facility, in each case as of any date of determination, (iii) to the extent the Wilpinjong Mandatory Offer may result in any Lien (as defined in the Peabody Existing Indenture), the maximum amount of Permitted Liens (as defined in the Peabody Existing Indenture) that may take the form of any such Lien and (iv) the maximum amount of “Investments” (as defined in the Peabody Credit Agreement), if any, that Peabody may be permitted to utilize for purposes of issuing Peabody 2024 Notes and term loans under the Peabody L/C Facility, in each case as of any date of determination.

“*Mine*” means any excavation or opening into the earth now and hereafter made from which coal is or can be extracted from any of the Real Properties, together with access and other rights appurtenant thereto, and all tangible property located on, in, or under all or any part of such Real Property that is used or useful in connection Mining Operations.

“*Mining Laws*” means any and all applicable federal, state, local and foreign statutes, laws, regulations, legally-binding guidance, ordinances, rules, judgments, permits, grants, licenses, orders, decrees or common law causes of action relating to mining operations and activities.

“*Mining Lease*” means a lease, license or other use agreement which provides the Main Issuer or any Subsidiary the real property and water rights, other interests in land, including coal, mining, and surface rights, easements, rights of way and options, and rights to timber and natural gas (including coalbed methane and gob gas) necessary or integral in order to recover coal from any Mine. Leases (other than Finance Leases or operating leases of personal property even if such personal property would become fixtures) which provide the Main Issuer or any other Subsidiary the right to construct and operate a conveyor, crusher plant, silo, load out facility, rail spur, shops, offices and related facilities on the surface of the Real Property containing such reserves shall also be deemed a Mining Lease.

“*Mining Operations*” means (a) the removal of coal and other minerals from the natural deposits or from waste or stock piles by any surface or underground mining methods; (b) operations or activities conducted underground or on the surface associated with or incident to the preparation, development, operation, maintenance, opening and reopening of an underground or surface mine storage or stockpiling of mined materials, backfilling, sealing and other closure procedures related to a mine or the movement, assembly, disassembly or staging of any mining equipment; (c) milling; (d) coal preparation, coal processing or testing; (e) coal refuse disposal, coal fines disposal or the operation and maintenance of impoundments; (f) the operation of any mine drainage system; (vii) reclamation activities and operations; or (g) the operation of coal terminals, river or rail load-outs or any other transportation facilities.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors.

“*Net Cash Proceeds*” means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash), net of

- (1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;
- (2) provisions for Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Main Issuer and its Subsidiaries;
- (3) payments required to be made to holders of minority interests in Subsidiaries as a result of such Asset Sale or to repay Debt outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and

- (4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

Any Cash Equivalents received by the Main Issuer or any of its Subsidiaries in respect of any Casualty Event shall be deemed to be Net Cash Proceeds of an Asset Sale, and such Net Cash Proceeds shall be applied in accordance with the covenant described under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Net Insurance/Condemnation Proceeds*” means an amount equal to: (i) any cash payments or proceeds received by the Main Issuer or any of its Subsidiaries (a) under any casualty insurance policy in respect of a covered loss thereunder or (b) as a result of the taking of any assets of the Main Issuer or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, *minus* (ii) (a) any actual and reasonable costs incurred by the Main Issuer or any of its Subsidiaries in connection with the adjustment or settlement of any claims of the Main Issuer or such Subsidiary in respect thereof, and (b) any bona fide direct costs incurred in connection with any sale of such assets as referred to in clause (i)(b) of this definition, including income taxes payable as a result of any gain recognized in connection therewith.

“*Net Short*” means, with respect to a noteholder, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 International Swaps and Derivatives Association, Inc. Credit Derivatives Definitions, as supplemented by the 2019 Narrowly Tailored Credit Event Supplement) to have occurred with respect to any Issuer immediately prior to such date of determination.

“*Non-Finance Lease Obligation*” means a lease obligation that is not required to be accounted for as a finance lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Finance Lease Obligation.

“*Note Documents*” means the indenture, the notes and the Security Documents.

“*Obligations*” means, with respect to any Debt, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Debt, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

“*Officer*” means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Senior Vice President, any Vice President or any Assistant Vice President of such Person.

“*Officer’s Certificate*” means a certificate signed on behalf of the Issuers by an Officer of the Issuers.

“*Peabody*” means Peabody Energy Corporation, a Delaware corporation.

“*Peabody 2024 Notes*” means the 8.500% senior secured notes due 2024 issued by Peabody.

“*Peabody 2024 Notes Indenture*” means that certain indenture, to be dated as of the Issue Date, among Peabody, as issuer, the guarantors party thereto and Wilmington Trust, National Association, as trustee.

“*Peabody Credit Agreement*” means that certain Credit Agreement, dated as of April 3, 2017 among Peabody, as borrower, JPMorgan Chase Bank N.A., as administrative agent, and the lenders from time to time party thereto, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Peabody Existing Indenture*” means that certain indenture, dated as of February 15, 2017, by and between Peabody Securities Finance Corporation, a Delaware corporation (“*PSFC*”), and Wilmington Trust, National Association, as trustee (in such capacity, the “*Peabody Existing Trustee*”), as amended, modified or otherwise supplemented by (i) that certain supplemental indenture, dated as of April 3, 2017, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee, (ii) that certain supplemental indenture, dated as of May 7, 2018, among Peabody, NGS Acquisition Corp., LLC and the Peabody Existing Trustee, (iii) that certain supplemental indenture, dated as of August 9, 2018, between Peabody and the Peabody Existing Trustee, (iv) that certain supplemental indenture, dated as of December 7, 2018, among Peabody, Peabody Southeast Mining, LLC, and the Peabody Existing Trustee and (v) that certain supplemental indenture, dated as of the Issue Date, among Peabody, the subsidiary guarantors party thereto and the Peabody Existing Trustee.

“*Peabody L/C Agreement*” means that certain Letter of Credit Agreement, dated as of the Issue Date, among Peabody, as borrower, JPMorgan Chase N.A., as administrative agent, and the lenders from time to time party thereto, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Peabody L/C Facility*” means the letter of credit facility evidenced by the Peabody L/C Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent or lenders or another administrative agent or agents or other lenders).

“*Permitted Business*” means any of the following, whether domestic or foreign: the mining, production, marketing, sale, trading and transportation (including, without limitation, any business related to terminals) of natural resources including coal, ancillary natural resources and mineral products, exploration of natural resources, any acquired business activity so long as a material portion of such acquired business was otherwise a Permitted Business, and any business that is ancillary or complementary to the foregoing.

“*Permitted Investments*” means:

- (1) any Investment in the Main Issuer;
- (2) any Investment in cash or Cash Equivalents;
- (3) any Investment by Wilpinjong Opco or any of its Subsidiaries in a Person, if as a result of such Investment
 - (a) such Person becomes a wholly-owned Subsidiary of the Main Issuer, or
 - (b) such Person is merged or consolidated with or into, or transfers or conveys substantially all its assets to, or is liquidated into, Wilpinjong Opco or any of its Subsidiaries;
- (4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”

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- (5) [reserved];
 - (6) [reserved];
 - (7) (i) receivables owing to Wilpinjong Opco or any of its Subsidiaries if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;
 - (8) [reserved];
 - (9) [reserved];
 - (10) to the extent they involve an Investment, extensions of credit or letters of support to lessors, customers, suppliers and Joint Venture partners in the ordinary course of business, in each case, by Wilpinjong Opco or its Subsidiaries;
 - (11) [reserved];
 - (12) [reserved];
 - (13) (i) Investments of Wilpinjong Opco or any of its Subsidiaries in the nature of Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties, (ii) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry or (iii) payments or other arrangements whereby Wilpinjong Opco or any of its Subsidiaries provides a loan, advance payment or guarantee in return for future coal deliveries consistent with normal practices in the mining industry;
 - (14) (i) promissory notes and other similar non-cash consideration received by Wilpinjong Opco or any of its Subsidiaries in connection with Asset Sales not otherwise prohibited under the indenture and (ii) Investments of Wilpinjong Opco or any of its Subsidiaries received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuers, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, (B) litigation, arbitration or other disputes or (C) the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;
 - (15) to the extent they involve an Investment, purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;
 - (16) Investments of any Subsidiary made pursuant to surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and related letters of credit or similar obligations, in each case, to the extent such surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds, related letters of credit and similar obligations are permitted under the indenture and relate solely to the mining operations of Wilpinjong Opco and its Subsidiaries;
 - (17) Investments (including debt obligations and Capital Stock) of Wilpinjong Opco or any of its Subsidiaries received in satisfaction of judgments or in connection with the bankruptcy or reorganization of suppliers and customers of the Main Issuer and its Subsidiaries and in settlement of delinquent obligations of, and other disputes with, such customers and suppliers arising in the ordinary course of business;
 - (18) Investments of Wilpinjong Opco or any of its Subsidiaries consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss

- (19) Investments resulting from pledges and deposits permitted under the definition of “Permitted Liens;”
- (20) Investments of Wilpinjong Opco or any of its Subsidiaries consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits, in each case entered into solely with respect to the mining operations of Wilpinjong Opco and its Subsidiaries in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under existing coal sales contracts (and extensions or renewals thereof on similar terms); and
- (21) [reserved].

“Permitted Liens” means

- (1) Priority Liens held by the Collateral Trustee securing Debt under the Term Loan Facility Incurred pursuant to clause (1) of the definition of Permitted Debt and all related Priority Lien Obligations;
- (2) Junior Liens on the Collateral of the Main Issuer held by the Junior Collateral Trustee securing Junior Lien Debt in an aggregate principal amount at any time not exceeding the Junior Lien Cap as of such date and all related Junior Lien Obligations;
- (3) Liens existing on the Issue Date with respect to the equity interests of the Issuers and arising as a result of the pledge of such equity interests under the Priority Lien Security Documents (as defined in the Peabody 2024 Notes Indenture);
- (4) Liens incurred or pledges or deposits under workers’ compensation laws, unemployment insurance laws, social security and employee health and disability benefits laws or similar legislation, or casualty or liability insurance or self-insurance including any Lien securing letters of credit, letters of guarantee or bankers’ acceptances issued in the ordinary course of business in connection therewith;
- (5) Liens imposed by law, such as carriers’, warehousemen’s, materialmen’s, repairmen’s and mechanics’ Liens and other similar Liens, on the property of Wilpinjong Opco or any of its Subsidiaries arising in the ordinary course of business of such entity and with respect to amounts which are not yet delinquent or are being contested in good faith by appropriate proceedings;
- (6) Liens to secure the performance of bids, trade contracts and leases (other than Debt), reclamation bonds, insurance bonds, statutory obligations, surety and appeal bonds, performance bonds, bank guarantees and letters of credit and other obligations of a like nature incurred in the ordinary course of business of Wilpinjong Opco or any of its Subsidiaries;
- (7) Liens for taxes, assessments or governmental charges or levies on the property of the Main Issuer or any Subsidiary if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings, *provided* that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefor;
- (8) easements, rights-of-way, zoning restrictions, leases, subleases, licenses, other restrictions and other similar encumbrances which do not in any case materially detract from the value or impairs the use of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person and none of which is violated by the existing structures, land use, or operations;
- (9) Liens on the property of Wilpinjong Opco or any of its Subsidiaries, as a tenant under a lease or sublease entered into in the ordinary course of business by such Person, in favor of the landlord under such lease or sublease, securing the tenant’s performance and payment of lease or royalty payments under such lease or sublease, as such Liens are provided to the landlord under applicable law and not waived by the landlord and not yet due and payable;
- (10) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker’s Liens and the like in favor of financial institutions and counterparties to financial obligations and instruments;

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- (11) Liens on assets of Wilpinjong Opco or any of its Subsidiaries pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;
 - (12) judgment Liens that are being contested in good faith by appropriate legal proceedings and for which adequate reserves have been made;
 - (13) Liens in favor of the Wilpinjong Mine Customer pursuant to any agreement in effect on the Issue Date and any amendment, modification, restatement, extension, renewal or replacement of such agreement that is no less favorable in any material respect to the noteholders than the agreement in effect on the Issue Date;
 - (14) [reserved];
 - (15) Liens securing obligations in respect of trade-related letters of credit permitted under clause (6) of Permitted Debt covering only the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;
 - (16) [reserved];
 - (17) Liens on property of a Person at the time such Person becomes a Subsidiary, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Main Issuer or any other Subsidiary;
 - (18) Liens on property at the time Wilpinjong Opco or any of its Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Main Issuer or a Subsidiary of such Person, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Main Issuer or any such Subsidiary;
 - (19) Liens securing Debt or other obligations of PIC Acquisition Corp. or a Subsidiary to the Main Issuer;
 - (20) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;
 - (21) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
 - (22) [reserved];
 - (23) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Main Issuer or any Subsidiary on deposit with or in possession of such bank;
 - (24) deposits made in the ordinary course of business to secure reclamation liabilities, insurance liabilities and/or surety liabilities;
 - (25) [reserved];
 - (26) extensions, renewals or replacements of any Lien referred to in clauses (1), (3), (17) or (18) in connection with the Permitted Refinancing Debt and the obligations secured thereby; *provided* that (i) such Lien does not extend to any other property (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), (ii) except as contemplated by the definition of "Permitted Refinancing Debt," the aggregate principal amount of Debt secured by such Lien is not increased and (iii) such Lien has no greater priority than the Lien being extended, renewed or replaced;
 - (27) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Finance Lease Obligations), licenses, special assessments, trackage rights, transmission and

transportation lines related to Mining Leases or mineral rights or other Real Property including any re-conveyance obligations to a surface owner following mining, royalty payments and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on Real Property imposed by law or arising in the ordinary course of business that do not secure any monetary obligation and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Main Issuer or any Subsidiary at the affected property and which are not violated by the existing use of the property;

- (28) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Main Issuer or its Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (29) Liens (including those arising from precautionary UCC financing statement filings (and those which are security interests for purposes of the Personal Property Securities Act of 2009 (Cth)) with respect to bailments, leases or consignment or retention of title arrangements entered into by any Issuer in the ordinary course of business;
- (30) Liens securing Production Payments, royalties, and dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties or cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry;
- (31) [reserved]; and
- (32) [reserved].

In addition, (i) with respect to any Lien securing Debt that was permitted to secure such Debt at the time of the Incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt; and (ii) in no event shall any Lien on any property of the Issuers or PIC Acquisition Corp. be permitted other than as provided in clauses (1), (2), (7) and (23) above. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt.

“*Person*” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, including a government or political subdivision or an agency or instrumentality thereof.

“*Preferred Stock*” means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

“*Priority Collateral Trustee*” means Wilmington Trust, National Association, its capacity as collateral trustee for the Priority Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“*Priority Lien*” means a Lien granted, or purported to be granted, by a Security Document to the Collateral Trustee, at any time, upon any property of any Issuer to secure Priority Lien Obligations.

“*Priority Lien Debt*” means:

- (1) the notes issued on the Issue Date; and

- (2) any Funded Debt under the Term Loan Facility that is permitted to be incurred and permitted to be secured by a Priority Lien under each applicable Priority Lien Document; *provided*, that, in the case of this clause (2), all relevant requirements set forth in the Collateral Trust Agreement are complied with.

“*Priority Lien Documents*” means, collectively, the Note Documents, the Term Loan Documents, and any other indenture, credit agreement or other agreement pursuant to which any Priority Lien Debt is incurred and the Priority Lien Security Documents.

“*Priority Lien Obligations*” means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt and any indemnification obligations under the Transaction Support Agreement (subject to the limitations set forth therein), including without limitation any post-petition interest whether or not allowable, together with any guarantees of any of the foregoing.

“*Priority Lien Representative*” means:

- (1) in the case of the notes, the Trustee; and
- (2) in the case of the Term Loan Facility, the Term Loan Agent.

“*Priority Lien Security Documents*” means the security agreement and the pledge agreement delivered by the Main Issuer creating (or purporting to create) a Lien upon Collateral in favor of the Collateral Trustee, for the benefit of any of the Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the provisions described above under “—Collateral Trust Agreement—Voting.”

“*Production Payments*” means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

“*Qualified Equity Interests*” means all Equity Interests of a Person other than Disqualified Equity Interests.

“*Qualified Stock*” means all Capital Stock of a Person other than Disqualified Stock.

“*Rating Agencies*” means S&P and Moody’s; *provided*, that if either S&P or Moody’s (or both) shall cease issuing a rating on the notes for reasons outside the control of the Issuers, the Issuers may select a nationally recognized statistical rating agency to substitute for S&P or Moody’s (or both).

“*Real Property*” means, collectively, all right, title and interest (including any leasehold or mineral estate) in and to any and all parcels of real property owned, leased, licensed, used or operated, whether by lease, license or other use or occupancy agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), access rights, easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals, any improvements thereon and real property rights and interests appurtenant thereto, including, in each case, title or rights to surface and/or coal, coal products, methane gas, and other minerals that are or may be extracted from such Real Property (whether or not characterized as “as-extracted Collateral” or “inventory” under the UCC).

“*Required Junior Lien Debtholders*” means an “Act of Secured Parties” under the Junior Lien Intercreditor Agreement.

“*Reserve Area*” means (a) the real property fee owned by the Main Issuer or any of its Subsidiaries or in which the Main Issuer or any of its Subsidiaries has a leasehold interest as is disclosed in writing to the Trustee

on the Issue Date and (b) any real property constituting coal reserves or access to coal reserves fee owned by the Main Issuer or any of its Subsidiaries or in which the Main Issuer or any of its Subsidiaries has a leasehold interest, acquired after the Issue Date, that is not an active Mine.

“S&P” means S&P Global Ratings and its successors.

“Secured Debt” means Priority Lien Debt and Junior Lien Debt.

“Secured Debt Documents” means the Priority Lien Documents and the Junior Lien Documents.

“Secured Debt Representative” means each Priority Lien Representative and each Junior Lien Representative.

“Secured Obligations” means Priority Lien Obligations and Junior Lien Obligations.

“Screened Affiliate” means any Affiliate of a holder (i) that makes investment decisions independently from such holder and any other Affiliate of such holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such holder and any other Affiliate of such holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Main Issuer or any of its Subsidiaries, (iii) whose investment policies are not directed by such holder or any other Affiliate of such holder that is acting in concert with such holder in connection with its investment in the notes, and (iv) whose investment decisions are not influenced by the investment decisions of such holder or any other Affiliate of such holder that is acting in concert with such holders in connection with its investment in the notes.

“Secured Parties” means the holders of Secured Obligations and the Secured Debt Representatives and the Collateral Trustee.

“Security Documents” means the Collateral Trust Agreement, each Collateral Trust Joinder, each Priority Lien Security Document and each Junior Lien Security Document, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the terms of the Collateral Trust Agreement.

“Series of Junior Lien Debt” means, severally, each issue or series of Junior Lien Debt for which a single transfer register is maintained.

“Series of Priority Lien Debt” means, severally, each series of the notes and each other issue or series of Priority Lien Debt for which a single transfer register is maintained.

“Series of Secured Debt” means each Series of Priority Lien Debt and each Series of Junior Lien Debt.

“Short Derivative Instrument” means a Derivative Instrument (i) the value of which generally decreases, or the payment or delivery obligations under which generally increase, with positive changes to the Performance References or (ii) the value of which generally increases, or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

“Significant Subsidiary” means any Subsidiary of the Main Issuer that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“Stated Maturity” means (i) with respect to any Debt, the date specified as the fixed date on which the final installment of principal of such Debt is due and payable or (ii) with respect to any scheduled installment of principal of or interest on any Debt, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Debt, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

“Subordinated Debt” means any Debt of any Issuer which is subordinated in right of payment to the notes pursuant to a written agreement to that effect.

“Subsidiary” means with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, *“Subsidiary”* means a Subsidiary of the Main Issuer.

“Surety Transaction Support Agreement” means that certain Transaction Support Agreement, dated as of November 6, 2020, by and among Peabody and the Sureties signatory thereto (each as defined therein).

“Taxes” means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

“Term Loan Agent” means JPMorgan Chase Bank N.A., as administrative agent under the Term Loan Agreement, together with its successors and assigns.

“Term Loan Agreement” means that certain Term Loan Agreement, dated as of the Issue Date, among the Issuers, as borrowers, the Term Loan Agent and the lenders from time to time party thereto.

“Term Loan Documents” means the *“Loan Documents”* (or such similar term) to be defined in the Term Loan Agreement.

“Term Loan Facility” means the term loan facility evidenced by the Term Loan Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“Term Loan Required Lenders” means the *“Required Lenders”* (or such similar term) to be defined in the Term Loan Agreement.

“Term Loans” means the loans under the Term Loan Facility.

“Transaction Support Agreement” means that certain Transaction Support Agreement, dated as of December 24, 2020, by and among, among others, Peabody, the Issuers, and the Consenting Noteholders defined therein.

“Treasury Rate” means with respect to the notes, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H. 15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to January 30, 2023; provided, however, that if the period from the redemption date to January 30, 2023 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used. The Main Issuer will calculate the applicable Treasury Rate at least two but no more than four business days prior to the applicable redemption date and file with the Trustee, before such redemption date, a written statement setting forth the Applicable Premium, and showing the calculation of the Applicable Premium, in reasonable detail, and the Trustee will have no responsibility for verifying any such calculation.

“Transaction Costs” means all reasonable fees, costs and expenses incurred by the Issuers in connection with the Transactions.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided*, however, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“U.S. Government Obligations” means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agency or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

“Voting Stock” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“Wholly Owned” means, with respect to any Subsidiary, a Subsidiary all of the outstanding Capital Stock of which (other than any director’s qualifying shares) is owned by the Main Issuer and one or more Wholly Owned Subsidiaries (or a combination thereof).

“Wilpinjong Mine” means the Wilpinjong Open Pit Mine located in New South Wales, Australia.

“Wilpinjong Mine Customer” means the Australian domestic energy producer that is a customer of the Wilpinjong Mine under a long-term supply agreement.

“Wilpinjong Triggering Event” means (i) (a) the notes or the Term Loans are accelerated or otherwise become due prior to their Stated Maturity, in each case, as a result of an Event of Default or by operation of law, or (b) there occurs either (x) an Event of Default under clause (1) in the definition thereof or (y) an equivalent event of default under the Term Loan Agreement, or (ii) (a) total consolidated EBITDA of the Main Issuer and its Subsidiaries is less than \$70.0 million for the most recently completed four consecutive fiscal quarters (considered as one period) and (b) either (x) the holders of at least a majority in aggregate principal amount of the outstanding notes have delivered written notice to Peabody requiring Peabody to make a Wilpinjong Mandatory Offer or (y) the Term Loan Required Lenders have delivered written notice to Peabody requiring Peabody to convert the Term Loans into loans under the Peabody L/C Facility on the terms required in the event of a Wilpinjong Triggering Event.

DESCRIPTION OF THE NEW PEABODY NOTES

In this “Description of the New Peabody Notes,” the terms “we,” “us,” “our” and “Company” refer only to Peabody Energy Corporation and any successor obligor, and not to any of its subsidiaries. You can find the definitions of certain other terms used in this description under “—Certain Definitions.”

On the Issue Date, the Company will issue up to \$255.58 million in initial aggregate principal amount of 8.500% senior secured notes due 2024 (the “notes”) under an indenture (the “indenture”), among itself, the Guarantors and Wilmington Trust, National Association, as trustee (in such capacity, the “Trustee”), in a private transaction that is not subject to the registration requirements of the Securities Act. Holders of the notes will not be entitled to any registration rights. See “Notice to Investors.” It is not anticipated that the indenture will be qualified under, or subject to, the Trust Indenture Act of 1939, as amended, and, as a result, holders of the notes will not receive the protection afforded thereby. The Security Documents referred to below define the terms of the agreements that will secure the notes and the Note Guarantees. Only registered holders of notes will have rights under the indenture, and all references to “holders” or “noteholders” in the following description are to registered holders of notes.

The following description is a summary of the material provisions of the indenture, the notes and the Security Documents. Because this is a summary, it may not contain all the information that is important to you. You should read each of these documents in its entirety because such documents, and not this description, will define the Company’s obligations and your rights as holders of the notes.

Brief Description of the New Peabody Notes

The notes:

- (1) will be general senior secured obligations of the Company;
- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of the Company that constitute Peabody Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be secured, equally and ratably, on a second-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), in the Second Lien Collateral;
- (4) will be *pari passu* in right of payment with all existing and future senior Debt of the Company; the payment obligations of the Company under the notes shall at all times rank at least equally with all the Company’s other present and future Indebtedness;
- (5) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations of the Company to the extent of the value of the Collateral;
- (6) will be structurally subordinated to any existing and future Debt and other liabilities of the Company’s non-Guarantor Subsidiaries (including, without limitation, any Unrestricted Subsidiaries);
- (7) will be senior in right of payment to any future subordinated Debt of the Company; and
- (8) will be unconditionally guaranteed by the Guarantors.

The notes will mature on December 31, 2024. The notes will bear interest commencing the date of issue at the rate of 8.500% per annum. Subject to the provisions of the indenture, cash interest (“Cash Interest”) will accrue on the Accreted Value of the notes at the rate of 6.000% per annum from the Issue Date, or from the most recent date after the Issue Date to which interest has been paid or provided for. Cash Interest will be payable semiannually in arrears on June 30 and December 31 of each year, commencing on June 30, 2021, to holders of

record on the immediately preceding June 15 and December 15, respectively. In addition, additional interest payable as paid-in-kind interest (“PIK Interest”) will accrue on the Accreted Value of notes at the rate of 2.500% per annum from the Issue Date, or from the most recent date after the Issue Date to which interest has been paid or provided for. PIK Interest will be payable semiannually in arrears on June 30 and December 31 of each year, commencing on June 30, 2021, to holders of record on the immediately preceding June 15 and December 15, respectively, by increasing the principal amount of the notes by the amount of such PIK Interest accrued for such interest period, rounded up to the nearest \$1.00. The Accreted Value of the notes as of any date will be the principal amount of the notes as of such date (or such lesser or greater amount as shall be outstanding under the indenture from time to time, and subject to any redemption, repurchase or other retirement thereof, in whole or in part), and will reflect the amount of any PIK Interest through the immediately preceding interest payment date. If any note is surrendered for exchange on or after a record date for an interest payment date that will occur on or after the date of such exchange, the exchanging holder will receive interest on the interest payment date solely in the form of Cash Interest and interest on the note received in exchange thereof will accrue from such interest payment date. The notes will be issued in an aggregate initial principal amount of up to \$255.58 million (the “initial notes”). The initial notes will have an initial Accreted Value equal to their initial principal amount.

The notes will bear interest, payable in cash, on overdue principal, and, to the extent lawful, on overdue interest, at a rate that is 2.00% per annum higher than the rate otherwise applicable to Cash Interest on the notes. Interest on the notes will be computed on the basis of a 360-day year of twelve 30-day months.

Interest payable on the maturity date and upon redemption will be payable solely as Cash Interest, with any PIK Interest that would have been due at such date compounded into the principal amount due on such date.

Except as set forth in “—Book-Entry, Delivery and Form,” the notes will be issued in registered, global form in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof; provided that after the first interest payment date, the notes will be in minimum denominations of \$1.00 and integral multiples of \$1.00 in excess thereof.

Additional Notes

Subject to the covenants described below, the Company may issue additional notes (the “Additional Notes”), in an unlimited amount from time to time under the indenture having the same terms in all respects as the notes except that interest on such Additional Notes may, if provided in such Additional Notes, accrue from the date of their issuance or from the most recent interest payment date and not from the Issue Date. Any Additional Notes will be secured, equally and ratably, with the notes and any other Priority Lien Obligations. Except as otherwise stated herein, the notes offered hereby and any Additional Notes subsequently issued under the indenture will be treated as a single class for all purposes under the indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase and will vote together as one class on all matters. Notwithstanding the foregoing, any Additional Notes that are not fungible with the notes offered hereunder for United States federal income tax purposes shall have a separate CUSIP number and ISIN from the notes. Unless the context requires otherwise, references to “notes” for all purposes of the indenture and this “Description of the New Peabody Notes” include any Additional Notes that are actually issued.

The Note Guarantees

The obligations of the Company pursuant to the notes, including any repurchase obligation resulting from a Change of Control, will be unconditionally guaranteed, jointly and severally, on a senior secured basis, by each of the Company’s Restricted Subsidiaries that guarantees the obligations of the Company under the Existing Credit Facility, the LC Agreement, the 2025 Notes Indenture, the 2022 Notes Indenture and any other Priority Lien Debt.

Each Note Guarantee of the notes:

- (1) will be a general senior secured obligation of such Guarantor;

- (2) will be secured, equally and ratably, on a first-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of such Guarantor that constitute Peabody Collateral, subject to certain exceptions and Permitted Liens;
- (3) will be secured, equally and ratably, on a second-priority basis with all other Priority Lien Obligations (including a shared lien of equal priority with the Obligations under any Credit Facility that is a Priority Lien Obligation), by Liens on the assets of such Guarantor that constitute Second Lien Collateral;
- (4) will be *pari passu* in right of payment with all existing and future senior Debt of such Guarantor;
- (5) will be effectively senior to any future senior unsecured Obligations or Junior Lien Obligations of such Guarantor to the extent of the value of the Collateral; and
- (6) will be senior in right of payment to any future subordinated Debt of such Guarantor.

Not all of our Subsidiaries will guarantee the notes. For instance, none of our Foreign Subsidiaries and none of our Foreign Subsidiary Holdcos will guarantee the notes. In the event of a bankruptcy, liquidation or reorganization of any of these non-Guarantor Subsidiaries, the non-Guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to us. As of and for the twelve months ended September 30, 2020, on a pro forma basis after giving effect to the Refinancing Transactions, the non-Guarantor Subsidiaries represented approximately 29% of our total consolidated liabilities, generated 38% of our consolidated revenues (after intercompany eliminations) and held 45% of our consolidated assets (after intercompany eliminations).

On the Issue Date, all of our Subsidiaries will be “Restricted Subsidiaries” except for Ribfield Pty. Ltd, Middlemount Mine Management Pty Ltd, Middlemount Coal Pty Ltd, Newhall Funding Company, P&L Receivables Company, LLC, Sterling Centennial Missouri Insurance Corporation, Wilpinjong Coal Pty Ltd, PIC AU Holdings LLC, PIC AU Holdings Corporation, and PIC Acquisition Corp. Our Unrestricted Subsidiaries will not be subject to the restrictive covenants in the indenture. Our Unrestricted Subsidiaries will not guarantee the notes. Other than the Unrestricted Subsidiaries listed above, the indenture governing the notes will prohibit the designation of any other Subsidiary as an Unrestricted Subsidiary.

The Note Guarantees will be joint and several obligations of the Guarantors. Each Note Guarantee will be limited to the maximum amount that would not render the Guarantor’s obligations subject to avoidance under applicable law. By virtue of this limitation, a Guarantor’s obligation under its Note Guarantee could be significantly less than amounts payable with respect to the notes, or a Guarantor may have effectively no obligation under its Note Guarantee. See “Risk Factors—Risks Related to the Notes and the Refinancing Transactions—Fraudulent transfer and other laws may limit your rights as a noteholder.”

The Note Guarantee of a Guarantor will automatically terminate upon:

- (1) a sale or other disposition (including by way of consolidation or merger or otherwise) of the Guarantor or the sale or other disposition of all or substantially all the assets of the Guarantor (other than to the Company or a Restricted Subsidiary) in connection with a transaction or circumstance that does not violate the indenture,
- (2) a disposition of the majority of the Capital Stock of the Guarantor to a third Person in connection with a transaction or circumstance that does not violate the indenture, after which the Guarantor is no longer a Restricted Subsidiary,
- (3) a liquidation or dissolution of the Guarantor so long as no Default occurs as a result thereof, if its assets are distributed to the Company or another Guarantor,
- (4) the Guarantor ceasing to be a Restricted Subsidiary in accordance with the indenture, or

Collateral

The obligations of the Company with respect to the notes, the obligations of the Guarantors under the Note Guarantees and the performance of all other obligations of the Company and the Guarantors under the indenture will be secured equally and ratably by (a) first priority Liens in the Peabody Collateral granted to the Priority Collateral Trustee for the benefit of the holders of the notes and any other Priority Lien Obligations and (b) second priority liens on the Second Lien Collateral. These Liens will be senior in priority to the Liens securing Junior Lien Obligations with respect to the Collateral. The Liens securing Junior Lien Obligations will be held by the Junior Collateral Trustee. The notes offered hereby will be considered to be Priority Lien Debt for purposes of the Collateral Trust Agreement. All Liens securing Priority Lien Obligations will be held by the Priority Collateral Trustee and administered pursuant to the Collateral Trust Agreement. References to “Collateral Trustee” herein shall mean each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

The Collateral comprises (a) first priority liens over (i) substantially all of the assets of the Company, Pledgor and the Guarantors, except for the Excluded Assets, (ii) 100% of the capital stock of each Domestic Restricted Subsidiary of the Company, 100% of the capital stock of each first tier Foreign Subsidiary of the Company or a Foreign Subsidiary Holdco, except in each case to the extent that such capital stock constitutes an Excluded Asset, (iii) a legal charge by Pledgor of 100 % of the voting capital stock and 100% of the non-voting capital stock of Peabody Investments (Gibraltar) Limited, provided that, if at any time after the Issue Date, in the good faith determination by the Company that the pledge of 100% of the voting capital stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the legal charge over the stock of Peabody Investments (Gibraltar) Limited shall be reduced to levels such that there is no such material cash tax liability and (iv) all intercompany debt owed to the Company, Pledgor or any Guarantor (the “*Peabody Collateral*”) and (b) second priority liens on the Second Lien Collateral (clauses (a) and (b), collectively (the “*Collateral*”). The Collateral Trustee will not hold liens for the benefit of the holders of Secured Debt Obligations on any Excluded Assets.

Certain security interests in favor of the Peabody Collateral Trustee may not be in place and/or perfected (to the extent possible under applicable law) as of the Issue Date. With respect to any liens on or security interests in the Peabody Collateral that are not created or perfected (to the extent possible under applicable law) on or prior to such date, the Company will be required to have all such security interests created or perfected (to the extent possible under applicable law) within 90 days after the Issue Date (or such later date as may be agreed to in accordance with the Transaction Support Agreement); however no assurance can be given that such security interest will be granted or perfected on a timely basis.

Collateral Trust Agreement

The Company and the other Grantors have entered into the Collateral Trust Agreement, dated as of April 3, 2017, with the Junior Collateral Trustee, the Priority Collateral Trustee and each other Secured Debt Representative. The Collateral Trust Agreement sets forth the terms on which each of the Priority Collateral Trustee and the Junior Collateral Trustee receives, holds, administers, maintains, enforces and distributes the proceeds of all Liens upon the Collateral at any time held by it, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof).

Collateral Trustee

Wilmington Trust, National Association was appointed pursuant to the Collateral Trust Agreement to serve as Priority Collateral Trustee for the benefit of the holders of the notes offered hereby and all other Priority Lien Obligations outstanding from time to time.

Wilmington Trust, National Association was appointed pursuant to the Collateral Trust Agreement to serve as Junior Collateral Trustee for the benefit of the holders of the Junior Lien Obligations outstanding from time to time.

Neither the Company nor any of its Affiliates may act as Collateral Trustee.

Each of the Priority Collateral Trustee and the Junior Collateral Trustee will hold (directly or through co-trustees or agents), and will be entitled to enforce, all Liens on the Collateral at any time held by it created by the relevant Security Documents.

Except as provided in the Collateral Trust Agreement or as directed by an Act of Required Secured Parties in accordance with the Collateral Trust Agreement (or, following the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders in accordance with the Collateral Trust Agreement, subject to the terms described below under the caption “—Restrictions on Enforcement of Junior Liens”), the Collateral Trustee is not obligated:

- (1) to act upon directions purported to be delivered to it by any Person;
- (2) to foreclose upon or otherwise enforce any Lien; or
- (3) to take any other action whatsoever with regard to any or all of the Security Documents, the Liens created thereby or the Collateral.

The Company will deliver to each Secured Debt Representative copies of all Security Documents delivered to the Collateral Trustee acting for the benefit of such Secured Debt Representative.

Enforcement of Liens

The Collateral Trust Agreement provides that if a Secured Debt Representative delivers at any time to the Collateral Trustee written notice that any event has occurred that constitutes a default under any Secured Debt Document entitling the Collateral Trustee to foreclose upon, collect or otherwise enforce its Liens under the applicable Security Documents, such Secured Debt Representative will promptly deliver written notice thereof to each other Secured Debt Representative and the other Collateral Trustee. Thereafter, the Collateral Trustee may await direction by an Act of Required Secured Parties and will act, or decline to act, as directed by an Act of Required Secured Parties, in the exercise and enforcement of the Collateral Trustee’s interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Trustee will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Required Secured Parties; *provided*, however, that from and after the Junior Lien Enforcement Date (as defined below), the Junior Collateral Trustee shall exercise or decline to exercise enforcement rights, powers and remedies as directed by the Required Junior Lien Debtholders, as described below under the caption “—Restrictions on Enforcement of Junior Liens,” unless the Priority Lien Secured Parties or a Priority Lien Representative shall have caused the Priority Collateral Trustee to commence and diligently pursue the exercise of rights and remedies with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives). Unless it has been directed to the contrary by an Act of Required Secured Parties (or, from and after the Junior Lien Enforcement Date, as directed by the Required Junior Lien Debtholders, subject to the terms described under the caption “—Restrictions on Enforcement of Junior Liens”) or as otherwise expressly provided in the Collateral Trust Agreement, the Collateral Trustee in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Secured Debt Document as it may deem advisable and in the best interest of the Secured Parties.

Priority of Liens

The Collateral Trust Agreement provides that notwithstanding anything therein or in any other Security Document to the contrary, and notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing the Junior Lien Obligations granted on the Collateral or of any Liens securing the Priority Lien Obligations granted on the Collateral and notwithstanding any provision of the UCC, the time of

incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or any other applicable law or the Junior Lien Documents or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Company or any other Grantor, the Collateral Trust Agreement and the other Security Documents will create two separate and distinct Trust Estates and Liens:

(1) each Grantor's right, title and interest in, to and under all Collateral, granted to the Priority Collateral Trustee under any Priority Lien Security Document for the benefit of the Priority Lien Secured Parties, together with all of the Priority Collateral Trustee's right, title and interest in, to and under the Priority Lien Security Documents, and all interests, rights, powers and remedies of the Priority Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "Senior Trust Estate"), and Priority Lien securing the payment and performance of the Priority Lien Obligations;

(2) Lien Obligations now or hereafter held by the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties or held by any Priority Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are senior and prior to any Liens on Collateral securing the Junior Lien Obligations; and

(3) each Grantor's right, title and interest in, to and under all Collateral granted to the Junior Collateral Trustee under any Junior Lien Security Document for the benefit of the Junior Lien Secured Parties, together with all of the Junior Collateral Trustee's right, title and interest in, to and under the Junior Lien Security Documents, and all interests, rights, powers and remedies of the Junior Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively the "Junior Trust Estate" and together with the Senior Trust Estate, the "Trust Estates"), and Junior Lien securing the payment and performance of the Junior Lien Obligations;

and the Collateral Trust Agreement provides that any Liens on Collateral securing the Junior Lien Obligations held by the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties or held by any Junior Lien Secured Party, in each case, whether by grant, possession, statute, operation of law, subrogation or otherwise, are subject to the priority of and subordinate to any Liens on Collateral securing the Priority Lien Obligations.

The Collateral Trust Agreement further provides that in the event that any Junior Lien Secured Party becomes a judgment lien creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of any Junior Lien Obligations, such judgment lien shall be subordinated to the Priority Liens on the same basis as the Junior Liens are subordinated to the Priority Liens.

Collateral Sharing Equally and Ratably within Class

The Collateral Trust Agreement provides that the payment and satisfaction of all of the Secured Obligations within each Class is secured equally and ratably by the Liens established in favor of the Collateral Trustee for the benefit of the Secured Parties belonging to such Class, notwithstanding the time of incurrence of any Secured Obligations within such Class or the date, time, method or order of grant, attachment or perfection of any Liens securing such Secured Obligations within such Class and notwithstanding any provision of the UCC, the time of incurrence of any Series of Priority Lien Debt or Series of Junior Lien Debt or the time of incurrence of any other Priority Lien Obligation or Junior Lien Obligation, or any other applicable law or any defect or deficiencies in, or failure to perfect or lapse in perfection of, or avoidance as a fraudulent conveyance or otherwise of, the Liens securing the Priority Lien Obligations or the Junior Lien Obligations, the subordination of such Liens to any other Liens, or any other circumstance whatsoever, whether or not any Insolvency or Liquidation Proceeding has been commenced against the Company or any other Grantor, and the Collateral Trust Agreement further provides that:

- (1) all Junior Lien Obligations will be and are secured equally and ratably by all Junior Liens at any time granted by the Company or any other Grantor to secure any Obligations in respect of any Series of Junior Lien Debt, whether or not upon property otherwise constituting collateral for such Series of

Junior Lien Debt, and that all such Junior Liens will be enforceable by the Junior Collateral Trustee for the benefit of all Junior Lien Secured Party equally and ratably; provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement provides that this provision will not be violated with respect to any particular Collateral and any particular Series of Junior Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Junior Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Junior Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and

- (2) all Priority Lien Obligations will be and are secured equally and ratably by all Priority Liens at any time granted by the Company or any other Grantor to secure any Obligations in respect of any Series of Priority Lien Debt (and any Swap Obligations and any Cash Management Obligations related to such Series of Priority Lien Debt), whether or not upon property otherwise constituting collateral for such Series of Priority Lien Debt (and any Swap Obligations and any Cash Management Obligations related to such Series of Priority Lien Debt), and that all such Priority Liens will be enforceable by the Priority Collateral Trustee for the benefit of all Priority Lien Secured Parties equally and ratably provided, however, that notwithstanding the foregoing, the Collateral Trust Agreement provides that (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Priority Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Priority Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Priority Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Swap Obligations or Cash Management Obligations if the related Swap Contract or Cash Management Agreement prohibits the applicable Hedge Provider or Cash Management Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider or Cash Management Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;

The Collateral Trust Agreement further provides that the foregoing provision will not alter the priorities of the Liens of the Priority Collateral Trustee and the Junior Collateral Trustee or among Secured Parties belonging to different Classes as provided above under the caption “—Priority of Liens.”

Restrictions on Enforcement of Junior Liens

The Collateral Trust Agreement provides that, until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, the Priority Lien Secured Parties will have, subject to the exceptions set forth below in clauses (1) through (6), and subject to the rights of the holders of Permitted Prior Liens, including the provisions described below under the caption “—Provisions of the Indenture Relating to Security—Relative Rights,” the exclusive right to authorize and direct the Collateral Trustee with respect to the Security Documents and the Collateral including, without limitation, the exclusive right to authorize or direct the Priority Collateral Trustee to enforce, collect or realize on any Collateral or exercise any other right or remedy with respect to the Collateral (including, without limitation, the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee’s letter or similar agreement or arrangement) and no Junior Lien Representative or Junior Lien Secured Party may authorize or direct the Junior Collateral Trustee with respect to such matters; provided, however, that the Required Junior Lien Debtholders (or any Junior Lien Representative representing such Required Junior Lien Debtholders) may so direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral thereunder after the date (the “Junior Lien Enforcement Date”) that is 180 days after the later of: (i) the date on which any Junior Lien Representative has declared the existence of any Event of Default under (and as defined in) any Junior Lien Document and demanded the repayment of all the principal amount of all Junior Lien Obligations thereunder; and (ii) the date on which the Collateral Trustee and each Priority Lien Representative has received notice from such Junior Lien Representative of such declarations of an Event of Default; provided

further that notwithstanding anything in the Collateral Trust Agreement to the contrary, the Junior Lien Enforcement Date shall be stayed and shall be deemed not to have occurred (I) at any time the Priority Collateral Trustee has commenced and is diligently pursuing any enforcement action with respect to all or any material portion of the Collateral (with prompt written notice of the commencement of such action to be given to the Junior Lien Representatives); (II) at any time the Grantor which has granted a security interest in such Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding or (III) solely with respect to any ABL Priority Collateral, at any time that the Priority Collateral Trustee is stayed from taking any enforcement action pursuant to the terms of the ABL Intercreditor Agreement. Notwithstanding the foregoing, subject to the rights of the ABL Collateral Agent under the ABL Intercreditor Agreement, the requisite Junior Lien Secured Parties may direct the Junior Collateral Trustee or the Junior Lien Representative, as applicable (and, in the case of subclauses (5) and (6) below, any Junior Lien Secured Party may):

- (1) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations;
- (2) as necessary to redeem any Collateral in a creditors' redemption permitted by law or to deliver any notice or demand necessary to enforce any right to claim, take or receive proceeds of Collateral remaining after the Discharge of Priority Lien Obligations;
- (3) in order to perfect or establish the priority (subject to Priority Liens) of the Junior Liens upon any Collateral; provided that the Junior Lien Secured Parties may not require the Collateral Trustee to take any action to perfect any Collateral through possession or control other than the Priority Collateral Trustee taking any action for possession or control required by any Security Documents and the Priority Collateral Trustee agreeing pursuant to the Collateral Trust Agreement that the Priority Collateral Trustee agrees to act as bailee and/or agent for and on behalf of the Junior Collateral Trustee for the benefit of the Junior Lien Secured Parties as specified in the Collateral Trust Agreement;
- (4) as necessary to create, prove, preserve or protect (but not enforce) its rights in, and perfection and priority of the Junior Liens upon any Collateral;
- (5) file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Lien Secured Parties, including any claims secured by the Collateral, if any, or the avoidance of any Junior Lien, in each case to the extent not inconsistent with the terms of the Collateral Trust Agreement; or
- (6) vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim or statement of interest, make other filings and make any arguments and motions that are, in each case, with respect to the Junior Lien Obligations and the Collateral; provided that no filing of any claim or vote, or pleading related to such claim or vote, to accept or reject a disclosure statement, plan of reorganization, arrangement, compromise or liquidation, or any other document, agreement or proposal similar to the foregoing by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or any Junior Lien Representative may be inconsistent with the provisions of the Collateral Trust Agreement.

Until the Discharge of Priority Lien Obligations, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, none of the Junior Lien Secured Parties, the Junior Collateral Trustee (unless acting pursuant to an Act of Required Secured Parties) or any Junior Lien Representative will:

- (1) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other court, or take any other action, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the Priority Lien Secured Parties in respect of the Priority Liens (subject to the exceptions set forth above in clauses (1) through (7)) or that would limit, invalidate, avoid or set aside any Priority Lien or subordinate the Priority Liens to the Junior Liens or grant the Junior Liens equal ranking to the Priority Liens;

- (2) oppose or otherwise contest any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement of Priority Liens made by any Priority Lien Secured Party or any Priority Lien Representative in any Insolvency or Liquidation Proceedings;
- (3) oppose or otherwise contest any lawful exercise by any Priority Lien Secured Party or any Priority Lien Representative of the right to credit bid Priority Lien Debt at any sale of Collateral in foreclosure of Priority Liens;
- (4) oppose or otherwise contest any other request for judicial relief made in any court by any holder of Priority Lien Obligations or any Priority Lien Representative relating to the lawful enforcement of any Priority Lien;
- (5) contest, protest or object to any foreclosure proceeding or action brought by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party or any other exercise by the Priority Collateral Trustee, any Priority Lien Representative or any Priority Lien Secured Party of any rights and remedies relating to the Collateral under the Priority Lien Documents or otherwise and each Junior Lien Representative on behalf of itself and each Junior Lien Secured Party hereby waives any and all rights it may have to object to the time or manner in which the Priority Collateral Trustee or any Priority Lien Secured Party seeks to enforce the Priority Lien Obligations or the Priority Liens, in each case, subject to the exceptions set forth above in clauses (1) through (7);
- (6) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding) the validity, enforceability, perfection, priority or extent of the Priority Liens or the amount, nature or extent of the Priority Lien Obligations; or
- (7) object to the forbearance by the Priority Collateral Trustee from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral;

provided, that notwithstanding the foregoing, the Required Junior Lien Debtholders (or any Junior Lien Representative representing such Required Junior Lien Debtholders) may direct the Junior Collateral Trustee with respect to the enforcement of Junior Lien Security Documents and rights and remedies against the Collateral from and after the Junior Lien Enforcement Date as described under the caption “—Restrictions on Enforcement of Junior Liens.”

Except as specifically set forth in the Collateral Trust Agreement, both before and during an Insolvency or Liquidation Proceeding, the Junior Lien Secured Parties and the Junior Lien Representative may take any actions and exercise any and all rights that would be available to a holder of unsecured claims that are not inconsistent with the Collateral Trust Agreement.

At any time prior to the Discharge of Priority Lien Obligations and after (a) the commencement of any Insolvency or Liquidation Proceeding in respect of the Company or any other Grantor or (b) the Junior Collateral Trustee and each Junior Lien Representative have received written notice from any Priority Lien Representative at the direction of an Act of Required Secured Parties stating that (i) any Series of Priority Lien Debt has become due and payable in full (whether at maturity, upon acceleration or otherwise) or (ii) the Priority Lien Secured Parties securing one or more Series of Priority Lien Debt have become entitled under any Priority Lien Documents to and desire to enforce any or all of the Priority Liens by reason of a default under such Priority Lien Documents, no payment of money (or the equivalent of money) will be made from the proceeds of Collateral by the Company or any other Grantor to the Junior Collateral Trustee or any Junior Lien Secured Party (including, without limitation, payments and prepayments made from such proceeds for application to Junior Lien Obligations and all other payments and deposits made from such proceeds pursuant to any Junior Lien Document).

All proceeds of Collateral received by the Junior Collateral Trustee, any Junior Lien Representative or any Junior Lien Secured Party in violation of the two immediately preceding paragraphs and all proceeds of

Collateral received by the Junior Collateral Trustee, any Junior Lien Representative or Junior Lien Secured Party in connection with any exercise of remedies against the Collateral will be held by the Junior Collateral Trustee, the applicable Junior Lien Representative or the applicable Junior Lien Secured Party in trust for the account of the Priority Lien Secured Parties and remitted to the Priority Collateral Trustee for application in accordance with the provisions described below under the caption “Collateral Trust Agreement—Order of Application.” The Junior Liens will remain attached to and enforceable against all proceeds so held or remitted until applied to satisfy the Priority Lien Obligations. All proceeds of Collateral received by the Junior Collateral Trustee, any Junior Lien Secured Party and Junior Lien Representative not in violation of the two immediately preceding paragraphs will be received by the Junior Collateral Trustee, the Junior Lien Secured Parties and the Junior Lien Representatives free from the Priority Liens and all other Liens except the Junior Liens.

Waiver of Right of Marshalling

The Collateral Trust Agreement provides that, prior to the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties, each Junior Lien Representative and the Junior Collateral Trustee may not assert or enforce any marshaling, appraisal, valuation or other similar right accorded to a junior lienholder under applicable law, as against the Priority Lien Secured Parties or the Priority Lien Representatives (in their respective capacities as such). Following the Discharge of Priority Lien Obligations, the Junior Lien Secured Parties and any Junior Lien Representative may assert their right under the Uniform Commercial Code or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the Priority Lien Secured Parties.

Insolvency or Liquidation Proceedings

The Collateral Trust Agreement provides that, if in any Insolvency or Liquidation Proceeding and prior to the Discharge of Priority Lien Obligations, the Priority Lien Secured Parties by an Act of Required Secured Parties shall desire to permit the use of “Cash Collateral” (as such term is defined in Section 363(a) of the Bankruptcy Code), or to permit the Company or any other Grantor to obtain financing, whether from the Priority Lien Secured Parties or any other Person under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law (“DIP Financing”) then each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative for itself and on behalf of the other Junior Lien Secured Parties represented by it, will raise no objection to such Cash Collateral use or DIP Financing including any proposed orders for such Cash Collateral use and/ or DIP Financing which are acceptable to the Priority Lien Secured Parties) and to the extent the Liens securing the Priority Lien Obligations are subordinated to or *pari passu* with such DIP Financing, the Junior Collateral Trustee will subordinate its Junior Liens in the Collateral to the Liens securing such DIP Financing (and all Obligations relating thereto) and will not request adequate protection or any other relief in connection therewith (except, as expressly agreed by the Priority Lien Secured Parties or to the extent permitted as described below under this caption “—Insolvency or Liquidation Proceedings;” provided that the Junior Lien Secured Parties will retain the right to object to any ancillary agreements or arrangements regarding Cash Collateral use or the DIP Financing that are materially prejudicial to their interests. No Junior Lien Secured Party may provide DIP Financing to the Company or other Grantor secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations, provided that if no Priority Lien Secured Party offers to provide DIP Financing to the extent permitted under this paragraph on or before the date of the hearing to approve DIP Financing, then a Junior Lien Secured Party may seek to provide such DIP Financing secured by Liens equal or senior in priority to the Liens securing any Priority Lien Obligations, and the Priority Lien Secured Parties may object thereto; provided, further, that such DIP Financing may not “roll-up” or otherwise include or refinance any pre-petition Junior Lien Obligations. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf itself and the Junior Lien Secured Parties represented by it agree that each of them will not seek consultation rights in connection with, and will raise no objection to or oppose a motion to sell, liquidate or otherwise dispose of Collateral under Section 363 of the Bankruptcy Code if the requisite Priority Lien Secured Parties have consented to such sale, liquidation or other disposition; provided that, to the extent such sale, liquidation or other disposition is to be free and clear of Liens, the Liens securing the Priority Lien Obligations and the Junior Lien Obligations will attach to the proceeds of the sale, liquidation or

other disposition on the same basis of priority as the Liens on the Collateral securing the Priority Lien Obligations rank to the Liens on the Collateral securing the Junior Lien Obligations pursuant to the Collateral Trust Agreement. Each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of itself and the Junior Lien Secured Parties represented by it will not directly or indirectly oppose or impede entry of any order in connection with such sale, liquidation or other disposition, including orders to retain professionals or set bid procedures in connection with such sale, liquidation or disposition if the requisite Priority Lien Secured Parties have consented to such (i) retention of professionals and bid procedures in connection with such sale, liquidation or disposition of such assets and (ii) the sale, liquidation or disposition of such assets, in which event the Junior Lien Secured Parties will be deemed to have consented to the sale or disposition of Collateral pursuant to Section 363(f) of the Bankruptcy Code and such motion does not impair the rights of the Junior Lien Secured Parties under Section 363(k) of the Bankruptcy Code.

The Collateral Trust Agreement provides that until the Discharge of Priority Lien Obligations has occurred, none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Party represented by it, shall: (i) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral, without the prior written consent of the Priority Lien Secured Parties, unless a motion for adequate protection permitted under this caption “—Insolvency or Liquidation Proceedings” has been denied by a bankruptcy court or (ii) oppose (or support any other Person in opposing) any request by the Priority Lien Secured Parties for relief from such stay.

The Collateral Trust Agreement provides that if, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of Priority Lien Obligations and on account of Junior Lien Obligations, then, to the extent the debt obligations distributed on account of the Priority Lien Obligations and on account of the Junior Lien Obligations are secured by Liens upon the same property, the provisions of the Collateral Trust Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

The Collateral Trust Agreement provides that none of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative, for itself and on behalf of the other Junior Lien Secured Parties represented by it shall contest (or support any other Person contesting): (1) any request by the Priority Lien Representatives or the Priority Lien Secured Parties for adequate protection under any Bankruptcy Law; or (2) any objection by the Priority Lien Representatives or the Priority Lien Secured Parties to any motion, relief, action or proceeding based on the Priority Lien Secured Parties claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding: (1) if the Priority Lien Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any Cash Collateral use or DIP Financing, then the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or Junior Lien Representative, on behalf of itself or any of the other Junior Lien Secured Parties represented by it, may seek or request adequate protection in the form of a Lien on such additional collateral, which Lien will be subordinated to the Liens securing the Priority Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Junior Lien Obligations are so subordinated to the Priority Lien Obligations under the Collateral Trust Agreement; and (2) each of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representatives and the Junior Lien Secured Parties shall only be permitted to seek adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding in the form of (A) additional collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted a senior Lien on such additional collateral; (B) replacement Liens on the Collateral; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted senior replacement

Liens on the Collateral; and (C) an administrative expense claim; provided that as adequate protection for the Priority Lien Obligations, the Priority Collateral Trustee, on behalf of the Priority Lien Secured Parties, is also granted an administrative expense claim which is senior and prior to the administrative expense claim of the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) and each Junior Lien Representative on behalf of the Junior Lien Secured Parties represented by it. If any Junior Lien Secured Party receives adequate protection payments in an Insolvency or Liquidation Proceeding ("Junior Lien Adequate Protection Payments"), and the Priority Lien Secured Parties do not receive payment in full in cash of all Priority Lien Obligations upon the effectiveness of the plan of reorganization for, or conclusion of, that Insolvency or Liquidation Proceeding, then, each Junior Lien Secured Party shall pay over to the Priority Lien Secured Party an amount (the "Pay-Over Amount") equal to the lesser of (i) the Junior Lien Adequate Protection Payments received by such Junior Lien Secured Parties and (ii) the amount of the short-fall (the "Short Fall") in payment in full of the Priority Lien Obligations; provided that to the extent any portion of the Short Fall represents payments received by the Priority Lien Secured Parties in the form of promissory notes, equity or other property, equal in value to the cash paid in respect of the Pay-Over Amount, the Priority Lien Secured Parties shall, upon receipt of the Pay-Over Amount, transfer those promissory notes, equity or other property, pro rata, equal in value to the cash paid in respect of the Pay-Over Amount to the applicable Junior Lien Secured Parties in exchange for the Pay-Over Amount. Notwithstanding anything in the Collateral Trust Agreement to the contrary, the Priority Lien Secured Parties shall not be deemed to have consented to, and expressly retain their rights to object to the grant of adequate protection in the form of cash payments to the Junior Lien Secured Parties made pursuant to this paragraph.

Nothing in the Collateral Trust Agreement, except as expressly provided therein, prohibits or in any way limits any Priority Lien Representative or any Priority Lien Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), any Junior Lien Representative or any of the other Junior Lien Secured Parties, including the seeking by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), the Junior Lien Representative or any of the other Junior Lien Secured Parties of adequate protection or the asserting by the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties), any Junior Lien Representative or any of the other Junior Lien Secured Parties of any of its rights and remedies under the Junior Lien Documents or otherwise.

The Collateral Trust Agreement provides that if any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Company or any other Grantor any amount paid in respect of Priority Lien Obligations (a "Recovery"), then such Priority Lien Secured Party shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts on the date of such Recovery, and from and after the date of such reinstatement the Discharge of Priority Lien Obligations shall be deemed not to have occurred for all purposes hereunder. If the Collateral Trust Agreement is terminated prior to such Recovery, the Collateral Trust Agreement will be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

The Collateral Trust Agreement provides that the grants of Liens pursuant to the Priority Lien Security Documents and the Junior Lien Security Documents constitute two separate and distinct grants of Liens; and because of, among other things, their differing rights in the Collateral, the Junior Lien Obligations are fundamentally different from the Priority Lien Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. If it is held that the claims of the Priority Lien Secured Parties and the Junior Lien Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then all distributions will be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Lien Secured Parties), the Priority Lien Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing (or that would be owing if there were such separate classes of senior and junior

secured claims) in respect of post-petition interest, including any additional interest payable pursuant to the Priority Lien Documents, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding) before any distribution is made in respect of the claims held by the Junior Lien Secured Parties with respect to the Collateral, and the Junior Collateral Trustee (on behalf of the Junior Lien Secured Parties) or each Junior Lien Representative, as applicable, for itself and on behalf of the Junior Lien Secured Parties for whom it acts as representative, will turn over to the Priority Collateral Trustee for application in accordance with the Collateral Trust Agreement, Collateral or proceeds of Collateral otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Lien Secured Parties).

The Collateral Trust Agreement provides that, notwithstanding any other provision to the contrary, each Junior Lien Representative and the Junior Collateral Trustee, for itself and on behalf of each other Junior Lien Secured Party represented by it, agrees that none of such Junior Lien Representative or the Junior Collateral Trustee, the Junior Lien Secured Parties represented by it or any agent or trustee on behalf of any of them shall, for any purpose during any Insolvency or Liquidation Proceeding or otherwise, support, endorse, propose or submit, whether directly or indirectly, any plan of reorganization that provides for the impairment of repayment of the Priority Lien Obligations unless the Priority Lien Secured Parties or the Priority Lien Representative, in each case, specified in clauses (1) or (2) of the definition of Act of Required Secured Parties shall have consented to such plan in writing.

The Collateral Trust Agreement is a “subordination agreement” under Section 510(a) of the Bankruptcy Code, which will be effective before, during and after the commencement of an insolvency proceeding. All references in the Collateral Trust Agreement to any Grantor will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an insolvency proceeding.

Order of Application

The Collateral Trust Agreement provides that if any Collateral is sold or otherwise realized upon by the Collateral Trustee in connection with any collection, sale, foreclosure or other enforcement of Liens granted to the Collateral Trustee in the Security Documents, the proceeds received by the Collateral Trustee from such collection, sale, foreclosure or other enforcement and the proceeds received by the Collateral Trustee or any Priority Lien Secured Party or Junior Lien Secured Party of any insurance policy maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral will be distributed by the Collateral Trustee, subject to the terms of the ABL Intercreditor Agreement, in the following order of application:

FIRST, to the payment of all amounts payable under the Collateral Trust Agreement on account of the Collateral Trustee’s fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Trustee or any co-trustee or agent of the Collateral Trustee in connection with any Security Document (including, but not limited to, indemnification obligations that are then due and payable to the Collateral Trustee or any co-trustee or agent of the Collateral Trustee);

SECOND, to the repayment of obligations, other than the Secured Obligations, secured by a Permitted Prior Lien on the Collateral sold or realized upon to the extent that such other Lien has priority over the Priority Liens but only if such obligation is discharged (in whole or in part) in connection with such sale;

THIRD, to the respective Priority Lien Representatives on a pro rata basis for each Series of Priority Lien Debt (and Swap Obligations represented by such Priority Lien Representative) that are secured by such Collateral for application to the payment of all such outstanding Priority Lien Debt and any other such Priority Lien Obligations (other than Cash Management Obligations) that are then due and payable and so secured (for application in such order as may be provided in the Priority Lien Documents applicable to the respective Priority Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Priority Lien Debt and all other Priority Lien Obligations (other than Cash Management Obligations) that are then due and payable and so secured (including all interest and fees accrued thereon after the commencement of

any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt);

FOURTH, to the respective Priority Lien Representatives on a pro rata basis for any Cash Management Obligations represented by such Priority Lien Representative that are secured by such Collateral for application to the payment of all such Cash Management Obligations that are then due and payable (including all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Priority Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding);

FIFTH, to the respective Junior Lien Representatives on a pro rata basis for each Series of Junior Lien Debt that are secured by such Collateral for application to the payment of all outstanding Junior Lien Debt and any other Junior Lien Obligations that are so secured and then due and payable (for application in such order as may be provided in the Junior Lien Documents applicable to the respective Junior Lien Obligations) in an amount sufficient to pay in full in cash all outstanding Junior Lien Debt and all other Junior Lien Obligations that are then due and payable and so secured (including, to the extent legally permitted, all interest and fees accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Junior Lien Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding, and including the discharge or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Junior Lien Document) of all outstanding letters of credit, if any, constituting Junior Lien Debt); and

SIXTH, any surplus remaining after the payment in full in cash of amounts described in the preceding clauses will be paid to the Company or the applicable Grantor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law or as a court of competent jurisdiction may direct.

Notwithstanding the foregoing, if any Series of Secured Debt has released its Lien on any Collateral as set forth in the Collateral Trust Agreement, then such Series of Secured Debt and any related Secured Obligations of that Series thereafter shall not be entitled to share in the proceeds of any Collateral so released by that Series.

If any Junior Collateral Trustee, the Junior Lien Representative or any Junior Lien Secured Party collects or receives on account of any Junior Lien Obligations any proceeds of any foreclosure, collection or other enforcement, proceeds of any insurance maintained by any Grantor relating to any loss or other insurable event with respect to any Collateral and any proceeds of any assets that were subject to Priority Liens that have been avoided or otherwise invalidated that should have been applied to the payment of the Priority Lien Obligations in accordance with the immediately preceding paragraph, whether after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Junior Lien Representative or such Junior Lien Secured Party, as the case may be, will forthwith deliver the same to the Priority Collateral Trustee, for the account of the Priority Lien Secured Parties, to be applied in accordance with the provisions set forth in the immediately preceding paragraph. Until so delivered, such proceeds shall be segregated and will be held by that Junior Lien Representative or that Junior Lien Secured Party, as the case may be, for the benefit of the Priority Lien Secured Parties.

The provisions set forth under this caption “—Order of Application” are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Secured Obligations, each present and future Secured Debt Representative and the Collateral Trustee as holder of Priority Liens and Junior Liens. The Secured Debt Representative of each future Series of Secured Debt will be required to deliver a lien

sharing and priority confirmation to the Collateral Trustee and each other Secured Debt Representative at the time of incurrence of such Series of Secured Debt.

Release of Liens on Collateral

The Collateral Trust Agreement provides that the Priority Collateral Trustee's and/or Junior Collateral Trustee's Liens, as applicable, upon the Collateral will be released or subordinated in any of the following circumstances:

(1) the Collateral Trustee's Liens will be released in whole, upon (A) payment in full in cash and discharge of all outstanding Secured Debt and all other Secured Obligations that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged; (B) termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation, termination or cash collateralization (at the lower of (1) 105% of the aggregate undrawn amount and (2) the percentage of the aggregate undrawn amount required for release of Liens under the terms of the applicable Secured Debt Documents) of all outstanding letters of credit issued pursuant to any Secured Debt Documents or, solely to the extent if any agreed to by the issuer of any outstanding letter of credit issued pursuant to any Secured Debt Document, the issuance of a back to back letter of credit in favor of the issuer of any such outstanding letter of credit in an amount equal to such outstanding letter of credit and issued by a financial institution acceptable to such issuer and (C) with respect to any Swap Obligations, (x) the cash collateralization of all such Swap Obligations on terms satisfactory to each applicable Hedge Provider or (y) the expiration or termination of all Swap Contracts evidencing such Swap Obligations and payment in full in cash of all Swap Contracts with respect thereto;

(2) the Collateral Trustee's Liens will be released as to any Collateral that is sold, transferred or otherwise disposed of by the Company or any other Grantor to a Person that is not (either before or after such sale, transfer or disposition) the Company or a Restricted Subsidiary of the Company in a transaction or other circumstance that is permitted by all of the Secured Debt Documents, at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; provided that the Collateral Trustee's Liens upon the Collateral will not be released if the sale or disposition is subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"

(3) as to a release of less than all or substantially all of the Collateral (other than pursuant to clause (2) above), the Collateral Trustee's Liens on such Collateral will be released if directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the release was permitted by each applicable Secured Debt Document; provided, that this clause (3) shall not apply to (i) Discharge of Priority Lien Obligations upon payment in full thereof or (ii) sales or dispositions subject to the covenant described below under the caption "—Certain Covenants—Consolidation, Merger or Sale of Assets;"

(4) as to a release of all or substantially all of the Collateral (other than pursuant to clause (1) above), the Collateral Trustee's Liens on such Collateral will be released if (A) consent to release of that Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt at the time outstanding as provided for in the applicable Secured Debt Documents, and (B) the Company has delivered an Officer's Certificate to the Collateral Trustee in the form required under the Collateral Trust Agreement certifying that any such necessary consents have been obtained;

(5) (i) if any Guarantor is released from its obligations under each of the Priority Lien Documents in accordance with the terms thereof, then the Priority Liens on any assets of such Guarantor constituting Collateral and the obligations of such Guarantor under its Guarantee of the Priority Lien Obligations, shall automatically, unconditionally and simultaneously be released; and (ii) if any Guarantor is released from all its obligations under each of the Junior Lien Documents in accordance with the terms thereof, then the Junior Liens on any assets of such Guarantor constituting Collateral and the obligations of such Guarantor under its Guarantee of the Junior Lien Obligations, shall be automatically, unconditionally and simultaneously released;

(6) notwithstanding any of the foregoing, if, prior to the Discharge of Priority Lien Obligations, the Priority Collateral Trustee is exercising its rights or remedies with respect to the Collateral under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, and the Priority Collateral Trustee releases any part of the Collateral from all of the Priority Liens or any Guarantor is released from its obligations under its Guarantee of all of the Priority Lien Obligations, in any such case, in connection with any collection, sale, foreclosure or other enforcement, then the Junior Liens on such Collateral or the obligations of such Guarantor under its Guarantee of the Junior Lien Obligations, as the context may require, shall be automatically, unconditionally and simultaneously released to the same extent. If in connection with any exercise of rights and remedies by the Priority Collateral Trustee under the Priority Lien Security Documents pursuant to an Act of Required Secured Parties, the equity interests of any Person are foreclosed upon or otherwise disposed of and the Priority Collateral Trustee releases the Priority Lien on the property or assets of such Person then the Junior Liens with respect to the property or assets of such Person will be concurrently and automatically released to the same extent as all of the Priority Liens on such property or assets are released;

(7) solely with respect to ABL Priority Collateral, if and to the extent required by the ABL Intercreditor Agreement;

(8) the Collateral Trustee's Liens on any Collateral will be subordinated as directed by an Act of Required Secured Parties accompanied by an Officer's Certificate to the effect that the subordination was permitted by each applicable Secured Debt Document; and

(9) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction.

Release of Liens in Respect of Notes

The indenture and the Collateral Trust Agreement will provide that the Collateral Trustee's or Co-Issuer Notes Collateral Trustee's, as applicable, Liens upon the Collateral will no longer secure the notes outstanding under the indenture or any other Obligations under the indenture, and the right of the holders of the notes and such Obligations to the benefits and proceeds of the Collateral Trustee's or Co-Issuer Notes Collateral Trustee's, as applicable, Liens on the Collateral will terminate and be discharged:

(1) upon satisfaction and discharge of the indenture as set forth under the caption "—Defeasance and Discharge;"

(2) upon a Legal Defeasance or Covenant Defeasance of the notes as set forth under the caption "—Defeasance and Discharge;"

(3) upon payment in full and discharge of all notes outstanding under the indenture and all Obligations that are outstanding, due and payable under the indenture at the time the notes are paid in full and discharged; or

(4) in whole or in part, with the consent of the holders of the requisite percentage of notes in accordance with the provisions described below under the caption "—Amendments and Waivers."

Amendment of Security Documents

The Collateral Trust Agreement provides that no amendment or supplement to the provisions of any Security Document will be effective without the approval of the Collateral Trustee acting as directed by an Act of Required Secured Parties, except that:

(1) any amendment or supplement that has the effect solely of:

- (a) adding or maintaining Collateral, securing additional Secured Obligations that are otherwise not prohibited by the terms of any Secured Debt Document to be secured by the Collateral or preserving, perfecting or establishing the Liens thereon or the rights of the Collateral Trustee therein; or

- (b) providing for the assumption of any Grantor's obligations under any Secured Debt Document in the case of a merger or consolidation or sale of all or substantially all of the assets of such Grantor to the extent not prohibited by the terms of the indenture governing the notes, the Existing Credit Facility or any other Secured Debt Documents, as applicable;

will become effective when executed and delivered by the Company or any other applicable Grantor party thereto and the Collateral Trustee for the applicable Class of Security Document being so amended or supplemented;

- (2) no amendment or supplement that reduces, impairs or adversely affects the right of any Secured Party:
 - (a) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Required Secured Parties (or amends the provisions of this clause (2) or the definitions of "Act of Required Secured Parties", "Act of Required Secured Parties", "Act of Required Junior Lien Debtholders", "Major Non-Controlling Priority Representative" or "Controlling Representative"),
 - (b) to share in the order of application described above under "—Order of Application" in the proceeds of enforcement of or realization on any Collateral, in each case that has not been released in accordance with the provisions described above under the caption "—Release of Liens on Collateral" or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt,
 - (c) to require that Liens securing Secured Obligations be released only as set forth in the provisions described above under the caption "—Release of Liens on Collateral" or other applicable provisions expressly set forth in the Collateral Trust Agreement regarding the release of Liens in respect of any Series of Secured Debt, or
 - (d) to amend the terms described under this caption relating to amendments,

will become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Document; and

- (3) no amendment or supplement that imposes any obligation upon or adversely affects the rights of (i) the Priority Collateral Trustee and/or the Junior Collateral Trustee or (ii) any Secured Debt Representative, in any case, in its capacity as such will become effective without the consent of (i) the Priority Collateral Trustee or the Junior Collateral Trustee so affected (or both, in the case of a such an amendment or supplement generally affecting the Collateral Trustee) or (ii) such Secured Debt Representative, respectively.

Any amendment or supplement to the provisions of the Security Documents that releases Collateral will be effective only in accordance with the requirements set forth in the applicable Secured Debt Document referenced above under the caption "—Release of Liens on Collateral." Any amendment or supplement that results in the Collateral Trustee's Liens upon the Collateral no longer securing the notes and the other Obligations under the indenture may only be effected in accordance with the provisions described above under the captions "—Release of Liens in Respect of Notes" or "—Release of Liens on Collateral."

The Collateral Trust Agreement provides that, notwithstanding anything to the contrary under the caption "—Amendment of Security Documents," but subject to clauses (2) and (3) above:

- (1) any Mortgage or other Security Document that secures Junior Lien Obligations (but not Priority Lien Obligations) may be amended or supplemented with the approval of the Junior Collateral Trustee acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment or supplement would not be permitted under the terms of the Collateral Trust Agreement or the other Priority Lien Documents; and
- (2) any amendment or waiver of, or any consent under any Priority Lien Security Document will apply automatically to any comparable provision of any comparable Junior Lien Document without the consent

Voting

In connection with any matter under the Collateral Trust Agreement requiring a vote of holders of Secured Debt, each Series of Secured Debt will cast its votes in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt to be voted by a Series of Secured Debt will equal (1) the aggregate principal amount of Secured Debt held by the holders of such Series of Secured Debt (including outstanding letters of credit whether or not then available or drawn), *plus* (2) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Funded Debt of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt will vote the total amount of Secured Debt under that Series of Secured Debt as a block in respect of any vote under the Collateral Trust Agreement. Upon request of the Collateral Trustee, each Priority Lien Representative and each Junior Lien Representative will provide a written notice to the Collateral Trustee of the aggregate principal amount of Priority Lien Debt or Junior Lien Debt for which it acts as Priority Lien Representative or Junior Lien Representative.

Second Lien Collateral Trust Agreement

The Company and the other Grantors will enter into a collateral trust agreement, with the priority collateral trustee thereunder, the representatives for the first-lien secured debt holders of PIC AU Holdings LLC and PIC AU Holdings Inc., and Wilmington Trust, National Association, in its capacity as Priority Collateral Trustee, as the junior collateral trustee on behalf of the representatives of the Priority Lien Obligations (the “Second Lien Collateral Trust Agreement”). This collateral trust agreement will document how the collateral trustees receive, hold, administer, maintain, enforce and distribute the proceeds of all Liens upon the Second Lien Collateral at any time held by them, in trust for the benefit of the current and future holders of the Secured Obligations (or applicable Series or Class thereof). By its acceptance of the Notes, each holder is deemed to authorize and direct the Priority Collateral Trustee to enter into and perform under the Second Lien Collateral Trust Agreement in the capacity as “Junior Lien Representative” thereunder.

Provisions of the Indenture Relating to Collateral

Relative Rights

Nothing in the indenture or the Security Documents will:

- (1) impair, as to the Company and the holders of the notes, the obligation of the Company to pay principal of, premium and interest on the notes in accordance with their terms or any other obligation of the Company or any other Grantor;
- (2) affect the relative rights of holders of notes as against any other creditors of the Company or any other Grantor (other than holders of Priority Liens or Junior Liens);
- (3) restrict the right of any holder of notes to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral to the extent specifically prohibited by the provisions described above under the captions “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings”) or “—Second Lien Collateral Trust Agreement”;
- (4) restrict or prevent any holder of notes or other Priority Lien Obligations, the Priority Collateral Trustee or any Priority Lien Representative from exercising any of its rights or remedies upon a Default or Event of Default not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings” or “—Second Lien Collateral Trust Agreement”; or

- (5) restrict or prevent any holder of notes or other Junior Lien Obligations, the Junior Collateral Trustee or any Junior Lien Representative from taking any lawful action in an Insolvency or Liquidation Proceeding not specifically restricted or prohibited by “—Collateral Trust Agreement—Restrictions on Enforcement of Junior Liens”, “—Collateral Trust Agreement—Insolvency and Liquidation Proceedings” or “—Second Lien Collateral Trust Agreement.”

Further Assurances; Insurance

The indenture will provide that the Company and each of the other Grantors will do or cause to be done all acts and things that may be required, or that the Collateral Trustee from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Secured Debt Documents.

The Company and each of the other Grantors will promptly execute, acknowledge and deliver such Security Documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that the Controlling Collateral Trustee may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the Secured Parties; it being understood that none of the Collateral Trustee or any Secured Debt Representative shall have a duty to so request.

The Company and the other Grantors will:

- (1) keep their properties adequately insured at all times by financially sound and reputable insurers;
- (2) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;
- (3) maintain such other insurance as may be required by law; and
- (4) maintain such other insurance as may be required by the Security Documents.

Upon the request of the Collateral Trustee, the Company and the other Grantors will furnish to the Collateral Trustee full information as to their property and liability insurance carriers.

Optional Redemption

Except as set forth below and the last paragraph of the covenant described below under “— Repurchase of Notes at the Option of Holders— Change of Control,” the notes will not be redeemable at the option of the Company.

At any time prior to December 31, 2022 the Company may redeem the notes, in whole or in part, upon prior notice as described under “— Selection and Notice,” by paying a redemption price equal to 100% of the Accreted Value of the notes to be redeemed plus the Applicable Premium, and accrued and unpaid interest, if any, to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

At any time and from time to time on or after December 31, 2022, the Company may redeem the notes, in whole or in part, upon prior notice as described under “—Selection and Notice,” at a redemption price equal to

the percentage of the Accreted Value set forth below plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

12-month period commencing December 31 in Year	
2022	104.250%
2023 and thereafter	100.000%

At any time and from time to time prior to December 31, 2022, the Company may redeem up to 35% of the Accreted Value of the notes (including the Accreted Value of any Additional Notes) at a redemption price equal to 108.500% of the Accreted Value plus accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant record date to receive interest on the relevant interest payment date), but in an Accreted Value not to exceed the net cash proceeds of one or more Equity Offerings, provided that

- (1) in each case, the redemption takes place not later than 180 days after the closing of the related Equity Offering, and
- (2) not less than 65% of the Accreted Value of the notes (including the Accreted Value of any Additional Notes) remains outstanding immediately thereafter.

Unless the Company defaults in the payment of the applicable redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on and after the applicable redemption date.

Repurchase of Notes at the Option of Holders

Change of Control

Not later than 30 days following a Change of Control, the Company will make an Offer to Purchase (as defined below) all outstanding notes at a purchase price equal to 101% of the Accreted Value of the notes repurchased, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date); *provided, however*, that notwithstanding the occurrence of a Change of Control, the Company shall not be obligated to purchase the notes pursuant to this covenant in the event that (i) during the 30-day period following such Change of Control, the Company has given the notice to exercise its right to redeem all the notes under the terms described in “—Optional Redemption” and redeemed such notes in accordance with such notice, unless and until there is a default in payment of the applicable redemption price, or (ii) a third party makes the Offer to Purchase in the manner, at the time and otherwise in compliance with the requirements set forth in the indenture applicable to an Offer to Purchase made by the Company and purchases all notes properly tendered and not withdrawn under the offer.

An “Offer to Purchase” means a written offer, which will specify the Accreted Value of notes subject to the offer and the purchase price. The offer must specify an expiration date (the “expiration date”) not less than 30 days or more than 60 days after the date of the offer, and a settlement date for purchase (the “purchase date”) not more than five business days after the expiration date. The offer must include information concerning the business of the Company and its Subsidiaries which the Company in good faith believes will enable the holders to make an informed decision with respect to the Offer to Purchase. The offer will also contain instructions and materials necessary to enable holders to tender notes pursuant to the offer. If the Offer to Purchase is sent prior to the occurrence of the Change of Control, it may be conditioned upon the consummation of the Change of Control.

A holder may tender all or any portion of its notes pursuant to an Offer to Purchase, subject to the requirement that any portion of a note tendered must be in a minimum of \$2,000 principal amount or a multiple of \$1,000 principal amount in excess thereof. Holders are entitled to withdraw notes tendered up to the close of

business on the expiration date. On the purchase date the purchase price will become due and payable on each note accepted for purchase pursuant to the Offer to Purchase, and interest on notes purchased will cease to accrue on and after the purchase date.

Notes repurchased by the Company pursuant to an Offer to Purchase will have the status of notes issued but not outstanding or will be retired and canceled at the option of the Company.

Notes purchased by a third party pursuant to the preceding paragraphs will have the status of notes issued and outstanding.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of the notes pursuant to an Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

The Change of Control provisions described above may deter certain mergers, tender offers and other takeover attempts involving the Company by increasing the capital required to effectuate such transactions. The definition of Change of Control also includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of the Company and its Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a noteholder to require the Company to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Company and its Subsidiaries taken as a whole to another Person or group may be uncertain.

Holders may not be entitled to require us to purchase their notes in certain circumstances involving a significant change in the composition of our Board of Directors, including in connection with a proxy contest where our Board of Directors does not approve a dissident slate of directors but approves them as continuing directors, even if our Board of Directors initially opposed the directors.

Future debt of the Company may prohibit the Company from purchasing notes in the event of a Change of Control, provide that a Change of Control is a default or require the Company to repurchase the notes upon a Change of Control. Moreover, the exercise by the noteholders of their right to require the Company to purchase the notes could cause a default under other such future Debt, even if the Change of Control itself does not, due to the financial effect of the purchase on the Company.

Finally, the Company’s ability to pay cash to the noteholders following the occurrence of a Change of Control may be limited by the Company’s then existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the notes. See “Risk Factors—Risks Related to the Notes—We may be unable to purchase the notes upon a change of control.”

Except as described above with respect to a Change of Control, the indenture will not contain provisions that permit the holder of the notes to require that the Company purchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The provisions under the indenture relating to the Company’s obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or amended as described below in “—Amendments and Waivers.”

In the event that holders of not less than 90% of the aggregate Accreted Value of the outstanding notes accept an Offer to Purchase and the Company (or the third party making the Offer to Purchase in lieu of the

Company) purchases all of the notes held by such holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior written notice to the holders and the Trustee, given not more than 30 days following the purchase pursuant to the Offer to Purchase described above, to redeem all of the notes that remain outstanding following such purchase at a redemption price equal to the Offer to Purchase payment price plus accrued and unpaid interest on the notes redeemed to the date of redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

Asset Sales

The Company will not, and will not permit any Restricted Subsidiary to, make any Asset Sale unless the following conditions are met:

- (1) The Asset Sale is for at least Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale).
- (2) At least 75% of the aggregate consideration received by the Company or its Restricted Subsidiaries for such Asset Sale consists of cash or Cash Equivalents.

For purposes of this clause (2):

- (A) the assumption by the purchaser of Debt or other obligations or liabilities (as shown on the Company's most recent balance sheet or in the footnotes thereto) (other than Subordinated Debt or other obligations or liabilities subordinated in right of payment to the notes) of the Company or a Restricted Subsidiary pursuant to operation of law or a customary novation or assumption agreement,
- (B) Additional Assets,
- (C) instruments, notes, securities or other obligations received by the Company or such Restricted Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Company or such Restricted Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received, and
- (D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in the Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (D) that is at that time outstanding, not to exceed the greater of (x) \$70.0 million and (y) 2.0% of the Company's Consolidated Net Tangible Assets at the time of receipt of such outstanding Designated Non-cash Consideration (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value),

shall in each case be considered cash or Cash Equivalents.

- (3) Within 360 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Company or a Restricted Subsidiary may apply an amount equal to such Net Cash Proceeds at its option:
 - (A) to permanently prepay, repay, redeem, reduce or repurchase Debt as follows:
 - (i) if the assets subject to such Asset Sale constitute Collateral, to prepay, repay, redeem, reduce or purchase Priority Lien Obligations on a pro rata basis; provided that all reductions of (or offers to reduce) Obligations under the notes shall be made as provided under "—Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued unpaid interest, to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid;

- (ii) subject to clause (iii) below, if the assets subject to such Asset Sale do not constitute Collateral, to prepay, repay, redeem, reduce or purchase Obligations under other Debt of the Company or a Guarantor (and, if the Debt prepaid, repaid, redeemed, reduced or purchased is revolving credit Debt, to correspondingly reduce commitments with respect thereto); provided that the Company shall equally and ratably prepay, repay, redeem, reduce or purchase (or offer to prepay, repay, redeem, reduce or purchase, as applicable) Obligations under the notes on a pro rata basis; provided further that all reductions of Obligations under the notes shall be made as provided under "Optional Redemption," through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof plus accrued and unpaid interest to, but not including, the date of redemption) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase their notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, to, but not including, the date of redemption, on the amount of notes that would otherwise be prepaid; or
- (iii) if the assets subject to such Asset Sale are the property or assets of a Non-Guarantor Restricted Subsidiary, to prepay, repay, redeem, reduce or purchase Debt of such Restricted Subsidiary, other than Debt owed to the Company or any Restricted Subsidiary; or
- (B) to acquire land, reserves, property, plant and equipment useful to the conduct of its current mining business; or
- (C) to make capital expenditures in a Permitted Business.

A binding commitment to make an acquisition, expenditure or any combination thereof in compliance with clauses (B) and (C) shall be treated as a permitted application of the Net Cash Proceeds from the date of such commitment; *provided* that (x) such investment is consummated within 360 days after the earlier of the making of such commitment and the end of the 360-day period referred to in the first sentence of this clause (3) (it being understood that if such commitment is for any purchase, lease or other arrangement for mineral or surface rights, the Net Cash Proceeds need only be applied as and when installments are due and payable) and (y) if such acquisition is not consummated within the period set forth in subclause (x) or such binding commitment is terminated, the Net Cash Proceeds not so applied will be deemed to be Excess Proceeds (as defined below).

Notwithstanding the foregoing, to the extent that (i) a distribution of any or all of the Net Cash Proceeds of any Asset Sales by a Foreign Subsidiary that is non-Guarantor Restricted Subsidiary to the Company is prohibited or delayed by applicable local law or (ii) a distribution of any or all of the Net Cash Proceeds of any Assets Sales by a Foreign Subsidiary that is a non-Guarantor Restricted Subsidiary to the Company could result in material adverse tax consequences, as determined by the Company in its sole discretion, the portion of such Net Cash Proceeds so affected will not be required to be applied in compliance with this covenant; *provided* that within 360 days of the receipt of such Net Cash Proceeds, the Company shall use commercially reasonable efforts to permit repatriation of the proceeds that would otherwise be subject to this covenant without violating local law or incurring material adverse tax consequences, and, if such proceeds may be repatriated, within such 360 day period, such proceeds shall be required to be applied in compliance with this covenant.

- (4) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (3) within 360 days of the Asset Sale constitute "Excess Proceeds." Excess Proceeds of less than \$25.0 million will be carried forward and accumulated. When the aggregate amount of the accumulated Excess Proceeds equals or exceeds such amount, the Company must, within 30 days, make an Offer to Purchase notes (an "Asset Sale Offer") having an Accreted Value equal to:
 - (A) accumulated Excess Proceeds, multiplied by
 - (B) a fraction (x) the numerator of which is equal to the outstanding aggregate Accreted Value of the notes and (y) the denominator of which is equal to the outstanding aggregate Accreted Value and/

or aggregate principal amount, as applicable, of the notes and all other Priority Lien Obligations similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale,

rounded down to the nearest \$1,000. The purchase price for any Asset Sale Offer will be 100% of the Accreted Value, plus accrued interest, if any, to, but excluding, the date of purchase, prepayment or redemption (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer is for less than all of the outstanding notes and notes in an aggregate Accreted Value in excess of the purchase amount are tendered and not withdrawn pursuant to the Asset Sale Offer, the Company will purchase notes having an aggregate Accreted Value equal to the purchase amount on a *pro rata* basis (in the case of global notes, subject to the applicable procedures of DTC), with adjustments so that only notes in multiples of \$1,000 principal amount (and in a minimum amount of \$2,000) will be purchased. Upon completion of the Asset Sale Offer, Excess Proceeds will be reset to zero, and any Excess Proceeds remaining after consummation of the Asset Sale Offer may be used for any purpose not otherwise prohibited by the indenture.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to an Asset Sale Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such compliance.

Issue Date Offer to Purchase

Within 15 days of the Issue Date, the Company must make an Offer to Purchase up to \$22.5 million in aggregate Accreted Value of notes (the “Issue Date Offer to Purchase”) at a purchase price equal to 80% of the Accreted Value of the notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

If the aggregate Accreted Value of notes surrendered in the Issue Date Offer to Purchase exceeds \$22.5 million in aggregate Accreted Value, the Company will select the notes (in the case of global notes, subject to the applicable procedures of DTC) to be purchased on a *pro rata* basis with such adjustments as needed so that no notes in an unauthorized denomination are purchased in part based on the aggregate Accreted Value of the notes tendered.

For the avoidance of doubt, the Applicable Premium will not be payable in connection with the repurchases described above.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to the Issue Date Offer to Purchase pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Issue Date Offer to Purchase provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Issue Date Offer to Purchase provisions of the indenture by virtue of such compliance.

Debt Repurchase Mandatory Offer

If for any fiscal quarter of the Company ending on or before September 30, 2024 (“Debt Repurchase Quarterly Period”), the Company makes any open-market repurchases of Debt (other than the 2022 Notes) pursuant to clause (13) of the second paragraph of “Certain Covenants — Limitation on Restricted Payments,”

the Company must, within 30 days of the end of such Debt Repurchase Quarterly Period, make an Offer to Purchase an aggregate Accreted Value and/or aggregate principal amount, as applicable, on a pro rata basis, of (i) notes and (ii) Priority Lien Obligations incurred under the Existing Credit Facility (a “Debt Repurchase Mandatory Offer”) equal to 25% of the aggregate principal amount of Debt repurchased during the applicable Debt Repurchase Quarterly Period, rounded down to the nearest \$1,000 (the “Available Repurchase Amount”); *provided*, that any repurchases of notes and/or Priority Lien Obligations by the Company pursuant to the Issue Date Offer to Purchase and/or Debt Repurchase Mandatory Offer provisions of the indenture, as applicable, will not be subject to the Debt Repurchase Mandatory Offer provisions of the indenture.

The purchase price for any notes and Priority Lien Obligations repurchased in such Debt Repurchase Mandatory Offer will be at a price to Accreted Value and/or principal amount, as applicable, that is the weighted-average repurchase price for all Debt repurchased during the applicable Debt Repurchase Quarterly Period (other than as pursuant to a prior Debt Repurchase Mandatory Offer), plus accrued interest, if any, to, but not including, the date of purchase (subject, with respect to the notes, to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

If the aggregate Accreted Value and/or aggregate principal amount, as applicable, of notes and such other Priority Lien Obligations surrendered in a Debt Repurchase Mandatory Offer exceeds the Available Repurchase Amount, the Company will select the notes (in the case of global notes, subject to the applicable procedures of DTC) and the Company will select such other Priority Lien Obligations to be purchased on a pro rata basis with such adjustments as needed so that no notes or Priority Lien Obligations in an unauthorized denomination are purchased in part based on the aggregate Accreted Value and/or aggregate principal amount, as applicable, of the notes and such other Priority Lien Obligations tendered.

To the extent that the aggregate Accreted Value and/or aggregate principal amount, as applicable, of notes and such other Priority Lien Obligations tendered pursuant to a Debt Repurchase Mandatory Offer is less than the Available Repurchase Amount, the Company may use any remaining Available Repurchase Amount (any such amount, “Retained Excess Available Repurchase Amount”) for any Debt open-market repurchases; *provided*, that any repurchases of Debt by the Company with Retained Excess Available Repurchase Amounts will not be subject to the Debt Repurchase Mandatory Offer provisions of the indenture.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each purchase of notes pursuant to a Debt Repurchase Mandatory Offer pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with the Debt Repurchase Mandatory Offer provisions in the indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Debt Repurchase Mandatory Offer provisions of the indenture by virtue of such compliance.

Selection and Notice

If less than all of the notes are to be redeemed at any time, the Trustee will select notes for redemption as follows:

- (1) if the notes are listed on any national securities exchange and the Company provides written notice to a responsible officer of the Trustee of such listing, in compliance with the requirements of the principal national securities exchange on which the notes are listed; or
- (2) if the notes are not listed on any national securities exchange, on a *pro rata* basis (or, in the case of global notes, the notes represented thereby will be selected by lot in accordance with DTC’s applicable procedures).

No notes of \$2,000 or less can be redeemed in part. Notices of optional redemption will be given by first class mail (or electronically in the case of global notes) at least 30 but not more than 60 days before the

redemption date to each holder of notes to be redeemed at its registered address, except that optional redemption notices may be given more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or satisfaction and discharge of the indenture.

Notice of any redemption of the notes (including upon an Equity Offering) may, at the Company's discretion, be given prior to a transaction or event and any such redemption or notice may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion or occurrence of the related transaction or event, as the case may be. In addition, if such redemption or purchase is subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed, or such notice may be rescinded at any time in the Company's discretion if in the good faith judgment of the Company any or all of such conditions will not be satisfied. In addition, the Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the Accreted Value of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder upon cancellation of the original note. Notes called for redemption without a condition precedent will become due on the date fixed for redemption. On and after the redemption date, interest will cease to accrue on notes or portions of them called for redemption, unless the Company defaults in making such redemption payment.

No Mandatory Redemption or Sinking Fund

The Company is not required to make mandatory redemption payments with respect to the notes. The Company may from time to time purchase notes on the open market or otherwise in accordance with applicable laws. There will be no sinking fund payments for the notes.

Changes in Covenants if Notes Are Rated Investment Grade

If at any time (i) the notes are rated Investment Grade by each of S&P and Moody's (or, if either (or both) of S&P and Moody's have been substituted in accordance with the definition of "Rating Agencies," by each of the then applicable Rating Agencies), (ii) no Default has occurred and is continuing under the indenture and (iii) the Company has delivered to the Trustee an Officer's Certificate certifying to the foregoing provisions of this sentence, the covenants specifically listed under the following captions in this "Description of the New Peabody Notes" section of this offering circular will be suspended (the "Suspension Period"):

- (1) "—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock;"
- (2) "—Certain Covenants—Limitation on Restricted Payments;"
- (3) "—Certain Covenants—Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries;"
- (4) "—Repurchase of Notes at the Option of Holders—Asset Sales" and "—Repurchase of Notes at the Option of Holders—Debt Repurchase Mandatory Offer";
- (5) "—Certain Covenants—Limitation on Transactions with Affiliates;" and
- (6) clause (a)(2)(C) of "—Certain Covenants—Consolidation, Merger or Sale of Assets—The Company."

Notwithstanding the foregoing, if the rating assigned to the notes by either Rating Agency should subsequently decline to below Investment Grade, the foregoing covenants will be reinstituted as of and from the

date of such rating decline (the “Reversion Date”). Calculations under the reinstated “Limitation on Restricted Payments” covenant will be made as if the “Limitation on Restricted Payments” covenant had been in effect since the date of the indenture except that no Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. Furthermore, all Debt incurred during the Suspension Period will be deemed to have been incurred or issued pursuant to clause (2) of the definition of “Permitted Debt.” Notwithstanding that the suspended covenants may be reinstated, no default will be deemed to have occurred as a result of a failure to comply with such suspended covenants during any Suspension Period (or upon termination of any covenant Suspension Period or after that time based solely on events that occurred during the Suspension Period).

There can be no assurance that the notes will ever achieve or maintain a rating of Investment Grade from any Rating Agency. The Company shall promptly deliver to the Trustee an Officer’s Certificate notifying the Trustee of any event giving rise to a Suspension Period or a Reversion Date, the date thereof and identifying the suspended covenants. The Trustee shall not have any obligation to monitor the ratings of the notes, determine whether a Suspension Period or Reversion Date has occurred or notify holders of the occurrence or dates of any Suspension Period, suspended covenants or Reversion Date.

Certain Covenants

Limitation on Debt and Disqualified Stock or Preferred Stock

(a) The Company

- (1) will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Debt (including Acquired Debt) or Disqualified Stock; and
- (2) will not permit any of its Restricted Subsidiaries to Incur any Preferred Stock (other than Disqualified Stock or Preferred Stock of Restricted Subsidiaries held by the Company or a Restricted Subsidiary, so long as it is so held);

provided that the Company or any Restricted Subsidiary may Incur Debt (including Acquired Debt) or Disqualified Stock and any Restricted Subsidiary may Incur Preferred Stock if, on the date of the Incurrence, after giving effect to the Incurrence and the receipt and application of the proceeds therefrom, the Fixed Charge Coverage Ratio of the Company is not less than 2.25:1.00 (the “Fixed Charge Coverage Ratio Test”); *provided* that the maximum aggregate principal amount of Debt, Disqualified Stock or Preferred Stock that non-Guarantor Restricted Subsidiaries may incur under this paragraph (a) is \$50.0 million outstanding at any time.

(b) The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Debt (“Permitted Debt”):

- (1) Incurrence by the Company and the Guarantors of Priority Lien Debt in an aggregate principal amount (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof) at any one time outstanding not to exceed the Priority Lien Cap and any related guarantees thereof;
- (2) Incurrence by the Company and its Restricted Subsidiaries of Existing Debt (other than Debt described in clause (1) of this paragraph);
- (3) Debt of (i) the Company or a Guarantor owed to the Company or any Guarantor so long as the Debt continues to be owed to the Company or a Guarantor, (ii) any Restricted Subsidiary that is a not Guarantor owed to any other Restricted Subsidiary that is not a Guarantor, (iii) the Company or a Guarantor owed to any Restricted Subsidiary that is not a Guarantor; *provided* that the Debt incurred under this clause (iii) is subordinated in right of payment to the notes and (iv) any Restricted Subsidiary that is not a Guarantor to the Company or a Guarantor; *provided* that the

Debt incurred under this clause (iv) is incurred in the ordinary course of business and consistent with past practice;

- (4) Debt constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, “refinance”) then outstanding Debt (“Permitted Refinancing Debt”) that was permitted by the indenture to be incurred under clause (a) of this covenant or clauses (1), (4), (8), (9), (16) or (17) of this paragraph in an amount not to exceed the principal amount of the Debt so refinanced, plus premiums, fees and expenses; *provided* that:
 - (i) in case the Debt to be refinanced is subordinated in right of payment to the notes, the new Debt, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes;
 - (ii) (x) the new Debt does not have a Stated Maturity prior to the Stated Maturity of the Debt to be refinanced, and the Average Life of the new Debt is at least equal to the remaining Average Life of the Debt to be refinanced or (y) the new debt does not have a Stated Maturity prior to the Stated Maturity of the notes, and the Average Life of the new Debt is at least equal to the remaining Average Life of the notes;
 - (iii) in no event may Debt of the Company, Pledgor or any Guarantor be refinanced pursuant to this clause by means of any Debt of any Restricted Subsidiary that is neither a Guarantor, Pledgor nor the Company; and
 - (iv) in case the Debt to be refinanced is secured, the Liens securing such new Debt have a Lien priority equal to or junior to the Liens securing the Debt being refinanced;
- (5) Bank Products Obligations and Permitted Hedging Agreements of the Company or any Restricted Subsidiary;
- (6) Debt of the Company or any Restricted Subsidiary in connection with one or more standby or trade-related letters of credit, performance bonds, bid bonds, appeal bonds, bankers acceptances, insurance obligations, reclamation obligations, bank guarantees, surety bonds, completion guarantees or other similar bonds and obligations, including self-bonding arrangements, issued by the Company or a Restricted Subsidiary in the ordinary course of business or pursuant to self-insurance obligations and not in connection with the borrowing of money or the obtaining of advances;
- (7) Debt arising from agreements of the Company or any Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;
- (8) [reserved];
- (9) Debt of the Company or any Restricted Subsidiary Incurred to finance the acquisition, construction or improvement of any assets, including Finance Lease Obligations and any Debt assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Debt Incurred pursuant to this clause, including all Permitted Refinancing Debt Incurred to refund, refinance or replace any Debt Incurred pursuant to this clause (9), may not exceed the greater of (a) \$100.0 million and (b) 2.0% of Consolidated Net Tangible Assets; *provided* that such amount may be increased by the then-outstanding principal amount of any operating lease in existence on the Issue Date that is actually restructured to a Finance Lease after the Issue Date;

- (10) (i) Debt of the Company or any Restricted Subsidiary consisting of Guarantees of Debt of any Restricted Subsidiary otherwise permitted under this covenant and (ii) Debt of any Restricted Subsidiary consisting of Guarantees of Debt of the Company otherwise permitted under this covenant; *provided* that such Guarantee is incurred in accordance with the covenant described below under “—Note Guarantees by Restricted Subsidiaries.”
- (11) Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; *provided* that any subsequent transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Preferred Stock (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an issue of Preferred Stock;
- (12) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;
- (13) Debt Incurred by any Foreign Restricted Subsidiary in an aggregate principal amount at any one time outstanding not to exceed \$50.0 million;
- (14) Debt of the Company or any Restricted Subsidiary consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply or other arrangements;
- (15) Guarantees by the Company or any Restricted Subsidiary of borrowings by current or former officers, managers, directors, employees or consultants in connection with the purchase of Equity Interests of the Company by any such person in an aggregate principal amount not to exceed \$2.0 million at any one time outstanding;
- (16) any Permitted Receivables Financing in an aggregate principal amount (or similar amount) at any time outstanding not to exceed the greater of (i) \$250.0 million and (ii) 3.5% of Consolidated Net Tangible Assets;
- (17) Debt of the Company consisting of (i) additional notes issuable in exchange for Co-Issuer Notes and (ii) Debt under the LC Agreement issuable in exchange for Debt outstanding under the New Co-Issuer Term Loan Facility, as applicable, up to the Maximum Amount, pursuant to the Co-Issuer Notes Indenture;
- (18) Debt consisting of Additional Notes that is incurred solely in connection with the repurchase, retirement, repayment or exchange for 2022 Notes pursuant to clause (3) or (4) of the second paragraph of “Certain Covenants—Limitation on Restricted Payments;” and
- (19) Debt of the Company or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed \$10.0 million.

The Company will not incur, and will not permit any Guarantor to incur, any Debt (including Permitted Debt) that is contractually subordinated in right of payment to any other Debt of the Company or such Guarantor unless such Debt is also contractually subordinated in right of payment to the notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Debt will be deemed to be contractually subordinated in right of payment to any other Debt of the Company solely by virtue of being unsecured or by virtue of being secured on junior priority basis.

For purposes of determining compliance with this “—Limitation on Debt and Disqualified Stock or Preferred Stock” covenant and the covenant described under the caption “—Liens,” in the event that an item of Debt meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (19) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, the Company will be permitted to classify such item of Debt on the date of its Incurrence, or later reclassify all or a portion of such item of Debt, in any manner that complies with this covenant. Notwithstanding the foregoing, all Priority Lien

Debt will be deemed to have been incurred in reliance on the exception provided in clause (1) of the definition of Permitted Debt. The accrual of interest or preferred stock dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest on any Debt in the form of additional Debt with the same terms, the reclassification of preferred stock as Debt due to a change in accounting principles, and the payment of dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Debt or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of the Company as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred. Notwithstanding any other provision of this covenant, the maximum amount of Debt that the Company or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Debt outstanding as of any date will be:

- (1) the accreted value of the Debt, in the case of any Debt issued with original issue discount;
- (2) the principal amount of the Debt, in the case of any other Debt; and
- (3) in respect of Debt of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Debt of the other Person.

Limitation on Restricted Payments

- (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively “Restricted Payments”):
 - (1) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Company’s Qualified Equity Interests) held by Persons other than the Company or any of its Restricted Subsidiaries;
 - (2) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Company held by Persons other than the Company or any of its Restricted Subsidiaries;
 - (3) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Debt that is unsecured, Junior Lien Debt or Subordinated Debt (other than (x) a payment of interest or principal at Stated Maturity thereof or the redemption, repurchase or other acquisition or retirement for value of any Debt that is unsecured, Junior Lien Debt or Subordinated Debt in anticipation of satisfying a scheduled maturity, sinking fund or amortization or other installment obligation, in each case due within three months of the date of such redemption, repurchase, acquisition or retirement or (y) Debt permitted under clause (3) of the definition of “Permitted Debt”); or
 - (4) make any Investment other than a Permitted Investment (a “Restricted Investment”).

The amount of any Restricted Payment, if other than in cash, will be the Fair Market Value, on the date of the Restricted Payment, of the assets or securities proposed to be transferred or issued to or by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment, except that the Fair Market Value of any non-cash dividend or distribution paid within 60 days after the date of its declaration shall be determined as of such date.

- (b) The foregoing will not prohibit:
- (1) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with paragraph (a);
 - (2) dividends or distributions by a Restricted Subsidiary payable, on a *pro rata* basis or on a basis more favorable to the Company, to all holders of any class of Equity Interests of such Restricted Subsidiary a majority of which is held, directly or indirectly through Restricted Subsidiaries, by the Company;
 - (3) the repurchase, retirement or repayment for cash of any 2022 Notes outstanding after the Issue Date in an aggregate principal amount not to exceed the sum of (a) the greater of (I) \$25.0 million and (II) 75% of the principal amount of the 2022 Notes outstanding after the Issue Date, (b) any net cash proceeds from an offering of Qualified Equity Interests that has closed no longer than 45 days prior to such repurchase, retirement or repayment and (c) no earlier than 90 days prior to their Stated Maturity, from the net cash proceeds from an offering of Additional Notes that has closed no longer than 45 days prior to such repurchase, retirement or repayment; *provided* that the purchase price for any 2022 Notes repurchased, retired or repaid pursuant to this clause (3) is (w) less than 50% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid more than a year prior to their Stated Maturity, (x) less than 75% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid between a year and 45 days prior to their Stated Maturity, or (y) no higher than 100% of the principal amount of such notes, plus accrued and unpaid interest, if repurchased, retired or repaid within 45 days prior to their Stated Maturity;
 - (4) the acquisition of any 2022 Notes outstanding after the Issue Date in exchange for Additional Notes in an aggregate principal amount no greater than the aggregate principal amount of the acquired 2022 Notes, plus accrued and unpaid interest;
 - (5) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company in exchange for Qualified Equity Interests of the Company;
 - (6) the repayment, redemption, repurchase, defeasance or other acquisition or retirement of Debt that is unsecured, Junior Lien Debt or Subordinated Debt in exchange for, or out of the proceeds of, a cash or non-cash contribution to the capital of the Company or a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company;
 - (7) any Investment acquired as a capital contribution to the Company, or made in exchange for Qualified Equity Interests of the Company;
 - (8) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company held by current officers, directors or employees or former officers, directors or employees (or their estates or beneficiaries under their estates or their immediate family members) of the Company or any of its Restricted Subsidiaries upon death, disability, retirement, severance or termination of employment or pursuant to any agreement under which the Equity Interests were issued, and Investments in the Equity Interests of the Company in connection with certain purchases or redemptions of Equity Interests held by officers, directors and employees or any employee pension benefit plan of a type specified in the indenture; *provided* that the aggregate cash consideration paid therefor in any twelve-month period after the Issue Date does not exceed an aggregate amount of \$5.0 million;
 - (9) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of any Debt that is unsecured, Junior Lien Debt, Subordinated Debt or Disqualified Stock at a purchase price not greater than 101% of the principal amount or liquidation preference thereof in the event of (i) a change of control pursuant to a provision no more favorable to the holders thereof than in the covenant described below under “—Repurchase of Notes at the Option of Holders—Change of Control” or (ii) an asset sale pursuant to a provision no more favorable to the holders thereof than in the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales,” *provided* that, in each case, prior

to the repurchase the Company has made an Offer to Purchase and repurchased all notes issued under the indenture that were validly tendered for payment in connection with the Offer to Purchase;

- (10) cash payments in lieu of fractional shares upon exercise of options or warrants or conversion or exchange of convertible securities, repurchases of Equity Interests deemed to occur upon the exercise of options, warrants or other convertible securities to the extent such securities represent a portion of the exercise price of such options, warrants or other convertible securities and repurchases of Equity Interests in connection with the withholding of a portion of the Equity Interests granted or awarded to a director or an employee to pay for the Taxes payable by such director or employee upon such grant or award;
- (11) Restricted Payments, other than with respect to dividends or share repurchases, in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (11) not to exceed \$5.0 million;
- (12) [reserved];
- (13) open-market repurchases of any Debt (other than the 2022 Notes), so long as, immediately after giving pro forma effect to any such repurchase, the Company's Minimum Liquidity shall be not less than \$200.0 million;
- (14) repurchases of notes by the Company pursuant to the Issue Date Offer to Purchase; and
- (15) the issuance of additional notes in exchange for Co-Issuer Notes, up to the Maximum Amount, pursuant to the Co-Issuer Notes Indenture; *provided that, in the case of clauses (8), (9), (11), (13) and (14), no Default has occurred and is continuing or would occur as a result thereof.*

For purposes of determining compliance with this covenant, in the event that a Restricted Payment permitted pursuant to this covenant or a Permitted Investment meets the criteria of more than one of the categories of Restricted Payment described in clauses (1) through (15) above or one or more clauses of the definition of Permitted Investments, the Company shall be permitted to classify such Restricted Payment or Permitted Investment on the date it is made, or later reclassify all or a portion of such Restricted Payment or Permitted Investment, in any manner that complies with this covenant, and such Restricted Payment or Permitted Investment shall be treated as having been made pursuant to only one of such clauses of this covenant or of the definition of Permitted Investments. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Limitation on Liens

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, incur or permit to exist any Lien of any nature whatsoever on any of its properties or assets, whether owned at the Issue Date or thereafter acquired, to secure any Debt other than Permitted Liens.

Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries

- (a) Except as provided in paragraph (b), the Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to:
 - (1) pay dividends or make any other distributions on its Equity Interests to the Company or any other Restricted Subsidiary,
 - (2) pay any Debt or other liabilities owed to the Company or any other Restricted Subsidiary,
 - (3) make loans or advances to the Company or any other Restricted Subsidiary, or
 - (4) sell, lease or transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The provisions of paragraph (a) do not apply to any encumbrances or restrictions:

- (1) agreements governing Debt as in effect on the Issue Date, including pursuant to the Existing Credit Facility or the LC Agreement and the other documents relating to the Existing Credit Facility or the LC Agreement, and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of those agreements; *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;
- (2) existing pursuant to the indenture, the notes, the Note Guarantee or the Security Documents;
- (3) existing under or by reason of applicable law, rule, regulation or order;
- (4) existing under any agreements or other instruments of, or with respect to:
 - (i) any Person, or the property or assets of any Person, at the time the Person is acquired by the Company or any Restricted Subsidiary, or
 - (ii) any Unrestricted Subsidiary at the time it is designated or is deemed to become a Restricted Subsidiary.

which encumbrances or restrictions (x) are not applicable to any other Person or the property or assets of any other Person and (y) were not put in place in anticipation of such event and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing, *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, no less favorable in any material respect to the noteholders than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

- (5) of the type described in clause (a)(4) arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, Joint Venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of, the Company or any Restricted Subsidiary;
- (6) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Restricted Subsidiary pending closing of such sale or disposition that is permitted by the indenture;
- (7) consisting of customary restrictions pursuant to any Permitted Receivables Financing;
- (8) existing pursuant to Permitted Refinancing Debt; *provided* that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Debt are, taken as a whole, no less favorable in any material respect to the noteholders than those contained in the agreements governing the Debt being refinanced;
- (9) consisting of restrictions on cash or other deposits or net worth imposed by lessors, customers, suppliers or required by insurance surety bonding companies or in connection with any reclamation activity of the Company or a Restricted Subsidiary, in each case, in the ordinary course of business;
- (10) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Finance Leases or operating leases or Mining Leases that impose encumbrances or restrictions discussed in clause (a)(4) above on the property so acquired or covered thereby;
- (11) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred by a Foreign Subsidiary subsequent to the Issue Date by the covenant described above under “—Limitation

on Debt and Disqualified Stock and Preferred Stock”, which encumbrances or restrictions are customary for a financing or agreement of such type (as determined in good faith by the Company), and the Company determines in good faith that such encumbrances and restrictions will not materially affect the Company’s ability to make principal or interest payments on the notes as and when they become due;

- (12) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction;
- (13) existing pursuant to any agreement or instrument relating to any Debt permitted to be Incurred subsequent to the Issue Date by the covenant described above under “—Limitation on Debt and Disqualified Stock and Preferred Stock” if such encumbrances and restrictions are, taken as a whole, no less favorable in any material respect to the noteholders than is customary in comparable financings (as determined in good faith by the Company), and the Company determines in good faith that such encumbrances and restrictions will not materially affect the Company’s ability to make principal or interest payments on the notes as and when they become due; and
- (14) existing under or by reason of any Debt secured by a Lien permitted to be Incurred pursuant to the covenants described under “—Limitation on Debt and Disqualified Stock and Preferred Stock” and “—Limitation on Liens” that limit the right of the Company or any Restricted Subsidiary to dispose of the assets securing such Debt.

Note Guarantees by Restricted Subsidiaries

If and for so long as any Domestic Restricted Subsidiary of the Company, directly or indirectly, Guarantees any Debt of the Company or any other Guarantor, such Subsidiary shall provide a Note Guarantee within 30 days, and if the guaranteed Debt is Subordinated Debt, the Guarantee of such guaranteed Debt must be subordinated in right of payment to the Note Guarantee to at least the extent that the guaranteed Debt is subordinated to the notes.

Limitation on Transactions with Affiliates

- (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Company or any Restricted Subsidiary (a “Related Party Transaction”) involving aggregate consideration in excess of \$25.0 million, unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Company) to the Company or any of the relevant Restricted Subsidiaries than those that could be obtained in a comparable arm’s-length transaction with a Person that is not an Affiliate of the Company.
- (b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$50.0 million must first be approved by a majority of the Board of Directors of the Company who are disinterested in the subject matter of the transaction pursuant to a resolution by the Board of Directors of the Company.
- (c) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of \$100.0 million, the Company must deliver to the Trustee an opinion from an accounting, appraisal, or investment banking firm of national standing in the applicable jurisdiction (i) stating that its terms are not materially less favorable to the Company or any of the relevant Restricted Subsidiaries that would have been obtained in a comparable transaction with an unrelated Person or (ii) as to the fairness to the Company or any of the relevant Restricted Subsidiaries of such Related Party Transaction from a financial point of view.
- (d) The foregoing paragraphs do not apply to:
 - (1) any transaction between the Company and any of its Restricted Subsidiaries or between Restricted Subsidiaries of the Company;

- (2) the payment of reasonable and customary regular fees to directors of the Company who are not employees of the Company;
- (3) any Permitted Investment or any Restricted Payment permitted under the covenant described above under “—Limitation on Restricted Payments;”
- (4) any issuance of Equity Interests (other than Disqualified Equity Interests) of the Company;
- (5) loans or advances to officers, directors or employees of the Company in the ordinary course of business of the Company or its Restricted Subsidiaries or Guarantees in respect thereof or otherwise made on their behalf (including payment on such Guarantees) but only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;
- (6) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries with officers and employees of the Company or any of its Restricted Subsidiaries that are Affiliates of the Company and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans) so long as such agreement has been entered into in the ordinary course of business;
- (7) transactions with customers, clients, suppliers, joint venture partners, managers, operators, or purchasers or sellers of goods or services (including pursuant to joint venture agreements) in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Company, as determined in good faith by the Company;
- (8) (i) transactions arising under the Management Services Agreements and any indemnification and reimbursement payments required thereunder, provided that the aggregate amount of all such fees and payments may not exceed \$15.0 million in any calendar year, (ii) any tax sharing payments to the Company or its Affiliates, and (iii) transactions arising under any other contract, agreement, instrument or other arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new arrangements, taken as a whole at the time such arrangements are entered into, are not materially less favorable to the Company and its Restricted Subsidiaries than those in effect on the Issue Date;
- (9) transactions entered into as part of a Permitted Receivables Financing;
- (10) transactions with any Affiliate in its capacity as a holder of Debt or Equity Interests; *provided* that such Affiliate owns less than a majority of the interests of the relevant class and is treated the same as other holders;
- (11) payments to or from, and transactions with, any joint ventures or similar arrangements (including, without limitation, any cash management activities relating thereto); *provided* that such arrangements are on terms no less favorable to the Company and its Restricted Subsidiaries in any material respect, on the one hand, than to the relevant joint venture partner and its Affiliates, on the other hand, taking into account all related agreements and transactions entered in by the Company and its Restricted Subsidiaries, on the one hand, and the relevant joint venture partner and its Affiliates, on the other hand;
- (12) any lease or sublease of equipment to any Affiliate in the ordinary course of business on terms at least as favorable as might reasonably have been obtained at such time from a Person that is not an Affiliate of the Company, as determined in good faith by the Company; and
- (13) any agreements entered into in connection with the Refinancing Transactions.

Designation of Restricted and Unrestricted Subsidiaries

- (a) Without affecting the status of any Unrestricted Subsidiaries as of the Issue Date, the Company shall not designate any Subsidiary to be an Unrestricted Subsidiary after the Issue Date.

- (b) The Company may designate an Unrestricted Subsidiary to be a Restricted Subsidiary if the designation would not cause a Default.
- (c) Upon an Unrestricted Subsidiary becoming, or being deemed to become, a Restricted Subsidiary,
 - (1) all of its Debt and Disqualified Stock or Preferred Stock will be deemed Incurred at that time for purposes of the covenant described above under “—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”
 - (2) Investments therein previously charged under the covenant described above under “—Limitation on Restricted Payments” will be credited thereunder;
 - (3) it may be required to issue a Note Guarantee pursuant to the covenant described above under “—Note Guarantees by Restricted Subsidiaries;” and
 - (4) it will thenceforward be subject to the provisions of the indenture as a Restricted Subsidiary.
- (d) Any designation by the Company of a Subsidiary as a Restricted Subsidiary will be evidenced to the Trustee by promptly filing with the Trustee an Officer’s Certificate certifying that the designation complied with the foregoing provisions.

Reports

Whether or not the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any notes are outstanding, the Company must provide the Trustee and noteholders (or make available on EDGAR) within the time periods specified in those sections of the Exchange Act with:

- (1) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if the Company were required to file such forms, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and, with respect to annual information only, a report thereon by the Company’s certified independent accountants, and
- (2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in the preceding paragraphs of this covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company’s filings for any reason, the Company will (1) post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if the Company were required to file those reports with the SEC and (2) furnish to the noteholders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act, so long as the notes are not freely transferable under the Securities Act.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and its receipt of such reports shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company’s or any other Person’s compliance with any of its covenants under the indenture or the notes (as to which the Trustee is entitled to rely exclusively on an Officer’s Certificate). The Trustee shall have no duty to determine whether any filings on EDGAR have been made or review or analyze any reports furnished or made available to it.

Any and all Defaults or Events of Default arising from a failure to furnish or file in a timely manner any information or report required by this covenant shall be deemed cured (and the Company shall be deemed to be in compliance with this covenant) upon furnishing or filing such information or report as contemplated by this covenant (but without regard to the date on which such information or report is so furnished or filed); *provided*

that such cure shall not otherwise affect the rights of the holders described below under “—Default and Remedies” if principal and interest have been accelerated in accordance with the terms of the indenture and such acceleration has not been rescinded or cancelled prior to such cure.

To the extent not satisfied by the reporting obligations outlined above, the Company shall furnish holders of notes and prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the notes are not freely transferable under the Securities Act. The notes will be eligible for resale under Rule 144A. See “—Notice to Investors; Transfer Restrictions.”

Obligation to Maintain Ratings

The Company shall take all necessary actions to have a rating assigned to the notes by either Rating Agency prior to the Issue Date and to maintain a rating of the notes by at least one Rating Agency so long as any of the notes are outstanding.

Consolidation, Merger or Sale of Assets

The Company

- (a) The Company will not:
 - (1) consolidate or merge with or into any Person, or
 - (2) sell, convey, transfer, or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related transactions, to any Person, unless:
 - (A) either (x) the Company is the continuing Person or (y) the resulting, surviving or transferee Person (the “Surviving Company”) is a corporation, partnership (including a limited partnership), trust or limited liability company organized and validly existing under the laws of the United States of America, any state thereof or the District of Columbia and expressly assumes by supplemental indenture (or other agreement or instrument, as applicable) all of the obligations of its predecessor under the indenture, the notes, the Note Guarantees, the Security Documents and the other Note Documents, as applicable;
 - (B) immediately after giving effect to the transaction, no Default has occurred and is continuing;
 - (C) immediately after giving effect to the transaction on a pro forma basis, the Company (or the Surviving Company, as applicable) (i) could Incur at least \$1.00 of Debt under the Fixed Charge Coverage Ratio Test or (ii) would have a Fixed Charge Coverage Ratio on a pro forma basis that is at least equal to the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; and
 - (D) the Company delivers to the Trustee an Officer’s Certificate and an opinion of counsel, each stating that the consolidation, merger or transfer and the supplemental indenture (or other agreement or instrument, as applicable) (if any) comply with the indenture;

provided, that clauses (B) and (C) will not apply (i) to the consolidation, merger, sale, conveyance, transfer or other disposition of the Company with or into a Wholly Owned Restricted Subsidiary or the consolidation, merger, sale, conveyance, transfer or other disposition of a Wholly Owned Restricted Subsidiary with or into the Company or (ii) if, in the good faith determination of the Board of Directors of the Company, whose determination is evidenced by a resolution of the Board of Directors of the Company, the sole purpose of the transaction is to change the jurisdiction of formation or incorporation of the Company, as applicable.

- (b) The Company shall not lease all or substantially all of its assets, whether in one transaction or a series of transactions, to one or more other Persons.

- (c) Upon the consummation of any transaction effected in accordance with these provisions, if the Company or the Company, as applicable, is not the continuing Person, the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company or the Company, as applicable, under the indenture, the notes, the Note Guarantees and the other Note Documents, as applicable, with the same effect as if such Successor Company had been named as the Company or the Company, as applicable, in the indenture. Upon any such substitution in the case of the Company, except for its sale, conveyance, transfer or disposition of less than all its assets, the Company will be released from its obligations under the indenture, the notes and the other Note Documents, and, upon any such substitution in the case of the Company, it will be released from its obligations under the indenture, its Note Guarantee and the other Note Documents as described above under “—The Note Guarantees.”

Guarantors

No Guarantor may:

- (a) consolidate or merge with or into any Person, or
- (b) sell, convey, transfer or otherwise dispose of all or substantially all of the Guarantor’s assets, in one transaction or a series of related transactions, to any Person,
- unless
- (1) the other Person is the Company or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or
- (2) (A) either (x) the Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes by supplemental indenture (or other agreement or instrument, as applicable) all of the obligations of the Guarantor under its Note Guarantee, the Security Documents and the other Note Documents; and
- (B) immediately after giving effect to the transaction, no Default has occurred and is continuing; or
- (3) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Restricted Subsidiary) in a transaction or other circumstance that does not violate the indenture.

Default and Remedies

Events of Default

An “Event of Default” occurs if:

- (1) the Company defaults in the payment of the principal and premium, if any, of any note when the same becomes due and payable at final maturity, upon acceleration or redemption, or otherwise (other than pursuant to an Offer to Purchase);
- (2) the Company defaults in the payment of interest on any note when the same becomes due and payable, and the default continues for a period of 30 days;
- (3) the Company fails to make an Offer to Purchase and thereafter accept and pay for notes tendered when and as required pursuant to the covenant described above under “—Repurchase of Notes at the Option of Holders—Change of Control” or the Company or any Guarantor fails to comply with the covenant described above under “—Certain Covenants—Consolidation, Merger or Sale of Assets;”
- (4) the Company or any Restricted Subsidiary defaults in the performance of or breach any other of its covenants or agreements in the indenture or, under the notes or under the other Note Documents

- (other than a default specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 60 consecutive days (or 90 consecutive days in the case of a failure to comply with the reporting obligations described under the caption “— Certain Covenants —Reports”) after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes;
- (5) there occurs with respect to any Debt of the Company or any of its Restricted Subsidiaries having an outstanding principal amount of \$75.0 million or more (i) an event of default that results in such Debt being due and payable prior to its scheduled maturity or (ii) failure to make a principal payment on such Debt when due and such defaulted payment is not made, waived or extended within the applicable grace period;
 - (6) one or more final judgments or orders for the payment of money are rendered against the Company or any of its Restricted Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes, in each case, the aggregate amount for such final judgments or orders outstanding and not paid or discharged against such Person to exceed \$75.0 million (in excess of amounts which the Company’s insurance carriers have agreed to pay under applicable policies), or its foreign currency equivalent, during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect;
 - (7) certain bankruptcy defaults occur with respect to the Company or any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would be a Significant Subsidiary;
 - (8) any Note Guarantee ceases to be in full force and effect, other than in accordance the terms of the indenture, or a Guarantor denies or disaffirms its obligations under its Note Guarantee;
 - (9) the occurrence of the following:
 - (a) except as permitted by the Note Documents, any Note Document establishing the Priority Liens ceases for any reason to be enforceable; provided that it will not be an Event of Default under this clause (9)(a) if the sole result of the failure of one or more Note Documents to be fully enforceable is that any Priority Lien purported to be granted under such Note Documents on Collateral, individually or in the aggregate, having a fair market value of not more than \$100.0 million, ceases to be an enforceable and perfected Priority Lien; provided that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;
 - (b) except as permitted by the Note Documents, any Priority Lien purported to be granted under any Note Document on Collateral, individually or in the aggregate, having a fair market value in excess of \$100.0 million, ceases to be an enforceable and perfected first priority Lien, subject to Permitted Liens; provided that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 60 days after any Officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and
 - (c) the Company or Guarantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or Guarantor set forth in or arising under any Note Document establishing Priority Liens.
 - (10) (i) any termination of the Surety Transaction Support Agreement by any sureties signatory thereto, provided that such termination or terminations result in the Company or any of its Subsidiaries making payments or delivering collateral in excess of a fair market value of \$50.0 million in the aggregate, or (ii) any modification of the Surety Transaction Support Agreement materially adverse to the Company or any of its Subsidiaries; or

- (11) the Company fails to comply with any obligation under the Transaction Support Agreement that survives or arises after the Issue Date (including any post-effective date covenant) and the default or breach continues for a period of 30 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the holders of 25% or more in aggregate principal amount of the notes.

Consequences of an Event of Default

If an Event of Default, other than a bankruptcy default with respect to the Company occurs and is continuing under the indenture, the Trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding, by written notice to the Company (and to the Trustee if the notice is given by the holders), may declare the principal of and accrued interest on the notes to be immediately due and payable. Upon a declaration of acceleration, such principal and accrued interest will become immediately due and payable. If a bankruptcy default occurs with respect to the Company, the principal of and accrued interest on the notes then outstanding will become immediately due and payable without any declaration or other act on the part of the Trustee or any holder.

Without limiting the generality of the foregoing, it is understood and agreed that if the notes are accelerated or otherwise become due prior to their stated maturity, in each case, as a result of an Event of Default (including, without limitation, an Event of Default under clause (7) of the definition thereof (including the acceleration of any portion of the notes by operation of law)), the greater of (i) the Applicable Premium and (ii) the amount by which the applicable redemption price set forth in the table under “—Optional Redemption” exceeds the principal amount of the notes (the “Redemption Price Premium”), as applicable, with respect to an optional redemption of the notes shall also be due and payable as though the notes had been optionally redeemed on the date of such acceleration and shall constitute part of the Obligations with respect to the notes in view of the impracticability and difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each holder’s lost profits as a result thereof. If the Redemption Price Premium becomes due and payable, it shall be deemed to be principal of the notes and interest shall accrue on the full principal amount of the notes (including the Redemption Price Premium) from and after the applicable triggering event, including in connection with an Event of Default specified under clause (7) of the definition thereof. Any Redemption Price Premium payable above shall be presumed to be liquidated damages sustained by each holder as the result of the acceleration of the notes and the Company and the Guarantors to the extent they provide guarantees for the notes pursuant to “—Guarantees” agree that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the notes or the Indenture are satisfied, released or discharged through foreclosure, whether by judicial proceeding, deed in lieu of foreclosure or by any other means. IN THE INDENTURE, THE COMPANY WILL, AND TO THE EXTENT APPLICABLE, THE GUARANTORS IN ANY APPLICABLE SUPPLEMENTAL INDENTURE WILL, EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company and if applicable, the Guarantors will expressly agree (to the fullest extent they may lawfully do so) that: (A) the Redemption Price Premium is reasonable and is the product of an arm’s length transaction between sophisticated business entities ably represented by counsel; (B) the Redemption Price Premium shall be payable notwithstanding the then prevailing market rates at the time acceleration occurs; (C) there has been a course of conduct between holders and the Issuer giving specific consideration in this transaction for such agreement to pay the Redemption Price Premium; and (D) the Company shall be estopped from claiming differently than as agreed to in this paragraph. The Company and if applicable, the Guarantors expressly acknowledge that their agreement to pay the Redemption Price Premium to holders as herein described was a material inducement to investors to acquire the notes.

Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a “Noteholder Direction”) provided by any one or more holders (each a “Directing Holder”) must be accompanied by a written representation from each such holder delivered to

the Company and the Trustee that such holder is not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default (a "Default Direction") shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the notes are accelerated. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such noteholder's Position Representation within five business days of request therefor (a "Verification Covenant"). In any case in which the holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation with a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the notes, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such holder, the percentage of notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred, any acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee in connection with a Default under clauses (3), (4), (5), (6) or (9) during the pendency of an Event of Default under clause (7) as a result of a bankruptcy or similar proceeding shall not require compliance with the two immediately preceding paragraphs.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with the Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Company, any holder or any other Person in acting in good faith on a Noteholder Direction.

The holders of a majority in principal amount of the outstanding notes by written notice to the Company and to the Trustee may waive all past defaults and rescind and annul a declaration of acceleration and its consequences if:

- (1) all existing Events of Default, other than the nonpayment of the principal of, and interest on, the notes that have become due solely by the declaration of acceleration, have been cured or waived, and
- (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Except as otherwise provided in “—Consequences of an Event of Default” or “—Amendments and Waivers—Amendments with Consent of Holders,” the holders of a majority in aggregate principal amount of the outstanding notes may, by notice to the Trustee, waive an existing Default and its consequences. Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

In the event of a declaration of acceleration of the notes because an Event of Default described in clause (5) under “—Events of Default” has occurred and is continuing, the declaration of acceleration of the notes shall be automatically annulled, without any action by the Trustee or the holders, if the event of default or payment default triggering such Event of Default pursuant to clause (5) shall be remedied or cured, or rescinded or waived by the holders of the Debt, or the Debt that gave rise to such Event of Default shall have been discharged in full, within 30 days after the declaration of acceleration with respect thereto and if (i) the annulment of the acceleration of the notes would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, except nonpayment of principal, premium or interest on the notes that became due solely because of the acceleration of the notes, have been cured or waived.

The holders of a majority in aggregate principal amount of the outstanding notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the indenture or the other Note Documents, that may involve the Trustee in personal liability, or that the Trustee determines in good faith may be unduly prejudicial to the rights of holders of notes not joining in the giving of such direction (it being understood that the Trustee shall have no duty to determine whether any direction is prejudicial to any holder). In addition, the Trustee may take any other action it deems proper that is not inconsistent with any such direction received from holders of notes. Neither the Trustee nor the Collateral Trustee shall be obligated to take any action at the direction of holders of notes unless such holders have offered, and if requested, provided to the Trustee and Collateral Trustee indemnity or security satisfactory to the Trustee and Collateral Trustee.

A holder of notes may not institute any proceeding, judicial or otherwise, with respect to the indenture, the notes or the other Note Documents, or for the appointment of a receiver or trustee, or for any other remedy under the indenture, the notes or the other Note Documents, unless:

- (1) the holder has previously given to the Trustee written notice of a continuing Event of Default;
- (2) holders of at least 25% in aggregate principal amount of outstanding notes have made written request to the Trustee to institute proceedings in respect of the Event of Default in its own name as Trustee under the indenture;
- (3) holders of notes have offered, and if requested, provided to the Trustee indemnity reasonably satisfactory to the Trustee against any costs, liabilities or expenses to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) during such 60-day period, the holders of a majority in aggregate principal amount of the outstanding notes have not given the Trustee a direction that is inconsistent with such written request.

Notwithstanding anything in the indenture to the contrary, the right of a holder of a note to receive payment of principal of or interest on its note on or after the Stated Maturities thereof, or to bring suit for the enforcement of any such payment on or after such dates, may not be impaired or affected without the consent of that holder.

If any Default occurs and is continuing and is actually known to a responsible officer of the Trustee, the Trustee will send notice of the Default to each holder within 90 days after it occurs, unless the Default has been

cured; provided that, except in the case of a default in the payment of the principal of or interest on any note, the Trustee may withhold the notice if and so long as the Trustee in good faith determines that withholding the notice is in the interest of the holders. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless written notice of an event, which is in fact a Default, has been delivered to the Trustee at its office specified in the Indenture and such notice references the Notes and the Indenture and states it is a "Notice of Default."

No Liability of Directors, Officers, Employees, Incorporators, Members and Stockholders

No director, officer, employee, incorporator, member or stockholder of the Company, as such, will have any liability for any obligations of the Company under the notes, any Note Guarantee, the indenture or any other Note Document or for any claim based on, in respect of, or by reason of, such obligations. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. This waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

Amendments and Waivers

Amendments without Consent of Holders

(a) The Company, the Trustee and the Collateral Trustee, as applicable, may amend or supplement the indenture, the notes and the other Note Documents without notice to or the consent of any noteholder:

- (1) to cure any ambiguity, defect, omission or inconsistency in the Note Documents;
- (2) to comply with the covenant described above under "—Certain Covenants—Consolidation, Merger or Sale of Assets;"
- (3) to evidence and provide for the acceptance of an appointment by a successor trustee;
- (4) to provide for uncertificated notes in addition to or in place of certificated notes, *provided* that the uncertificated notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated notes are described in Section 163(f)(2)(B) of the Code;
- (5) to provide for any Guarantee of the notes, or to confirm and evidence the release, termination or discharge of any Guarantee when such release, termination or discharge is permitted by the indenture;
- (6) to provide for the issuance of Additional Notes in accordance with the terms of the indenture;
- (7) (a) to conform any provision to this "Description of the New Peabody Notes" and (b) conform the text of the Note Documents or any other such documents (in recordable form) as may be necessary or advisable (in the Company's reasonable discretion) to preserve and confirm the relative priorities of the Secured Obligations and as such priorities are contemplated and set forth in the Collateral Trust Agreement;
- (8) make, complete or confirm any grant of Collateral permitted or required by any of the Note Documents, including to secure additional Priority Lien Debt;
- (9) release, discharge, terminate or subordinate Liens on Collateral in accordance with the Note Documents and to confirm and evidence any such release, discharge, termination or subordination;
- (10) as provided in the Collateral Trust Agreement;
- (11) in the case of any Note Document, to include therein any legend required to be set forth therein pursuant to the Collateral Trust Agreement or to modify any such legend as required by the Collateral Trust Agreement;

- (12) in the case of the indenture, to make any amendment to the provisions relating to the transfer and legending of the notes as permitted hereunder, including, without limitation, to facilitate the issuance and administration of the notes; provided that compliance with the indenture as so amended may not result in the notes being transferred in violation of the Securities Act or any applicable securities laws;
- (13) to comply with the rules of any applicable securities depository;
- (14) to comply with any requirement of the SEC in connection with qualifying or maintaining the qualification of, the indenture under the TIA (if the Company elects to qualify the indenture under the TIA); or
- (15) to make any other change that does not materially and adversely affect the rights of any holder.

In addition, the Collateral Trustee and the Trustee will be authorized to amend the Security Documents as provided under the caption “—Collateral Trust Agreement—Amendment of Security Documents.”

Except as otherwise provided in “—Default and Remedies—Consequences of an Event of Default” or the following paragraph, the Company and the Trustee may amend the indenture, the notes and the other Note Documents with the consent of the holders of at least 66.67% in aggregate principal amount of the outstanding notes, and the holders of at least 66.67% in aggregate principal amount of the outstanding notes may waive future compliance by the Company with any provision of the indenture, the notes or the other Note Documents.

(b) Notwithstanding the provisions of paragraph (a), without the consent of each holder affected, an amendment or waiver may not:

- (1) reduce the principal amount of or change the Stated Maturity of any installment of principal of any note or waive the provisions with respect to the redemption of the notes (other than the provisions described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control” and “—Repurchase of Notes at the Option of Holders —Asset Sales”, which are described below),
- (2) reduce the rate of or change the Stated Maturity of any interest payment on any note,
- (3) reduce the amount payable upon the redemption of any note or, in respect of an optional redemption, the times at which any note may be redeemed or,
- (4) after the time an Offer to Purchase is required to have been made, reduce the purchase amount or purchase price, or extend the latest expiration date or purchase date thereunder,
- (5) make any note payable in money other than that stated in the note,
- (6) impair the right of any holder of notes to receive any principal payment or interest payment on such holder’s notes or Note Guarantee, on or after the Stated Maturity thereof, or eliminate the contractual right expressly set forth in the indenture or the notes of any holder to institute suit for the enforcement of any such payment,
- (7) make any change in the percentage of the principal amount of the notes whose holders must consent to an amendment or waiver,
- (8) [reserved],
- (9) make any change in any Note Guarantee that would adversely affect the noteholders,
- (10) modify or amend the provisions in the indenture regarding the waiver of past Defaults and the waiver of certain covenants by the holders of such notes affected thereby, except to increase any percentage vote required or to provide that certain other provisions of the indenture may not be modified or waived without the consent of the holder of each note affected thereby, or
- (11) modify or amend any of the above or this amendment and waiver provision.

In addition, the consent of holders representing at least 85.00% of outstanding notes will be required to (i) release the Liens for the benefit of the holders of the notes on all or substantially all of the Collateral, (ii) alter or waive the provisions with respect to the redemption of the notes described under the captions “—Repurchase of Notes at the Option of Holders—Change of Control” and “—Repurchase of Notes at the Option of Holders — Asset Sales” or (iii) modify or change any provision of the indenture affecting the ranking of the notes in a manner materially adverse to the holders of the notes.

It is not necessary for noteholders to approve the particular form of any proposed amendment or waiver, but is sufficient if their consent approves the substance thereof.

Neither the Company nor any of its Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid or agreed to be paid to all holders of the notes that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to the consent, waiver or amendment. In addition, neither the Company nor any of its Subsidiaries or Affiliates may, directly or indirectly, pay or cause to be paid any consideration, whether by way of consent fee, pay down, future collateral, or otherwise, to any holder of Debt under the LC Agreement for or as an inducement to any consent, waiver, forbearance or amendment of any financial maintenance or minimum liquidity covenants included in the LC Agreement unless such consideration is offered to be paid or agreed to be paid to all holders of the notes on a pro rata basis.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants described under “—Certain Covenants,” or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any legal rights of any holders of the notes to receive payment of principal of or premium, if any, or interest on the notes or to institute suit for the enforcement of any payment on or with respect to such holder’s notes.

Defeasance and Discharge

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officer’s Certificate, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Note Guarantees (“Legal Defeasance”) except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium, if any, on, such notes when such payments are due from the trust referred to below;
- (2) the Company’s obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties, immunities and indemnities of the Trustee and Collateral Trustee, and the Company’s and the Guarantors’ obligations in connection therewith; and
- (4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, the Company may, at its option and at any time, elect to have the obligations of the Company and the Guarantors released with respect to certain covenants (including its obligation to make an Offer to Purchase pursuant to a Change of Control or Asset Sale) contained in the indenture (“Covenant Defeasance”) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event covenant Defeasance occurs, all Events of Default described under “—Default and Remedies” (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable government securities, or a combination of cash in U.S. dollars and non-callable government securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium, if any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) in the case of Legal Defeasance, the Company must deliver to the Trustee an opinion of counsel confirming that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, the Company must deliver to the Trustee an opinion of counsel confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (4) no Default or Event of Default under the notes has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Debt), and the granting of Liens to secure such borrowings);
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture and the agreements governing any other Debt being defeased, discharged or replaced) to which the Company or any of the Guarantors is a party or by which the Company or any of the Guarantors is bound;
- (6) the Company must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the holders of the notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and
- (7) the Company must deliver to the Trustee and the Collateral Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

The Collateral will be released from the Lien securing the notes, as provided under the caption "—Collateral Trust Agreement—Release of Liens in Respect of Notes," upon a Legal Defeasance or Covenant Defeasance in accordance with the provisions described above.

Concerning the Trustee and Paying Agent

Wilmington Trust, National Association will be the Trustee under the indenture.

Except during the continuance of an Event of Default actually known to a responsible officer of the Trustee, the Trustee will be required to perform only those duties that are specifically set forth in the indenture and no

others, and no implied covenants or obligations will be read into the indenture against the Trustee. In case an Event of Default has occurred and is continuing and is actually known to a responsible officer of the Trustee, the Trustee shall exercise those rights and powers vested in it by the indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. No provision of the indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties thereunder, or in the exercise of its rights or powers, unless it receives indemnity satisfactory to it against any loss, liability or expense.

The indenture will limit the rights of the Trustee, should it become a creditor of any obligor on the notes or the Note Guarantees, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee may engage in other transactions with the Company and its Affiliates; *provided* that if it acquires any conflicting interest after a Default has occurred and is continuing, it must either eliminate the conflict within 90 days, apply to the Commission for permission to continue or resign.

Wilmington Trust, National Association will also initially serve as the security registrar and paying agent for the notes. We may at any time designate additional paying agents or rescind the designation of paying agents or approve a change in the office through which any paying agent acts. We may also choose to act as our own paying agent, but must also maintain a paying agency in the contiguous United States. Whenever there are changes in the paying agent for the notes we must notify the Trustee.

References in the indenture to the Trustee shall, as appropriate, refer also to the paying agent and security registrar, and such other entities and any authentication agent shall be entitled to the same rights, protections and indemnities as those granted to the Trustee.

Form, Denomination and Registration of Notes

The notes will be issued in registered form, without interest coupons, in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, in the form of both global notes and certificated notes, as further described below under “—Book Entry, Delivery and Form.”

The Trustee will not be required (i) to issue, register the transfer of or exchange any note for a period of 15 days before a selection of notes to be redeemed, (ii) to register the transfer of or exchange any note so selected for redemption in whole or in part, except, in the case of a partial redemption, that portion of the note not being redeemed, or (iii) if a redemption is to occur after a regular record date but on or before the corresponding interest payment date, to register the transfer or exchange any note on or after the regular record date and before the date of redemption.

No service charge will be imposed in connection with any transfer or exchange of any note, but the Company may in general require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

Governing Law

The indenture, including any Note Guarantees, the notes and the other Note Documents shall be governed by, and construed in accordance with, the laws of the State of New York; however, the Mortgages shall be governed by, and construed in accordance with, the laws of the state in which the applicable premises is located.

Certain Definitions

“2022 Notes” means the Company’s 6.000% Senior Secured Notes due 2022 issued pursuant to the 2022 Notes Indenture.

“2022 Notes Indenture” means the Indenture, dated as of February 15, 2017, between the Company (as successor by merger to Peabody Securities Finance Corporation) and Wilmington Trust, National Association, as Trustee, governing 6.000% Senior Secured Notes due 2022 and 6.375% Senior Secured Notes due 2025, as amended and supplemented with respect to the 6.000% Senior Secured Notes due 2022.

“2025 Notes Indenture” means the Indenture, dated as of February 15, 2017, between the Company (as successor by merger to Peabody Securities Finance Corporation) and Wilmington Trust, National Association, as Trustee, governing 6.000% Senior Secured Notes due 2022 and 6.375% Senior Secured Notes due 2025, as amended and supplemented with respect to the 6.375% Senior Secured Notes due 2025.

“2022 Notes Indenture Trustee” means Wilmington Trust, National Association, in its capacity as trustee under the 2022 Notes Indenture.

“2025 Notes Indenture Trustee” means Wilmington Trust, National Association, in its capacity as trustee under the 2025 Notes Indenture.

“ABL Collateral Agent” means any agent or representative of the holders of the ABL Debt (including for purposes related to the administration of the ABL Security Documents) pursuant to the credit agreement or other agreement governing such ABL Debt.

“ABL Credit Facilities” means one or more asset-based revolving credit facilities with banks or other institutional or other lenders providing for asset-based revolving credit loans or letters of credit, as such credit facility, in whole or in part, in one or more instances, may be amended, restated, modified, supplemented, extended, renewed, refunded, restructured, refinanced or replaced or otherwise modified from time to time and whether by the same or any other agent, lender or group of lenders or other party.

“ABL Debt” means Funded Debt incurred by the Company or any of the Guarantors under clause (1) of the definition of Permitted Debt that is secured by an ABL Lien that is permitted to be incurred and so secured under each applicable Secured Debt Document; provided, that:

- (a) on or before the date on which such Funded Debt is incurred by the Company or a Guarantor, such Funded Debt is designated by the Company, in an Officer’s Certificate delivered to the Collateral Trustee and the ABL Collateral Agent, as “ABL Debt” for the purposes of the Secured Debt Documents and the ABL Lien Documents; provided that no Series of Secured Debt may be designated as ABL Debt; and
- (b) such Funded Debt is subject to an ABL Intercreditor Agreement; and
- (c) all other requirements set forth in the ABL Intercreditor Agreement with respect to the incurrence of such Funded Debt have been satisfied (and the satisfaction of such requirements and the other provisions of this clause (c) will be conclusively established if the Company delivers to the Collateral Trustee and the ABL Collateral Agent an Officer’s Certificate stating that such requirements and other provisions have been satisfied and that such Debt is “ABL Lien Debt”).

“ABL Intercreditor Agreement” means an intercreditor agreement entered into between the ABL Collateral Agent, the Priority Collateral Trustee and the Junior Collateral Trustee that sets forth the relative priority of the Priority Liens and Junior Liens, on the one hand, compared to the ABL Liens, on the other hand.

“ABL Lien” means a Lien granted by an ABL Security Document to the ABL Collateral Agent, at any time, upon any ABL Priority Collateral of the Company or any Guarantor to secure ABL Obligations; provided that any such Lien upon Collateral other than ABL Priority Collateral will be junior to the Priority Liens and the Junior Liens.

“ABL Lien Documents” means any ABL Credit Facility pursuant to which any ABL Debt is incurred and ABL Security Documents.

“ABL Lien Obligations” means the ABL Debt and all other Obligations in respect of ABL Debt, and guarantees thereof, that are secured, or intended to be secured, under the ABL Lien Documents and are subject to the terms of the ABL Intercreditor Agreement, solely to the extent such Obligations and such guarantees thereof are permitted to be incurred under the ABL Lien Documents and the Secured Debt Documents and are so secured under the ABL Lien Documents.

“ABL Priority Collateral” means (i) accounts and chattel paper (but excluding intercompany debt owed to the Company or any Guarantor), in each case other than to the extent constituting identifiable proceeds of Term Priority Collateral; (ii) deposit accounts (and all cash, checks and other negotiable instruments, funds and other evidences of payment held therein), other than a deposit account used exclusively for identifiable proceeds of Term Priority Collateral; (iii) all inventory; (iv) to the extent evidencing, governing, securing or otherwise reasonably related to any of the foregoing, all documents, general intangibles, instruments, commercial tort claims, letters of credit, letter of credit rights and supporting obligations (but excluding intercompany debt owed to the Company or any Grantor); provided, however, that to the extent any of the foregoing also evidence, govern, secure or otherwise reasonably relate to any Term Priority Collateral, only that portion that evidences, governs, secures or primarily relates to ABL Priority Collateral shall constitute ABL Priority Collateral; provided, further, that the foregoing shall not include any intellectual property; (v) all books, records and documents related to the foregoing (including databases, customer lists and other records, whether tangible or electronic, which contain any information relating to any of the foregoing); and (vi) all proceeds and products of any or all of the foregoing in whatever form received, including claims against third parties.

“ABL Security Documents” means the ABL Intercreditor Agreement, all security agreements, collateral assignments, mortgages, control agreements or other grants or transfers for security executed and delivered by Company or any Guarantor creating (or purporting to create) a Lien upon the ABL Priority Collateral in favor of the ABL Collateral Agent, for the benefit of any of the holders of ABL Lien Obligations, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the ABL Intercreditor Agreement.

“Accreted Value” means, as of any date, an amount equal to the sum of (i) the Issue Amount and (ii) the PIK Interest accrued through such date, such amount to be calculated on a daily basis at the rate of 2.500% per annum compounded semiannually on each June 30 and December 31, from the Issue Date through the date of determination computed on the basis of a 360-day year of twelve 30-day months.

“Acquired Debt” means Debt of a Person existing at the time the Person is acquired by, or merges with or into, the Company or any Restricted Subsidiary or becomes a Restricted Subsidiary, whether or not such Debt is Incurred in connection with, or in contemplation of, the Person being acquired by or merging with or into or becoming a Restricted Subsidiary.

“Act of Required Secured Parties” means, as to any matter at any time:

(i) until the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, a direction in writing delivered to the Priority Collateral Trustee by or with the written consent of, the Required Lenders;

(ii) from and after the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, but prior to the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Trustee by or with the written consent of, the holders of (or the Priority Lien Representatives representing the holders of) more than 50% of the sum of:

(a) the aggregate outstanding principal amount of Priority Lien Debt (including the face amount of outstanding letters of credit whether or not then available or drawn); and

(b) other than in connection with the exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Priority Lien Debt; provided, however, that if at

any time prior to the Discharge of Priority Lien Obligations the only remaining Priority Lien Obligations are Swap Obligations, then the term “Act of Required Secured Parties” will mean the holders of a majority of the aggregate “settlement amount” (or similar term) as defined in the Swap Contracts (or, with respect to any Swap Contract that has been terminated in accordance with its terms, the amount, if any, then due and payable by the Company or any other Grantor (exclusive of expenses and similar payments but including any early termination payments then due) under such Swap Contract) under all Swap Contracts; provided further, that any Swap Contract with a “settlement amount” (or similar term) or termination payment that is a negative number shall be disregarded for purposes of all calculations required by the term “Act of Required Secured Parties;” and

(iii) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Junior Collateral Trustee by or with the written consent of the holders of (or the Junior Lien Representatives representing the holders of) Junior Lien Debt representing the Required Junior Lien Debtholders.

For purposes of this definition, (a) Secured Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company will be deemed not to be outstanding and neither the Company nor any Affiliate of the Company will be entitled to vote such Secured Debt (in each case, as identified in writing to the Collateral Trustee by the applicable Secured Debt Representative) and (b) votes will be determined in accordance with the provisions described under “—Collateral Trust Agreement—Voting.”

“Additional Assets” means all or substantially all of the assets of a Permitted Business, or Voting Stock of another Person engaged in a Permitted Business that will, on the date of acquisition, be a Restricted Subsidiary, or other assets (other than cash and Cash Equivalents or securities (including Equity Interests)) that are to be used in a Permitted Business.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, such specified Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and a Person shall be presumed to “control” another Person if (A) the first Person either (i) is the Beneficial Owner, directly or indirectly, of 35% or more of the total voting power of the Voting Stock of such specified Person or (ii) (x) is the Beneficial Owner, directly or indirectly, of 10% or more of the total voting power of the Voting Stock of such specified Person and (y) has the right to appoint or nominate, or has an officer or director that is, at least one member of the Board of Directors of such specified Person, or (B) if the specified Person is a limited liability company, the first Person is the managing member. “Controlled” has a meaning correlative thereto.

“Applicable Premium” means, with respect to any note on any redemption date, the greater of:

- (1) 1.0% of the Accreted Value of the note; or
- (2) the excess of:
 - (a) the present value at such redemption date of (i) the redemption price of such note at December 31, 2022 (such redemption price being set forth in the table above under the caption “—Optional Redemption”), plus (ii) all required Cash Interest payments due on such note from the redemption date through December 31, 2022 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
 - (b) the Accreted Value of such note.

The Trustee shall have no duty to calculate or verify the calculation of the Applicable Premium.

“Asset Sale” means any sale, lease (other than operating leases or finance leases entered into in the ordinary course of a Permitted Business), transfer or other disposition of any assets by the Company or any Restricted

Subsidiary outside of the ordinary course of business, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Restricted Subsidiary (each of the above referred to as a “disposition”), *provided* that the following are not included in the definition of “Asset Sale”:

- (1) a disposition to the Company or a Restricted Subsidiary, including the sale or issuance by the Company or any Restricted Subsidiary of any Equity Interests of any Restricted Subsidiary to the Company or any Restricted Subsidiary;
- (2) the sale or discount of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof, and dispositions of Receivables and related assets by Securitization Subsidiary in connection with a Permitted Receivables Financing and any transactions in connection with factoring of receivables by a non- Guarantor Restricted Subsidiary of the Company undertaken consistent with past practice or in the ordinary course of business;
- (3) a transaction covered by the covenant described above under “—Certain Covenants— Consolidation, Merger or Sale of Assets—The Company;”
- (4) a Restricted Payment permitted under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments” or a Permitted Investment;
- (5) any transfer of property or assets that consists of grants by the Company or its Restricted Subsidiaries in the ordinary course of business of licenses or sub-licenses, including with respect to intellectual property rights;
- (6) the sale of Capital Stock of an Unrestricted Subsidiary;
- (7) the sale of assets by the Company and its Restricted Subsidiaries consisting of Real Property solely to the extent that such Real Property is not necessary for the normal conduct of operations of the Company and its Restricted Subsidiaries;
- (8) foreclosure of assets of the Company or any of its Restricted Subsidiaries to the extent not constituting a Default;
- (9) the sale or other disposition of cash or Cash Equivalents;
- (10) the unwinding of any Permitted Hedging Agreements;
- (11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (12) the issuance of Disqualified Stock or Preferred Stock pursuant to the covenant described above under “—Certain Covenants— Limitation on Debt and Disqualified Stock or Preferred Stock;”
- (13) (a) the sale of damaged, obsolete, unusable or worn out equipment or equipment that is no longer needed in the conduct of the business of the Company and its Restricted Subsidiaries and (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines;
- (14) dispositions of assets by virtue of an asset exchange or swap with a third party in any transaction (a) with an aggregate Fair Market Value less than or equal to \$15.0 million, (b) involving a coal-for-coal swap, (c) to the extent that an exchange is for Fair Market Value and for credit against the purchase price of similar replacement property or (d) consisting of a coal swap involving any Real Property;
- (15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than \$10.0 million; and
- (16) exchanges and relocation of easements for pipelines, oil and gas infrastructure and similar arrangements in the ordinary course of business.

If, in connection with an acquisition by the Company or any Restricted Subsidiary, a portion of the acquired assets are disposed of within 90 days of such acquisition, such disposition shall not be deemed to be an Asset Sale; *provided* that such assets are disposed of for Fair Market Value.

“*Average Life*” means, as of the date of determination with respect to any Debt, the quotient obtained by dividing (i) the sum of the products of (x) the number of years from the date of determination to the dates of each successive scheduled principal payment of such Debt and (y) the amount of such principal payment by (ii) the sum of all such principal payments.

“*Bank Products Obligations*” means any and all obligations of the Company, Pledgor or any Guarantor arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Company, Pledgor and/or any Guarantor now or hereafter maintained with any of such lenders or their affiliates, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other treasury, deposit, disbursement, overdraft, and cash management services afforded to the Company or Guarantor by any of such lenders or their affiliates, and (d) stored value card, commercial credit card and merchant card services.

“*Bankruptcy Code*” means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

“*Bankruptcy Law*” means the Bankruptcy Code and any federal, state or foreign law for the relief of debtors.

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have correlative meanings. For purposes of this definition, a Person shall be deemed not to Beneficially Own securities that are the subject of a stock purchase agreement, merger agreement, amalgamation agreement, arrangement agreement or similar agreement until consummation of the transactions or, as applicable, series of related transactions contemplated thereby.

“*Board of Directors*” means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) with respect to a partnership, if the general partner of the partnership is a corporation, the board of directors of the general partner of the partnership and if the general partner of the partnership is a limited liability company, the managing member or members or any controlling committee of managing members thereof of such general partner, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or any manager thereof and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

“*Capital Stock*” means

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests;
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing

any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock; and

- (5) in the case of a Gibraltar registered company, the share capital in such company.

“Cash Equivalents” means

- (1) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;
- (2) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of two years or less from the date of acquisition, (iii) bankers’ acceptances with maturities not exceeding two years from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital, surplus and undivided profits in excess of \$250 million (or the foreign currency equivalent thereof) whose short-term debt is rated A-2 or higher by S&P or P-2 or higher by Moody’s;
- (3) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody’s;
- (4) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case rated at least A-1 by S&P or P-1 by Moody’s with maturities not exceeding one year from the date of acquisition;
- (5) bonds, debentures, notes or other obligations with maturities not exceeding two years from the date of acquisition issued by any corporation, partnership, limited liability company or similar entity whose long-term unsecured debt has a credit rate of A2 or better by Moody’s and A or better by S&P;
- (6) investment funds at least 95% of the assets of which consist of investments of the type described in clauses (1) through (5) above (determined without regard to the maturity and duration limits for such investments set forth in such clauses, *provided* that the weighted average maturity of all investments held by any such fund is two years or less);
- (7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (1) above and entered into with a financial institution satisfying the criteria described in clause (2) above; and
- (8) in the case of a Foreign Restricted Subsidiary, substantially similar investments, of comparable credit quality, denominated in the currency of any jurisdiction in which such Person conducts business.

“Cash Management Agreement” means any agreement evidencing Cash Management Obligations.

“Cash Management Obligations” means Bank Products Obligations, in each case, (x) with any Person that (x) at the time it enters into a Cash Management Agreement, is a Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of any of the foregoing or (ii) becomes a Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable), or an Affiliate of any of the foregoing at any time after it has entered into a Cash Management Agreement and (y) which has been designated at the election of the Company as “Cash Management Obligations” by written notice given by the Company and acknowledged by the Priority Lien Representative for the applicable Cash Management Obligations to the Collateral Trustee.

“Cash Management Provider” means the counterparty to the Company or any Restricted Subsidiary of the Company under any Cash Management Agreement.

“Change of Control” means:

- (1) the sale, lease, transfer, or conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole to any “person” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act);
- (2) any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act), other than (in the case of the Company) the Company or the Permitted Holders, is or becomes the “beneficial owner” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Company;
- (3) individuals who on the Issue Date constituted the Board of Directors of the Company, together with any new directors whose election by the Board of Directors or whose nomination for election by the holders of the Voting Stock of the Company was approved by a majority of the directors then still in office who were either directors or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Board of Directors of the Company then in office; or
- (4) the adoption of a plan relating to the liquidation or dissolution of the Company.

Notwithstanding the preceding, a conversion of the Company or any of its Restricted Subsidiaries from a limited partnership, corporation, limited liability company or other form of entity to a limited partnership, corporation, limited liability company or other form of entity or an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests for another form of entity shall not constitute a Change of Control, so long as following such transaction the “persons” (as that term is used in Section 13(d) of the Exchange Act) who Beneficially Owned the Voting Stock of the Company, as the case may be, immediately prior to such transaction continue to Beneficially Own in the aggregate more than 50% of the Voting Stock of such entity, or continue to Beneficially Own sufficient Equity Interests in such entity to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity or its general partner, as applicable, and, in either case no “person,” Beneficially Owns more than 50% of the Voting Stock of such entity or its general partner, as applicable.

“Class” means (1) in the case of Junior Lien Obligations, every Series of Junior Lien Debt and all other Junior Lien Obligations, taken together, and (2) in the case of Priority Lien Obligations, every Series of Priority Lien Debt and all other Priority Lien Obligations, taken together. The Collateral Trust Agreement includes two Classes of Secured Parties, the holders of Priority Lien Obligations and holders of Junior Lien Obligations.

“Co-Issuer Notes” means the 10.000% Senior Secured Notes due 2024 Issued by PIC AU Holdings LLC and PIC AU Holdings Corporation.

“Co-Issuer Notes Collateral Trustee” means Wilmington Trust, National Association, as collateral trustee under that certain Second Lien Collateral Trust Agreement.

“Co-Issuer Notes Indenture” means the Indenture, dated as of the Issue Date, among PIC AU Holdings LLC and PIC AU Holdings Corporation and Wilmington Trust, National Association, as Trustee, governing the Co-Issuer Notes.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means all property subject or purported to be subject, from time to time, to a Lien under any Security Document.

“*Collateral Trust Agreement*” means that certain collateral trust agreement dated April 3, 2017, as amended, by and among the Company, the Guarantors, the Priority Collateral Trustee, the Junior Lien Collateral Trustee, the 2025 Notes Indenture Trustee, the 2022 Notes Indenture Trustee and the administrative agent under the Existing Credit Facility, and, as of the Issue Date, the Trustee and the agent under the LC Agreement.

“*Collateral Trust Joinder*” means (1) with respect to the provisions of the Collateral Trust Agreement relating to any additional Secured Debt, an agreement substantially in the form attached to the Collateral Trust Agreement and (2) with respect to the provisions of the Collateral Trust Agreement relating to the addition of additional Guarantors, an agreement substantially in the form attached to the Collateral Trust Agreement.

“*Collateral Trustee*” means each of (i) the Priority Collateral Trustee and (ii) the Junior Collateral Trustee.

“*Commission*” or “*SEC*” means the Securities and Exchange Commission.

“*common equity*,” when used with respect to a contribution of capital to the Company, means a capital contribution to the Company in a manner that does not constitute Disqualified Equity Interests.

“*Common Stock*” means Capital Stock not entitled to any preference on dividends or distributions, upon liquidation or otherwise.

“*Consolidated Net Income*” means, for any period, for the Company and the Restricted Subsidiaries on a consolidated basis, the net income (or loss) attributable to the Company and the Restricted Subsidiaries for that period, determined in accordance with GAAP, excluding, without duplication:

- (1) non-cash compensation expenses related to common stock and other equity securities issued to employees;
- (2) extraordinary or non-recurring gains and losses;
- (3) [reserved];
- (4) income or losses from discontinued operations or disposal of discontinued operations or costs and expenses associated with the closure of any mines (including any reclamation or disposal obligations);
- (5) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;
- (6) net unrealized gains or losses resulting in such period from non-cash foreign currency remeasurement gains or losses;
- (7) net unrealized gains or losses resulting in such period from the application FASB ASC 815. Derivatives and Hedging, in each case, for such period;
- (8) non-cash charges including non-cash charges due to cumulative effects of changes in accounting principles; and
- (9) any net income (or loss) of the Company or a Restricted Subsidiary for such period that is not a Subsidiary, or is an Unrestricted Subsidiary or a Securitization Subsidiary, or that is accounted for by the equity method of accounting to the extent included therein; *provided* that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the Company or a Restricted Subsidiary thereof in respect of such period.

“*Consolidated Net Tangible Assets*” means, as of any particular time, the total of all the assets appearing on the most recent consolidated balance sheet prepared in accordance with GAAP of the Company and the

Restricted Subsidiaries as of the end of the last fiscal quarter for which financial information is available (less applicable reserves and other properly deductible items) after deducting from such amount:

- (1) all current liabilities, including current maturities of long-term debt and current maturities of obligations under finance leases (other than any portion thereof maturing after, or renewable or extendable at our option or the option of the relevant Restricted Subsidiary beyond, twelve months from the date of determination); and
- (2) the total of the net book values of all of our assets and the assets of our Restricted Subsidiaries properly classified as intangible assets under GAAP (including goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets).

The calculation of “Consolidated Net Tangible Assets” will be made on a pro forma basis consistent with the definition of Fixed Charge Coverage Ratio.

“*Consolidated Total Debt*” means, as of the date of determination, an amount equal to the sum (without duplication) of (1) the aggregate amount of all outstanding Debt of the Company and its Restricted Subsidiaries on a consolidated basis, but excluding the amount of any Swap Obligations (other than Swap Obligations entered into for speculative purposes) plus (2) the aggregate amount of all outstanding Disqualified Stock of the Company and its Restricted Subsidiaries, other than any Disqualified Stock issued by the Company to any Guarantor, or by a Guarantor to the Company or any other Guarantor, on a consolidated basis, with the amount of such Disqualified Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and Maximum Fixed Repurchase Price.

For purposes hereof, the “Maximum Fixed Repurchase Price” of any Disqualified Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Consolidated Total Debt shall be required to be determined pursuant to the indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined reasonably and in good faith by the Company.

“*Controlled Subsidiary*” means, with respect to any consent, waiver or right to terminate or accelerate the obligations under a Contract, any Subsidiary that the Company directly or indirectly controls for purposes of the provision of such consent, waiver or exercise of such right to terminate or accelerate the obligations under such Contract.

“*Controlling Priority Lien Representative*” means (i) until the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, the Administrative Agent and (ii) from and after the earlier of (x) the Discharge of Credit Facility Obligations and (y) the Outstanding Loan Threshold Date, the Major Non-Controlling Priority Representative.

“*Controlling Representative*” means at any time (i) prior to the Discharge of Priority Lien Obligations, the Controlling Priority Lien Representative and (ii) after the Discharge of Priority Lien Obligations, the Junior Lien Representative that represents the Series of Junior Lien Debt with the then largest outstanding principal amount.

“*Credit Facilities*” means one or more credit facilities (including, without limitation, the Existing Credit Facility and the LC Agreement) or commercial paper facilities with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit or issuances of debt securities evidenced by notes, debentures, bonds or similar instruments, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“Debt” means, with respect to any Person, without duplication,

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (other than any obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees, bank guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits);
- (3) all obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (solely to the extent such letters of credit, bankers’ acceptances or other similar instruments have been drawn and remain unreimbursed);
- (4) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued expenses incurred in the ordinary course of business, (ii) obligations under federal coal leases and (iii) obligations under coal leases which may be terminated at the discretion of the lessee and (iv) obligations for take-or-pay arrangements);
- (5) the Finance Lease Obligations of such Person;
- (6) all Debt of other Persons Guaranteed by such Person to the extent so Guaranteed;
- (7) all Debt of other Persons secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person; and
- (8) all obligations of such Person under Permitted Hedging Agreements;

provided that in no event shall Debt include (i) asset retirement obligations, (ii) obligations (other than obligations with respect to Debt for borrowed money or other Funded Debt) related to surface rights under an agreement for the acquisition of surface rights for the production of coal reserves in the ordinary course of business in a manner consistent with historical practice of the Company and its Subsidiaries and (iii) Non-Finance Lease Obligations.

The amount of Debt of any Person will be deemed to be:

- (a) with respect to Debt secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the Fair Market Value of such asset on the date the Lien attached and (y) the amount of such Debt;
- (b) with respect to any Debt issued with original issue discount, the face amount of such Debt less the remaining unamortized portion of the original issue discount of such Debt;
- (c) with respect to any Permitted Hedging Agreement, the amount payable (determined after giving effect to all contractually permitted netting) if such Permitted Hedging Agreement terminated at that time; and
- (d) otherwise, the outstanding principal amount thereof.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Designated Non-cash Consideration” means the Fair Market Value of non-cash consideration received by the Company or any of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, less the amount of Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Discharge of Credit Facility Obligations” means that the Priority Lien Obligations pursuant to the Existing Credit Facility (other than Swap Obligations) are no longer secured by, and no longer required to be secured by, the Collateral pursuant to the terms of the Existing Credit Facility or the other applicable Priority Lien Documents; *provided* that a Discharge of Credit Facility Obligations shall be deemed not to have occurred if the

“Discharge of Priority Lien Obligations” means the occurrence of all of the following:

- (1) termination or expiration of all commitments to extend credit that would constitute Priority Lien Debt;
- (2) with respect to each Series of Priority Lien Debt, either (x) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt of such Series (other than any undrawn letters of credit) or (y) there has been a legal defeasance or covenant defeasance pursuant to the terms of the applicable Priority Lien Debt Documents for such Series of Priority Lien Debt;
- (3) with respect to any undrawn letters of credit constituting Priority Lien Debt, either (x) discharge or cash collateralization (at the lower of (A) 105% of the aggregate undrawn amount and (B) the percentage of the aggregate undrawn amount required for release of liens under the terms of the applicable Priority Lien Document) of all outstanding letters of credit constituting Priority Lien Debt or (y) the issuer of each such letter of credit has notified the Priority Collateral Trustee in writing that alternative arrangements satisfactory to such issuer and to the holders of the related Series of Priority Lien Debt that has reimbursement obligations with respect thereto have been made; and
- (4) payment in full in cash of all other Priority Lien Obligations (other than Swap Obligations) that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time); and
- (5) with respect to any Secured Obligations, (A) the cash collateralization of all such Swap Obligations on terms satisfactory to each applicable Hedge Provider or (B) the expiration or termination of all Swap Contracts evidencing such Swap Obligations and payment in full in cash of all Swap Obligations due and payable after giving effect to such expiration or termination;

provided, however, that if, at any time after the Discharge of Priority Lien Obligations has occurred, the Company thereafter enters into any Priority Lien Document evidencing a Priority Lien Debt the incurrence of which is not prohibited by any applicable Secured Debt Document, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement with respect to such new Priority Lien Debt (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which the Company designates such Funded Debt as Priority Lien Debt in accordance with the terms of the Collateral Trust Agreement, the Obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein and any Junior Lien Obligations shall be deemed to have been at all times Junior Lien Obligations and at no time Priority Lien Obligations.

“Disqualified Equity Interests” means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event

- (1) mature or are mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder for consideration other than Qualified Equity Interests, or
- (2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Debt,

in each case prior to the date that is 91 days after the Stated Maturity of the notes; *provided* that Equity Interests will not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to

require the repurchase or redemption upon an “asset sale” or “change of control” occurring prior to 91 days after the Stated Maturity of the notes if those provisions

- (a) are no more favorable to the holders of such Equity Interests than the provisions of the indenture described above under “—Repurchase of Notes at the Option of Holders— Asset Sales” and “—Certain Covenants—Repurchase of Notes at the Option of Holders—Change of Control,” and
- (b) specifically state that repurchase or redemption pursuant thereto will not be required prior to the Company’s repurchase of the notes as required by the indenture.

“*Disqualified Stock*” means Capital Stock constituting Disqualified Equity Interests.

“*Domestic Restricted Subsidiary*” means any Restricted Subsidiary that is not a Foreign Subsidiary; provided, that in no event shall any such Subsidiary that is a Subsidiary of a Foreign Subsidiary be considered a “Domestic Restricted Subsidiary.”

“*EBITDA*” means, with respect to any specified Person for any period, the sum of, without duplication:

- (1) Consolidated Net Income, plus
- (2) Fixed Charges, to the extent deducted in calculating Consolidated Net Income, plus
- (3) to the extent deducted in calculating Consolidated Net Income and as determined on a consolidated basis for the Company and its Restricted Subsidiaries in conformity with GAAP (and without duplication):
 - (a) Restructuring Costs; plus
 - (b) the provision for Taxes based on income, profits or capital, including, without limitation, state franchise and similar Taxes; plus
 - (c) depreciation, depletion, amortization (including, without limitation, amortization of intangibles, deferred financing fees and any amortization included in pension or other employee benefit expenses) and all other non-cash items reducing Consolidated Net Income (including, without limitation, write-downs and impairment of property, plant, equipment and intangibles and other long-lived assets and the impact of purchase accounting) but excluding, in each case, non-cash charges in a period which reflect cash expenses paid or to be paid in another period); plus
 - (d) any expenses, costs or charges related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or Debt permitted to be incurred by the indenture (whether or not successful); plus
 - (e) all non-recurring or unusual losses, charges and expenses (and less all non-recurring or unusual gains); plus
 - (f) all non-cash charges and expenses, including start-up and transition costs, business optimization expenses and other non-cash restructuring charges; plus
 - (g) the non-cash portion of “straight-line” rent expense; plus
 - (h) non-cash compensation expense or other non-cash expenses or charges arising from the granting of stock options, the granting of stock appreciation rights and similar arrangements (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation rights or similar arrangements); plus
 - (i) any debt extinguishment costs; plus
 - (j) accretion of asset retirement obligations in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic No. 410, Asset Retirement and Environmental Obligations, and any similar accounting in prior periods; plus

- (k) net after-tax losses attributable to asset sales, and net after-tax extraordinary losses; plus
- (l) (a) mark-to-market gains (and less any mark-to-market losses) relating to any Permitted Hedging Agreements and (b) any mark-to-market losses attributed to short positions in any actual or synthetic forward sales contracts relating to coal or any other similar device or instrument or other instrument classified as a “derivative” pursuant to FASB ASC Topic No. 815, Derivatives and Hedging; plus
- (m) commissions, premiums, discounts, fees or other charges relating to performance bonds, bid bonds, appeal bonds, surety bonds, reclamation and completion guarantees and other similar obligations;

provided that, with respect to any Restricted Subsidiary, such items will be added only to the extent and in the same proportion that the relevant Restricted Subsidiary’s net income was included in calculating Consolidated Net Income. Any reimbursement or equity contribution which is included in calculating EBITDA shall be excluded for purposes of calculations under paragraph (a)(3)(B) under the covenant described above under “—Certain Covenants—Limitation on Restricted Payments;”

minus

- (1) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (a) and (b) of this clause (1) increased such Consolidated Net Income for the respective period for which EBITDA is being determined):
 - (a) non-cash items increasing Consolidated Net Income for such period (but excluding any such items in respect of which cash was received in a prior period or will be received in a future period or which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period), and
 - (b) the cash portion of “straight-line” rent expense which exceeds the amount expensed in respect of such rent expense.

“*Environment*” means soil, land surface or subsurface strata, water, surface waters (including navigable waters, ocean waters within applicable territorial limits, streams, ponds, drainage basins, and wetlands), ground waters, drinking water supply, water related sediments, air, plant and animal life, and any other environmental medium.

“*Environmental Laws*” means all laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the Environment, the preservation, restoration or reclamation of natural resources, or the presence, use, storage, discharge, management, release or threatened release of any pollutants, contaminants or hazardous or toxic substances, wastes or material or the effect of the environment on human health and safety.

“*Equity Interests*” means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Debt convertible into, or exchangeable for, Capital Stock.

“*Equity Offering*” means an offer and sale of Qualified Stock of the Company after the Issue Date other than an issuance registered on Form S-4 or S-8 or any successor thereto or any issuance pursuant to employee benefit plans or otherwise relating to compensation to officers, directors or employees.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Excluded Assets*” means:

- (1) motor vehicles and other assets subject to certificates of title where the net book value of any such motor vehicle or other such asset individually is less than \$1.0 million;

- (2) commercial tort claims where the amount of the net proceeds claimed is less than \$1.0 million;
- (3) (i) any lease, license or other written agreement or written obligation (each, a “Contract”) and any leased or licensed asset under a Contract or asset financed pursuant to a purchase money financing Contract or Finance Lease Obligation, in each case that is the direct subject of such Contract (so long as such Contract is not entered into for purposes of circumventing or avoiding the collateral requirements of the indenture), in each case only for so long as the granting of a security interest therein (x) would be prohibited by, cause a default under or result in a breach of such Contract (unless the Company or any Controlled Subsidiary may unilaterally waive it) or would give another Person (other than the Company or any Controlled Subsidiary) a right to terminate or accelerate the obligations under such Contract or to obtain a Lien to secure obligations owing to such Person (other than the Company or any Controlled Subsidiary) under such Contract (in each case, except to the extent any such prohibition is unenforceable after giving effect to applicable anti-assignment provisions of the UCC or other applicable law) or (y) would require obtaining the consent of any Person (other than the Company or any Controlled Subsidiary) or applicable Governmental Authority, except to the extent that such consent has already been obtained and in each case after giving effect to applicable anti-assignment provisions of the UCC or other applicable law or (ii) any asset the granting of a security interest therein in favor of the Secured Parties would be prohibited by any applicable law (other than any organizational document) (except to the extent such prohibition is unenforceable after giving effect to applicable anti-assignment provisions of the UCC, other than proceeds thereof, the assignment of which is expressly deemed effective under the UCC notwithstanding such prohibitions);
- (4) those assets with respect to which, in the reasonable judgment of the administrative agent under the Existing Credit Facility and the Company, the costs of obtaining or perfecting such a security interest are excessive in relation to the benefits to be obtained by the Secured Parties therefrom or would result in materially adverse tax consequences to the Company or its Subsidiaries as reasonably determined by the Company in consultation with the administrative agent under the Existing Credit Facility;
- (5) any Letter of Credit Rights (as defined in the UCC) (other than to the extent a Lien thereon can be perfected by filing a customary financing statement);
- (6) any right, title or interest in Receivables sold, pledged or financed pursuant to a Permitted Receivables Financing, and all of the Company’s and its Subsidiaries’ rights, interests and claims under a Permitted Receivables Financing;
- (7) any real property and leasehold rights and interests in real property other than Material Real Property;
- (8) any “intent-to-use” application for registration of a filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto; and
- (9) (i) any Equity Interests in the Pledgor, Peabody International Investments, Inc., Peabody International Holdings, LLC and each Subsidiary, whether now owned or hereafter acquired, substantially all of the assets of which consist of Equity Interests in Pledgor and any successor to any of the foregoing, (ii) any Equity Interests of captive insurance subsidiaries and not-for-profit subsidiaries, (iii) any Equity Interests in, or assets of, any Securitization Subsidiary (to the extent a pledge of the Equity Interests in such Securitization Subsidiary is prohibited under any Permitted Receivables Financing entered into by such Securitization Subsidiary), (iv) margin stock and (v) any Equity Interests in any Subsidiary that is not wholly-owned by the Company or any Restricted Subsidiary or in a Joint Venture, if the granting of a security interest therein (A) would be prohibited by, cause a default under or result in a breach of, or would give another Person (other than the Company or any Controlled Subsidiary) a right to terminate, under any organizational document,

shareholders, joint venture or similar agreement applicable to such Subsidiary or Joint Venture or (B) would require obtaining the consent of any Person (other than the Company or any Controlled Subsidiary) (in each case after giving effect to applicable anti-assignment provisions of the UCC or other applicable law); provided that, if at any time after the Issue Date, in the good faith determination by the Company the pledge of 100% of the Voting Stock of Peabody Investments (Gibraltar) Limited could reasonably result in a material cash tax liability, the Pledgor's legal charge over the stock of Peabody Investments (Gibraltar) Limited shall be reduced to levels such that there is no such material cash tax liability;

provided that the Collateral shall include the replacements, substitutions and proceeds of any of the foregoing unless such replacements, substitutions or proceeds also constitute Excluded Assets.

"Excluded Flood Zone Property" means any "building", "structure" or mobile home" situated on any real property (each as defined in Regulation H as promulgated under the Flood Laws) located in a special flood hazard area and such real property under which such building, structure or mobile home stands.

"Existing Credit Facility" means the first lien secured credit facility, dated April 3, 2017, as amended, entered into by and among the Company and the Guarantors, JPMorgan Chase N.A., as administrative agent, and the lenders party thereto, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refundings or refinancings thereof.

"Existing Debt" means Debt of the Company or the Restricted Subsidiaries in existence on the Issue Date (other than the notes issued on the Issue Date and any Debt under the Existing Credit Facility, the LC Agreement, the 2025 Notes Indenture or 2022 Notes Indenture in existence on the Issue Date).

"Fair Market Value" means, with respect to any property, the price that could be negotiated in an arm's-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction, or, where the price is established by an existing contract, the contract price. Fair Market Value shall be determined, except as otherwise provided, (a) if such property has a Fair Market Value equal to or less than \$50.0 million, by any Officer; or (b) if such property has a Fair Market Value in excess of \$50.0 million, by at least a majority of the disinterested members of the Board of Directors of the Company and evidenced by a resolution of the Board of Directors delivered to the Trustee.

"Finance Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a finance lease on the balance sheet of that Person.

"Finance Lease Obligations" means, at the time any determination thereof is to be made, the amount of the liability in respect of a Finance Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP; provided that Finance Lease Obligations shall, for the avoidance of doubt, exclude all Non-Finance Lease Obligations.

"Fixed Charge Coverage Ratio" means, on any date (the "transaction date"), the ratio of:

- (1) the aggregate amount of EBITDA of the Company for the four fiscal quarters immediately prior to the transaction date for which internal financial statements are available (the "reference period") to
- (2) the aggregate Fixed Charges of the Company during such reference period.

In making the foregoing calculation,

- (1) pro forma effect will be given to any Debt, Disqualified Stock or Preferred Stock Incurred during or after the reference period to the extent the Debt, Disqualified Stock or Preferred Stock is outstanding or is to be Incurred on the transaction date as if the Debt, Disqualified Stock or Preferred Stock had been Incurred on the first day of the reference period;

- (2) pro forma calculations of interest on Debt bearing a floating interest rate will be made as if the rate in effect on the transaction date (taking into account any Permitted Hedging Agreement applicable to the Debt if the Permitted Hedging Agreement has a remaining term of at least 12 months) had been the applicable rate for the entire reference period;
- (3) Fixed Charges related to any Debt, Disqualified Stock or Preferred Stock no longer outstanding or to be repaid or redeemed on the transaction date, except for Interest Expense accrued during the reference period under a revolving Credit Facility to the extent of the commitments thereunder (or under any successor revolving credit) in effect on the transaction date, will be excluded;
- (4) pro forma effect will be given to
 - (a) the creation, designation or redesignation of Restricted and Unrestricted Subsidiaries,
 - (b) the acquisition or disposition of companies, divisions or lines of businesses by the Company and its Restricted Subsidiaries, including any acquisition or disposition of a company, division or line of business since the beginning of the reference period by a Person that became a Restricted Subsidiary after the beginning of the reference period, and
 - (c) the discontinuation of any discontinued operations but, in the case of Fixed Charges, only to the extent that the obligations giving rise to the Fixed Charges will not be obligations of the Company or any Restricted Subsidiary following the transaction date that have occurred since the beginning of the reference period as if such events had occurred, and, in the case of any disposition, the proceeds thereof applied, on the first day of the reference period.

To the extent that pro forma effect is to be given to an acquisition or disposition of a company, division or line of business, the pro forma calculation will be based upon the most recent four full fiscal quarters for which the relevant financial information is available and will be calculated in accordance with Regulation S-X under the Securities Act.

“Fixed Charges” means, with respect to any specified Person for any period, the sum of:

- (1) Interest Expense for such period; and
- (2) the product of
 - (a) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock of the Company or any Preferred Stock of a Restricted Subsidiary, except for dividends payable in the Company’s Qualified Stock or paid to the Company or to a Restricted Subsidiary, and
 - (b) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate applicable to the Company and its Restricted Subsidiaries.

“Flood Laws” means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“Foreign Restricted Subsidiary” means any Restricted Subsidiary that is a Foreign Subsidiary.

“Foreign Subsidiary” means a Subsidiary that is organized under the laws of a jurisdiction other than the United States or any State thereof or the District of Columbia and any Subsidiary thereof.

“*Foreign Subsidiary Holdco*” means any domestic Subsidiary substantially all of the assets of which consist of the equity interests of a Foreign Subsidiary, or another Foreign Subsidiary Holdco.

“*Funded Debt*” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent;

- (1) in respect of borrowed money or advances; or
- (2) evidenced by loan agreements, bonds, notes or debentures or similar instruments or letters of credit (solely to the extent such letters of credit or other similar instruments have been drawn and remain unreimbursed) or, without duplication, reimbursement agreements in respect thereof.

For the avoidance of doubt, “Funded Debt” shall not include Swap Obligations or Cash Management Obligations.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the Issue Date.

“*Governmental Authority*” means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Grantor*” means the Company, the Guarantors, the Pledgor and any other Person (if any) that at any time provides collateral security for any Secured Obligations

“*Guarantee*” by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing any Debt or other obligation of any other Person (the “primary obligor”), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (c) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or other obligation; *provided* that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“*Guarantor*” means each Restricted Subsidiary of the Company that executes a Note Guarantee and their respective successor and assigns.

“*Hedge Provider*” means the counterparty to the Company or any Subsidiary of the Company under any Swap Contract.

“*Incur*” means, with respect to any Debt or Capital Stock, to incur, create, issue, assume or Guarantee such Debt or Capital Stock. If any Person becomes a Restricted Subsidiary of or merges with the Company or any Subsidiary of the Company on any date after the date of the indenture (including by redesignation of an Unrestricted Subsidiary or failure of an Unrestricted Subsidiary to meet the qualifications necessary to remain an Unrestricted Subsidiary), the Debt and Capital Stock of such Person outstanding on such date will be deemed to have been Incurred by such Person on such date for purposes of the covenant described above under “—Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock,” but will not be considered the sale or issuance of Equity Interests for purposes of the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales.”

“*Insolvency or Liquidation Proceeding*” means:

- (1) any voluntary or involuntary case commenced by or against the Company or any other Grantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding

for the reorganization, recapitalization, receivership, liquidation or adjustment or marshalling of the assets or liabilities of the Company or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Company or any other Grantor or any similar case or proceeding relative to the Company or any other Grantor or its creditors, as such, in each case whether or not voluntary;

- (2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Company or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
- (3) any other proceeding of any type or nature in which substantially all claims of creditors of the Company or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

“Interest Expense” means, for any period, the consolidated interest expense (net of any interest income) of the Company and its Restricted Subsidiaries, plus, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by the Company or its Restricted Subsidiaries, without duplication, (i) interest expense attributable to Finance Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense, (v) any of the above expenses with respect to Debt of another Person Guaranteed by the Company or any of its Restricted Subsidiaries and (vi) any interest, premiums, fees, discounts, expenses and losses on the sale of accounts receivable (and any amortization thereof) payable by the Company or any Restricted Subsidiary in connection with a Permitted Receivables Financing, and any yields or other charges or other amounts comparable to, or in the nature of, interest payable by the Company or any Restricted Subsidiary under any receivables financing, but excluding (a) amortization of deferred financing charges incurred in respect of the notes, any Credit Facility, and any other Funded Debt, (b) the write off of any deferred financing fees or debt discount and (c) any lease, rental or other expense in connection with a Non-Finance Lease Obligation, all as determined on a consolidated basis and in accordance with GAAP. Interest Expense shall be determined for any period after giving effect to any net payments made or received and costs incurred by the Company and its Restricted Subsidiaries with respect to any related interest rate Permitted Hedging Agreements. For purposes of this definition, interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Investment” means

- (1) any advance, loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers, Joint Venture partners or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Company or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries),
- (2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form,
- (3) any purchase or acquisition of Equity Interests, bonds, notes or other Debt, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services, or
- (4) any Guarantee of any Debt or Disqualified Stock of another Person.

If the Company or any Restricted Subsidiary sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a

Subsidiary of the Company, all remaining Investments of the Company and the Restricted Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Company or any Restricted Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

“Investment Grade” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB– (or the equivalent) by S&P.

“Issue Amount” means (x) \$255.58 million, in the case of the initial notes and (y) such other amount specified by the Company, in the case of any Additional Notes.

“Issue Date” means the date on which the initial notes (other than Additional Notes) are originally issued under the indenture.

“Joint Venture” means any Person in which the Company or its Subsidiaries hold an ownership interest (a) that is not a Subsidiary and (b) of which the Company or such Subsidiary is a general partner or joint venturer; *provided, however*, that Middlemount Coal Pty Ltd shall be considered a Joint Venture for purposes of this definition.

“Junior Collateral Trustee” means Wilmington Trust, National Association, in its capacity as collateral trustee for the Junior Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“Junior Lien” means a Lien on Collateral granted by a Junior Lien Security Document to the Junior Collateral Trustee, at any time, upon any property of the Company, Pledgor or any Guarantor to secure Junior Lien Obligations.

“Junior Lien Cap” means, as of any date of determination, the amount of Junior Lien Debt that may be incurred by the Company such that, after giving pro forma effect to such Incurrence and the application of the net proceeds therefrom, the Total Leverage Ratio would not exceed 2.50 to 1.00.

“Junior Lien Debt” means Funded Debt, and letter of credit and reimbursement obligations with respect thereto, that is secured by a Junior Lien and that is permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document;

provided, that:

(a) on or before the date on which such Funded Debt is incurred by the Company, such Funded Debt is designated by the Company as “Junior Lien Debt” for the purposes of the Secured Debt Documents and the Collateral Trust Agreement pursuant to the procedures set forth in the Collateral Trust Agreement; *provided*, that no Funded Debt may be designated as both Junior Lien Debt and Priority Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Junior Lien Debt whose Secured Debt Representative is already party to the Collateral Trust Agreement, the Junior Lien Representative for such Funded Debt executes and delivers a Collateral Trust Joinder in accordance with the terms of the Collateral Trust Agreement; and

(c) all other relevant requirements set forth in the Collateral Trust Agreement are complied with.

“Junior Lien Documents” means, collectively, any indenture, credit agreement or other agreement pursuant to which any Junior Lien Debt is incurred and the Junior Lien Security Documents.

“Junior Lien Obligations” means Junior Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable), and all guarantees of any of the foregoing.

“Junior Lien Representative” means in the case of any Series of Junior Lien Debt, the trustee, agent or representative of the holders of such Series of Junior Lien Debt who maintains the transfer register for such Series of Junior Lien Debt and (A) is appointed as a Junior Lien Representative (for purposes related to the administration of the Security Documents) pursuant to the indenture, credit agreement or other agreement governing such Series of Junior Lien Debt, together with its successors in such capacity, and (B) who has executed a Collateral Trust Joinder, together with its successor in such capacity.

“Junior Lien Secured Parties” means the holders of Junior Lien Obligations and each Junior Lien Representative.

“Junior Lien Security Documents” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Company, Pledgor or any Guarantor creating (or purporting to create) a Lien upon Collateral in favor of the Junior Collateral Trustee, for the benefit of any of the Junior Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the Collateral Trust Agreement.

“LC Agreement” means the letter of credit facility agreement, to be dated as of the Issue Date, as amended, entered into by and among the Company and the Guarantors, the administrative agent party thereto, and the letter of credit issuers party thereto, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refundings or refinancings thereof.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease (or other lease in respect of a Non-Finance Lease Obligation) constitute a Lien.

“Major Non-Controlling Priority Representative” means (i) prior to an Outstanding Loan Threshold Date, the Priority Lien Representative of a Series of Priority Lien Debt (other than the administrative agent with respect to the Priority Lien Debt pursuant to the Existing Credit Facility) that constitutes the largest outstanding principal amount of any then outstanding Series of Priority Lien Debt (provided, however, that if there are two outstanding Series of Priority Lien Debt which have an equal outstanding principal amount, the Series of Priority Lien Debt with the earlier maturity date shall be considered to have the larger outstanding principal amount for purposes of this clause (i)) and (ii) on or after an Outstanding Loan Threshold Date, the Priority Lien Representative of the Series of Priority Lien Debt that constitutes the largest outstanding principal amount of any then outstanding Series of Priority Lien Debt (provided, however, that if there are two outstanding Series of Priority Lien Debt which have an equal outstanding principal amount, the Series of Priority Lien Debt with the earlier maturity date shall be considered to have the larger outstanding principal amount for purposes of this clause (ii)). For purposes of this definition, “principal amount” shall be deemed to include the face amount of any outstanding letter of credit issued under the particular Series.

“Management Services Agreements” means, collectively, (i) the Management Services Agreement, dated as of August 4, 2020, by and between Peabody Investments Corp. and each of the Client Companies listed on the signature page thereto and (ii) the Management Services Agreement, dated as August 4, 2020, by and between

“*Material Real Property*” means (a) any fee owned real property interest held by the Company or any of its Restricted Subsidiaries in an active Mine or any leasehold interest in real property of the Company or any of its Restricted Subsidiaries in an active Mine, (b) any real property owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest located on a Reserve Area on the Issue Date that has a net book value in excess of \$10.0 million (c) any real property acquired or otherwise owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries acquires a leasehold interest after the Issue Date located on a Reserve Area that has a total net book value in excess of \$25.0 million and (d) any other fee owned real property interest held by the Company or any of its Restricted Subsidiaries (other than the types of property described in clauses (a) through (c) above) with a total net book value in excess of \$10.0 million as of the date of acquisition of such real property; provided that Material Real Property shall not include (x) any real property disclosed to the Trustee prior to the Release Date as a property intended to be sold following the Release Date, (y) any leasehold interests of the Company or any of its Restricted Subsidiaries in commercial real property constituting offices of the Company and its Subsidiaries or (z) any Excluded Flood Zone Property; provided that the aggregate total net book value of all Excluded Flood Zone Property acquired after April 11, 2018 does not exceed \$50,000,000 in the aggregate as of the date of determination; provided further that, any future coal reserve or access to a coal reserve (x) that is fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest and (y) that is located adjacent to, contiguous with, or in close proximity to, both geographically and geologically (according to reasonable standards used in the mining industry) an active Mine or Reserve Area, may, in the reasonable discretion of the administrative agent under the Existing Credit Facility (in consultation with the Company) and by notice to the Collateral Trustee, be deemed part of an active Mine or Reserve Area and, as a result, a “Material Real Property” in the future.

“*Maximum Amount*” shall mean the lesser of (i) the sum of the aggregate principal amount of Co-Issuer Notes as may be outstanding at any time and the aggregate Debt outstanding under the New Co-Issuer Term Loan Facility, (ii) the maximum amount of “Restricted Payments,” if any, that Peabody may be permitted to utilize for purposes of issuing additional notes pursuant to the requirement to offer to exchange additional notes for Co-Issuer Notes under the Co-Issuer Notes Indenture and an additional \$206.0 million pursuant to the requirement to offer to exchange new Company Debt for the New Co-Issuer Term Loan Facility, in each case as of any date of determination, (iii) to the extent the Wilpinjong Mandatory Offer (as defined in the Co-Issuer Notes Indenture) may result in any Lien (as defined in the Peabody Existing Indenture), the maximum amount of Permitted Liens (as defined in the Peabody Existing Indenture) that may take the form of any such Lien and (iv) the maximum amount of “Investments” (as defined in the Peabody Credit Agreement), if any, that Peabody may be permitted to utilize for purposes of issuing notes and term loans under the LC Agreement, in each case as of any date of determination.

“*Mine*” means any excavation or opening into the earth now and hereafter made from which coal is or can be extracted from any of the Real Properties.

“*Minimum Liquidity*” means, as of any date of determination, an amount determined for the Company and its Restricted Subsidiaries on a consolidated basis equal to the sum of (i) unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries on a consolidated basis, plus (ii) the available borrowing capacity under the Existing Credit Facility, any replacement Credit Facility or any Permitted Receivables Financing available for the Company and its Restricted Subsidiaries for general corporate purpose or for working capital.

“*Mining Laws*” means any and all applicable federal, state, local and foreign statutes, laws, regulations, legally-binding guidance, ordinances, rules, judgments, orders, decrees or common law causes of action relating to mining operations and activities under the Mineral Leasing Act of 1920, the Federal Coal Leasing Amendments Act or the Surface Mining Control and Reclamation Act, each as amended or its replacement, and their state and local counterparts or equivalents.

“*Mining Lease*” means a lease, license or other use agreement which provides the Company or any Restricted Subsidiary the real property and water rights, other interests in land, including coal, mining and surface rights, easements, rights of way and options, and rights to timber and natural gas (including coalbed methane and gob gas) necessary or integral in order to recover coal from any Mine. Leases (other than Finance Leases or operating leases of personal property even if such personal property would become fixtures) which provide the Company or any other Restricted Subsidiary the right to construct and operate a conveyor, crusher plant, silo, load out facility, rail spur, shops, offices and related facilities on the surface of the Real Property containing such reserves shall also be deemed a Mining Lease.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors.

“*Mortgages*” means all mortgages, debentures, hypothecs, deeds of trust, deeds to secure Debt and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on real estate and other related assets to secure payment of the notes and the Note Guarantees or any part thereof.

“*Net Cash Proceeds*” means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash), net of

- (1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;
- (2) provisions for Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Company and its Restricted Subsidiaries;
- (3) payments required to be made to holders of minority interests in Restricted Subsidiaries as a result of such Asset Sale or to repay Debt outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and
- (4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

“*New Co-Issuer Term Loan Agreement*” means that certain Term Loan Agreement, dated as of the Issue Date, among PIC AU Holdings LLC and PIC AU Holdings Corporation, as borrowers, the term loan agent party thereto, and the lenders from time to time party thereto.

“*New Co-Issuer Term Loan Facility*” means the term loan facility evidenced by the Term Loan Agreement, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities) in whole or in part from time to time (and whether or not with the original administrative agent, lenders or trustee or another administrative agent or agents, other lenders or trustee).

“*Non-Finance Lease Obligation*” means a lease obligation that is not required to be accounted for as a finance lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Finance Lease Obligation.

“*Non-Recourse Debt*” means Debt as to which (i) neither the Company nor any Restricted Subsidiary provides any Guarantee and as to which the lenders have been notified in writing that they will not have any

recourse to the Capital Stock or assets of the Company or any Restricted Subsidiary and (ii) no default thereunder would, as such, constitute a default under any Debt of the Company or any Restricted Subsidiary.

“*Note Documents*” means the indenture, the notes and the Security Documents.

“*Note Guarantee*” means the guarantee of the notes by a Guarantor pursuant to the indenture.

“*Obligations*” means, with respect to any Debt, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Debt, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

“*Officer*” means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Senior Vice President, any Vice President or any Assistant Vice President of such Person.

“*Officer’s Certificate*” means a certificate signed on behalf of the Company by an Officer of the Company.

“*Outstanding Loan Threshold Date*” means the date that both (i) the outstanding principal amount of, without duplication, term Loans and unused commitments under the Existing Credit Facility (or the aggregate outstanding principal amount of all loans or other evidences of indebtedness, issued and outstanding letters of credit and commitments in respect thereof under any replacement Credit Facility designated as such in accordance with the provisions of the Collateral Trust Agreement) is less than 15% of the aggregate outstanding principal amount of all Priority Lien Debt and (ii) the aggregate outstanding principal amount of another Series of Priority Lien Debt exceeds the outstanding principal amount of, without duplication, term Loans and commitments under the Existing Credit Facility.

“*Peabody Existing Indenture*” means that certain indenture, dated as of February 15, 2017, by and between Peabody Securities Finance Corporation, a Delaware corporation (“*PSFC*”), and Wilmington Trust, National Association, as trustee (in such capacity, the “*Peabody Existing Trustee*”), as amended, modified or otherwise supplemented by (i) that certain supplemental indenture, dated as of April 3, 2017, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee, (ii) that certain supplemental indenture, dated as of May 7, 2018, among Peabody, NGS Acquisition Corp., LLC and the Peabody Existing Trustee, (iii) that certain supplemental indenture, dated as of August 9, 2018, between Peabody and the Peabody Existing Trustee, (iv) that certain supplemental indenture, dated as of December 7, 2018, among Peabody, Peabody Southeast Mining, LLC, and the Peabody Existing Trustee and (v) that certain supplemental indenture, dated as of the Issue Date, among Peabody, PSFC, the subsidiary guarantors party thereto and the Peabody Existing Trustee.

“*Permitted Business*” means any of the following, whether domestic or foreign: the mining, production, marketing, sale, trading and transportation (including, without limitation, any business related to terminals) of natural resources including coal, ancillary natural resources and mineral products, exploration of natural resources, any acquired business activity so long as a material portion of such acquired business was otherwise a Permitted Business, and any business that is ancillary or complementary to the foregoing.

“*Permitted Hedging Agreements*” means hedging agreements entered into in the ordinary course of business of the Company and its Restricted Subsidiaries to hedge interest rate, foreign currency, coal price or commodity risk or otherwise for non-speculative purposes (regardless of whether such agreement or instrument is classified as a “derivative” pursuant to FASB ASC Topic No. 815 and required to be marked-to-market).

“Permitted Holder” shall mean, each Person that is a “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of 5% or more of the Voting Stock of the Company on the Issue Date.

“Permitted Investments” means:

- (1) (i) any Investment (i) in the Company or in a Guarantor, (ii) by a Restricted Subsidiary that is a not Guarantor in any other Restricted Subsidiary that is a not a Guarantor and (iii) by the Company or a Guarantor in a Restricted Subsidiary that is not a Guarantor consisting of Debt permitted to be incurred pursuant to subclause (iv) of clause (3) of “Certain Covenants—Limitation on Debt and Disqualified Stock or Preferred Stock”;
- (2) any Investment in cash or Cash Equivalents;
- (3) [reserved];
- (4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with the covenant described above under “—Repurchase of Notes at the Option of Holders—Asset Sales;”
- (5) any Investment acquired solely in exchange for Qualified Stock of the Company or in exchange for Capital Stock of the Company which the Company did not receive in exchange for a cash payment, Debt or Disqualified Stock;
- (6) Permitted Hedging Agreements;
- (7) (i) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;
- (8) [reserved];
- (9) advances to officers, directors and employees of the Company in an aggregate amount not to exceed \$5.0 million at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;
- (10) to the extent they involve an Investment, extensions of credit or letters of support to lessors, customers, suppliers and Joint Venture partners in the ordinary course of business;
- (11) Investments arising as a result of any Permitted Receivables Financing;
- (12) any Investment existing on the Issue Date or made pursuant to a legally binding written commitment in existence on the Issue Date;
- (13) (i) Investments in the nature of Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties, (ii) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry or (iii) payments or other arrangements whereby the Company or any Restricted Subsidiary provides a loan, advance payment or guarantee in return for future coal deliveries consistent with normal practices in the mining industry;
- (14) (i) promissory notes and other similar non-cash consideration received by the Company in connection with Asset Sales not otherwise prohibited under the indenture and (ii) Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company, including pursuant to any plan of reorganization or

similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, (B) litigation, arbitration or other disputes or (C) the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

- (15) to the extent they involve an Investment, purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;
- (16) Investments made pursuant to surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds and related letters of credit or similar obligations, in each case, to the extent such surety bonds, reclamation bonds, performance bonds, bid bonds, appeal bonds, related letters of credit and similar obligations are permitted under the indenture;
- (17) Investments (including debt obligations and Capital Stock) received in satisfaction of judgments or in connection with the bankruptcy or reorganization of suppliers and customers of the Company and its Restricted Subsidiaries and in settlement of delinquent obligations of, and other disputes with, such customers and suppliers arising in the ordinary course of business;
- (18) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss
- (19) Investments resulting from pledges and deposits permitted under the definition of “Permitted Liens;”
- (20) Investments consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations under any Mining Law or Environmental Law or with respect to workers’ compensation benefits, in each case entered into in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under existing coal sales contracts (and extensions or renewals thereof on similar terms); and
- (21) in addition to Investments listed above, Investments in Persons engaged in Permitted Businesses in an aggregate amount, taken together with all other Investments made in reliance on this clause, not to exceed \$5.0 million; provided, however, that if any Investment pursuant to this clause (21) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of such Investment and such Person becomes a Restricted Subsidiary of the Company after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21) for so long as such Person continues to be a Restricted Subsidiary of the Company.

“*Permitted Liens*” means

- (1) Priority Liens held by the Priority Collateral Trustee securing Priority Lien Debt Incurred pursuant to clause (1) of the definition of Permitted Debt and all related Priority Lien Obligations;
- (2) Junior Lien held by the Junior Collateral Trustee securing Junior Lien Debt in an aggregate principal amount (as of the date of Incurrence of such Junior Lien Debt and after giving pro forma effect to the application of the net proceeds therefrom) not exceeding the Junior Lien Cap as of such date and all related Junior Lien Obligations;
- (3) Liens existing on the Issue Date other than any Lien described under clauses (1), (2), or (31) of this definition of “Permitted Liens;”
- (4) Liens incurred or pledges or deposits under workers’ compensation laws, unemployment insurance laws, social security and employee health and disability benefits laws or similar legislation, or casualty or liability insurance or self-insurance including any Lien securing letters of credit, letters of guarantee or bankers’ acceptances issued in the ordinary course of business in connection therewith;

- (5) Liens imposed by law, such as landlords', carriers', warehousemen's, materialmen's, repairmen's and mechanics' Liens and other similar Liens, on the property of the Company or any Restricted Subsidiary arising in the ordinary course of business and with respect to amounts which are not yet delinquent or are being contested in good faith by appropriate proceedings;
- (6) (i) Liens to secure the performance of bids, trade contracts and leases (other than Debt), reclamation bonds, insurance bonds, statutory obligations, surety and appeal bonds, performance bonds, bank guarantees and letters of credit and other obligations of a like nature incurred in the ordinary course of business, (ii) Liens on assets to secure obligations under surety bonds obtained as required in connection with the entering into of federal coal leases or (iii) Liens created under or by any turnover trust;
- (7) Liens for taxes, assessments or governmental charges or levies on the property of the Company or any Restricted Subsidiary if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings, *provided* that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefor;
- (8) easements, rights-of-way, zoning restrictions, leases, subleases, licenses, other restrictions and other similar encumbrances which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (9) Liens on the property of the Company or any Restricted Subsidiaries, as a tenant under a lease or sublease entered into in the ordinary course of business by such Person, in favor of the landlord under such lease or sublease, securing the tenant's performance under such lease or sublease, as such Liens are provided to the landlord under applicable law and not waived by the landlord;
- (10) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker's liens and the like in favor of financial institutions and counterparties to financial obligations and instruments, including Permitted Hedging Agreements;
- (11) Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;
- (12) judgment Liens that are being contested in good faith by appropriate legal proceedings and for which adequate reserves have been made;
- (13) Permitted Real Estate Encumbrances;
- (14) Liens incurred in the ordinary course of business securing obligations not securing Debt for borrowed money and not in the aggregate materially detracting from the value of the properties or their use in the operation of the business of the Company and its Restricted Subsidiaries;
- (15) Liens securing obligations in respect of trade-related letters of credit permitted under clause (6) of Permitted Debt covering only the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;
- (16) Liens (including the interest of a lessor under a Finance Lease) on property and improvements that secure Debt Incurred pursuant to clause (9) of Permitted Debt for the purpose of financing all or any part of the purchase price or cost of construction or improvement of such property, *provided* that the Lien does not (x) extend to any additional property or (y) secure any additional obligations, in each case other than the initial property so subject to such Lien and the Debt and other obligations originally so secured;
- (17) Liens on property of a Person at the time such Person becomes a Restricted Subsidiary of the Company, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any other Restricted Subsidiary;

- (18) Liens on property at the time the Company or any of the Restricted Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Company or a Restricted Subsidiary of such Person, *provided* that such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any such Restricted Subsidiary;
- (19) Liens securing Debt or other obligations of the Company or a Restricted Subsidiary to the Company or a Guarantor;
- (20) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;
- (21) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (22) Liens on Capital Stock of any Unrestricted Subsidiary;
- (23) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Company or any Restricted Subsidiary on deposit with or in possession of such bank;
- (24) deposits made in the ordinary course of business to secure reclamation liabilities, insurance liabilities and/or surety liabilities;
- (25) Liens on assets of Foreign Subsidiaries securing Debt of Foreign Subsidiaries;
- (26) extensions, renewals or replacements of any Lien referred to in clauses (1), (2), (3), (16), (17) or (18) in connection with the refinancing of the obligations secured thereby; *provided* that (i) such Lien does not extend to any other property (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), (ii) except as contemplated by the definition of "Permitted Refinancing Debt," the aggregate principal amount of Debt secured by such Lien is not increased and (iii) such Lien has no greater priority than the Lien being extended, renewed or replaced;
- (27) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Finance Lease Obligations), licenses, special assessments, trackage rights, transmission and transportation lines related to Mining Leases or mineral right or other Real Property including any re-conveyance obligations to a surface owner following mining, royalty payments and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on Real Property imposed by law or arising in the ordinary course of business that do not secure any monetary obligation and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Company or any Subsidiary;
- (28) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Company or its Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (29) Liens (including those arising from precautionary UCC financing statement filings (and those which are security interests for purposes of the Personal Property Securities Act of 2009 (Cth)) with respect to bailments, leases or consignment or retention of title arrangements entered into by the Company, Pledgor or any Guarantor in the ordinary course of business;

- (30) Production Payments, royalties, dedication of reserves under supply agreements or similar or related rights or interests granted, taken subject to, or otherwise imposed on properties or (y) cross charges, Liens or security arrangements entered into in respect of a Joint Venture for the benefit of a participant, manager or operator of such Joint Venture, in each case, consistent with normal practices in the mining industry;
- (31) Liens on accounts receivable and related assets and proceeds thereof arising in connection with a Permitted Receivables Financing Incurred pursuant to clause (16) of the definition of “Permitted Debt”;
- (32) Liens securing Debt incurred pursuant to clause (18) of the definition of “Permitted Debt”; and
- (33) other Liens securing Obligations in an aggregate amount at any time outstanding not to exceed \$10.0 million.

In addition, (i) with respect to any Lien securing Debt that was permitted to secure such Debt at the time of the Incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt; and (ii) in the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of Incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with this definition and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of the definition of Permitted Lien to which such Permitted Lien has been classified or reclassified. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Debt with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt.

“*Permitted Prior Lien*” means any Lien that has priority over the Lien of the Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties which Lien was permitted under each Priority Lien Document.

“*Permitted Real Estate Encumbrances*” means the following encumbrances which do not, in any case, individually or in the aggregate, materially detract from the value of any Mine subject thereto or interfere with the ordinary conduct of the business or operations of the Company and its Restricted Subsidiaries as presently conducted on, at or with respect to such Mine and as to be conducted following the Issue Date: (a) encumbrances customarily found upon real property used for mining purposes in the applicable jurisdiction in which the applicable real property is located to the extent such encumbrances would be permitted or granted by a prudent operator of mining property similar in use and configuration to such real property (e.g., surface rights agreements, wheelage agreements and reconveyance agreements); (b) rights and easements of (i) owners of undivided interests in any of the real property where the Company and its Restricted Subsidiaries owns less than 100% of the fee interest, (ii) owners of interests in the surface of any real property where the applicable party does not own or lease such surface interest, (iii) lessees, if any, of coal or other minerals (including oil, gas and coal bed methane) where the applicable the Company and its Restricted Subsidiaries does not own such coal or other minerals, and (iv) lessees of other coal seams and other minerals (including oil, gas and coal bed methane) not owned or leased by such party; (c) with respect to any real property in which the Company or any Restricted Subsidiary holds a leasehold interest, terms, agreements, provisions, conditions, and limitations (other than royalty and other payment obligations which are otherwise permitted hereunder) contained in the leases granting such leasehold interest and the rights of lessors thereunder (and their heirs, executors, administrators, successors, and assigns), subject to any amendments or modifications set forth in any landlord consent delivered in connection with a Mortgage; (d) farm, grazing, hunting, recreational and residential leases with respect to which the Company or any Restricted Subsidiary is the lessor encumbering portions of the real properties to the extent such leases would be granted or permitted by, and contain terms and provisions that would be acceptable to, a prudent operator of mining properties similar in use and configuration to such real properties; (e) royalty and other payment obligations to sellers or transferors of fee coal or

lease properties to the extent such obligations constitute a lien not yet delinquent; (f) rights of others to subjacent or lateral support and absence of subsidence rights or to the maintenance of barrier pillars or restrictions on mining within certain areas as provided by any mining lease, unless in each case waived by such other person; and (g) rights of repurchase or reversion when mining and reclamation are completed.

“*Permitted Receivables Financing*” means any receivables financing facility or arrangement pursuant to which a Securitization Subsidiary purchases or otherwise acquires Receivables of the Company or any Restricted Subsidiary and enters into a third party financing thereof on terms that the Board of Directors of the Company has concluded are customary and fair to the Company and its Restricted Subsidiaries.

“*Person*” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, including a government or political subdivision or an agency or instrumentality thereof.

“*Pledgor*” means Peabody Global Holdings, LLC, a Delaware limited liability company, or any successor entity that directly holds the Capital Stock of Peabody Investments (Gibraltar) Limited.

“*Preferred Stock*” means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

“*Priority Collateral Trustee*” means Wilmington Trust, National Association, its capacity as collateral trustee for the Priority Lien Secured Parties under the Collateral Trust Agreement, together with its successors in such capacity.

“*Priority Lien*” means a Lien granted, or purported to be granted, by a Security Document to the Priority Collateral Trustee, at any time, upon any property of the Company, Pledgor or any Guarantor to secure Priority Lien Obligations.

“*Priority Lien Cap*” means \$1,950.0 million.

“*Priority Lien Debt*” means:

(1) the notes issued on the Issue Date and the related Note Guarantees;

(2) Funded Debt in existence on the Issue Date under the Existing Credit Facility;

(3) Funded Debt in existence on the Issue Date under the 2025 Notes Indenture and 2022 Notes Indenture;

(4) Funded Debt incurred on the Issue Date under the LC Agreement;

(5) any Funded Debt hereafter incurred under the Existing Credit Facility or the LC Agreement that is permitted to be incurred and secured under each applicable Secured Debt Document; and

(6) any other Funded Debt (including Additional Notes and borrowings under any Credit Facilities) that is secured by a Priority Lien and that is permitted to be incurred and permitted to be so secured under each applicable Secured Debt Document;

provided, that, in the case of Funded Debt referred to in clauses (5) and (6):

(a) on or before the date on which such Funded Debt is incurred by the Company, such Funded Debt is designated by the Company as “Priority Lien Debt” for the purposes of the Secured Debt Documents and the Collateral Trust Agreement pursuant to the procedures set forth in the Collateral Trust Agreement; *provided*, that no Funded Debt may be designated as both Priority Lien Debt and Junior Lien Debt;

(b) unless such Funded Debt is issued under an existing Secured Debt Document for any Series of Priority Lien Debt whose Secured Debt Representative is already party to the Collateral Trust Agreement, the Priority Lien Representative for such Funded Debt executes and delivers a Collateral Trust Joinder in accordance with the terms of the Collateral Trust Agreement; and

(c) all other relevant requirements set forth in the Collateral Trust Agreement are complied with.

For the avoidance of doubt, Swap Obligations and Cash Management Obligations do not constitute Priority Lien Debt but may constitute Priority Lien Obligations. Swap Obligations and Cash Management Obligations that are secured pursuant to the Priority Lien Documents with respect to a Series of Priority Lien Debt shall be “related to” such Series of Priority Lien Debt for purposes of the Collateral Trust Agreement.

“*Priority Lien Documents*” means, collectively, the Note Documents, the definitive documentation governing the Existing Credit Facility, the definitive documentation governing the LC Agreement, the definitive documentation governing 2025 Notes Indenture and 2022 Notes Indenture and any other indenture, credit agreement or other agreement pursuant to which any Priority Lien Debt is incurred and the Priority Lien Security Documents.

“*Priority Lien Obligations*” means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt and any indemnification obligations under the Transaction Support Agreement (subject to the limitations set forth therein), including without limitation any post-petition interest whether or not allowable, together with all Swap Obligations and Cash Management Obligations and guarantees of any of the foregoing.

“*Priority Lien Representative*” means:

- (1) in the case of the notes, the Trustee; and
- (2) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and is appointed as a representative of the Priority Lien Debt (for purposes related to the administration of the Security Documents) pursuant to the credit agreement or other agreement governing such Series of Priority Lien Debt, and who has executed a Collateral Trust Joinder, together with any successor in such capacity.

“*Priority Lien Secured Parties*” means the holders of Priority Lien Obligations, each Priority Lien Representative and the Priority Collateral Trustee.

“*Priority Lien Security Documents*” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Company, Pledgor or any Guarantor creating (or purporting to create) a Lien upon Collateral in favor of the Priority Collateral Trustee, for the benefit of any of the Priority Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the provisions described above under “—Collateral Trust Agreement—Voting.”

“*Production Payments*” means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

“*Qualified Equity Interests*” means all Equity Interests of a Person other than Disqualified Equity Interests.

“*Qualified Stock*” means all Capital Stock of a Person other than Disqualified Stock.

“*Rating Agencies*” means S&P and Moody’s; *provided*, that if either S&P or Moody’s (or both) shall cease issuing a rating on the notes for reasons outside the control of the Company, the Company may select a nationally recognized statistical rating agency to substitute for S&P or Moody’s (or both).

“*Real Property*” shall mean, collectively, all right, title and interest of the Company or any Subsidiary (including any leasehold or mineral estate) in and to any and all parcels of real property owned or operated by the Company or any Subsidiary, whether by lease, license or other use agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals.

“*Receivables*” means accounts receivable (including all rights to payment created by or arising from the sale of goods, leases of goods or the rendition of services, no matter how evidenced (including in the form of a chattel paper)).

“*Refinancing Transactions*” means the refinancing transactions as described in this offering circular.

“*Required Junior Lien Debtholders*” means, at any time, the holders of a majority in aggregate principal amount of all Junior Lien Debt then outstanding, calculated in accordance with the provisions described above under “—Collateral Trust Agreement—Voting.” For purposes of this definition, Junior Lien Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company (as certified in writing to the Collateral Trustee by the applicable Secured Debt Representative) will be deemed not to be outstanding and neither the Company nor any Affiliate of the Company will be entitled to vote any of the Junior Lien Debt.

“*Reserve Area*” means (a) the real property fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest as is disclosed in writing to the Trustee on the Issue Date and (b) any real property constituting coal reserves or access to coal reserves fee owned by the Company or any of its Restricted Subsidiaries or in which the Company or any of its Restricted Subsidiaries has a leasehold interest, acquired after the Issue Date, that is not an active Mine.

“*Restricted Subsidiary*” means any Subsidiary of a Person other than any Unrestricted Subsidiary of such Person. Unless otherwise specified, “Restricted Subsidiary” means a Restricted Subsidiary of the Company.

“*S&P*” means S&P Global Ratings and its successors.

“*Second Lien Collateral*” shall consist of a pledge by PIC AU Holdings LLC, a Delaware limited liability company, of 100% of the equity interest of PIC Acquisition Corp., a Delaware corporation, and all other assets securing the Co-Issuer Notes, subject to Liens permitted by the Co-Issuer Notes Indenture as in effect on the Issue Date and without giving effect to subsequent amendments or supplements thereto.

“*Secured Debt*” means Priority Lien Debt and Junior Lien Debt.

“*Secured Debt Documents*” means the Priority Lien Documents and the Junior Lien Documents.

“*Secured Debt Representative*” means each Priority Lien Representative and each Junior Lien Representative.

“*Secured Obligations*” means Priority Lien Obligations and Junior Lien Obligations.

“*Secured Parties*” means the holders of Secured Obligations and the Secured Debt Representatives and the Collateral Trustee.

“Securitization Subsidiary” means any Subsidiary of the Company:

(i) that is designated a “Securitization Subsidiary” by the Company,

(ii) that does not engage in, and whose charter prohibits it from engaging in, any activities other than Permitted Receivables Financings and any activity necessary, incidental or related thereto,

(iii) no portion of the Debt or any other obligation, contingent or otherwise, of which

(a) is Guaranteed by the Company or any other Restricted Subsidiary of the Company,

(b) is recourse to or obligates the Company or any other Restricted Subsidiary of the Company in any way, or

(c) subjects any property or asset of the Company or any other Restricted Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, and

(iv) with respect to which neither the Company nor any other Restricted Subsidiary of the Company (other than an Unrestricted Subsidiary) has any obligation to maintain or preserve its financial condition or cause it to achieve certain levels of operating results;

other than, in respect of clauses (iii) and (iv), pursuant to customary representations, warranties, covenants and indemnities entered into in connection with a Permitted Receivables Financing.

“*Security Documents*” means the Collateral Trust Agreement, each joinder to the Collateral Trust Agreement, each Priority Lien Security Document and each Junior Lien Security Document, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and the terms of the Collateral Trust Agreement.

“*Series of Junior Lien Debt*” means, severally, each issue or series of Junior Lien Debt for which a single transfer register is maintained.

“*Series of Priority Lien Debt*” means, severally, each series of the notes and each other issue or series of Priority Lien Debt for which a single transfer register is maintained.

“*Series of Secured Debt*” means each Series of Priority Lien Debt and each Series of Junior Lien Debt.

“*Significant Subsidiary*” means any Subsidiary of the Company that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“*Stated Maturity*” means (i) with respect to any Debt, the date specified as the fixed date on which the final installment of principal of such Debt is due and payable or (ii) with respect to any scheduled installment of principal of or interest on any Debt, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Debt, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

“*Subordinated Debt*” means any Debt of the Company, Pledgor or any Guarantor which is subordinated in right of payment to the notes or the Note Guarantee, as applicable, pursuant to a written agreement to that effect.

“*Subsidiary*” means with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, “Subsidiary” means a Subsidiary of the Company.

“*Surety Transaction Support Agreement*” means that certain Transaction Support Agreement, dated as of November 6, 2020, by and among the Company Parties and the Sureties signatory thereto (each as defined therein).

“*Swap Contract*” means (i) any interest rate swap agreement, interest rate cap agreement, interest rate future agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement designed to protect against or mitigate interest rate risk, (ii) any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement designed to protect against or mitigate foreign exchange risk and (iii) any commodity or raw material, including coal, futures contract, commodity hedge agreement, option agreement, any actual or synthetic forward sale contracts or other similar device or instrument or any other agreement designed to protect against or mitigate raw material price risk (which shall for the avoidance of doubt include any forward purchase and sale of coal for which full or partial payment is required or received), in each case, between the Company or any Restricted Subsidiary, on the one hand, and any Lender (as defined in the Existing Credit Facility or the LC Agreement, as applicable), an Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of any of the foregoing (or with any person that was a Lender (as defined in the Existing Credit Facility), Agent (as defined in the Existing Credit Facility or the LC Agreement, as applicable), Arranger (as defined in the Existing Credit Facility or the LC Agreement, as applicable) or an Affiliate of the foregoing when such Swap Contract was entered into).

“*Swap Obligations*” means all debts, liabilities and obligations of the Company or any of its Subsidiaries under any Swap Contract.

“*Taxes*” means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

“*Term Priority Collateral*” means (i) equipment and fixtures; (ii) real estate assets; (iii) intellectual property; (iv) equity interests in all direct and indirect Subsidiaries of the Company; (v) all intercompany debt owed to the Company or any other Grantor; (vi) all other assets of any Grantor, whether real, personal or mixed not constituting ABL Priority Collateral; (vii) to the extent evidencing, governing, securing or otherwise reasonably related to any of the foregoing, all documents, general intangibles, instruments, commercial tort claims, letters of credit, letter of credit rights and supporting obligations; provided, however, that to the extent any of the foregoing also evidence, govern, secure or otherwise reasonably relate to any ABL Priority Collateral only that portion that evidences, governs, secures or primarily relates to Term Priority Collateral shall constitute Term Priority Collateral; (viii) all books records and documents related to the foregoing (including databases, customer lists and other records, whether tangible or electronic, which contain any information relating to any of the foregoing); and (ix) all proceeds and products of any or all of the foregoing in whatever form received, including proceeds of business interruption and other insurance and claims against third parties.

“*Total Leverage Ratio*” means (1) the excess of (a) Consolidated Total Debt of the Company and its Restricted Subsidiaries as of such date of determination and (b) an amount equal to the sum of the amount of unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries on a consolidated basis as of such date of determination to (2) EBITDA of the Company for the most recent four-quarter period for which internal financial statements are available, in each case with such pro forma adjustments to Consolidated Total Debt and EBITDA as are consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“*Transaction Support Agreement*” means that certain Transaction Support Agreement, dated as of December 24, 2020, by and among, among others, the Company, PIC AU Holdings LLC, PIC AU Holdings Corporation, and the Consenting Noteholders defined therein.

“*Treasury Rate*” means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H. 15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to December 31, 2022; *provided, however*, that if the period from the redemption date to December 31, 2022 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used. The Company will calculate the applicable Treasury Rate at least two but no more than four business days prior to the applicable redemption date and file with the Trustee, before such redemption date, a written statement setting forth the Applicable Premium and showing the calculation of the Applicable Premium in reasonable detail, and the Trustee will have no responsibility for verifying any such calculation.

“*UCC*” means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided, however*, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

“*U.S. Government Obligations*” means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agency or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

“*Unrestricted Subsidiary*” means each of Ribfield Pty. Ltd, Middlemount Mine Management Pty Ltd, Middlemount Coal Pty Ltd, Newhall Funding Company, P&L Receivables Company, LLC, Sterling Centennial Missouri Insurance Corporation, Wilpinjong Coal Pty Ltd, PIC AU Holdings LLC, PIC AU Holdings Corporation, and PIC Acquisition Corp.

“*Voting Stock*” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“*Wholly Owned*” means, with respect to any Restricted Subsidiary, a Restricted Subsidiary all of the outstanding Capital Stock of which (other than any director’s qualifying shares) is owned by the Company and one or more Wholly Owned Restricted Subsidiaries (or a combination thereof).

Wilpinjong Coal Pty Ltd
Directors' Report

The directors present their report together with the financial report of Wilpinjong Coal Pty Ltd (the "Company") for the years ended 31 December 2019 and 31 December 2018 and the auditors' report thereon.

Directors

The directors of the Company at any time during or since the end of the financial year are:

S Hedges (appointed 24 May 2017, resigned 10 April 2020)
 G Harvey (appointed 1 September 2013, resigned 19 December 2019)
 B Haas (appointed 12 December 2019)
 F Kruger (appointed 10 April 2020)

Principal activities

The principal activity of the Company during the year was operating a thermal coal mine in New South Wales. There were no significant changes in the nature of the activities of the Company during the financial years.

Dividends

No dividends were paid or declared by the Company during or since the end of the financial years (2017: \$Nil).

Review of operations

The Company recorded a net profit after income tax of \$163,221,000 for the year ended 31 December 2019 and a net profit after income tax of \$249,090,000 for the year ended 31 December 2018. (2017: net profit after income tax \$182,545,000).

Significant changes in the state of affairs

There were no significant changes in the state of affairs of the Company during the years ended 31 December 2019 and 31 December 2018.

Matters subsequent to the end of the financial year

Coronavirus outbreak:

Subsequent to 31 December 2019, the COVID-19 outbreak was declared a pandemic by the World Health Organization. The global impact on economic activity has severely curtailed demand for numerous commodities. Within the global coal industry, supply and demand disruptions have been widespread as the COVID-19 pandemic has forced lockdowns and restrictions. Coal mining in Australia has been designated as an essential business to support coal-fuelled electric power generation and critical steelmaking needs. Mining operations at Wilpinjong have continued throughout the reporting period with the company experiencing stable demand for product, with any downturn in profits driven by current global coal pricing conditions.

While the ultimate impacts of the COVID-19 pandemic on the Company's business are unknown, the Company expects continued interference with general commercial activity, which may further negatively affect both demand and prices for the Company's products. The Company also faces disruption to supply chain and distribution channels, potentially increasing its costs of production, storage and distribution, and potential adverse effects to the Company's workforce, each of which could have a material adverse effect on the Company's business, financial condition or results of operations.

Matters subsequent to the end of the financial year (continued)

Corporate Structure:

The ultimate parent company of the Company, Peabody Energy Corporation (PEC), is undertaking a process to explore and evaluate various strategic financing alternatives. In connection with considering various options to enhance its financial flexibility, the Company subdivided its ordinary shares into 1,202 ordinary shares and a wholly owned subsidiary of PEC has acquired 100% of the ordinary share capital of the Company subsequent to 30 June 2020. As part of this transaction, Peabody Energy Australia Pty Ltd paid to the Company US\$100M cash as partial repayment of an intercompany receivable from Peabody Energy Australia Pty Ltd, with the balance of its intercompany payables and receivables forgiven.

As part of this transaction, the Company was also released from being a sub-servicer to the PEC Accounts Receivable Securitisation program. The Company will resume collecting all trade receivable positions under normal invoice terms going forward.

Issue of Bank Guarantee

During July 2020, the Company issued a bank guarantee for \$50 million Australian dollars as a performance guarantee in favour of the Company's largest customer. Under the terms of the coal supply agreement, the customer may unilaterally demand such a guarantee at any time. The coal supply agreement and an associated step-in deed also require the Company to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed. As at the date of signing this report the Company is in compliance with the terms of these contractual arrangements.

No other matters or circumstances have arisen since 31 December 2019 that have significantly affected, or may significantly affect:

- (a) The Company's operations in future financial years; or
- (b) The results of those operations in future financial years; or
- (c) The Company's state of affairs in future financial years.

Likely developments and expected results of operations

Information on likely developments in the operations of the Company and the expected results of operations has not been included in this report because the directors believe it would be likely to result in unreasonable prejudice to the Company.

Environmental regulation and performance

The Company's mining and exploration operations are subject to environmental regulation under State and Commonwealth laws. The Company has experienced the following performance issues during the reporting periods and subsequently:

On 9 and 19 February 2020, the Company reported to the NSW Environment Protection Authority 2 uncontrolled releases of mine water into an adjacent water course as a result of high intensity rainfall events. The Company continues to update the relevant authorities on these incidents. Corrective actions to prevent a reoccurrence of these discharges have been completed.

On 11 July 2020, an overburden blast produced a ground vibration level which marginally exceeded Wilpinjong's agreed limits. The Company continues to update the relevant authorities on this incident.

Environmental regulation and performance (*continued*)

Other than as disclosed above, there have been no significant known breaches of the Company's environmental obligations imposed by local, state and federal laws to the knowledge and belief of Management.

Indemnification and insurance of directors and officers

During the financial year, a related party paid premiums in respect of Directors' and Officers' Liability and Legal Expenses insurance contracts. The insurance contracts insure against certain liabilities (subject to exclusions) for persons who are or have been directors or officers of the Company. The nature of the liabilities indemnified and the premium payable are not disclosed.

Auditor

Ernst & Young continues in office in accordance with section 327 of the *Corporations Act 2001*.

Non-audit services

Non-audit services were provided by the Company's auditor, Ernst & Young. The directors are satisfied that the provision of non-audit services is compatible with the general standard of independence for audits imposed by the *Corporations Act 2001*. The nature and scope of each type of non-audit service means that auditor independence was not compromised.

Signed in accordance with a resolution of the directors.

/s/ B Haas

B Haas
Director
Date: 18 December 2020

Wilpinjong Coal Pty Ltd
Directors' Report

This financial report covers Wilpinjong Coal Pty Ltd as an individual entity (the "Company"). All amounts in this financial report are stated in Australian dollars unless stated otherwise.

Wilpinjong Coal Pty Ltd is a company limited by shares, incorporated and domiciled in Australia. Its registered office and principal place of business is:

Wilpinjong Coal Pty Ltd
100 Melbourne Street
South Brisbane QLD 4101

A description of the nature of the Company's operations and its principal activities is included in the directors' report starting on page 1, which is not part of this financial report.

Wilpinjong Coal Pty Ltd
Statement of comprehensive income

For the years ended 31 December 2019 and 31 December 2018

	Notes	2019 \$'000	2018 \$'000
Revenue from contracts with customers	5	755,392	921,611
Cost of sales	7(a)	(471,377)	(511,633)
Gross profit		284,015	409,978
Other income	6	370	(1,046)
Administrative expenses		(1,445)	(1,195)
Depreciation and amortisation	14,15	(47,642)	(45,838)
Finance costs	8	(3,975)	(4,271)
Foreign exchange (losses)/gains	7(b)	(2,276)	(223)
Profit before tax		229,047	357,405
Income tax expense	9(a)	(65,826)	(108,315)
(Loss)/Profit for the period		163,221	249,090
Other comprehensive income/(loss) for the period after tax		—	—
Total comprehensive income for the period		163,221	249,090

The above statement of comprehensive income should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of financial position

As at 31 December 2019 and 31 December 2018

	Notes	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Assets				
Current assets				
Cash and cash equivalents	10	—	—	—
Trade and other receivables	11	9,584	8,411	7,968
Trade and other receivables – intercompany	11	724,514	521,767	476,901
Inventories	12	35,125	30,217	21,209
Other assets	13	3,277	3,159	59,546
Total current assets		772,500	563,554	565,624
Non-current assets				
Trade and other receivables	11	1,186	929	1,262
Deferred tax asset	9(c)	31,136	30,408	31,895
Property, plant and equipment	14	322,344	309,163	304,498
Right of use assets	15	22,447	—	—
Other assets	13	10	10	—
Total non-current assets		377,123	340,510	337,655
Total assets		1,149,623	904,064	903,279
Liabilities				
Current liabilities				
Trade and other payables	16	51,284	49,906	58,737
Trade and other payables – intercompany	16	662,594	454,344	182,101
Interest bearing liabilities	17	—	15,666	15,865
Provisions	18	30,033	23,434	20,495
Other current liabilities		5,659	—	—
Total current liabilities		749,570	543,350	277,198
Non-current liabilities				
Interest bearing liabilities	17	—	4,058	17,846
Provisions	18	74,476	45,734	43,056
Other non-current liabilities		1,358	—	—
Total non-current liabilities		75,834	49,792	60,902
Total liabilities		825,404	593,142	338,100
Net assets		324,219	310,922	565,179
Equity				
Equity attributable to equity holders of Wilpinjong Coal Pty Ltd				
Contributed equity	19(a)	—	—	—
Reserves		(888,307)	(738,529)	(235,182)
Accumulated losses		1,212,526	1,049,451	800,361
Capital and reserves attributable to owners of Wilpinjong Coal Pty Ltd		324,219	310,922	565,179
Non-controlling interests		—	—	—
Total equity		324,219	310,922	565,179

The above statement of financial position should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of changes in equity

For the years ended 31 December 2019 and 31 December 2018

	Notes	Contributed equity \$'000	Reserves \$'000	Accumulated losses \$'000	Total equity \$'000
At 1 January 2018		—	(235,182)	800,361	565,179
AASB 1 transition adjustment Financial Instruments	23(b)	—	(280,946)	—	(280,946)
Restated 1 January 2018		—	(516,128)	800,361	284,233
Total comprehensive income for the year:					
Profit for the year		—	—	249,090	249,090
Total comprehensive income for the year		—	—	249,090	249,090
Transactions with owners in their capacity as owners:					
Fair value adjustment	23(b)	—	(163,588)	—	(163,588)
Intercompany debt forgiveness	23(b)	—	(58,813)	—	(58,813)
At 31 December 2018		—	(738,529)	1,049,451	310,922
At 1 January 2019		—	(738,529)	1,049,451	310,922
Adoption of AASB 16 Leases	1(z)	—	—	(146)	(146)
Restated 1 January 2019		—	(738,529)	1,049,305	310,776
Total comprehensive income for the year:					
Profit for the year		—	—	163,221	163,221
Total comprehensive income for the year		—	—	163,221	163,221
Transactions with owners in their capacity as owners:					
Fair value adjustment	23(b)	—	(150,199)	—	(150,199)
Intercompany debt forgiveness	23(b)	—	421	—	421
At 31 December 2019		—	(888,307)	1,212,526	324,219

The above statement of changes in equity should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of changes in equity

For the years ended 31 December 2019 and 31 December 2018

	Notes	2019 \$'000	2018 \$'000
Cash flows from operating activities			
Cash receipts from customers		779,472	950,660
Cash paid to suppliers and employees		(500,312)	(561,190)
Income tax paid		—	—
Borrowing costs paid to third parties		(1,839)	(1,625)
Net cash flows from operating activities	25	277,321	387,845
Cash flows from investing activities			
Payments for property, plant and equipment		(40,228)	(48,305)
Proceeds from sale of property, plant and equipment		38	926
Net cash flows (used in)/from investing activities		(40,190)	(47,379)
Cash flows from financing activities			
Funds advanced to related parties		(213,531)	(384,595)
Receipts for deposits held as security		—	58,116
Payment of principal portion of lease liabilities		(23,600)	(13,987)
Net cash flows used in financing activities		(237,131)	(340,466)
Net increase in cash and cash equivalents		—	—
Cash and cash equivalents at the beginning of the financial year		—	—
Cash and cash equivalents at the end of the financial year	10	—	—

The above statement of cash flows should be read in conjunction with the accompanying notes.

1. Summary of significant accounting policies

The principal accounting policies adopted in the preparation of the financial report are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated. The financial report includes financial statements for the Company consisting of Wilpinjong Coal Pty Ltd (the “Company”). The financial report of the Company for the years ended 31 December 2019 and 31 December 2018 was authorised for issue in accordance with a resolution of the directors.

(a) Basis of preparation

These general purpose financial statements have been prepared in accordance with the requirements of Australian Accounting Standards, and other authoritative pronouncements of the Australian Accounting Standards Board. The financial statements of the Company also comply with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB).

These financial statements, for the years ended 31 December 2019 and 31 December 2018, are the first the Company has prepared in accordance with IFRS. For periods up to and including the years ended 31 December 2017, the Company prepared Special Purpose financial statements in accordance with Australian Accounting Standards (including Australian Interpretations). Accordingly, the Company has prepared financial statements that comply with IFRS applicable as at 31 December 2019 and 31 December 2018, together with the comparative period data for the year ended 31 December 2017, as described in the summary of significant accounting policies. In preparing the financial statements, the Company’s opening statement of financial position was prepared as at 1 January 2018, the Company’s date of transition to IFRS. From the policies applied in previously prepared 31 December 2017 Special Purpose financial statements, when converting to full compliance with Australian Accounting Standards, there was no change to comprehensive income as reported at 31 December 2017 and a change to 1 January 2018 opening equity as reconciled within the statement of changes in equity. All impacts as a result of new accountant standards and interpretations adopted during the periods reported in these financial statements are disclosed in note 1(z).

The Company has adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board (“AASB”) that are relevant to its operations in line with the elections made by the Company’s ultimate parent. Refer to Note 1(z) for new accounting standards and interpretations applied.

The financial statements have been prepared on a historical cost basis, except for certain assets, which as noted have been measured at fair value.

The financial statements are presented in Australian dollars, which is the Company’s functional and presentation currency (refer Note 1(e)). All values are rounded to the nearest thousand (\$’000), except when otherwise indicated.

The preparation of financial statements in conformity with Australian Accounting Standards requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Company’s accounting policies. The areas involving a higher degree of judgement or complexity, or areas where assumptions and estimates are significant to the financial statements are disclosed in Note 3.

Going concern

As at 31 December 2019, the Company reported a net current asset position of \$22,930,000 and net asset position of \$324,219,000. In considering the Company’s ability to continue as a going concern, management assessed the

1. Summary of significant accounting policies (continued)

Company's access to capital. The Company continues to have access to cash reserves through its own bank account and the PEC group's central treasury function.

Access to funding through the PEC group central treasury function and continued access to the Company's existing cash reserves, relies on the good financial standing of PEC. In considering the financial standing of PEC, it is probable, as of 31 December 2020, if PEC does not successfully take mitigation actions, it will be noncompliant with particular restrictions and covenants under certain of its debt agreements. Such noncompliance with these particular restrictions and covenants would constitute a default or cross default under certain PEC's debt agreements, at which time the lenders could elect to accelerate the maturity of the related indebtedness or exercise other rights and remedies under the debt agreements. This risk of noncompliance, accompanied by recent negative financial performance and market trends, as well as substantial collateral demands from its surety bond providers, raise questions about whether PEC will meet its obligations as they become due within one year from the date of issuance of the accompanying audited financial statements and its ability to continue as a going concern.

The Directors have noted and also taken into consideration the following actions currently being progressed by PEC to mitigate this risk and uncertainty:

- entered into a transaction support agreement in November 2020 with the providers of 99% of PEC's surety bond portfolio to define their commitments to implanting a transaction resolving approximately \$800 million U.S. dollars in collateral demands made by the surety providers with the agreement contingent upon an agreement between PEC, its revolving credit lenders, and the holders of PEC's 2022 Senior Notes that provides covenant relief and extension of maturity dates, while maintain financial flexibility;
- working towards a transaction support agreement in December 2020 with certain holders of PEC's 2022 Senior notes that defines their commitments to implement an exchange offer conducted by PEC of any and all of its 2022 Senior Notes for specified consideration and an exchange offer conducted by PEC for its Revolving Commitments for specified consideration, with such transactions eliminating financial covenants and extending maturities of the related debt; and
- the deferral of discretionary capital spend.

The Directors believe the mitigating actions discussed above will allow the Company to continue as a going concern and to realise its assets and extinguish its liabilities in the ordinary course of business. Accordingly, the Directors consider that the Company is a going concern. The financial report does not include any adjustments relating to the recoverability and classification of recorded asset amounts or to the amounts and classification of liabilities that might be necessary should the entity not continue as a going concern.

(b) Revenue recognition

The Company's contracts with customers for the sale of goods consist of one performance obligation. Revenue from contracts with customers is recognised when control of the goods or services are transferred to the customer at an amount that reflects the consideration to which the Company expects to be entitled in exchange for those goods or services. The Company has concluded that it is the principal in its revenue arrangements because it controls the goods before transferring them to the customer.

1. Summary of significant accounting policies (continued)

Sale of Coal

Revenue from the sale of coal is recognised at the point in time when control of the coal passes to the customer, which usually occurs at the time of delivery of the goods to the customer for domestic sales, and at the time that coal is loaded on to a vessel for export sales. This is specific within each sale contract.

The Company considers whether there are other promises in the contract that are separate performance obligations to which a portion of the transaction price needs to be allocated. In determining the transaction price for the sale of coal, the Company considers the effects of variable consideration, the existence of significant financing components, noncash consideration and consideration payable to the customer (if any).

If the consideration in a contract includes a variable amount, the Company estimates the amount of consideration to which it will be entitled in exchange for transferring the goods to the customer. The variable consideration is estimated at contract inception and constrained until it is highly probable that a significant revenue reversal in the amount of revenue recognised will not occur when the associated uncertainty with the variable consideration is subsequently resolved.

Interest

Revenue is recognised as the interest accrues using the effective interest method. This is a method of calculating the amortised cost of a financial asset and allocating the interest income over the relevant period using the effective interest rate which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to the net carrying amount of the financial asset.

(c) Income tax

The income tax expense or benefit for the period is the tax payable on the current period's taxable income based on the applicable income tax rate for each jurisdiction adjusted by changes in deferred tax assets and liabilities attributable to temporary differences and to unused tax losses.

Deferred income tax is provided on all temporary differences at the reporting date between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes.

Deferred income tax liabilities are recognised for all taxable temporary differences except:

- (i) When the deferred income tax liability arises from the initial recognition of goodwill or of an asset or liability in a transaction that is not a business combination and that, at the time of the transaction, affects neither the accounting profit nor taxable profit or loss; or
- (ii) When the taxable temporary difference is associated with investments in subsidiaries, associates or interests in joint arrangements, and the timing of the reversal of the temporary difference can be controlled and it is probable that the temporary difference will not reverse in the foreseeable future.

Deferred income tax assets are recognised for all deductible temporary differences, carry forward of unused tax assets and unused tax losses, to the extent that it is probable that taxable profit will be available against which the deductible temporary differences, and the carry forward of unused tax assets and unused tax losses can be utilised except:

- (i) When the deferred income tax asset relating to the deductible temporary difference arises from the initial recognition of an asset or liability in a transaction that is not a business combination and, at the time of the transaction, affects neither the accounting profit nor taxable profit or loss; or

1. Summary of significant accounting policies (continued)

- (ii) When the deductible temporary difference is associated with investments in subsidiaries, associates or interests in joint arrangements, in which case a deferred tax asset is only recognised to the extent that it is probable that the temporary difference will reverse in the foreseeable future and taxable profit will be available against which the temporary difference can be utilised.

The carrying amount of deferred income tax assets is reviewed at each reporting date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred income tax asset to be utilised.

Unrecognised deferred income tax assets are reassessed at each reporting date and are recognised to the extent that it has become probable that future taxable profit will allow the deferred tax asset to be recovered.

Deferred income tax assets and liabilities are measured at the tax rates that are expected to apply to the year when the asset is realised or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the reporting date.

Deferred tax assets and deferred tax liabilities are offset only if a legally enforceable right exists to set off current tax assets against current tax liabilities and the deferred tax assets and liabilities relate to the same taxable entity and the same taxation authority.

Current and deferred tax is recognised in profit or loss, except to the extent that it relates to items recognised in other comprehensive income or directly in equity. In the case, the tax is also recognised in other comprehensive income or directly in equity, respectively.

Consolidated tax group

Peabody Australia Holdco Pty Ltd and its wholly-owned Australian controlled entities together with other Australian entities ultimately wholly owned and controlled by PEC form the Peabody Australia Holdco Pty Ltd tax consolidated group. The Company formed part of this group.

Tax expense/benefit, deferred tax liabilities and deferred tax assets arising from temporary differences of the Company are recognised in these financial statements. Current tax liabilities and assets as well as deferred tax assets arising from unused tax losses and tax credits are recognised by Peabody Australia Holdco Pty Ltd. Due to the existence of a tax funding arrangement between the entities in the tax consolidated group, these amounts are recognised as payables to or receivables from Peabody Australia Holdco Pty Ltd in these financial statements.

Current tax, deferred tax liabilities and deferred tax assets arising from temporary differences are allocated to members of the tax consolidated group using a 'group allocation approach'. In this regard temporary differences are measured with reference to the carrying amount of assets and liabilities and the tax values within the tax consolidated group. Temporary differences are not recognised for transactions that do not give rise to a tax consequence for the tax consolidated Group. Any current tax liabilities or assets and unused tax losses of the member entity are assumed by the head entity of the tax consolidated group and are recognised as amounts payable to/(receivable from) the Parent Entity in accordance with the tax funding arrangement in place. Any difference in these amounts is recognised by the member entity as an equity contribution from or distribution to the head entity. Deferred tax assets, other than for tax losses, are recognised by the members to the extent they are recoverable within the Peabody Australia tax consolidated group.

1. Summary of significant accounting policies (continued)

(d) Goods and services tax

Revenues, expenses and assets are recognised net of the amount of GST except:

- (i) When the GST incurred on a purchase of goods and services is not recoverable from the taxation authority, in which case the GST is recognised as part of the cost of acquisition of the asset or as part of the expense item as applicable; and
- (ii) Receivables and payables, which are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables in the statement of financial position.

Cash flows are included in the statement of cash flows on a gross basis and the GST component of cash flows arising from investing and financing activities, which is recoverable from, or payable to, the taxation authority is classified as part of operating cash flows.

Commitments and contingencies are disclosed net of the amount of GST recoverable from, or payable to, the taxation authority.

(e) Foreign currency translation

(i) Functional and presentation currency

Items included in the financial statements of the Company are measured using the currency of the primary economic environment in which the entity operates ("the functional currency"). The financial statements are presented in Australian dollars, which is the Company's functional and presentation currency.

(ii) Transactions and balances

Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at the dates of transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation at year end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of comprehensive income.

Non-monetary items are measured in terms of historical cost in a foreign currency by applying the exchange rate as at the date of the initial transaction. Non-monetary items measured at fair value in a foreign currency are translated using the exchange rates at the date when the fair value was determined.

(f) Leases

The Company determines if an arrangement is or contains a lease at inception. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. From 1 January 2019, leases are recognised as a right-of-use asset and a corresponding liability at the date at which the leased asset is available for use by the Company.

Right of use assets

Right of use assets (ROU) represent the Company's right to use an underlying asset for the lease term. The Company recognises right of use assets at the commencement date of the lease (i.e., the date the underlying asset is available for use).

1. Summary of significant accounting policies (continued)

Right of use are measured at cost, less any accumulated depreciation and impairment losses, and adjusted for any remeasurement of lease liabilities. The cost of right of use assets includes the amount of lease liabilities recognised, initial direct costs incurred, an estimate of costs to be incurred by the Company in dismantling and removing the underlying asset, restoring the site on which it is located or restoring the underlying asset to the condition required by the terms and conditions of the lease, and lease payments made at or before the commencement date less any lease incentives received. Unless the Company is reasonably certain to obtain ownership of the leased asset at the end of the lease term, the recognised right of use assets are depreciated on a straight-line basis over the shorter of its estimated useful life and the lease term. Right of use assets are subject to impairment testing.

Lease liabilities

Lease liabilities represent the Company's obligation to make lease payments arising from the lease. Lease liabilities are recognised at the lease commencement date based on the present value of lease payments over the lease term. For the purpose of calculating such present values, lease payments include fixed payments (including in-substance fixed payments) less any lease incentives receivable, components that vary based upon an index or rate, using the prevailing index or rate at the commencement date, and exclude components that vary based upon other factors. The Company's lease terms may include options to extend or terminate the lease. Lease payments also include the exercise price of a purchase option when it is reasonably certain that the Company will exercise such options and payments of penalties for terminating a lease, if the lease term reflects the Company exercising the option to terminate. The variable lease payments that do not depend on an index or a rate are recognised as expense in the period in which the event or condition that triggers the payment occurs.

The Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments, if the interest rate implicit in the lease is not readily determinable. After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the in-substance fixed lease payments or a change in the assessment to purchase the underlying asset.

Short-term leases and leases of low-value assets

The Company applies the short-term lease recognition exemption to its short-term leases of machinery and equipment (i.e., those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption to leases of office equipment that are considered of low value (being less than \$5,000). Lease payments on short-term leases and leases of low-value assets are recognised as expense on a straight-line basis over the lease term.

(g) Impairment of non-financial assets

The Company conducts an annual internal review for indicators of impairment. The carrying values of capitalised exploration and evaluation expenditure, mine development, coal reserves and property, plant and equipment are assessed for impairment when indicators of such impairment exist. External factors, such as changes in expected future processes, technology and economic conditions, are also monitored to assess for indicators of impairment. If any indication of impairment exists, an estimate of the asset's recoverable amount is calculated. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable

1. Summary of significant accounting policies (continued)

amount. Recoverable amount is the higher of an asset's fair value less costs of disposal and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash inflows that are largely independent of the cash inflows from other assets or groups of assets (cash-generating units).

Non-financial assets that have previously recognised impairment losses are tested for possible reversal of the impairment whenever events or changes in circumstances indicate that the impairment may have reversed. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount or the original carrying amount, net of depreciation. Impairment losses and reversal of impairment losses are recognised in the statement of comprehensive income.

(h) Cash and cash equivalents

For purposes of the statement of cash flows, cash and cash equivalents includes short-term, highly liquid investments which are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of outstanding bank overdrafts. Bank overdrafts are shown within borrowings in current liabilities on the statement of financial position.

(i) Trade and other receivables

Trade receivables are initially recognised at their transaction price and other receivables at fair value. Receivables that are held to collect contractual cash flows and are expected to give rise to cash flows representing solely payments of principal and interest ("SPPI") are classified and subsequently measured at amortised cost. Receivables that do not meet the criteria for amortised cost are measured at fair value through profit or loss ("FVTPL"). The Company has entered into an Accounts Receivable Securitisation program ("the Program") with a wholly owned subsidiary of the Company's ultimate parent entity, Peabody Energy Corporation ("PEC"). The Program sees certain trade receivable positions being settled in full at the date of transaction via a related party rather than on normal invoice terms. The Program removes the risk for the Company of non-payment from a third party via the arrangements entered into by PEC and is provided at no charge to the Company. As such, no ECL is recognised in relation to trade receivables. As part of the corporate restructuring transaction, the Company was released from being a sub-servicer to the Program. The Company will resume collecting all trade receivable positions under normal invoice terms going forward.

(j) Inventories

Finished goods and work in progress inventories have been valued at the lower of cost and estimated net realisable value. In determining cost, an absorption basis is used including variable costs and an appropriate portion of fixed overheads, depreciation and amortisation. Average costs over the relevant period of production are assigned to reporting date inventory quantities.

Consumables and spares have been valued at weighted average cost. Obsolete or damaged inventories are valued at net realisable value. A regular and ongoing review is undertaken to establish the extent of surplus items, and a provision is made for any potential loss on their disposal.

Net realisable value is the estimated selling price in the ordinary course of business, less estimated cost of completion and estimated costs necessary to make a sale.

1. Summary of significant accounting policies (continued)

(k) Financial Assets

Initial recognition and measurement

The Company initially measures a financial asset at its fair value plus, in the case of a financial asset not at fair value through profit or loss, transaction costs with the exception of trade receivables that do not contain a significant financing component or for which the Company has applied the practical expedient. Trade receivables that do not contain a significant financing component or for which the Company has applied the practical expedient are measured at the transaction price determined under AASB 15. Refer to the accounting policies in Note 1 (i) Trade and other receivables.

Financial assets are classified, at initial recognition, as subsequently measured at amortised cost, fair value through other comprehensive income ("OCI") and fair value through profit or loss. The classification of financial assets at initial recognition depends of the financial asset's contractual cash flow characteristics and the Company's business model for managing them.

Subsequent measurement

For the purposes of subsequent measurement, financial assets are classified into the following four categories.

(i) Financial assets at amortised cost

The Company measures financial assets at amortised cost if both the following conditions are met:

- The financial asset is held within a business model with the objective to hold financial assets in order to collect contractual cash flows; and
- The contractual terms of the financial asset give rise of specified dates to cash flows that are solely payments of principal and interest on the principal amount outstanding.

Financial assets at amortised cost are subsequently measured using the effective interest ("EIR") method and are subject to impairment. Gains and losses are recognised in profit and loss when the asset is derecognised, modified or impaired.

The Company's financial assets at amortised cost includes trade and other receivables and certain receivables from related parties.

(ii) Financial assets at fair value through OCI (debt instruments)

The Company measures debt instruments at fair value through OCI if both of the following conditions are met:

- The financial asset is held within a business model with the objective of both holding to collect contractual cash flows and selling; and
- The contractual terms of the financial asset give rise on specified dates to cash flows that are solely payments of principal and interest on the principal amount outstanding.

For debt instruments at fair value through OCI, interest income, foreign exchange revaluation and impairment losses or reversals are recognised in the statement of comprehensive income and computed in the same manner as for financial assets measured at amortised cost. The remaining fair value changes are recognised in OCI. Upon derecognition, the cumulative fair value change recognised in OCI is recycled to profit or loss.

1. Summary of significant accounting policies (continued)

The Company currently doesn't hold any financial assets held at fair value through OCI.

(iii) Financial assets at fair value through OCI (equity instruments)

Upon initial recognition, the Company can elect to classify irrevocably its equity investment as equity instruments designated at fair value through OCI when they meet the definition of equity under AASB 132 *Financial Instruments: Presentation* and are not held for trading. The classification is determined on an instrument-by-instrument basis.

Gains and losses on these financial assets are never recycled to profit or loss. Dividends are recognised as other income in the statement of comprehensive income when the right of payment has been established, except when the Company benefits from such proceeds as a recovery of part of the cost of the financial asset, in which case, such gains are recorded in OCI. Equity instruments designated at fair value through OCI are not subject to impairment assessment.

(iv) Financial assets at fair value through profit or loss (FVTPL)

Financial assets at fair value through profit or loss include financial assets designated upon initial recognition at fair value through profit or loss, or financial assets mandatorily required to be measured at fair value. Financial assets with cash flows that are not solely payments of principal and interest are classified and measured at fair value through profit or loss, irrespective of the business model. Notwithstanding the criteria for debt instruments to be classified at amortised cost or at fair value through OCI, as described above, debt instruments may be designated at fair value through profit or loss on initial recognition if doing so eliminates, or significantly reduces, an accounting mismatch.

Financial assets at fair value through profit or loss are carried in the statement of financial position at fair value with changes in the fair value recognised in the statement of comprehensive income, or for certain intercompany loans between entities under common control, recognised in an equity reserve.

This category includes derivative instruments and listed equity investments which the Company had not irrevocably elected to classify at fair value through OCI. Dividends on listed equity investments are also recognised as other income in the statement of comprehensive income when the right of payment has been established.

A derivative embedded in a hybrid contract, with a financial liability or non-financial host, is separated from the host and accounted for as a separate derivative if: the economic characteristics and risks are not closely related to the host; a separate instrument with the same terms as the embedded derivative would meet the definition of a derivative; and the hybrid contract is not measured at fair value through profit or loss. Embedded derivatives are measured at fair value with changes in fair value recognised in profit or loss.

Reassessment only occurs if there is either a change in the terms of the contract that significantly modifies the cash flows that would otherwise be required or a reclassification of a financial asset out of the fair value through profit or loss category.

A derivative embedded within a hybrid contract containing a financial asset host is not accounted for separately. The financial asset host together with the embedded derivative is required to be classified in its entirety as a financial asset at fair value through profit or loss.

1. Summary of significant accounting policies (continued)

Derecognition

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is primarily derecognised (i.e. removed from the Company's statement of financial position) when:

- The rights to receive cash flows from the asset have expired; or
- The Company has transferred its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either (a) the Company has transferred substantially all the risks and rewards of the asset; or (b) the Company has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

Fair Value

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company uses valuation techniques that are appropriate in the circumstances and for which sufficient data is available to measure fair value, maximising the use of relevant observable inputs and minimising the use of unobservable inputs.

The fair values of quoted investments are based on current bid prices. If the market for a financial asset is not active, the Company establishes fair value by using valuation techniques utilising inputs such as recent arm's length transactions, reference to other instruments that are substantially the same, discounted cash flow analysis, and option pricing models making maximum use of market inputs and relying as little as possible on entity-specific inputs.

Impairment

The Company recognises an allowance for expected credit losses ("ECLs") for all debt instruments not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows due in accordance with the contract and all the cash flows that the Company expects to receive, discounted at an approximation of the original effective interest rate. The expected cash flows will include cash flows from the sale of collateral held or other credit enhancements that are integral to the contractual terms.

For debt instruments at fair value through OCI, the Company applies the low credit risk simplification. At every reporting date, the Company evaluates whether the debt instrument is considered to have low credit risk using all reasonable and supportable information that is available without undue cost or effort. In making that evaluation, the Company reassesses the internal credit rating of the debt instrument.

(l) Property, plant and equipment

Property, plant and equipment is stated at historical cost less accumulated depreciation and any accumulated impairment losses. Such cost includes the cost of replacing parts that are eligible for capitalisation when the cost of replacing the parts is incurred.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Company and the cost of the item can be measured reliably. All other repairs and maintenance are charged to the statement of

1. Summary of significant accounting policies (continued)

comprehensive income during the financial period in which they are incurred. Where items of plant and equipment have separately identifiable components which are subject to regular replacement, those components are assigned useful lives distinct from the item of plant and equipment to which they relate.

Property, plant and equipment (excluding freehold land), are depreciated over their useful economic lives, the life of the mine or the life of the asset whichever is shorter. Indicative useful lives are as follows:

Fixed asset type	Average useful life	Method
Buildings	20-25 years	Straight line
Property, plant and equipment	3-25 years	Straight line
Leased plant and equipment	1-5 years (lease term)	Straight line
Mine development	Life of mine/panel (as appropriate)	Units of production
Coal reserves and resources	Life of mine	Units of production
Rehabilitation asset	Life of mine	Units of production

The asset's residual values and useful lives are reviewed, and adjusted if appropriate, at each reporting date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount (Note 1(g)).

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Gains and losses on derecognition are determined by comparing disposal proceeds with carrying amount and are included in the statement of comprehensive income.

(m) Stripping activity assets

Production phase

As part of its mining operations, the Company incurs stripping (waste removal) costs both during the development phase and production phase of its operations. Stripping costs incurred in the development phase of a mine, before the production phase commences (development stripping), are capitalised as part of the cost of constructing the mine and subsequently amortised over its useful life using a units of production method. The capitalisation of development stripping costs ceases when the mine/component is commissioned and ready for use as intended by management.

Stripping costs incurred during the production phase are generally considered to create two benefits, being either the production of inventory or improved access to the ore to be mined in the future. Where the benefits are realised in the form of inventory produced in the period, the production stripping costs are accounted for as part of the cost of producing those inventories. Where the benefits are realised in the form of improved access to ore to be mined in the future, the costs are recognised as a non-current asset, referred to as a stripping activity asset, if the following criteria are met:

- (i) Future economic benefits (being improved access to the ore body) are probable;
- (ii) The component of the ore body for which access will be improved can be accurately identified; and
- (iii) The costs associated with the improved access can be reliably measured.

If all of the criteria are not met, the production stripping costs are charged to the statement of comprehensive income as operating costs as they are incurred.

1. Summary of significant accounting policies (continued)

The stripping activity asset is initially measured at cost, which is the accumulation of costs directly incurred to perform the stripping activity that improves access to the identified component of ore, plus an allocation of directly attributable overhead costs. The stripping activity asset is subsequently depreciated using the units of production method over the life of the identified component of the ore body that became more accessible as a result of the stripping activity. Economically recoverable reserves, which comprise proven and probable reserves, are used to determine the expected useful life of the identified component of the ore body. The stripping activity asset is then carried at cost less depreciation and any impairment losses.

Development phase

Waste removal in the development phase of a mine is capitalised as part of mine development (refer note 1(n)).

(n) Mine development costs and coal reserves

Mine development costs and reserves represent the accumulation of all development costs, including coal reserves, rights and properties acquired for consideration in relation to areas of interest in which mining of a coal resource has commenced.

Where further development costs are incurred in respect of an area of interest after the commencement of production, such costs are carried forward only when substantial future economic benefits are thereby established, otherwise such expenditure is classified as part of cost of production. Mine development costs and coal reserves are amortised over the life of an area of interest based on the rate of depletion of economically recoverable reserves.

(o) Exploration and evaluation expenditure

Exploration and evaluation costs, net of revenue representing recoupment of such costs, are accumulated in respect of each separate area of interest. Such costs are carried forward where they are expected to be recouped through successful development and exploitation, or sale, of the area of interest or where activities in the area of interest have not yet reached a stage which permits reasonable assessment of the existence of economically recoverable reserves but active and significant activities are continuing.

The ultimate recoupment of costs related to areas of interest in the exploration and/or evaluation phase is dependent on the successful development and commercial exploitation or sale of the relevant areas.

Where it is decided to abandon an area of interest, costs carried forward in respect of that area are written off in full in the year in which the decision is taken.

(p) Trade and other payables

Liabilities are recognised for amounts to be paid in the future for goods and services received, whether or not billed to the Company. Payables to related parties are carried at the principal amount. The amounts are unsecured.

(q) Borrowings

Borrowings are initially recognised at fair value, net of directly attributable transaction costs incurred. Borrowings are subsequently measured at amortised cost. Any difference between the proceeds (net of

1. Summary of significant accounting policies (continued)

transaction costs) and the redemption amount is recognised in the statement of comprehensive income over the period of the borrowings using the effective interest method. Borrowings are classified as current liabilities unless the Company has an unconditional right to defer settlement of the liability for at least 12 months after the reporting date.

(r) Borrowing costs

Borrowing costs are recognised as expenses in the period to which they relate.

Where borrowing costs are directly attributable to the acquisition, development or construction of a qualifying asset (a qualifying asset is one that necessarily takes a substantial period of time to get ready for its intended use or sale) they are included in the cost of non-current assets constructed by the Company as they would have been avoided if the expenditure on the construction of the assets had not been made. Borrowing costs incurred while active construction is interrupted for extended periods are recognised as expenses.

(s) Provisions

Provisions are recognised when the Company has a present obligation (legal or constructive) as a result of past transactions or other past events, it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Provisions are measured at the present value of management's best estimate of the expenditure required to settle the present obligation at the reporting date. The discount rate used to determine the present value is a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability. The increase in the provision due to the passage of time is recognised as finance cost.

(t) Rehabilitation and restoration costs

The Company records the present value of estimated costs of legal and constructive obligations required to restore operating locations in the period in which the obligation is incurred. The nature of these restoration activities includes dismantling and removing structures, rehabilitating mines and tailings dams, dismantling operating facilities, closure of plant and waste sites, and restoration, reclamation and re-vegetation of affected areas.

The obligation generally arises when the asset is installed or the ground / environment is disturbed at the production location. When the liability is initially recognised, the present value of the estimated cost is capitalised by increasing the carrying amount of the related mining assets to the extent that it was incurred prior to the production of coal. Over time, the discounted liability is increased for the change in present value based on the discount rates that reflect current market assessments and the risks specific to the liability.

The periodic unwinding of the discount is recognised in the statement of comprehensive income as a finance cost. Additional disturbances or changes in rehabilitation costs will be recognised as additions or changes to the corresponding assets and rehabilitation liability when they occur.

Where any decrease in the rehabilitation liability exceeds the carrying amount of the asset, the excess is recognised in profit or loss. If an adjustment to the rehabilitation liability results in an addition to the cost of an

1. Summary of significant accounting policies (continued)

asset, the Company considers whether this is an indication that the new carrying amount of the asset may not be fully recoverable. If it is such an indication, the Company tests the asset for impairment by calculating its recoverable amount, and accounts for any impairment loss (refer to Note 1(g)).

(u) Employee entitlements

(i) Wages and salaries, annual leave and sick leave

Liabilities for wages and salaries, annual leave and sick leave are recognised and are measured at the amounts unpaid at the reporting date at rates expected to be paid when the liability is settled. Employee benefit on-costs, including payroll tax, are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities.

(ii) Profit-sharing and bonus plans

The Company recognises a liability and an expense for bonuses and profit-sharing based on a formula that takes into consideration the profit attributable to the Company's shareholders after certain adjustments. The Company recognises a provision where contractually obliged or where there is a past practice that has created a constructive obligation.

(iii) Termination benefits

Termination benefits are payable when employment is terminated before the normal retirement date, or when an employee accepts redundancy in exchange for these benefits. The Company recognises termination benefits when it is demonstrably committed to either terminating the employment of current employees according to a detailed formal plan without possibility of withdrawal or providing termination benefits as a result of an offer made to encourage redundancy. Benefits falling due more than 12 months after the reporting date are discounted to present value.

(iv) Long service leave

The liability for long service leave is recognised and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the projected unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using market yields at the reporting date on high quality corporate bonds with terms to maturity and currencies that match, as closely as possible, the estimated future cash outflows.

Certain of the Company's long service leave obligations are funded by the Coal Mining Industry (Long Service Leave Funding) Corporation (Funding Corporation). Under the terms of the Coal Mining Industry (Long Service Leave Funding) Act 1992, the Company is required to make monthly contributions to the Funding Corporation. When an eligible employee takes long service leave, the Company will pay the employee their entitlement and then claim monies paid back from the Funding Corporation. At 31 December 2019 and 31 December 2018, the Company has recorded its long service leave liability payable to employees separate from funds to be reimbursed from the Funding Corporation.

1. Summary of significant accounting policies (continued)

(v) Other financial liabilities

Financial liabilities are classified, at initial recognition, as financial liabilities at fair value through profit or loss, loans and borrowings, payables, or as derivatives designated as hedging instruments in an effective hedge, as appropriate.

Financial liabilities are initially recognised at fair value of consideration and in the case of loans and borrowings, net of directly attributable transaction costs. Financial liabilities at amortised cost (loans and borrowings) are subsequently measured at amortised cost using the EIR method. A financial liability is de-recognised when the obligation under the liability is discharged, cancelled or expires. Gains and losses on de-recognition are recognised in profit or loss.

Financial assets and financial liabilities are offset and the net amount is reported in the statement of financial position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, to realise the assets and settle the liabilities simultaneously.

(w) Contributed equity

Ordinary share capital is recognised at the fair value of the consideration received by the Company. Incremental costs directly attributable to the issue of new shares or options are shown in equity as a deduction, net of tax, from the purchase consideration.

(x) Dividends

Dividends payable in respect of ordinary shares are recognised when a legal obligation to pay the dividend arises, typically following the declaration and approval of the dividend at a meeting of the directors.

(y) Class orders applied

The Company is of a kind referred to in the ASIC Corporations (Rounding in Financial/Directors' Reports) Instrument 2016/191, issued by the Australian Securities & Investments Commission, relating to the 'rounding off' of amounts in the financial report. Amounts in the financial report have been rounded off in accordance with that legislative instrument to the nearest thousand dollars, or in certain cases, to the nearest dollar.

(z) New accounting standards and interpretations

Changes in accounting policy, accounting standards and interpretations

The Company has adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board ("AASB") that are relevant to its operations and effective for the period of earliest adoption.

AASB 15 Revenue from Contracts with Customers

On 1 January 2018 the Company, in line with the same effective date of the parent entity and on transition to AASB 1, adopted AASB 15 Revenue from Contracts with Customers which did not result in a classification or measurement adjustment to retained earnings on transition or a restatement of comparative information.

1. Summary of significant accounting policies (continued)

The new standard provides a single principles-based, five-step model to be applied to all contracts with customers, which steps are to (1) identify the contract(s) with the customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract and (5) recognise revenue when each performance obligation is satisfied. The Company's revenue recognition policies now reflect these principles.

The Company's coal sales revenue will continue to be recognised when control of the coal passes to the customer, which occurs at the time of delivery of coal to the customer for domestic sales, and at the time coal is loaded onto a vessel for export sales. The impact of the adoption of the new standard is therefore immaterial to the Company's results of operations, financial condition and cash flows on an ongoing basis.

There are circumstances when judgment is required based on the indicators of control below, which are assessed on a contract by contract basis:

- The customer has the significant risks and rewards of ownership and has the ability to direct the use of, and obtain substantially all of the remaining benefits from the good or service;
- The customer has accepted the asset. Sales revenue may be subject to adjustment if the coal specification does not conform to the terms specified in the sales contract but this does not impact the passing of control. Quality and specification adjustments have been immaterial historically;
- The customer has legal title to the asset. The Company can retain legal title until payment is received for credit risk purposes only; or
- The customer has physical possession of the asset. This indicator may be less important as the customer may obtain control of an asset prior to obtaining physical possession, which may be the case for goods in transit.

Certain of the Company's sales contracts contain provisional pricing features which are considered to be embedded derivatives. AASB 15 will not change the assessment of the existence of embedded derivatives. These embedded derivatives are outside the scope of AASB 15 and are accounted for in accordance with AASB 9, with changes subsequent to initial recognition recorded in 'Other Revenue'.

AASB 9 Financial instruments

AASB 9 replaces the provisions of AASB 139 that relate to the recognition, classification and measurement of financial assets and financial liabilities, derecognition of financial instruments, impairment of financial assets and hedge accounting. The adoption of AASB 9 Financial Instruments from 1 January 2018 resulted in changes in accounting policies and adjustments to the amounts recognised in the financial statements. The new accounting policies are set out in note 1(k) and 1(v). The new standard has been applied from 1 January 2018 and did not impact the presentation in the statement of financial position.

The reclassifications and the adjustments arising from the new impairment rules are therefore not reflected in the balance sheet as at 31 December 2017, but are recognised in the opening balance sheet on 1 January 2018.

In accordance with the transitional provisions of the new standard, comparative figures have not been restated. The company does not undertake hedge accounting.

1. Summary of significant accounting policies (continued)

(i) Classification and measurement

On 1 January 2018 (the date of initial application of AASB 9), the company's management has assessed which business models apply to the financial assets held by the Company and determined that the 'held to collect' business model will apply to them. Therefore, the company will continue to measure them at amortised cost with the exception of certain other receivables- intercompany that do not meet the criteria for amortised cost and are measured at fair value through profit or loss.

Certain of the Company's sales contracts contain provisional pricing features which are remeasured at each period end using appropriate market forward prices, with any adjustment included within 'Other Revenue'.

(ii) Impairment of financial assets

Trade receivables

The company has a type of financial asset that is subject to AASB 9's new expected credit loss model being financial assets at amortised cost mainly comprised of trade receivables. The company was required to revise its impairment methodology under AASB 9 for this class of assets.

For trade receivables and all other receivables measured at amortised cost, the Company applies the simplified approach in calculating lifetime expected credit losses. Therefore, the Group does not track changes in credit risk, but instead recognises a loss allowance based on lifetime ECLs at each reporting date.

Using the 'simplified approach' in relation to trade receivables, the impact was evaluated and found to be immaterial (<0.5% of trade receivables) due to the nature of the Company's financial assets, its strong history of debt recovery and its credit risk management policies and procedures.

Other receivables—intercompany

Certain other receivables—intercompany were remeasured at fair value through profit or loss on implementation of AASB 9. This resulted in an opening adjustment on 1 January 2018 of \$280,946,000.

Other receivables—intercompany that do not meet the criteria for amortised cost are measured at fair value through profit or loss. An analysis is performed at each reporting date with each other receivables—intercompany assessed on an individual basis. The analysis is based upon reasonable and supportable information that is available at the reporting date about past events, current conditions, financial position and any other factors that are specific to the individual debtors. Other receivables—intercompany are generally deemed to have no fair value when it has been determined that there is no reasonable expectation of recovery as assessed as in the context of the Australian group as a whole. Refer note 11 and 23 for further details regarding Trade receivables—intercompany.

AASB 16 Leases

From 1 January 2019, AASB 16 supersedes AASB 117 Leases and AASB Interpretation 4 Determining whether an Arrangement contains a lease. The standard sets out the principles for the recognition, measurement, presentation and disclosure of leases and requires lessees to account for all leases under a single on-balance sheet model.

1. Summary of significant accounting policies (continued)

On 1 January 2019, the Company adopted AASB 16 Leases using the modified retrospective transition method. Under this method, the standard is applied retrospectively with the cumulative effect of initially applying the standard recognised at the date of initial application. The Company has implemented the systems and functionality and internal control processes necessary to comply with the requirements of AASB 16.

The effect of adopting AASB 16 as at 1 January 2019 (increase/(decrease)) is as follows:

Impact on the statement of financial position

	\$'000
Assets	
Right of use assets	6,392
Total assets	6,392
Liabilities	
Other current liabilities	5,808
Total current liabilities	5,808
Other non-current liabilities	730
Total liabilities	6,538
Total adjustment to equity	
Retained earnings	(146)

The Company has operating commitments for mining and non-mining equipment and certain other facilities under various non-cancellable agreements. Before the adoption of AASB 16, the Company classified each of its leases (as lessee) at the inception date as either a finance lease or an operating lease. Upon adoption of AASB 16, the Company applied a single recognition and measurement approach for all leases, except for short-term leases (less than 12 months) and leases of low-value assets (less than \$5,000). The standard provides specific transition requirements and practical expedients, which have been applied by the Company.

Leases previously classified as finance leases

The Company had leases classified as finance leases at the date of initial application of AASB 16 previously disclosed in Notes 15 and 17 of these financial statements as finance lease assets and liabilities. The Carrying amount of the right-of-use asset and the lease liability at the date of initial application is the carrying amount immediately before that date measured applying AASB 117.

Leases previously classified as operating leases

The Company recognised right-of-use assets and lease liabilities for those leases previously classified as operating leases, except for short-term leases and leases of low-value assets. The right-of-use assets for such leases were recognised based on the carrying amount as if the standard had always been applied, apart from the use of an incremental borrowing rate, which is set at the date of initial application (1 January 2019). Lease liabilities were recognised based on the present value of the remaining lease payments, discounted using the incremental borrowing rate at the date of initial application.

1. Summary of significant accounting policies (continued)

Contracts reassessed as containing a lease

The Company has reassessed contracts that were not previously identified as containing a lease applying AASB 117 and Interpretation 4. For any such contracts assessed as containing a lease applying AASB 16, the Company recognised right of use assets and lease liabilities for those contracts. The right of use assets and lease liabilities were recognised and measured at the date of initial application in a manner consistent with leases previously classified as operating leases as described above.

Practical expedients applied

The Company has applied certain available practical expedients wherein it:

- Used a single discount rate to a portfolio of leases with reasonably similar characteristics
- Applied the short-term leases exemptions to leases with a lease term that ends within 12 months at the date of initial application
- Excluded the initial direct costs from the measurement of the right-of-use asset at the date of initial application
- Used hindsight in determining the lease term where the contract contains options to extend or terminate the lease

The lease liabilities as at 1 January 2019 can be reconciled to the operating lease commitments as of 31 December 2018 as follows:

	\$'000
Commitments for minimum lease payments under leases as disclosed at 31 December 2018	775
Contracts reassessed as containing an operating lease at 31 December 2018	5,906
Embedded leases identified under the new AASB 16 accounting standard	<u>3,052</u>
Amended operating lease commitments at 31 December 2018	9,733
Weighted average incremental borrowing rate as at 1 January 2019	6.88%
Discounted operating lease commitments at 1 January 2019	6,617
Less:	
Commitments relating to short-term leases	<u>(79)</u>
Leases liabilities as of 1 January 2019	6,538

Several other amendments and interpretations apply for the first time in these financial statements, but do not have an impact on the annual financial report.

2. Financial risk management

The Company's principal financial liabilities comprise trade and other payables and leasing obligations. The main purpose of these financial liabilities is to finance the Company's operations. The Company's principal financial assets include trade receivables, trade and other receivables- intercompany and cash and short-term deposits that derive directly from its operations.

The Company is exposed to market risk, credit risk and liquidity risk. The senior management of the Company's ultimate parent entity Peabody Energy Corporation (PEC) oversees the management of these risks. PEC's senior

2. Financial risk management (continued)

management is supported by the Treasury department (Company Treasury) which advises on financial risks and the appropriate financial risk governance framework for the PEC Group. Company Treasury identifies, measures and manages financial risk in accordance with the Group's policies and risk objectives in close co-operation with the PEC Group companies. The Board of Directors of PEC reviews and agrees policies for managing each of these risks, which are summarised below.

As at 31 December 2019 and 31 December 2018, the Company does not hold any derivatives. All liabilities and assets are held at amortised cost, with the exception of those assets outlined in note 11 which are held at FVTPL.

Risk exposures and responses

(a) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: interest rate risk, currency risk and other price risk, such as commodity risk. Market risk is evaluated by PEC in relation to the PEC group (including the Company) utilising a Value at risk (VaR) analysis.

i) Commodity Price risk

In the ordinary course of business, the Company engages in the sale of coal. The commodity price risk is predominately managed through the use of long-term coal supply agreements (those with terms longer than one year), rather than through the use of derivative instruments, with some volumes sold on the spot market. At the date revenue is recognised, certain sales where contract terms are not yet finalised are provisionally priced, with revenue recognised based on the amount we expect to receive in the future. At 31 December 2019 and 31 December 2018 there were no provisionally priced sales outstanding.

ii) Interest rate risk

The Company's exposure to interest rate risk is limited to finance lease liabilities in 2018 and lease liabilities in 2019. The interest rates on these liabilities are implicit in the relevant agreements and therefore there is limited exposure to interest rate risk at reporting dates.

iii) Currency risk

As a result of 70-75% of coal sales being denominated in United States dollars, the Company can be affected by movements in the \$US/\$A exchange rate. The Company does not hedge proceeds from coal sales denominated in foreign currencies and as such is exposed to foreign currency risk on these transactions. The impact of a movement in the exchange rate of +/- 5% on the financial assets at year end would be a +\$3.2m/- \$3.5m impact on the profit and loss. However, the USD denominated coal sales (excluding coals sales securitised) are generally settled within 7 -21 days of invoicing and therefore, the impact on the profit or loss due to changes in the foreign currency denominated assets being the trade receivables – intercompany at period end would be limited to this period.

(b) Credit risk

The Company's concentration of credit risk is substantially with energy and steel producers and marketers. The Company's policy is to independently evaluate each customer's creditworthiness prior to entering into transactions and to constantly monitor the credit extended.

2. Financial risk management (continued)

In the event the Company engages in a transaction with a counterparty that does not meet credit standards, the Company will protect its position by requiring the counterparty to provide appropriate credit enhancement. When appropriate (as determined by the credit management function), the Company has taken steps to reduce its credit exposure to customers or counterparties whose credit has deteriorated and who may pose a higher risk of failure to perform under their contractual obligations. These steps include obtaining letters of credit or cash collateral, requiring prepayments for shipments or the creation of customer trust accounts held for the Company's benefit to serve as collateral in the event of a failure to pay.

Trade receivables—Coal sales

The Company has entered into an Accounts Receivable Securitisation program ("the Program") with a wholly owned subsidiary of the Company's ultimate parent entity, Peabody Energy Corporation ("PEC"). The Program sees certain Trade Receivable positions being settled in full at the date of transaction via a related party rather than on normal invoice terms. The Program removes the risk for the Company of non-payment from a third party via the arrangements entered into by PEC and is provided at no charge to the Company. As part of the corporate restructuring transaction, the Company was released from being a sub-servicer to the Program. The Company will resume collecting all trade receivable positions under normal invoice terms going forward.

(c) Liquidity risk

The primary source of funding is proceeds from the sale of coal to customers. The primary uses of funding include the cash costs of coal production, capital expenditures, coal reserve lease and royalty payments, debt service costs, lease payments, post-retirement plans, take-or-pay obligations, post-mining retirement obligations, and selling and administrative expenses. The capital structure of the Company and the PEC group allows the satisfaction of working capital requirements and the funding of capital expenditures with cash generated from operations and cash available through the central treasury function.

Further information on the Company's liquidity is disclosed at Note 1(a).

2. Financial risk management (continued)

Maturity analysis of financial assets and liability based on management's expectation

Leasing obligations, trade payables and other financial liabilities mainly originate from the financing of assets used in the ongoing operations such as property, plant, equipment and investments in working capital (e.g. inventories and trade receivables). These assets are considered in the Company's overall liquidity risk. To monitor existing financial assets and liabilities as well as to enable an effective controlling of future risks, the Company has established comprehensive risk reporting that reflects expectations of management of expected settlement of financial assets and liabilities.

The table below summaries the maturity profile of the Company's financial liabilities:

	On demand \$'000	< 1 year \$'000	1-2 years \$'000	2-5 years \$'000	> 5 years \$'000	Total \$'000
Year ended 31 December 2019						
Trade and other receivables	—	9,584	1,186	—	—	10,770
Trade and other receivables—intercompany	—	724,514	—	—	—	724,514
	—	734,098	1,186	—	—	735,284
Lease Liabilities	—	5,659	1,358	—	—	7,017
Trade and other payables	—	51,284	—	—	—	51,284
Trade and other payables—intercompany	—	662,594	—	—	—	662,594
	—	719,537	1,358	—	—	720,895
	On demand \$'000	< 1 year \$'000	1-2 years \$'000	2-5 years \$'000	> 5 years \$'000	Total \$'000
Year ended 31 December 2018						
Trade and other receivables	—	8,411	929	—	—	9,340
Trade and other receivables—intercompany	—	521,767	—	—	—	521,767
	—	530,178	929	—	—	531,107
Interest bearing loans and borrowings	—	15,666	4,058	—	—	19,724
Trade and other payables	—	49,906	—	—	—	49,906
Trade and other payables—intercompany	—	454,344	—	—	—	454,344
	—	519,916	4,058	—	—	523,974

(d) Net fair values

The Company considers the below fair value measurement hierarchy when measuring financial assets and financial liabilities held at fair value:

—Level 1—measurements based upon quoted prices (unadjusted) in active markets for identical assets or liabilities;

—Level 2—measurements based upon inputs other than quoted prices included within level 1 that are observable for the asset or liability, either directly (as prices) or indirectly (derived from prices), and

—Level 3—measurements based on inputs for the asset or liability that are not based on observable market data (unobservable inputs).

The Company only held certain receivables at fair value and are all valued using the Level 3 hierarchy.

3. Significant accounting estimates, assumptions and judgements

Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

The Company makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below.

(i) Uncertainty of coal reserve and resource estimates

Coal reserve and resource estimates are imprecise and depend partly on statistical inferences drawn from drilling and other data, which may prove to be different to the original estimates. Future production could differ dramatically from coal reserve estimates for the following reasons:

- Formation could be different from that predicted by drilling, sampling and similar examinations;
- Declines in the market price of coal may render the mining of some or all of the Company's coal reserves uneconomic; and
- Increases in mining costs and processing costs could adversely affect coal reserves.

Any of these factors may require the Company to reduce its coal reserve and resource estimates and may impact a number of accounting estimates including rehabilitation liabilities and depreciation and amortisation. Furthermore, changes may result in asset impairments and changes.

(ii) Income taxes

The Company is subject to income taxes in Australia. Significant judgement is required in:

- Determining the provision for income taxes; and
- Assessing the recoverability of deferred tax assets in respect of temporary differences at period end.

There are many transactions and calculations for which the ultimate tax determination is uncertain during the ordinary course of business. Where the final outcome of these matters is different from the amounts that were initially recorded, such differences will impact the current and deferred tax provisions in the period in which such determination is made.

(iii) Provision for rehabilitation

Provisions are made for the estimated cost of rehabilitation relating to areas disturbed during the mine's operation up to reporting date but not yet rehabilitated. Provision has been made in full for all disturbed areas at the reporting date based on current estimates of costs to rehabilitate such areas, discounted to their present value based on expected future cash flows. The estimated cost of rehabilitation includes the current cost of re-contouring, topsoiling and revegetation employing legislative requirements. Changes in estimates are dealt with on a prospective basis as they arise.

Significant uncertainty exists as to the amount of rehabilitation obligations which may be incurred due to the impact of possible future changes in environmental legislation. The amount of the provision relating to

3. Significant accounting estimates, assumptions and judgements (continued)

rehabilitation of mine infrastructure and dismantling obligations is recognised at the commencement of the mining project and/or construction of the assets where a legal or constructive obligation exists at that time. The provision is recognised as a liability with a corresponding asset included in mining property and development assets.

At each reporting date the rehabilitation liability is re-measured in line with changes in discount rates, and timing or amount of the costs to be incurred. Changes in the liability relating to rehabilitation of mine infrastructure and dismantling obligations are added to or deducted from the related asset, other than the unwinding of the discount which is recognised as a finance cost in the statement of comprehensive income as it occurs.

If the change results in a liability that exceeds the carrying amount of the asset, the asset is written-down to nil and the excess is recognised immediately in the statement of comprehensive income. If the change in the liability results in an addition to the cost of the asset, the recoverability of the new carrying amount is considered. Where there is an indication that the new carrying amount is not fully recoverable, an impairment test is performed with the write-down recognised in the statement of comprehensive income in the period in which it occurs.

4. Segment information

The Company operates from one location in the western coalfields of NSW and produces a high-quality thermal coal for domestic and export markets.

For management purposes, the Company is organised into one operating segment in Australia. All of the Company's activities are interrelated, and discrete financial information is reported to senior management as a single segment. Accordingly, all significant operating decisions are based upon analysis of the Company as one segment. As the Company has only one reportable segment, the profit for the segment includes all income and expense items of the Company and the assets of the segment include all of the Company's assets as at balance date.

5. Revenue from contracts with customers

	<i>Timing of revenue recognition</i>	2019 \$'000	2018 \$'000
Coal sales	Point in time	759,886	911,124
Other revenue*	Point in time	(4,494)	10,487
		<u>755,392</u>	<u>921,611</u>

* Revenue associated with provisional pricing features in contracts from customers.

The table below provides information on the geographical location of revenue. Revenue from external customers is allocated to a geography based on the customer location.

	2019 \$'000	2018 \$'000
Australia	708,925	784,706
Taiwan	46,467	136,905
	<u>755,392</u>	<u>921,611</u>

5. Revenue from contracts with customers (continued)

Included within revenue are customers each year that represent more than 10% of the Company's total revenue annually. The breakdown of revenues generated from these customers, in periods where their turnover was greater than 10%, were as follows:

	2019 \$'000	2018 \$'000
Customer A	470,621	489,412
Customer B	216,716	205,623
Customer C	N/a	136,904
	<u>687,337</u>	<u>831,939</u>

The company has performance obligations under the coal supply agreement and associated step-in deed, with one of its customers, whereby it charges all its assets relating to the mine (subject to certain exclusions) as security and is required to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed.

6. Other income

	2019 \$'000	2018 \$'000
Net gain (loss) on disposal of property plant and equipment	(364)	(1,990)
Other	734	944
	<u>370</u>	<u>(1,046)</u>

7. Expenses

	2019 \$'000	2018 \$'000
(a) Cost of sales		
Labour costs	108,256	97,409
Materials and supplies	167,032	207,275
Third party service provider	72,883	77,831
Change in inventory	(2,770)	(8,766)
Selling and distribution expenses	84,878	88,199
Royalty expenses	41,098	49,685
	<u>471,377</u>	<u>511,633</u>
(b) Foreign exchange gains/(losses)		
Realised gains foreign exchange	426	61
Unrealised losses foreign exchange	(2,702)	(284)
	<u>(2,276)</u>	<u>(223)</u>

8. Finance Costs

	2019 \$'000	2018 \$'000
Third party guarantee fees	1,839	1,625
Finance charges payables under finance leases	438	—
Loans with related parties	613	1,574
Accretion expense	1,085	1,072
	<u>3,975</u>	<u>4,271</u>

9. Income and deferred tax

	2019 \$'000	2018 \$'000
(a) Income tax expense		
Current tax expense	66,536	107,157
Adjustments for previous years expense	17	(329)
Deferred tax expense	(727)	1,487
Income tax expense attributable to profit from continuing operations	<u>65,826</u>	<u>108,315</u>
(b) Reconciliation of income tax expense to prima facie tax payable		
Profit from continuing operations before income tax expense	229,047	357,405
Tax at the Australian tax rate of 30%	68,714	107,222
Tax effect of amounts which are not deductible (taxable) in calculating taxable income:		
Unrealised foreign currency	782	472
Movement in tax losses not recognised	—	—
Other	(3,687)	950
	<u>65,809</u>	<u>108,644</u>
Adjustments for current tax of prior periods	17	(329)
	<u>65,826</u>	<u>108,315</u>

(c) Deferred tax

	Statement of financial position			Statement of comprehensive income	
	2019 \$'000	2018 \$'000	1 January 2018 \$'000	2019 \$'000	2018 \$'000
The balance comprises temporary differences attributable to:					
Property, plant and equipment	24,926	24,180	24,897	(747)	717
Inventory	(5,019)	(4,608)	(3,445)	411	1,163
Rehabilitation asset	(16,403)	(6,967)	(6,053)	9,437	914
Provisions	3,934	3,565	3,289	(369)	(276)
Rehabilitation liability	24,016	14,308	13,250	(9,708)	(1,058)
Other	(318)	(70)	(43)	249	27
Deferred tax expense/(benefit)				<u>(727)</u>	<u>1,487</u>
Net deferred tax assets/(liabilities)	<u>31,136</u>	<u>30,408</u>	<u>31,895</u>		

9. Income and deferred tax (*continued*)

The Company has no carried forward tax losses in 2019 and 2018 (2017: \$Nil).

10. Cash and cash equivalents

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Cash at bank and in hand	—	—	—
Deposits at call	—	—	—
	<u>—</u>	<u>—</u>	<u>—</u>

11. Trade and other receivables

<u>Current</u>	Measurement category	2019 \$'000	2018 \$'000	1 January 2018 \$'000
<i>Trade and other receivables</i>				
Trade receivables	Amortised cost	—	—	1,004
Other receivables and prepayments	Amortised cost	1,576	1,524	1,134
Long service leave receivable	Amortised cost	8,008	6,887	5,830
		<u>9,584</u>	<u>8,411</u>	<u>7,968</u>
Trade receivables—intercompany	Amortised cost	67,327	74,961	22,605
Other receivables—intercompany	FVTPL	657,187	446,806	454,296
		<u>724,514</u>	<u>521,767</u>	<u>476,901</u>
<u>Non-current</u>	Measurement category	2019 \$'000	2018 \$'000	1 January 2018 \$'000
<i>Trade and other receivables</i>				
Other receivables and prepayments	Amortised cost	—	—	—
Long service leave receivable	Amortised cost	1,186	929	1,262
		<u>1,186</u>	<u>929</u>	<u>1,262</u>

See Note 2(b) on credit risk of trade receivables, which explains how the Company manages and measures credit quality of trade receivables that are neither past due nor impaired. Due to the expected timing of recovery, the carrying amount of the above receivables is deemed to equal their fair value.

Refer note 23 for additional information regarding trade and other trade receivables – intercompany. Refer also to note 26 Events occurring after the balance sheet date, for changes to the arrangements regarding trade and other trade receivable – intercompany.

12. Inventories

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Materials and supplies	16,542	14,483	10,438
Coal stock	18,583	15,734	10,771
	<u>35,125</u>	<u>30,217</u>	<u>21,209</u>

13. Other assets

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Current			
<i>Other</i>			
Deposits held by third parties as security in lieu of bank guarantees	—	—	58,126
Prepayments	1,048	935	23
Other	2,229	2,224	1,397
	<u>3,277</u>	<u>3,159</u>	<u>59,546</u>

Cash deposits held by third parties as security were repaid to the Company in 2018.

Non-current

Financial assets measured at amortised cost

Deposits held by third parties as security in lieu of bank guarantees	10	10	—
	<u>10</u>	<u>10</u>	<u>—</u>

14. Property, plant and equipment

Reconciliations of the carrying amounts of each class of property, plant and equipment at the beginning and end of the current and previous financial year are set out below for the Company:

	Land and buildings \$'000	Property, plant and equipment \$'000	Coal reserves and resources \$'000	Plant and equipment under construction \$'000	Total \$'000
At 1 January 2018	48,739	241,572	—	14,187	304,498
Additions	—	7,184	—	41,121	48,305
Change in rehabilitation estimate	—	5,114	—	—	5,114
Depreciation	(4,061)	(41,439)	(338)	—	(45,838)
Reclassification	18,353	29,754	338	(48,445)	—
Disposals	—	(2,916)	—	—	(2,916)
At 31 December 2018	<u>63,031</u>	<u>239,269</u>	<u>—</u>	<u>6,863</u>	<u>309,163</u>

14. Property, plant and equipment (continued)

	Land and buildings \$'000	Property, plant and equipment \$'000	Coal reserves and resources \$'000	Plant and equipment under construction \$'000	Total \$'000
At 1 January 2019	63,031	239,269	—	6,863	309,163
Reclass to Right of Use Asset AASB 16	—	(38,612)	—	—	(38,612)
Additions	—	9,240	—	30,988	40,228
Change in rehabilitation estimate	—	33,759	—	—	33,759
Depreciation	(4,214)	(29,319)	—	—	(33,533)
Reclassification	9,282	32,672	—	(30,203)	11,751
Disposals	(167)	(245)	—	—	(412)
At 31 December 2019	<u>67,932</u>	<u>246,764</u>	<u>—</u>	<u>7,648</u>	<u>322,344</u>

There are no impairment charges or reversals of impairment in the current or prior year.

15. Leases

Set out below are the carrying amounts of right-of-use assets recognised and the movements during the period:

	Property, plant and equipment \$'000	Land & Buildings \$'000	Total \$'000
As at 1 January 2019	3,451	2,941	6,392
Reclassification from PPE from adoption of AASB 16 (Note 14)	38,612	—	38,612
Additions	3,419	—	3,419
Transfers to PPE (Lease Buyouts)	(11,751)	—	(11,751)
Disposals	(116)	—	(116)
Depreciation expense	(11,168)	(2,941)	(14,109)
As at 31 December 2019	<u>22,447</u>	<u>—</u>	<u>22,447</u>

Leased plant and equipment for 31 December 2019 of \$19,711,367 and 31 December 2018 \$38,611,600 (2017: \$47,696,682) is pledged as security for the remaining principal and interest payments of the corresponding lease liabilities, due to expire in April, 2020.

Set out below are the carrying amounts of lease liabilities (included under other liabilities) and the movements during the period:

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
As at 1 January 2019	6,538	—	—
Reclassification from adoption of AASB 16 (Note 17)	19,724	—	—
Additions	3,419	—	—
Disposals	(116)	—	—
Accretion of interest	1,051	—	—
Payments	(23,600)	—	—
As at 31 December 2019	<u>7,016</u>	<u>—</u>	<u>—</u>

15. Leases (continued)

The following are the amounts recognised in profit or loss:

	2019 \$'000	2018 \$'000
Depreciation expense of right-of-use assets	14,109	—
Interest expense on lease liabilities	1,051	—
Expense relating to short-term leases (included in cost of sales)	6,955	—
Expense relating to leases of low-value assets (included in cost of sales)	1,446	—
Variable lease payments (included in cost of sales)	3,092	—
Total amount recognised in profit or loss	<u>26,653</u>	<u>—</u>

16. Trade and other payables

Current	Measurement category	2019 \$'000	2018 \$'000	1 January 2018 \$'000
<i>Trade and other payables</i>				
Trade payables	Amortised cost	31,666	34,212	35,998
Other payables and accrued expenses	Amortised cost	19,618	15,694	22,739
		51,284	49,906	58,737
Amounts payable to related parties	Amortised cost	662,594	454,344	182,101
		<u>662,594</u>	<u>454,344</u>	<u>182,101</u>

Due to the short-term nature of the current payables, their carrying value is assumed to approximate their fair value.

17. Interest bearing liabilities

	Interest Rate %	Maturity	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Current					
<i>Financial liabilities measured at amortised cost</i>					
Finance lease liabilities	5.91	2020	—	15,666	15,865
Non-current					
<i>Financial liabilities measured at amortised cost</i>					
Finance lease liabilities	5.91	2020	—	4,058	17,846

18. Provisions

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Current			
Employee entitlements	23,046	20,373	17,870
Mine rehabilitation	6,987	3,061	2,625
	<u>30,033</u>	<u>23,434</u>	<u>20,495</u>

18. Provisions (continued)

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Non-current			
Employee entitlements	1,410	1,103	1,515
Mine rehabilitation	73,066	44,631	41,541
	<u>74,476</u>	<u>45,734</u>	<u>43,056</u>

Mine rehabilitation

In accordance with government legislative requirements, a provision for mine rehabilitation has been recognised in relation to the Company's coal mining operations. The basis for accounting is set out in Note 1(t) of the significant accounting policies.

Movements in provisions

Movements in Mine rehabilitation provision during the financial year, are set out below.

	Mine rehabilitation \$'000
At 1 January 2018	44,166
Adjustment from change in estimates	5,114
Rehabilitation performed	(2,660)
Accretion	1,072
At 31 December 2018	47,692
At 1 January 2019	47,692
Adjustment from change in estimates	33,759
Rehabilitation performed	(2,483)
Accretion	1,085
At 31 December 2019	<u>80,053</u>

19. Contributed equity

(a) Ordinary shares

Ordinary shares issued and fully paid

	2019 Shares	2018 Shares	1 January 2018 Shares
Ordinary shares	<u>2</u>	<u>2</u>	<u>2</u>

	2019 \$	2018 \$	1 January 2018 \$
Ordinary shares	<u>2</u>	<u>2</u>	<u>2</u>

Ordinary shares entitle the holder to participate in dividends and the proceeds on winding up of the Company in proportion to the number of and amounts paid on the shares held. Ordinary shares entitle the holder to one vote,

19. Contributed equity (continued)

either in person or by proxy, at a meeting of the Company. There is no change in the ordinary share number and share capital during the year.

The Board of PEC, as part of its group capital management objective, reviews the Company's capital structure on an ongoing basis. The Company's objective is to maintain an optimal capital structure which minimises its cost of capital whilst ensuring sustainable future development of the business. In order to adjust the capital structure, the Company may adjust the level of distributions it pays to equity holders.

Refer to note 26 Events occurring after the balance sheet date, for changes to the capital structure for the Company.

(b) Dividends

No dividends were paid or declared by the Company during or since the end of the financial years (2017: \$Nil).

20. Contingent assets and liabilities

Guarantees

A contingent liability of \$54,735,138 exists at 31 December 2019 and \$52,722,826 at 31 December 2018 (2017: \$Nil) in respect of guarantees given by the Company for, among other things, financial assurance for rehabilitation obligations and contractual obligations with certain suppliers for agreements entered into.

From time to time, the Company is subject to various claims and litigation during the ordinary course of business. The directors have given consideration to such matters which are or may be subject to claims or litigation at year end and are of the opinion that no material contingent liability for such claims or litigation exists as the possibility of an outflow is remote.

21. Commitments

	2019 \$'000	2018 \$'000	1 January 2018 \$'000
Capital commitments			
Contracts for capital at the reporting date not provided for in the accounts:			
Within one year	5,769	6,001	13,755
Later than one year but not later than five years	—	—	—
Total capital commitments	5,769	6,001	13,755
Other operating expenditure commitments			
Contracts for other operating expenditure at the reporting date not provided for in the accounts:			
Within one year	37,013	35,681	39,199
Later than one year but not later than five years	150,828	144,723	138,063
Later than five years	738,465	727,721	719,613
Total other operating expenditure commitments	926,306	908,125	896,875

22. Key management personnel disclosures

No key management personnel are employed by the Company.

The Company has not granted any options over ordinary shares during the financial year and there are no outstanding options at 31 December 2019 and 31 December 2018 (2017: Nil).

23. Related party transactions

(a) Parent entities

The parent company is Peabody Australia Mining Pty Ltd. The ultimate Australian parent entity is Peabody Australia Holdco Pty Ltd. The ultimate parent entity and ultimate controlling party is Peabody Energy Corporation (incorporated in the United States of America) which at 31 December 2019 and 31 December 2018 indirectly owns 100% (2017: 100%) of the issued ordinary shares of the Company.

Refer to note 26 Events occurring after the balance sheet date, for changes to the Corporate structure for the Company.

(b) Transactions

The following transactions occurred with related parties outside of the Company:

		Sales to related parties \$'000	Purchases from related parties \$'000	Interest paid to related parties \$'000
<i>Other related parties</i>				
Peabody Coalsales Pacific Pty Ltd	2019	471,304	13,571	—
Peabody Coalsales Pacific Pty Ltd	2018	489,571	1,294	—
Wambo Coal Pty Ltd	2019	8,883	29,024	—
Wambo Coal Pty Ltd	2018	23,683	96,213	—
Peabody Energy Corporation	2019	—	980	—
Peabody Energy Corporation	2018	—	690	—
Peabody Energy Australia Pty Ltd	2019	—	—	613
Peabody Energy Australia Pty Ltd	2018	—	—	1,574

Transactions with related parties include coal sales and coal purchases, accounts receivable securitisation transactions, sales related expenses including demurrage and commissions, corporate overhead allocations (management fees), and interest expense and interest income.

	2019 \$'000	2018 \$'000	1-Jan-18 \$'000
<i>Amount payable to related party:</i>			
Beginning of the year	454,344	182,101	182,101
Transactions during the period	208,250	213,430	—
Debt forgiveness	—	58,813	—
End of year	662,594	454,344	182,101
<i>Amount receivable from related party</i>			
Beginning of the year	521,767	195,955	476,901
Transactions during the period	352,525	489,400	—
Fair value adjustment	(150,199)	(163,588)	(280,946)
Debt forgiveness	421	—	—
End of year	724,514	521,767	195,955

23. Related party transactions (continued)

The table above presents gross financial assets and gross financial liabilities between common entities within the Australian Group. The amounts have not been offset in the statement of financial position as there is not an enforceable netting arrangement. Receivables have been reduced to the value of payables, reflecting the settlement of payables can be achieved through contra of receivables with common controlled entities and accordingly they have been classified as current.

Terms and conditions of transactions with related parties

The sales to and purchases from related parties are made on terms equivalent to those that prevail in arm's length transactions. Outstanding balances at the year end are unsecured and interest free and settlement occurs in cash. There have been no guarantees provided or received for any of the related party receivable.

24. Auditor's remuneration

The auditor's remuneration is paid by the parent Peabody Australia Holdco on behalf of the Company.

25. Notes to the statement of cash flows

Reconciliation of profit after income tax to net cash flow from operating activities

	2019 \$000	2018 \$000
Cash flows from operating activities		
Profit for the year	163,221	249,090
Adjustment for:		
Loss on sale of property, plant and equipment	364	1,990
Finance costs	1,051	1,574
Depreciation and amortisation	47,642	45,838
Unrealised net foreign exchange losses/(gains)	2,702	223
Other	1,084	1,072
Operating profit before changes in working capital and provisions		
Decrease/(increase) in receivables	(1,430)	(109)
Increase in inventories	(4,908)	(9,008)
(Increase)/decrease in other current assets	(118)	(1,739)
Increase/(decrease) in payables	1,390	(8,832)
(Decrease)/increase in provisions	497	(569)
(Increase)/decrease in deferred tax assets	(728)	1,487
Increase/ (decrease) in intercompany tax liabilities	66,554	106,828
Net cash from operating activities	277,321	387,845

26. Events occurring after reporting date

Coronavirus outbreak:

Subsequent to 31 December 2019, the COVID-19 outbreak was declared a pandemic by the World Health Organization. The global impact on economic activity has severely curtailed demand for numerous commodities. Within the global coal industry, supply and demand disruptions have been widespread as the COVID-19

26. Events occurring after reporting date (continued)

pandemic has forced lockdowns and restrictions. Coal mining in Australia has been designated as an essential business to support coal-fueled electric power generation and critical steelmaking needs. Mining operations at Wilpinjong have continued throughout the reporting period with the company experiencing stable demand for product, with any downturn in profits driven by current global coal pricing conditions.

While the ultimate impacts of the COVID-19 pandemic on the Company's business are unknown, the Company expects continued interference with general commercial activity, which may further negatively affect both demand and prices for the Company's products. The Company also faces disruption to supply chain and distribution channels, potentially increasing its costs of production, storage and distribution, and potential adverse effects to the Company's workforce, each of which could have a material adverse effect on the Company's business, financial condition or results of operations

Corporate Structure:

The ultimate parent company of the Company, Peabody Energy Corporation (PEC), is undertaking a process to explore and evaluate various strategic financing alternatives. In connection with considering various options to enhance its financial flexibility, the Company subdivided its ordinary shares into 1,202 ordinary shares and a wholly owned subsidiary of PEC has acquired 100% of the ordinary share capital of the Company subsequent to 30 June 2020. As part of this transaction, Peabody Energy Australia Pty Ltd paid to the Company US\$100M cash as partial repayment of an intercompany receivable from Peabody Energy Australia Pty Ltd, with the balance of its intercompany payables and receivables forgiven.

As part of this transaction, the Company was released from being a sub-servicer to the PEC Accounts Receivable Securitisation program. The Company will resume collecting all trade receivable positions under normal invoice terms going forward.

Issue of Bank Guarantee

During July 2020, the Company issued a bank guarantee for \$50 million Australian dollars as a performance guarantee in favour of one of the Company's customers. Under the terms of the coal supply agreement, the customer may unilaterally demand such a guarantee at any time. The coal supply agreement and an associated step-in deed also require the Company to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed. As at the date of signing this report the Company is in compliance with the terms of these contractual arrangements.

Wilpinjong Coal Pty Ltd
Directors' declaration
For the years ended 31 December 2019 and 31 December 2018

In accordance with a resolution of the directors of Wilpinjong Coal Pty Ltd (the "Company"), the directors are of the opinion that:

- (a) the financial statements and notes of the Company for the 12 month period ended 31 December 2019 and 31 December 2018, set out on pages 4 to 41:
 - (i) Presents fairly the Company's financial position as at 31 December 2019 and 31 December 2018 and of its performance and cash flows for the years ended on those dates
 - (ii) comply with Australian Accounting Standards; and
 - (iii) comply with International Financial Reporting Standards
- (b) there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable.

On behalf of the board

/s/ B Haas

B Haas
Director

Date: 18 December 2020

Independent Auditor's Report to the Members of Wilpinjong Coal Pty Ltd

Opinion

We have audited the financial report of Wilpinjong Coal Pty Ltd (the Company), which comprises the statement of financial position as at 31 December 2018 & 31 December 2019, the statement of comprehensive income, statement of cash flows and statement of changes in equity for the years then ended, notes to the financial statements, including a summary of significant accounting policies, and the directors' declaration.

In our opinion, the accompanying financial report presents fairly, in all material respects, the financial position of the Company as at 31 December 2018 & 31 December 2019 and its financial performance and its cash flows for the years then ended in accordance with Australian Accounting Standards.

Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Company in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Emphasis of Matter : Material uncertainty in relation to going concern

We draw attention to Note 1 of the financial report, which describes the principal conditions that raise doubt about Company's ability to continue as a going concern. These events or conditions indicate that a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter.

Information Other than the Financial Report and Auditor's Report Thereon

The directors are responsible for the other information. The other information is the directors' report accompanying the financial report.

Our opinion on the financial report does not cover the other information and accordingly we do not express any form of assurance conclusion thereon.

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In connection with our audit of the financial report, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or our knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Responsibilities of the Directors for the Financial Report

The directors of the Company are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and for such internal control as the directors determine is necessary to enable the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the directors are responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the Company or to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control.

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- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the directors.
- Conclude on the appropriateness of the directors' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the business activities within the entity to express an opinion on the financial report. We are responsible for the direction, supervision and performance of the audit. We remain solely responsible for our audit opinion.

We communicate with the directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

/s/ Ernst & Young

Ernst & Young
Brisbane
18 December 2020

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Wilpinjong Coal Pty Ltd**Directors' Report**

The directors present their report together with the financial report of Wilpinjong Coal Pty Ltd ("the Company") for the three months ended 30 September 2020.

Directors

The directors of the Company at any time during or since the end of the period are as follows. Directors were in office for this entire period unless otherwise stated.

B Haas
F Kruger

Principal activities

The principal activity of the Company during the period was operating a thermal coal mine in New South Wales. There were no significant changes in the nature of the activities of the Company during the period.

Dividends

No dividends were paid or declared by the Company during or since the end of the period (2019: \$Nil).

Review of operations

The Company recorded an operating profit after tax of \$20,305,000 for the three months ended 30 September 2020 (2019: \$39,977,000). The Company recorded an operating profit after tax of \$69,729,000 for the nine months ended 30 September 2020 (2019: \$121,471,000).

Significant changes in the state of affairs*Coronavirus outbreak:*

On March 11, 2020, the COVID-19 outbreak was declared a pandemic by the World Health Organization. The global impact on economic activity has severely curtailed demand for numerous commodities. Within the global coal industry, supply and demand disruptions have been widespread as the COVID-19 pandemic has forced lockdowns and restrictions. Coal mining in Australia has been designated as an essential business to support coal-fueled electric power generation and critical steelmaking needs. Mining operations at Wilpinjong have continued throughout the reporting period with the Company experiencing stable demand for product, with any downturn in profits driven by current global coal pricing conditions.

While the ultimate impacts of the COVID-19 pandemic on the Company's business are unknown, the Company expects continued interference with general commercial activity, which may further negatively affect both demand and prices for the Company's products. The Company also faces disruption to supply chain and distribution channels, potentially increasing its costs of production, storage and distribution, and potential adverse effects to the Company's workforce, each of which could have a material adverse effect on the Company's business, financial condition or results of operations. Given the uncertainties with respect to future COVID-19 developments, including the duration, severity and scope, as well as the necessary government actions to limit the spread, the Company is unable to estimate the full impact of the pandemic on its business, financial condition, results of operations or cash flows at this time.

Directors' Report

Significant changes in the state of affairs (*continued*)

Corporate Structure

The ultimate parent company of the Company, Peabody Energy Corporation (PEC), is undertaking a process to explore and evaluate various strategic financing alternatives. In connection with considering various options to enhance its financial flexibility, the Company subdivided its ordinary shares into 1,202 ordinary shares and a wholly owned subsidiary of PEC has acquired 100% of the ordinary share capital of the Company. As part of this transaction, Peabody Energy Australia Pty Ltd paid to the Company US\$100M cash as partial repayment of an intercompany receivable from Peabody Energy Australia Pty Ltd, with the balance of its intercompany payables and receivables forgiven.

As part of this transaction, the Company was also released from being a sub-servicer to the PEC Accounts Receivable Securitisation program. The Company will resume collecting all trade receivable positions under normal invoice terms going forward.

Issue of Bank Guarantee

During July 2020, the Company issued a bank guarantee for \$50 million Australian dollars as a performance guarantee in favour of the Company's largest customer. Under the terms of the coal supply agreement, the customer may unilaterally demand such a guarantee at any time. The coal supply agreement and an associated step-in deed also require the Company to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed. As at the date of signing this report the Company is in compliance with the terms of these contractual arrangements.

Matters subsequent to the end of the financial period

No matters or circumstance have arisen since 30 September 2020 that has significantly affected, or may significantly affect:

- (a) The Company's operations in future financial periods; or
- (b) The results of those operations in future financial periods; or
- (c) The Company's state of affairs in future financial periods.

Likely developments and expected results of operations

Other than the impact of COVID-19 noted in the significant changes in the state of affairs above no other information on likely developments in operations of the Company and the expected results of operations has been included in this report as the directors believe it may result in unreasonable prejudice to the Company.

Environmental regulation and performance

The Company's mining and exploration operations are subject to environmental regulation under State and Commonwealth laws.

The Company has experienced the following performance issues for the period ended 30 September 2020 and subsequently:

On 9 and 19 February 2020, the Company reported to the NSW Environment Protection Authority 2 uncontrolled releases of mine water into an adjacent water course as a result of high intensity rainfall events. Following

Directors' Report

Environmental regulation and performance (*continued*)

communication with the relevant authorities, the Company was notified that no further action regarding the reported events would be taken and corrective actions to prevent a reoccurrence of these discharges have been completed.

On 11 July 2020, an overburden blast produced a ground vibration level which marginally exceeded Wilpinjong's agreed limits. The Department of Planning, Industry and Environment have determined to record the breach with no further enforcement action.

Other than as disclosed above, there have been no significant known breaches of the Company's environmental obligations imposed by local, state and federal governments to the knowledge and belief of Management.

There have been no significant known breaches of the Company's environmental requirements imposed by local, state and federal governments to the knowledge and belief of Management, other than disclosed above.

Indemnification and insurance of directors and officers

During the period, a related party paid premiums in respect of Directors' and Officers' Liability and Legal Expenses insurance contracts. The insurance contracts insure against certain liabilities (subject to exclusions) for persons who are or have been directors or officers of the Company and controlled entities. The nature of the liabilities indemnified and the premium payable are not disclosed.

Rounding of amounts

The Company is of a kind referred to in the ASIC Corporations (Rounding in Financial/Directors' Reports) Instrument 2016/191, issued by the Australian Securities & Investments Commission, relating to the 'rounding off' of amounts in the financial report. Amounts in the financial report have been rounded off in accordance with that legislative instrument to the nearest thousand dollars, or in certain cases, to the nearest dollar.

Signed in accordance with a resolution of the Board of Directors:

/s/ B Haas

B Haas
Director

Date: 18 December 2020

Financial Report

Financial report for the 3 months ended 30 September 2020

This financial report covers the Company as an individual entity. All amounts in this financial report are stated in Australian dollars unless stated otherwise.

The Company is a company limited by shares, incorporated and domiciled in Australia. Its registered office and principal place of business is:

Wilpinjong Coal Pty Ltd
100 Melbourne Street
South Brisbane QLD 4101

A description of the nature of the entity's operations and its principal activities is included in the directors' report starting on page 1, which is not part of this financial report.

Wilpinjong Coal Pty Ltd
Statement of Comprehensive Income
For the 3 months ended 30 September 2020

	Notes	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
Revenue from contracts with customers	3	136,168	198,401	442,155	565,558
Cost of sales	5	(93,127)	(130,450)	(302,870)	(353,176)
Gross profit		43,041	67,951	139,285	212,382
Other income	4	(29)	(279)	391	478
Administrative expenses		(264)	(367)	(861)	(1,106)
Depreciation and amortisation	8	(12,261)	(12,274)	(37,049)	(35,574)
Finance costs	6	(930)	(829)	(2,660)	(2,894)
Foreign exchange (losses)/gains		1,209	1,395	2,139	(853)
Profit before tax		30,766	55,597	101,245	172,433
Income tax expense	9	(10,461)	(15,620)	(31,516)	(50,962)
Profit and comprehensive income attributable to the members of Wilpinjong Coal Pty Ltd		20,305	39,977	69,729	121,471

The statement of comprehensive income should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of financial position
As at 30 September 2020

	Notes	30/09/2020 \$'000	31/12/2019 \$'000
Assets			
Current assets			
Cash and cash equivalents	7	96,376	—
Trade and other receivables		26,874	9,584
Trade and other receivables—intercompany		58,846	724,514
Inventories		43,722	35,125
Other assets		3,722	3,277
Total current assets		229,540	772,500
Non-current assets			
Trade and other receivables		1,145	1,186
Deferred tax asset	9	29,099	31,136
Property, plant and equipment	8	330,131	322,344
Right of use assets		1,964	22,447
Other assets		9	10
Total non-current assets		362,348	377,123
Total assets		591,888	1,149,623
Liabilities			
Current liabilities			
Trade and other payables		43,896	51,284
Trade and other payables—intercompany		21,496	662,594
Provisions		32,388	30,033
Other current liabilities		2,238	5,659
Total current liabilities		100,018	749,570
Non-current liabilities			
Provisions		74,054	74,476
Other non-current liabilities		—	1,358
Total non-current liabilities		74,054	75,834
Total liabilities		174,072	825,404
Net assets		417,816	324,219
Equity			
Equity attributable to equity holders of the parent			
Contributed equity		—	—
Reserves		(864,439)	(888,307)
Accumulated profits		1,282,255	1,212,526
Total equity		417,816	324,219

The statement of financial position should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of changes in equity
For the 3 months ended 30 September 2020

	Contributed equity \$'000	Reserves \$'000	Retained earnings \$'000	Total equity \$'000
At 1 January 2019	—	(738,529)	1,049,451	310,922
Adoption of AASB 16 Leases	—	—	(146)	(146)
Restated 1 January 2019	—	(738,529)	1,049,305	310,776
Total comprehensive income for the period	—	—	121,471	121,471
Transactions with owners in their capacity as owners:				
Fair value adjustment	—	(137,958)	—	(137,958)
At 30 September 2019	—	(876,487)	1,170,776	294,289
At 1 January 2020	—	(888,307)	1,212,526	324,219
Total comprehensive income for the period	—	—	69,729	69,729
Transactions with owners in their capacity as owners:				
Fair value adjustment	—	594,740	—	594,740
Intercompany payable debt forgiven	—	(570,872)	—	(570,872)
At 30 September 2020	—	(864,439)	1,282,255	417,816

The statement of changes in equity should be read in conjunction with the accompanying notes.

Wilpinjong Coal Pty Ltd
Statement of cash flows
For the 3 months ended 30 September 2020

	Note	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
Cash flows from operating activities			
Cash receipts from customers		442,866	584,134
Cash paid to suppliers and employees		(335,842)	(370,866)
Interest received from third parties		5	—
Interest paid		(1,728)	(2,081)
Net cash flows from operating activities		105,301	211,187
Cash flows used in investing activities			
Acquisition of property, plant and equipment		(22,261)	(30,613)
Proceeds from sale of property, plant and equipment		11	43
Net cash flows used in investing activities		(22,250)	(30,570)
Cash flows from/(used in) financing activities			
Net funds received from/(advanced to) related parties		20,523	(162,689)
Principal portion of lease		(7,198)	(17,928)
Net cash flows from/(used in) financing activities		13,325	(180,617)
Net increase in cash and cash equivalents		96,376	—
Cash and cash equivalents at beginning of period		—	—
Cash and cash equivalents at end of period	7	96,376	—

The statement of cash flows should be read in conjunction with the accompanying notes.

1. Summary of significant accounting policies

Wilpinjong Coal Pty Ltd (the “Company”) is a company limited by shares and incorporated and domiciled in Australia. The interim financial statements represent the Company as an individual entity.

(a) Basis of preparation

The interim financial statements for the three months ending 30 September 2020 have been prepared in accordance with *AASB 134 Interim Financial Reporting*. The interim financial statements of the Company also comply with *IAS 34 Interim Financial Reporting*. The interim financial statements do not include all the information and disclosures required in the annual financial statements and should be read in conjunction with the annual financial report of the Company for the year ended 31 December 2019.

The financial report has been prepared on a historical cost basis except for certain assets and liabilities, which as noted have been measured at fair value.

The financial report is presented in Australian dollars and all values have been rounded to the nearest thousand dollars (where rounding is applicable) under the option available to the Company under ASIC Corporations (Rounding in Financial/Directors’ Reports) Instrument 2016/191. The Company is an entity to which that legislative instrument applies.

Going concern basis

At 30 September 2020, the Company reported a net current asset position of \$129,522,000 and a net asset position of \$417,816,000.

In considering the Company’s ability to continue as a going concern, management assessed the Company’s access to capital. The Company continues to have access to cash reserves through its own bank account and the PEC group’s central treasury function.

Access to funding through the PEC group central treasury function and continued access to the Company’s existing cash reserves, relies on the good financial standing of PEC. In considering the financial standing of PEC, it is probable, as of 31 December 2020, if PEC does not successfully take mitigation actions, it will be noncompliant with particular restrictions and covenants under certain of its debt agreements. Such noncompliance with these particular restrictions and covenants would constitute a default or cross default under certain PEC’s debt agreements, at which time the lenders could elect to accelerate the maturity of the related indebtedness or exercise other rights and remedies under the debt agreements. This risk of noncompliance, accompanied by recent negative financial performance and market trends, as well as substantial collateral demands from its surety bond providers, raise questions about whether PEC will meet its obligations as they become due within one year from the date of issuance of the accompanying audited financial statements and its ability to continue as a going concern.

The Directors have noted and also taken into consideration the following actions currently being progressed by PEC to mitigate this risk and uncertainty:

- entered into a transaction support agreement in November 2020 with the providers of 99% of PEC’s surety bond portfolio to define their commitments to implanting a transaction resolving approximately \$800 million U.S. dollars in collateral demands made by the surety providers with the agreement contingent upon an agreement between PEC, its revolving credit lenders, and the holders of PEC’s 2022 Senior Notes that provides covenant relief and extension of maturity dates, while maintain financial flexibility;

1. Summary of significant accounting policies (continued)

- working towards a transaction support agreement in December 2020 with certain holders of PEC's 2022 Senior notes that defines their commitments to implement an exchange offer conducted by PEC of any and all of its 2022 Senior Notes for specified consideration and an exchange offer conducted by PEC for its Revolving Commitments for specified consideration, with such transactions eliminating financial covenants and extending maturities of the related debt; and
- the deferral of discretionary capital spend.

The Directors believe the mitigating actions discussed above will allow the Company to continue as a going concern and to realise its assets and extinguish its liabilities in the ordinary course of business. Accordingly, the Directors consider that the Company is a going concern. The financial report does not include any adjustments relating to the recoverability and classification of recorded asset amounts or to the amounts and classification of liabilities that might be necessary should the entity not continue as a going concern.

(b) New accounting standards, interpretations and amendments

The accounting policies adopted in the preparation of this financial report are consistent with those followed in the preparation of the Company's annual financial statements for the year ended 31 December 2019, except for the adoption of new standards effective as of 1 January 2020. The Company has not early adopted any standard, interpretation or amendment that has been issued but is not yet effective. Several amendments and interpretations apply for the first time in 2020, but do not have an impact on the financial report of the Company.

2. Segment information

The Company operates from one location in the western coalfields of NSW and produces a high-quality thermal coal for domestic and export markets.

For management purposes, the Company is organised into one operating segment in Australia. All of the Company's activities are interrelated, and discrete financial information is reported to senior management as a single segment.

Accordingly, all significant operating decisions are based upon analysis of the Company as one segment. As the Company has only one reportable segment, the profit for the segment includes all income and expense items of the Company and the assets of the segment include all of the Company's assets as at balance date.

3. Revenue from contracts with customers

For the period ended	Revenue recognition timing	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
Coal sales revenue from contracts with customers	Point in time	135,285	198,922	444,385	570,052
Other revenue*	Point in time	883	(521)	(2,230)	(4,494)
		<u>136,168</u>	<u>198,401</u>	<u>442,155</u>	<u>565,558</u>

* Revenue associated with provisional pricing features in contracts from customers.

3. Revenue from contracts with customers (continued)

The company has performance obligations under the coal supply agreement and associated step-in deed, with one of its customers, whereby it charges all its assets relating to the mine (subject to certain exclusions) as security and is required to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed.

4. Other income

	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
<i>For the period ended</i>				
Loss on sale of property, plant and equipment	(108)	(169)	(104)	(124)
Interest income	5	—	5	—
Other	74	(110)	490	602
	<u>(29)</u>	<u>(279)</u>	<u>391</u>	<u>478</u>

5. Cost of sales

	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
<i>For the period ended</i>				
Labour costs	26,287	28,795	78,076	81,676
Materials and supplies	34,017	40,618	96,788	118,591
Third party service provider	15,336	25,721	54,120	61,891
Change in inventory	(7,499)	3,271	(4,380)	(928)
Selling and distribution expenses	19,099	21,425	57,367	61,147
Royalty expenses	5,887	10,620	20,899	30,799
	<u>93,127</u>	<u>130,450</u>	<u>302,870</u>	<u>353,176</u>

6. Finance costs

	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
<i>For the period ended</i>				
Third party guarantee fees	566	313	1,471	1,165
Finance charges payable under finance leases	53	118	225	380
Loans with related parties	—	127	32	536
Accretion expense	311	271	932	813
	<u>930</u>	<u>829</u>	<u>2,660</u>	<u>2,894</u>

7. Cash and cash equivalents

As at	30/09/2020 \$'000	31/12/2019 \$'000
Cash at bank and in hand	96,376	—
	<u>96,376</u>	<u>—</u>

8. Property, plant and equipment and Right of use assets

The movement in Property, plant and equipment during the period ended 30 September 2020 was the result of asset additions of \$22.3M netted with depreciation for the period of \$32.3M. Further to this, \$18M of leases were bought out and transferred from the Right of use assets category into Property, plant and equipment. There was an additional \$2.9M of new leases during the period, disposals of \$0.5M and depreciation of \$4.7M relating to the right of use assets.

9. Income and deferred tax

Income tax

The company calculates the period income tax expense using the tax rate that would be applicable to the expected total annual earnings. The major components of income tax expense in the interim statement of income are:

For the period ended	3 months ended 30/09/2020 \$'000	3 months ended 30/09/2019 \$'000	9 months ended 30/09/2020 \$'000	9 months ended 30/09/2019 \$'000
(a) Income tax expense				
Current tax expense	8,121	14,156	29,479	48,030
Adjustments for previous years expense	—	1,289	—	1,289
Deferred tax expense	2,340	175	2,037	1,643
Income tax expense attributable to profit from continuing operations	<u>10,461</u>	<u>15,620</u>	<u>31,516</u>	<u>50,962</u>

Net deferred tax assets:

The balance comprises temporary differences attributable to:	30/09/2020 \$'000	31/12/2019 \$'000
Property, plant and equipment	23,605	24,926
Inventory	(6,217)	(5,019)
Rehabilitation asset	(14,737)	(16,403)
Employee entitlements	4,264	3,934
Rehabilitation liability	23,903	24,016
Other	(1,719)	(318)
Net deferred tax assets	<u>29,099</u>	<u>31,136</u>

10. Related party transactions

(a) Parent entities

At 30 September 2020 the parent company is PIC Acquisition Corp. The ultimate parent entity and ultimate controlling party is Peabody Energy Corporation (incorporated in the United States of America) which at 30 September 2020 indirectly owns 100% (2019: 100%) of the issued ordinary shares of the Company.

(b) Transactions with related parties

The following transactions occurred with related parties outside of the Company:

For the 3 months ended		Sales to related parties \$'000	Purchases from related parties \$'000	Interest paid to related parties \$'000
<i>Other related parties</i>				
Peabody Coalsales Pacific Pty Ltd	2020	66,104	4,460	6
Peabody Coalsales Pacific Pty Ltd	2019	120,054	3,888	7
Wambo Coal Pty Ltd	2020	2,669	6,522	—
Wambo Coal Pty Ltd	2019	3,901	15,514	—
Peabody Energy Corporation	2020	—	248	—
Peabody Energy Corporation	2019	—	243	—

For the 9 months ended		Sales to related parties \$'000	Purchases from related parties \$'000	Interest paid to related parties \$'000
<i>Other related parties</i>				
Peabody Coalsales Pacific Pty Ltd	2020	230,084	9,911	2
Peabody Coalsales Pacific Pty Ltd	2019	339,297	10,208	158
Wambo Coal Pty Ltd	2020	5,480	11,179	—
Wambo Coal Pty Ltd	2019	5,128	22,317	—
Peabody Energy Corporation	2020	—	784	—
Peabody Energy Corporation	2019	—	728	—
Peabody Energy Australia Pty Ltd	2020	—	—	32
Peabody Energy Australia Pty Ltd	2019	—	—	613

	9 months to 30/09/2020 \$'000	12 months to 31/12/2019 \$'000
<i>Amount payable to related party:</i>		
Beginning of the year	662,594	454,344
Transactions during the period	114,009	208,250
Debt forgiveness	(755,107)	—
End of the period	21,496	662,594
<i>Amount receivable from related party:</i>		
Beginning of the year	724,514	521,767
Transactions during the period	65,575	352,525
Loss allowance movement	594,734	(150,199)
Debt forgiveness	(1,325,977)	421
End of the period	58,846	724,514

10. Related party transactions (continued)

The table above presents gross financial assets and gross financial liabilities between common entities within the Australian Group that are held at fair value through profit and loss and are valued using the Level 3 hierarchy. Other receivables—intercompany and other payables- intercompany have not been offset in the statement of financial position as there is not an enforceable netting arrangement. Other receivables- intercompany have been reduced to the value of payables, reflecting the settlement of payables can be achieved through contra of receivables with common controlled entities and accordingly they have been classified as current.

The ultimate parent company of the Company, Peabody Energy Corporation (PEC), is undertaking a process to explore and evaluate various strategic financing alternatives. In connection with considering various options to enhance its financial flexibility, the Company subdivided its ordinary shares into 1,202 ordinary shares and a wholly owned subsidiary of PEC has acquired 100% of the ordinary share capital of the Company. As part of this transaction, Peabody Energy Australia Pty Ltd paid to the Company US\$100M cash as partial repayment of an intercompany receivable from Peabody Energy Australia Pty Ltd, with the balance of its intercompany payables and receivables forgiven.

Transactions with related parties include coal sales and coal purchases, accounts receivable securitisation transactions, sales related expenses including demurrage and commissions, corporate overhead allocations (management fees), and interest expense and interest income.

Terms and conditions of transactions with related parties

The sales to and purchases from related parties are made on terms equivalent to those that prevail in arm's length transactions. Outstanding balances at the period end are unsecured and interest free and settlement occurs in cash. There have been no guarantees provided or received for any of the related party receivables.

11. Financial instruments

The Company's financial instruments consist of deposits with banks, accounts receivable and payable, other financial liabilities and finance lease liabilities. With the exception of some intercompany trade receivables, which are measured at FVTPL, the financial instruments are measured at amortised cost. The carrying amounts of financial instruments are a reasonable approximation of their fair values due to their short-term maturities.

12. Contingent Liabilities

Guarantees

A contingent liability of \$50M (31 December 2019: nil) exists in respect of the bank guarantee issued by the Company for financial assurance to maintain compliance with certain covenants and restrictions as specified in the coal supply agreement held with the Company's largest customer.

Under the terms of the coal supply agreement, the customer may unilaterally demand such a guarantee at any time. The coal supply agreement and an associated step-in deed also require the Company to maintain compliance with certain covenants and restrictions. In the event of noncompliance, the customer may exercise contractual step-in rights to appoint a receiver to operate the mine within the parameters of the coal supply agreement and step-in deed. As at the date of signing this report the Company is in compliance with the terms of these contractual arrangements.

12. Contingent Liabilities (continued)

Other Contingent Liabilities

From time to time, the Company is subject to various claims and litigation during the ordinary course of business. The directors have given consideration to such matters which are or may be subject to claims or litigation at period end and are of the opinion that no material contingent liability for such claims or litigation exists as the possibility of an outflow is remote.

13. Events occurring after the balance sheet date

No matters or circumstance have arisen since 30 September 2020 that has significantly affected, or may significantly affect:

- (a) The Company's operations in future financial periods; or
- (b) The results of those operations in future financial periods; or
- (c) The Company's state of affairs in future financial periods.

Directors' declaration

In accordance with a resolution of the directors of Wilpinjong Coal Pty Ltd (the "Company"), I state that:

In the opinion of the directors:

- (a) the financial statements and notes, set out on pages 5 to 16:
 - (i) Comply with Australian Accounting Standard AASB134 *Interim Financial Reporting* as it applies to entities applying the Australian Accounting Standards; and
 - (ii) Presents fairly the Company's financial position as at 30 September 2020 and of their performance for the three months ended on that date
- (b) there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable.

On behalf of the board

/s/ B Haas

B Haas
Director

Date: 18 December 2020

To the members of Wilpinjong Coal Pty Ltd

Report on the Interim Financial Report

We have reviewed the accompanying interim financial report of Wilpinjong Coal Pty Ltd (the 'Company'), which comprises the statement of financial position as at 30 September 2020, and the statement of comprehensive income for three and nine months ended 30 September 2020, statement of changes in equity and statement of cash flows for the nine months ended on that date, other selected explanatory notes and the directors' declaration.

Emphasis of Matter: Material uncertainty in relation to going concern

We draw attention to Note 1 of the financial report, which describes the principal conditions that raise doubt about Company's ability to continue as a going concern. These events or conditions indicate that a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter.

Directors' Responsibility for the Interim Financial Report

The directors of the Company are responsible for the preparation and fair presentation of the interim financial report and for such internal controls as the directors determine are necessary to enable the preparation of the interim financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express a conclusion on the interim financial report based on our review. We conducted our review in accordance with Auditing Standard on Review Engagements ASRE 2410 *Review of a Financial Report Performed by the Independent Auditor of the Entity*, in order to state whether, on the basis of the procedures described, we have become aware of any matter that makes us believe that the accompanying financial report is not presented fairly, in all material respects, in accordance with AASB 134 *Interim Financial Reporting*. As the auditor of Wilpinjong Coal Pty Ltd, ASRE 2410 also requires that we comply with the ethical requirements relevant to the audit of the annual financial report.

A review of an interim financial report consists of making enquiries, primarily of persons responsible for financial and accounting matters, and applying analytical and other review procedures. A review is substantially less in scope than an audit conducted in accordance with Australian Auditing Standards and consequently does not enable us to obtain assurance that we would become aware of all significant matters that might be identified in an audit. Accordingly, we do not express an audit opinion.

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Independence

In conducting our review, we have complied with the independence requirements of the Australian professional accounting bodies.

Conclusion

Based on our review, which is not an audit, nothing has come to our attention that causes us to believe that the interim financial report of Wilpinjong Coal Pty Ltd does not present fairly, in all material respects, the Company's financial position as at 30 September 2020 and its financial performance and its cash flows for the interim periods ended on that date, in accordance with AASB 134 *Interim Financial Reporting*.

/s/ Ernst & Young

Ernst & Young
Brisbane
18 December 2020

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News Release

FOR IMMEDIATE RELEASE

PEABODY REACHES SUPPORT AGREEMENT WITH CERTAIN CREDITORS ON FINANCIAL COVENANT RELIEF, DEBT MATURITY EXTENSION AND NOTES EXCHANGE OFFER

ST. LOUIS, Dec. 24, 2020 – Peabody (NYSE: BTU) has entered into a transaction support agreement with 100 percent of its revolving lenders and letter of credit issuers and approximately 65 percent of its 6.000% senior secured notes due 2022 that contemplates a comprehensive financing solution to extend certain of Peabody's debt maturities and grant financial covenant relief, while maintaining sufficient operating liquidity and financial flexibility.

"Today's announcement is significant for the company as well as its many stakeholders," said Peabody President and Chief Executive Officer Glenn Kellow. "Closing of the exchange transaction will provide Peabody with the flexibility needed to continue to pursue operational improvements across our operations as well as capture potential seaborne met and thermal market improvements."

Pursuant to the transaction support agreement, the creditors have agreed, subject to the terms thereof, to support the implementation of an offer to exchange the 2022 senior secured notes for new 2024 notes to be issued by Peabody and certain subsidiaries. The company's revolving credit lenders have also agreed to convert the existing revolving credit facility into new term loans and a letter of credit facility due in December 2024. The transaction support agreement follows the previously announced surety bond collateral standstill agreement reached in November 2020, which remains contingent on Peabody closing on the recently launched proposed exchange transactions.

"We are pleased to have reached a support agreement with a substantial number of our creditors that lays the financial foundation for future success and value creation," said Executive Vice President and Chief Financial Officer Mark Spurbeck. "This agreement would extend our nearest debt maturity to December 2024, eliminate the restrictive net leverage covenant from our credit agreement and along with the surety collateral standstill, provide a greater line of sight into future liquidity requirements."

Following a successful closing of the exchange offer, Peabody's pro forma capital structure would include \$1.52 billion of funded debt and a \$324 million letter of credit facility.

Peabody will be filing a Form 8-K with the Securities and Exchange Commission (SEC) regarding the transaction support agreement and related matters. The Form 8-K is currently available on PeabodyEnergy.com under "Investor Relations – Presentations" and will be available on the SEC website on Dec. 28, 2020. The related investor presentation will also be furnished as part of the Form 8-K filing and is currently available on PeabodyEnergy.com under "Investor Relations – Presentations." Any exchange transaction questions should be directed to Lazard or Jones Day.

On Dec. 28, 2020 at 10:00am CST, Peabody will host a conference call to discuss the details of the transactions. Participants can access Peabody's call at PeabodyEnergy.com or using the following dial-in numbers:

U.S. and Canada	(888) 312-3049
Australia	1800 849 976
United Kingdom	0808 238 9907

All other international participants, please contact Peabody Investor Relations at IR@peabodyenergy.com prior to the call to receive your dial-in number.

Peabody (NYSE: BTU) is a leading coal producer, serving customers in more than 25 countries on six continents. We provide essential products to fuel baseload electricity for emerging and developed countries and create the steel needed to build foundational infrastructure. Our commitment to sustainability underpins our activities today and helps to shape our strategy for the future. For further information, visit PeabodyEnergy.com.

Contact:

Julie Gates
314.342.4336

Forward-looking Statements

This press release contains forward-looking statements within the meaning of the securities laws. Forward-looking statements can be identified by the fact that they do not relate strictly to historical or current facts. They often include words or variation of words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," "projects," "forecasts," "targets," "would," "will," "should," "goal," "could" or "may" or other similar expressions. Forward-looking statements provide management's current expectations or predictions of future conditions, events or results. All statements that address operating performance, events, or developments that Peabody expects will occur in the future are forward-looking statements, including the Company's ability to consummate the Exchange Offer and Consent Solicitation and the Company's expectations regarding future liquidity, cash flows, mandatory debt payments and other expenditures. They may also include estimates of sales targets, cost savings, capital expenditures, other expense items, actions relating to strategic initiatives, demand for the company's products, liquidity, capital structure, market share, industry volume, other financial items, descriptions of management's plans or objectives for future operations and descriptions of assumptions underlying any of the above. All forward-looking statements speak only as of the date they are made and reflect Peabody's good faith beliefs, assumptions and expectations, but they are not guarantees of future performance or events. Furthermore, Peabody disclaims any obligation to publicly update or revise any forward-looking statement, except as required by law. By their nature, forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. Factors that might cause such differences include, but are not limited to, a variety of economic, competitive and regulatory factors, many of which are beyond Peabody's control, including the ongoing impact of the COVID-19 pandemic and factors that are described in Peabody's Annual Report on Form 10-K for the fiscal year ended Dec. 31, 2019, and other factors that Peabody may describe from time to time in other filings with the SEC. You may get such filings for free at Peabody's website at www.peabodyenergy.com. You should understand that it is not possible to predict or identify all such factors and, consequently, you should not consider any such list to be a complete set of all potential risks or uncertainties.

No Offer or Solicitation

This press release is not intended to and does not constitute an offer to sell or purchase, or the solicitation of an offer to sell or purchase, or the solicitation of tenders or consents with respect to any security. No offer, solicitation, purchase or sale will be made in any jurisdiction in which such an offer,

solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. In the case of the exchange offer and consent solicitation, the exchange offer and consent solicitation are being made solely pursuant to the Offering Memorandum and Consent Solicitation Statement, dated December 24, 2020 (the "Offering Memorandum") and only to such persons and in such jurisdictions as is permitted under applicable law. The Offering Memorandum and other documents relating to the exchange offer and consent solicitation will only be distributed to Eligible Holders of the Company's 6.000% senior secured notes due 2022 (the "Existing Notes") who complete and return an eligibility form confirming that they are either (a) a person that is in the United States and is (i) a "Qualified Institutional Buyer" as that term is defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), or (ii) an institutional "accredited investor" (within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act, or (b) a person that is outside the "United States" and is (i) not a "U.S. person," as those terms are defined in Rule 902 under the Securities Act, and (ii) a "non-U.S. qualified offeree" (as defined in the Offering Memorandum) (such holders, the "Eligible Holders"). Holders of Existing Notes who desire to obtain and complete an eligibility form should either visit the website for this purpose at <https://gbsc-usa.com/eligibility/peabody> or call Global Bondholder Services Corporation, the Information Agent and Exchange Agent for the Exchange Offer and Consent Solicitation at (212) 430-3774 (for banks and brokers) or (866) 470-4500 (toll free). The complete terms and conditions of the exchange offer and consent solicitation are described in the Offering Memorandum.

Capital Structure Extension Transaction

December 24, 2020

Important Information

This presentation is strictly confidential and has been prepared by Peabody Energy Corporation ("Peabody" or the "Company") solely for informational purposes. Recipients of this presentation may not reproduce, disclose or otherwise redistribute, in whole or in part, this presentation or its contents to any other person. In addition, references to this presentation shall be deemed to include any information that has been or may be supplied in writing or orally in connection herewith or in connection with any further inquiries.

This presentation is not intended to and does not constitute an offer to sell or purchase, or the solicitation of an offer to sell or purchase, or the solicitation of tenders or consents with respect to any security. No offer, solicitation, purchase or sale will be made in any jurisdiction in which such an offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. In the case of the Exchange Offer and Consent Solicitation, the Exchange Offer and Consent Solicitation are being made solely pursuant to the Offering Memorandum and Consent Solicitation Statement, dated December 24, 2020 (the "Offering Memorandum") and only to such persons and in such jurisdictions as is permitted under applicable law. The Offering Memorandum and other documents relating to the exchange offer and consent solicitation will only be distributed to Eligible Holders of Existing Notes who complete and return an eligibility form confirming that they are either (a) a person that is in the United States and is (i) a "Qualified Institutional Buyer" as that term is defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), or (ii) an institutional "accredited investor" (within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act, or (b) a person that is outside the "United States" and is (i) not a "U.S. person," as those terms are defined in Rule 902 under the Securities Act, and (ii) a "non-U.S. qualified offeree" (as defined in the Offering Memorandum) (such holders, the "Eligible Holders"). Holders of Existing Notes who desire to obtain and complete an eligibility form should either visit the website for this purpose at <https://gbsc-usa.com/eligibility/peabody> or call Global Bondholder Services Corporation, the Information Agent and Exchange Agent for the Exchange Offer and Consent Solicitation at (212) 430-3774 (for banks and brokers) or (866) 470-4500 (toll free). The complete terms and conditions of the Exchange Offer and Consent Solicitation are described in the Offering Memorandum. free). Questions regarding the terms of the Exchange Offer may be directed to Lazard Frères & Co. LLC by calling (212) 632 1979 (collect) or (877) 364 0850 (US toll free).

Note Regarding Forward-Looking Statements

This presentation contains forward-looking statements within the meaning of applicable securities laws. Forward-looking statements are based on management's beliefs and assumptions and can be identified by the fact that they do not relate strictly to historical or current facts. All statements that reflect information or predictions regarding the operating performance of the Company or its subsidiaries, or other events or other developments that may occur in the future, are forward-looking statements. Such forward-looking statements may include, but are not limited to, actions relating to strategic financing alternatives, liquidity, capital structure, demand for the Company's products, estimates of sales targets, cost savings, capital expenditures, other expense items, market share, industry volume, other financial items, descriptions of management's plans or objectives for future operations and descriptions of assumptions underlying any of the above. All forward-looking statements speak only as of the date they are made and reflect the Company's good faith beliefs, assumptions and expectations, but they are not guarantees of future performance or events. Furthermore, the Company disclaims any obligation to publicly update or revise any forward-looking statement, except as required by law. By their nature, forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. Factors that might cause such differences include, but are not limited to, a variety of economic, competitive and regulatory factors, many of which are beyond the Company's control, including the ongoing impact of the COVID-19 pandemic and factors that are described in the Company's Annual Report on Form 10-K for the fiscal year ended Dec. 31, 2019, and other factors that the Company may describe from time to time in other filings with the SEC.

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I. Executive Summary

Peabody Energy Corporation (“Peabody” or the “Company”) has entered into a Transaction Support Agreement (“TSA”) with certain of its creditors that provides for maturity extension and covenant relief, while maintaining sufficient operating liquidity and financial flexibility

- **The transaction consists of:**
 - An exchange transaction with the Company’s Revolving Credit Facility (“RCF”) Lenders (the “RCF Exchange”); and
 - An exchange transaction with the 6.000% Senior Notes due 2022 (the “2022 Notes”) Noteholders (the “2022 Notes Exchange”, and collectively with the RCF Exchange, the “Transaction”)
- **As part of the Transaction, a portion of the existing RCF and 2022 Notes will be exchanged for New Structurally Senior Debt, which will be issued by two unrestricted subsidiaries and secured by a pledge of 100% of the equity interests in an unrestricted subsidiary indirectly owning the Wilpinjong mining complex**
 - These subsidiaries have been designated as unrestricted under the existing Credit Agreement and Indentures and therefore reside outside of the restricted credit group (“RemainCo”)
- **The Transaction will extend the maturities of participating debt through December 2024, providing Peabody with additional time to execute on its various strategic initiatives and positions the Company and its stakeholders to realize the benefits of any improvement that may occur in the seaborne thermal and metallurgical coal markets**
 - Importantly, the Transaction preserves the previously announced Global Surety Agreement between the Company and its surety bond providers, which resolves outstanding collateral requests and limits future collateral requirements¹
- **Furthermore, participating 2022 Noteholders will receive meaningful economic consideration, in the form of structural seniority on valuable collateral, fees, cash paydown at par, additional repurchases at attractive prices relative to current trading levels, and higher interest rates, among other forms of consideration**

1. The Global Surety Agreement is contingent upon the Company reaching an agreement with creditors in obtaining covenant relief and maturity extension by January 29, 2021; for complete terms of the Global Surety Agreement, see 10-Q filed on November 9, 2020.

- **The Transaction is supported by all RCF Lenders and approximately 65% of the 2022 Noteholders, who have executed a TSA with Peabody obligating them to participate in the RCF Exchange and 2022 Notes Exchange**
- **The 2022 Notes Exchange was formally launched on December 24, 2020**
 - Certain forms of consideration and fees, however, are only available to 2022 Noteholders that tender their bonds by the early tender deadline at 5:00pm ET on January 8, 2021
- **The Exchange Transaction is conditioned upon satisfying a minimum participation threshold of 95% of the 2022 Notes**
 - The Company may reduce this threshold with the consent of a majority of the RCF Lenders and two-thirds of the 2022 Noteholders that are signatories to the TSA

Key Transaction Highlights

Extended Maturities and Improved Financial Flexibility	<ul style="list-style-type: none"> ① Removes all funded debt maturities before December 2024, providing Peabody with the benefit of time to enable a market recovery in both pricing and demand, as well as time for the Company to fully capture the operational improvements that continue to be underway ② Eliminates the overhang of the RCF's net leverage covenant, allowing the Company and its management team to continue to focus on optimally operating the mines and executing on their key strategic priorities <ul style="list-style-type: none"> – After completing the Transaction, the Company's only financial maintenance covenant will be a \$125 million minimum liquidity covenant at RemainCo ③ Preserves the Global Surety Agreement¹ which substantially reduces contingent liquidity risks by (i) resolving outstanding collateral requests and (ii) limiting future collateral requirements of the sureties through at least December 31, 2024
Participating 2022 Noteholder Benefits	<ul style="list-style-type: none"> • The Transaction offers material economic consideration to participating 2022 Noteholders in the form of: <ul style="list-style-type: none"> – Par exchange of 2022 Notes for a combination of \$9.42 million of cash, \$194 million of New Structurally Senior Notes and \$255.58 million of New Peabody 2024 Notes <i>(see following page for additional information)</i> <ul style="list-style-type: none"> • The \$9.42 million of cash consideration is only available to 2022 Noteholders that tender their bonds by the early tender deadline of January 8, 2021 at 5:00pm ET – An ability of each 2022 Noteholder to sell its pro rata share of \$22.5 million in principal amount of New Peabody 2024 Notes at 80% of par to the Company within 15 days after closing – Receipt of valuable collateral in the form of a pledge of the equity interests in a subsidiary owning the Wilpinjong mining complex <ul style="list-style-type: none"> • Various subsidiaries including the subsidiaries that directly and indirectly own the Wilpinjong mining complex were designated as unrestricted subsidiaries under the Credit Agreement and 2022 & 2025 Notes Indentures on August 4, 2020 – Material increase in interest rates – 100% excess cash flow ("ECF") sweep at Wilpinjong, providing for par repurchases of New Structurally Senior Notes over time – Valuable call protection on both the New Structurally Senior Notes and New Peabody 2024 Notes
Early Tender Premium	<ul style="list-style-type: none"> • 100bps cash fee for participating 2022 Noteholders that tender their bonds by the early tender deadline of January 8, 2021 at 5:00pm ET

1. See 10-Q filed on November 9, 2020 for complete terms of the Global Surety Agreement.

Summary Transaction Description		
Exchange Summary	RCF Exchange	<ul style="list-style-type: none"> RCF Lenders exchanging \$540 million of RCF commitments will receive: <ul style="list-style-type: none"> (i) \$206 million of New Structurally Senior Term Loans issued by PIC AU Holdings LLC ("AU Holdings LLC") and PIC AU Holdings Corporation ("AU Holdings Corp") (ii) \$324 million of New RemainCo L/C Facility issued by Peabody Energy Corporation ("PEC"), which will be utilized to support existing and future letters of credit (iii) \$10 million of cash (iv) 100bps in exchange fees
	2022 Notes Exchange	<ul style="list-style-type: none"> Participating 2022 Noteholders will receive their ratable share of: <ul style="list-style-type: none"> (i) \$194 million of New Structurally Senior Notes due December 31, 2024 issued by AU Holdings LLC and AU Holdings Corp (ii) \$255.58 million of New Peabody 2024 Notes issued by PEC (iii) \$9.42 million in cash and (iv) 100bps of exchange fees to participating 2022 Noteholders that tender their bonds by the early tender deadline of January 8, 2021 at 5:00pm ET Within 15 days after closing, the Company will make an offer to repurchase \$22.5 million in principal amount of the New Peabody 2024 Notes from participating 2022 Noteholders at a price of 80% of par
New Notes Issued to Participating 2022 Noteholders	New Structurally Senior Notes Summary Terms	<ul style="list-style-type: none"> Issuers: AU Holdings LLC and AU Holdings Corp Maturity: December 31, 2024 Interest Rate: 10.0% p.a., payable quarterly in cash ECF Sweep: 100% of ECF at Wilpinjong, shared pro rata with the New Structurally Senior Term Loans Collateral: 100% by AU Holdings LLC of its equity interests in subsidiaries owning the Wilpinjong mining complex, <i>pari passu</i> with the New Structurally Senior Term Loans Call Protection: NC2 / 105 (6 months) / Par thereafter Exchange Option: Upon the occurrence of certain conditions, holders of New Structurally Senior Notes will have the option to exchange an amount of such notes into New Peabody 2024 Notes <ul style="list-style-type: none"> The amount of notes that may be exchanged pursuant to the Exchange Option at each point in time will be subject to certain limitations in the Company's existing credit documents
	New Peabody 2024 Notes Summary Terms	<ul style="list-style-type: none"> Issuer: Peabody Energy Corporation Maturity: December 31, 2024 Interest Rate: 6.0% cash plus 2.5% PIK p.a., payable semi-annually Collateral: Similar to existing 2022 Notes, plus second lien on Wilpinjong equity securing the New Structurally Senior Notes and a pledge of the 35% unencumbered first-tier foreign equity¹ Call Protection: NC2 / 104.25 / Par thereafter

1. To be provided equally to existing First Lien Term Loan due March 2025 and 6.375% Senior Notes due March 2025; parity treatment required under existing intercreditor agreement.

II. Wilpinjong Overview

Overview of Wilpinjong

(\$ in millions)

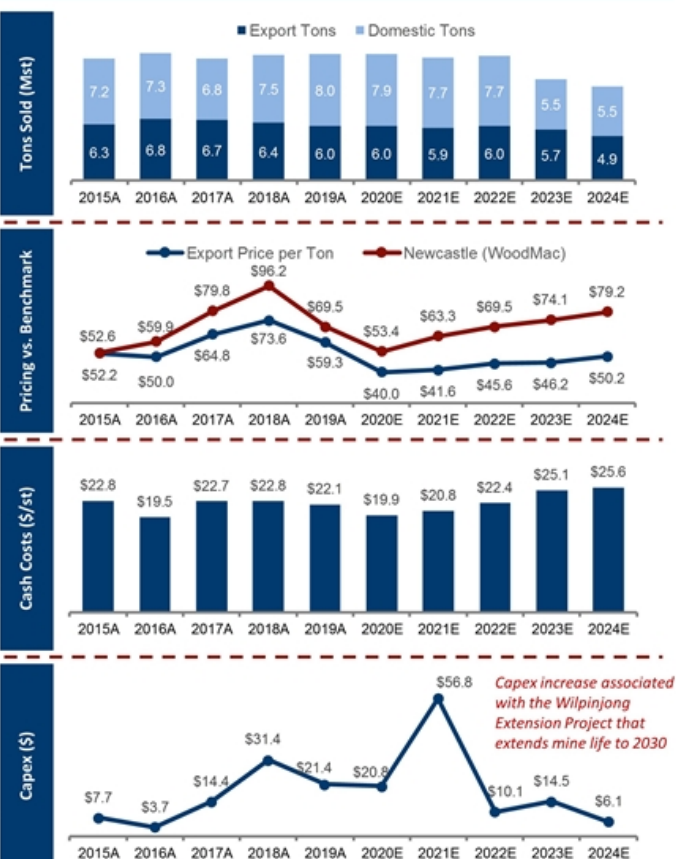
Mine Overview

- Wilpinjong is a leading thermal coal surface mine with historical and projected stable cash flows and low-cost operations, located in New South Wales, Australia
 - Highly-efficient dozer/casting and truck and shovel operation among the largest coal mines in Australia
 - Represents the majority of the Company's Australian EBITDA and cash flow
- Wilpinjong is one of Australia's lowest-cost coal mining operations, currently positioned in the 1st decile of the Australian thermal coal cost curve
 - Sustainable low-cost structure underpinned by favorable strip ratios
 - Cash costs per ton projected to average low-to-mid-\$20s over the next several years
- The mine produced and sold ~14 million tons of coal in FY'18 and FY'19 and had 104 million tons of proven and probable reserves as of FY'19
 - The ongoing Wilpinjong Extension Project increases mine life through 2030
- Significant extension opportunity beyond 2030, with adjacent coal deposits over which Peabody currently holds surface rights, offers long-term upside potential
- Wilpinjong supplies both domestic Australian (~58%) and export markets (~42%)
 - Long-term domestic contract covers the supply of ~7 – 8 million tons per annum to certain power stations (projected to decrease to ~5.5 million tons per year from 2023 onwards)
 - Export of ~6 million tons per year through either Newcastle or Port Waratah
- The entities holding this mining complex were designated as unrestricted subsidiaries under the Credit Agreement and Indenture on August 4, 2020

Location



Operational and Financial Summary



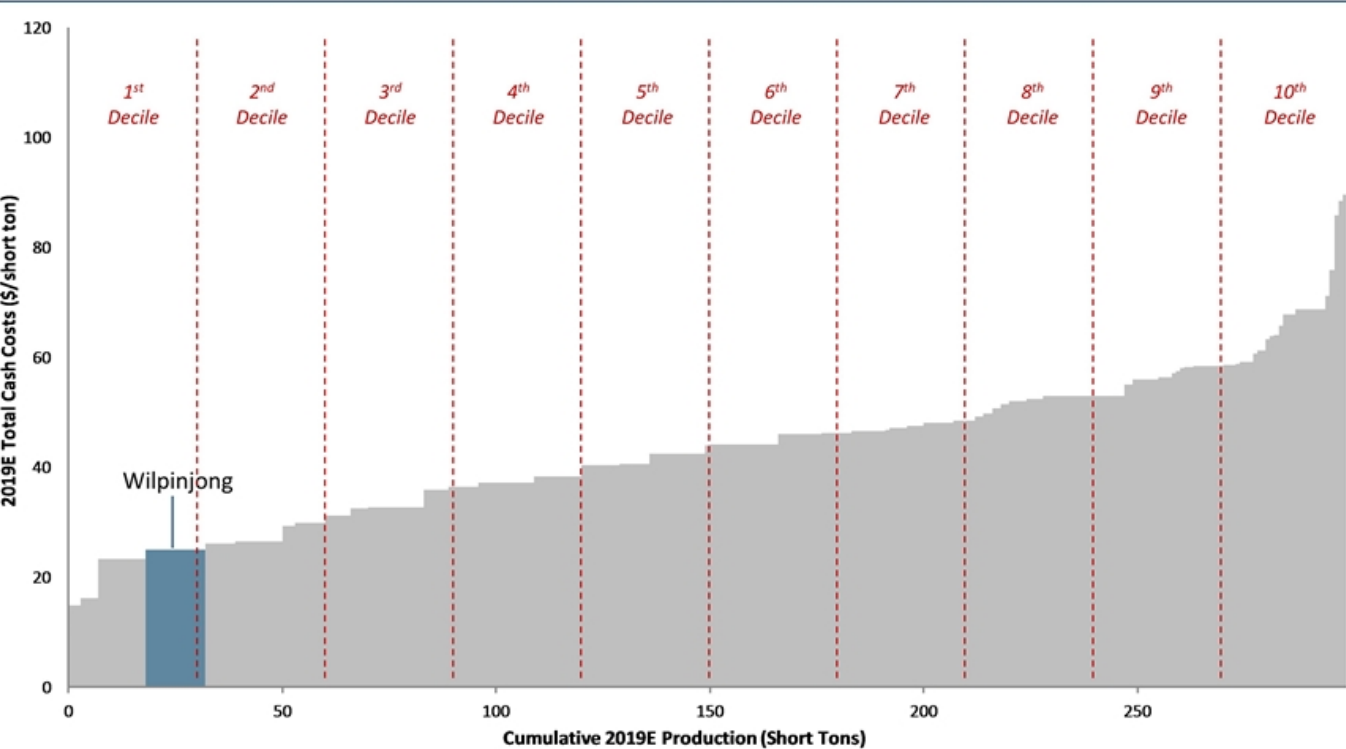
Note: Wood Mackenzie data as of December 18, 2020.

Australian Thermal Coal Cost Curve

(tons in millions)

Wilpinjong is a premier seaborne thermal coal mine (with significant domestic sales) currently positioned in the 1st decile of the Australian thermal coal cost curve

Australian Thermal Coal Cost Curve — Total Cash (USD/st, includes transportation costs)



Source: Wood Mackenzie.

III. Transaction Details

Sources & Uses and Pro Forma Capitalization



Set forth below are the estimated sources and uses and pro forma capitalization for the Transaction

- Assumes 100% participation of 2022 Noteholders in the 2022 Notes Exchange

Sources and Uses			
Sources		Uses	
New Structurally Senior Term Loan	\$206	Exchange of Funded RCF Commitments	\$216
New Structurally Senior Notes	194	Exchange of Senior Notes due 2022	459
New Peabody 2024 Notes	256	Transaction Fees, Expenses, and Other Payments ¹	38
Funded RCF Deemed Satisfied by Cash Exch. Consid.	10	Cash to Exch. RCF Lenders/2022 Noteholders ²	19
2022 Notes Deemed Satisfied by Cash Exch. Consid.	9	Repurchase of New Peabody 2024 Notes ³	18
Balance Sheet Cash	86	Accrued and Unpaid Interest ⁴	11
Total Sources	\$761	Total Uses	\$761

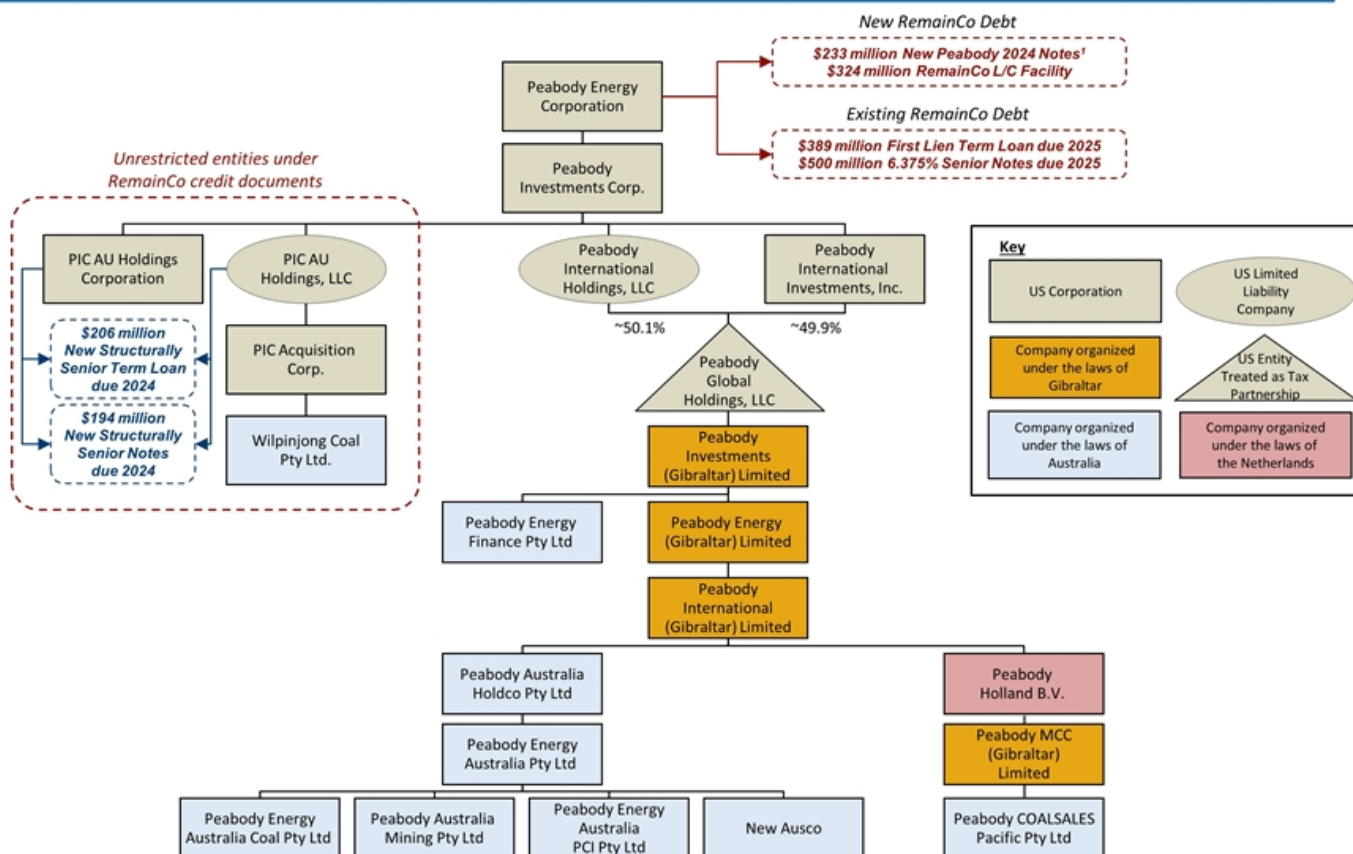
Pro Forma Capitalization					
	Q3'20 Balance	Adj.	Pro Forma Balance	Pro Forma Maturity	Pro Forma Interest Rate
Peabody Energy Corporation ("PEC"):					
AR Securitization Facility	\$60	\$--	\$60	Apr-22	L+150
\$540 million Revolving Credit Facility	230	(230) ⁵	--	Sep-23	L+325
First Lien Term Loan due 2025	390	--	390	Mar-25	L+275
6.000% Senior Notes due 2022	459	(459)	--	Mar-22	6.000%
6.375% Senior Notes due 2025	500	--	500	Mar-25	6.375%
New Peabody 2024 Notes	--	233 ⁶	233 ⁵	Dec-24	6.0% / 2.5%
Total PEC Debt	\$1,639	(\$456)	\$1,183		
PIC AU Holdings, LLC ("U-Sub"):					
New Structurally Senior Term Loan	\$--	\$206	\$206	Dec-24	10.000%
New Structurally Senior Notes	--	194	194	Dec-24	10.000%
Total Consolidated Debt	\$1,639	(\$56)	\$1,583		
Memo:					
RCF L/C's Outstanding	\$330	(\$330)	\$--	Sep-23	3.250%
New RemainCo L/C Facility ⁷	--	324 ⁸	324	Dec-24	6.000%
Cash Balance	815	(100)	715		

- Includes the 1% exchange fees payable to RCF and 2022 Noteholders and other transaction fees, expenses and other payments. Assumes 100% of 2022 Noteholders tender their bonds by the early tender deadline.
- Cash consideration in the RCF Exchange and 2022 Notes Exchange of \$10 million to RCF Lenders and \$9.42 million to participating 2022 Noteholders, respectively.
- Repurchase of \$22.5 million of principal amount of New Peabody 2024 Notes at a price of 80%.
- Accrued and unpaid interest paid at closing to all exchanging debt.
- The adjustments to funded RCF commitments and cash balance also include \$14 million paid to an RCF Lender in connection with the expiration of \$25 million of commitments in November 2020.
- Reflects \$255.58 million New Peabody 2024 Notes less \$22.5 million repurchase within 15 days of closing.
- Reflects L/Cs outstanding if RCF Facility is fully utilized at the time of the Transaction; as of December 16, 2020, the Company had no availability under the RCF Facility and ~\$324 million L/Cs issued.
- New RemainCo L/C Facility interest rate of L+600bps on any drawn L/C amounts.

Selected Commentary

- RCF Lenders exchange \$540 million RCF commitments for:
 - \$206 million of New Structurally Senior Term Loan issued by AU Holdings LLC and AU Holdings Corp
 - \$324 million L/C Facility issued by PEC due December 2024
 - \$10 million of cash
- \$459 million of 2022 Notes exchange for:
 - \$194 million of New Structurally Senior Notes issued by AU Holdings LLC and AU Holdings Corp
 - \$255.58 million of New Peabody 2024 Notes issued by PEC due December 2024, \$22.5 million of which are repurchased for \$18 million immediately after closing
 - \$9.42 million of cash to participating 2022 Noteholders that tender their bonds by the early tender deadline

Pro Forma Corporate Structure



Note: Assumes 100% 2022 Noteholder participation in the 2022 Notes Exchange.
 1. Amounts pro forma for the Company's purchase of \$22.5 million in face amount of the New Peabody 2024 Notes from participating 2022 Noteholder within 15 days after closing.

RCF / 2022 Notes Exchange Offer Key Terms



RCF Exchange	Exchange Offer	<ul style="list-style-type: none"> RCF Lenders exchanging \$540 million of RCF commitments will receive: <ul style="list-style-type: none"> (i) \$206 million of New Structurally Senior Term Loans issued by AU Holdings LLC and AU Holdings Corp (ii) \$324 million New RemainCo L/C Facility issued by PEC, which are currently utilized to support letters of credit (iii) \$10 million in cash
	Amendment Fee	<ul style="list-style-type: none"> 100bps cash exchange fee
2022 Notes Exchange	Exchange Offer	<ul style="list-style-type: none"> Participating 2022 Noteholders will receive their ratable share of: <ul style="list-style-type: none"> (i) \$194 million of New Structurally Senior Notes due December 31, 2024 issued by AU Holdings LLC and AU Holdings Corp (ii) \$255.58 million of New Peabody 2024 Notes issued by PEC (iii) \$9.42 million in cash to participating 2022 Noteholders that tender their bonds by the early tender deadline of January 8, 2021 at 5:00pm ET Within 15 days after closing, the Company must repurchase \$22.5 million in principal amount of New Peabody 2024 Notes from participating 2022 Noteholders that elect to sell their pro-rata share at a purchase price of 80% of par
	Early Tender Premium	<ul style="list-style-type: none"> 100bps cash exchange fee to 2022 Noteholders that tender their bonds by the early tender deadline of January 8, 2021 at 5:00pm ET
	Participation Threshold	<ul style="list-style-type: none"> Minimum 2022 Noteholder participation of 95%, which can be modified by the Company at any time with the consent of a majority of the RCF Lenders and two-thirds of the 2022 Noteholders that are signatories to the TSA
	Non-participating 2022 Noteholders	<ul style="list-style-type: none"> Removal of all liens and covenants under the 2022 Notes Indenture <ul style="list-style-type: none"> Structural subordination relative to all assets of the PEC credit group and unrestricted subsidiaries holding Wilpinjong equity Company to have limited ability to effect cash repayments or repurchases of non-participating 2022 Notes, with such limits sized to reflect the expected participation in the exchange <ul style="list-style-type: none"> Cash repurchases to be limited in the aggregate amount, as well as the price paid

New Structurally Senior Debt Key Terms

New Structurally Senior Term Loans / New Structurally Senior Notes	Issuers ("Co-Issuers")	<ul style="list-style-type: none"> AU Holdings LLC AU Holdings Corp
	Exchange Option	<ul style="list-style-type: none"> Upon the occurrence of certain conditions, holders of New Structurally Senior Notes and Term Loans will have the option to exchange an amount of such notes and term loans into New Peabody 2024 Notes and new term loans issued under the New RemainCo L/C Facility, respectively <ul style="list-style-type: none"> The amount of notes and term loans that may be exchanged pursuant to the Exchange Option at each point in time will be subject to certain limitations in the Company's existing credit documents
	Principal	<ul style="list-style-type: none"> <u>New Structurally Senior Term Loans</u>: \$206 million issued to exchanging RCF Lenders <u>New Structurally Senior Notes</u>: \$194 million issued to exchanging 2022 Noteholders
	Maturity	<ul style="list-style-type: none"> December 31, 2024
	Interest Rate	<ul style="list-style-type: none"> 10.0% per annum, payable quarterly in cash
	ECF Sweep	<ul style="list-style-type: none"> 100% of Excess Cash Flow at Wilpinjong must be used to pay down the New Structurally Senior Term Loans and to make a par repurchase offer to the New Structurally Senior Secured Notes, on a pro rata basis <ul style="list-style-type: none"> Proceeds of asset sales and casualty events subject to 365-day reinvestment rights to support acquisition of equipment, facilities, and other mining assets, as applicable
	Collateral	<ul style="list-style-type: none"> Equity pledge by AU Holdings LLC of 100% of its equity interests in a subsidiary indirectly owning the Wilpinjong mining complex <ul style="list-style-type: none"> Springing guarantee from Wilpinjong Coal Pty Ltd and springing lien grant on the assets of Wilpinjong Coal Pty Ltd upon the termination of any prohibitions against such guarantees / liens
	Covenants	<ul style="list-style-type: none"> No financial maintenance covenants Generally restrictive covenants, including (i) limited ability to issue debt or liens at the co-issuers or any subsidiaries, including Wilpinjong Coal Pty Ltd, (ii) restrictive permitted investments / restricted payments baskets with carve-outs for fees under the Management Services Agreement and tax sharing payments, among others, and (iii) no ability to designate any new or existing subsidiaries as unrestricted
	Call Protection	<ul style="list-style-type: none"> NC2 / 105 (6 months) / Par thereafter Traditional make-whole upon an event of default

New RemainCo L/C Facility Key Terms



New RemainCo L/C Facility	Issuer	<ul style="list-style-type: none"> Peabody Energy Corporation ("PEC")
	Guarantors	<ul style="list-style-type: none"> Substantially all domestic subsidiaries of PEC
	Maturity	<ul style="list-style-type: none"> December 31, 2024
	Prefunded Synth. L/C Facility Fees	<ul style="list-style-type: none"> <u>Interest Rate</u>: 6.0% fixed per annum, payable quarterly in cash¹ <u>Fronting Fee</u>: 12.5bps per annum
	L/C Limit	<ul style="list-style-type: none"> <u>Maximum L/C Capacity</u>: \$324 million
	Additional Collateral	<ul style="list-style-type: none"> Second lien on equity held by AU Holdings LLC securing the New Structurally Senior Debt Pledge of the 35% unencumbered first-tier foreign equity²
	Covenants	<ul style="list-style-type: none"> Financial Maintenance Covenants: Minimum RemainCo liquidity covenant of \$125 million, calculated quarterly Substantial tightening of existing covenants, including (i) no ability for PEC or any restricted subsidiaries to issue material new debt or liens, (ii) elimination of permitted investments / restricted payments baskets (other than de minimis baskets), (iii) limited ability to effect cash repurchases and repayments at maturity of non-participating 2022 Notes, and (iv) no ability to designate any new or existing subsidiaries as unrestricted
	Call Protection	<ul style="list-style-type: none"> NC2 / 103 (6 months) / Par thereafter Traditional make-whole upon an event of default
	Future Open Market Debt Repurchases	<ul style="list-style-type: none"> The Company is permitted to effectuate open market debt repurchases of the existing First Lien Term Loan due 2025 and the Senior Secured Notes due 2025, subject to the following limitations: <ul style="list-style-type: none"> RemainCo liquidity on a pro forma basis for any repurchase must be equal to or greater than \$200 million <u>Mandatory Offer</u>: For every \$4 in principal amount of debt repurchased in any fiscal quarter, the Company must make an offer on a pro rata basis to purchase \$1 of principal amount of debt from holders of the New Peabody 2024 Notes and New RemainCo L/C Facility within 30 days of each fiscal quarter end at a price equal to the weighted-average repurchase price paid over that fiscal quarter³

1. Drawn amounts of the New RemainCo L/C Facility shall receive interest of L+600bps per annum (no LIBOR floor), payable quarterly in cash.

2. To be provided equally to existing First Lien Term Loan due March 2025 and 6.375% Senior Secured Notes due March 2025; parity treatment required under existing intercreditor agreement.

3. Any amounts not utilized to effectuate a repurchase shall increase a builder basket that the Company may utilize to effectuate future debt repurchase at any time without triggering further Mandatory Offers.

New Peabody 2024 Notes Key Terms



New Peabody 2024 Notes	Issuer	<ul style="list-style-type: none"> Peabody Energy Corporation ("PEC")
	Maturity	<ul style="list-style-type: none"> December 31, 2024
	Interest Rate	<ul style="list-style-type: none"> <u>Cash Interest Rate</u>: 6.00% per annum, payable semi-annually <u>PIK Interest Rate</u>: 2.50% per annum, payable semi-annually
	Additional Collateral	<ul style="list-style-type: none"> Second lien on equity held by AU Holdings LLC securing the New Structurally Senior Debt Pledge of the 35% unencumbered first-tier foreign equity¹
	Covenants	<ul style="list-style-type: none"> No financial maintenance covenants Substantial tightening of existing covenants, including (i) no ability for PEC or any restricted subsidiaries to issue material new debt or liens, (ii) elimination of permitted investments / restricted payments baskets (other than de minimis baskets), (iii) limited ability to effect cash repurchases and repayments at maturity of non-participating 2022 Notes, and (iv) no ability to designate any new or existing subsidiaries as unrestricted
	Call Protection	<ul style="list-style-type: none"> NC2 / 104.25 / Par Traditional make-whole upon an event of default
	Future Open Market Debt Repurchases	<ul style="list-style-type: none"> The Company is permitted to effectuate open market debt repurchases of the existing First Lien Term Loan due 2025 and the Senior Secured Notes due 2025, subject to the following limitations: <ul style="list-style-type: none"> RemainCo liquidity on a pro forma basis for any repurchase must be equal to or greater than \$200 million <u>Mandatory Offer</u>: For every \$4 in principal amount of debt repurchased in any fiscal quarter, the Company must make an offer on a pro rata basis to purchase \$1 of principal amount of debt from holders of the New Peabody 2024 Notes and New RemainCo L/C Facility within 30 days of each fiscal quarter end at a price equal to the weighted-average repurchase price paid over that fiscal quarter²

1. To be provided equally to existing First Lien Term Loan due March 2025 and 6.375% Senior Secured Notes due March 2025; parity treatment required under existing intercreditor agreement.
2. Any amounts not utilized to effectuate a repurchase shall increase a builder basket that the Company may utilize to effectuate future debt repurchase at any time without triggering further Mandatory Offers.

Exchange Offer Timeline



December 2020

S	M	T	W	T	F	S
29	30	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

January 2021

S	M	T	W	T	F	S
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

Key transaction date

Date	Key Events
December 24 th	<ul style="list-style-type: none"> Transaction announcement
January 8 th	<ul style="list-style-type: none"> Early tender deadline at 5:00pm ET for cash early tender consideration/fee
January 25 th	<ul style="list-style-type: none"> Exchange Offer Expiration Date
January 29 th	<ul style="list-style-type: none"> Estimated Transaction closing

IV. Key Contacts

Key Contacts

Key Dealer
Manager Contacts

- Please direct all Exchange Transaction questions to:

Tyler Cowan
Managing Director
Lazard

Tyler.Cowan@lazard.com
+1 (312) 407-6657

Adam Green
Vice President
Lazard

Adam.Green@lazard.com
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News Release

FOR IMMEDIATE RELEASE

**PEABODY ANNOUNCES EXCHANGE OFFER AND CONSENT SOLICITATION
RELATING TO EXISTING 6.000% SENIOR SECURED NOTES DUE 2022**

ST. LOUIS, Dec. 24, 2020 – Peabody (NYSE: BTU) today announced that it has commenced an offer to exchange (the “*Exchange Offer*”) any and all of its outstanding 6.000% Senior Secured Notes due 2022, as set forth in the table below (the “*Existing Notes*”) for (i) new 10.000% Senior Secured Notes due December 31, 2024 (the “*New Co-Issuer Notes*”) to be co-issued by PIC AU Holdings LLC, a Delaware limited liability company and an indirect, wholly-owned subsidiary of Peabody (“*AU HoldingsCo*”), and PIC AU Holdings Corporation, a Delaware corporation and an indirect, wholly-owned subsidiary of Peabody (“*AU HoldingsCorp*” and, together with AU HoldingsCo, the “*Co-Issuers*”), and (ii) new 8.500% Senior Secured Notes due December 31, 2024 (the “*New Peabody Notes*” and, together with the New Co-Issuer Notes, the “*New Notes*”) to be issued by Peabody. Concurrently with the Exchange Offer, Peabody is soliciting consents (the “*Consent Solicitation*”) to certain proposed amendments to the indenture governing the Existing Notes (the “*Existing Notes Indenture*”) to (i) eliminate substantially all of the restrictive covenants, certain events of default applicable to the Existing Notes and certain other provisions contained in the Existing Notes Indenture, and (ii) release the collateral securing the Existing Notes and eliminate certain other related provisions contained in the Existing Notes Indenture (the “*Existing Indenture Amendments*”).

The following table sets forth the total consideration per \$1,000 principal amount of Existing Notes if validly tendered by the Early Tender Date (as defined herein) and the exchange consideration per \$1,000 principal amount of Existing Notes if validly tendered after the Early Tender Date but prior to the Expiration Date (as defined herein) and accepted for exchange in the Exchange Offer:

Existing Notes		Consideration per \$1,000 Principal Amount of Existing Notes Tendered							
		Total Consideration					Exchange Consideration		
		if Tendered by the Early Tender Date(1)(2)(3)(4)(5)					if Tendered after the Early Tender Date but prior to the Expiration Date(1)(3)(5)		
CUSIP Nos.	Aggregate Principal Amount (millions)	Principal Amount of New Peabody Notes	Pro Rata Payment	Principal Amount of New Co-Issuer Notes	Early Tender Premium(6)	Total	Principal Amount of New Peabody Notes	Principal Amount of New Co-Issuer Notes	Total
70457LAA2 (144A)	\$ 459.0	\$ 551.69	\$ 25.65	\$ 422.66	\$ 10.00	\$1,010	\$ 577.34	\$ 422.66	\$ 1,000
U7049LAA6 (Reg S)			cash		cash				

- (1) Assumes 80% participation in the Exchange Offer by the Early Tender Date and 100% participation in the Exchange Offer by the Expiration Date. Subject to satisfaction of the conditions to the Exchange Offer, regardless of the level of participation by the Early Tender Date or the Expiration Date, for each \$1,000 principal amount of Existing Notes tendered in the Exchange Offer, Eligible Holders will receive \$1,000 in consideration in the form of New Notes and, if applicable, cash.
- (2) Eligible Holders will receive \$10.00 of additional consideration per \$1,000 principal amount of Existing Notes validly tendered by the Early Tender Date.
- (3) Eligible Holders will receive their pro rata share per \$1,000 principal amount of Existing Notes validly tendered of the \$194.0 million aggregate principal amount of New Co-Issuer Notes.
- (4) Eligible Holders will receive their Pro Rata Share per \$1,000 principal amount of Existing Notes validly tendered by the Early Tender Date of a cash payment of \$9,420,000 (the “*Pro Rata Payment*”). “*Pro Rata Share*” means per \$1,000 principal amount of Existing Notes validly tendered by the Early Tender Date, the fraction, (x) the numerator of which is \$9,420,000 and (y) the denominator of which is the amount of \$1,000 increments of principal amount of Existing Notes tendered before the Early Tender Date by all holders of the Existing Notes. The Pro Rata Payment will be determined based on the participation level of Eligible Holders of Existing Notes tendering Existing Notes prior to the Early Tender Date.

- (5) Each \$1,000 principal amount of Existing Notes tendered on or prior to the Expiration Date (including Existing Notes tendered prior to the Early Tender Date) will be exchanged into an amount of New Peabody Notes that, together with New Co-Issuer Notes received in exchange and the Pro Rata Payment (if applicable), will amount to \$1,000 aggregate consideration received for each \$1,000 of principal amount of Existing Notes tendered.
- (6) Represents a 1% early tender premium per \$1,000 principal amount of Existing Notes validly tendered by the Early Tender Date.

Peabody is making the Exchange Offer and Consent Solicitation pursuant to the terms of and subject to the conditions set forth in the confidential offering memorandum and consent solicitation statement dated December 24, 2020 (the “*Offering Memorandum*”).

Assuming 80% participation in the Exchange Offer by the Early Tender Date and 100% participation in the Exchange Offer by the Expiration Date, in exchange for each \$1,000 principal amount of Existing Notes validly tendered (and not validly withdrawn) (i) prior to 5:00 p.m., New York City time, on January 8, 2021 (the “*Early Tender Date*”) and accepted by Peabody, participating Eligible Holders of Existing Notes will receive \$422.66 principal amount of New Co-Issuer Notes, \$551.69 principal amount of New Peabody Notes and the “*Pro Rata Payment*” of \$25.65 in cash, as well as the “*Early Tender Premium*” of \$10.00 in cash and (ii) after the Early Tender Date but prior to 11:59 p.m., New York City time, on January 25, 2021 (the “*Expiration Date*”) and accepted by Peabody, participating Eligible Holders of Existing Notes will receive \$422.66 principal amount of New Co-Issuer Notes and \$577.34 principal amount of New Peabody Notes. Subject to satisfaction of the conditions to the Exchange Offer, each \$1,000 principal amount of Existing Notes tendered on or prior to the Expiration Date (including Existing Notes tendered prior to the Early Tender Date) will be exchanged into an amount of New Peabody Notes that, together with New Co-Issuer Notes, received in exchange and the Pro Rata Payment (if applicable), will amount to \$1,000 aggregate consideration received for each \$1,000 of principal amount of Existing Notes tendered. Tendered Existing Notes may be validly withdrawn at any time prior to 5:00 p.m. New York City time, on January 8, 2021, unless extended. Any Eligible Holder who validly tenders (and does not validly withdraw) their Existing Notes pursuant to the Exchange Offer will be deemed to have delivered their related consents to the Existing Indenture Amendments by effecting such tender. Eligible Holders will not be permitted to validly tender their Existing Notes without delivering the related consents to the Existing Indenture Amendments. The settlement date is currently expected to be the third business day following the Expiration Date (the “*Settlement Date*”). The Exchange Offer will be conditioned on the satisfaction, or the waiver by the Company, of certain conditions described in the Offering Memorandum and related Letter of Transmittal.

The New Co-Issuer Notes will be senior secured obligations of the Co-Issuers. The New Co-Issuer Notes will not be guaranteed by any of the Co-Issuers’ subsidiaries; provided that to the extent not resulting in a materially adverse tax consequence (as determined by Peabody in its reasonable business judgment), if PIC Acquisition Corp., Wilpinjong Coal Pty Ltd, or any of its subsidiaries are not at any time contractually prohibited from becoming a guarantor (as determined by Peabody in its reasonable business judgment), PIC Acquisition Corp., Wilpinjong Coal Pty Ltd or such subsidiary shall become a guarantor. As further described in the Offering Memorandum, the New Co-Issuer Notes will be secured by liens on substantially all of the assets of the Co-Issuers, including by 100% of the capital stock of PIC Acquisition Corp. owned by AU HoldingsCo (the “*Co-Issuer Collateral*”).

The New Peabody Notes will be senior secured obligations of Peabody. The New Peabody Notes will be jointly and severally and fully and unconditionally guaranteed on a senior secured basis by substantially all of Peabody’s material domestic subsidiaries (excluding any unrestricted subsidiaries) (the “*Peabody Guarantors*”) and secured by (a) first priority liens over (i) substantially all of the assets of Peabody, Peabody Global Holdings, LLC (the “*Pledgor*”) and the Peabody Guarantors, except for certain excluded assets, (ii) 100% of the capital stock of each domestic restricted subsidiary of Peabody and 100% of the capital stock of each first tier foreign subsidiary of Peabody or a foreign subsidiary holding company, except in each case to the extent that such capital stock constitutes an excluded asset, (iii) a legal charge by Pledgor of 100% of the voting capital stock and 100% of the non-voting capital stock of Peabody Investments (Gibraltar) Limited, subject to certain limitations and (iv) all intercompany debt owed to Peabody, Pledgor or any Peabody Guarantor, in each case, subject to certain exceptions, and (b) second priority liens on the Co-Issuer Collateral.

The Offering Memorandum and other documents relating to the Exchange Offer and Consent Solicitation will only be distributed to Eligible Holders of Existing Notes who complete and return an eligibility form confirming that they are either (a) a person that is in the United States and is (i) a “Qualified Institutional Buyer” as that term is defined in Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), or (ii) an institutional “accredited investor” (within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act), or (b) a person that is outside the “United States” and

is (i) not a “U.S. person,” as those terms are defined in Rule 902 under the Securities Act, and (ii) a “non-U.S. qualified offeree” (as defined in the Offering Memorandum) (such holders, the “*Eligible Holders*”). Holders of Existing Notes who desire to obtain and complete an eligibility form should either visit the website for this purpose at <https://gbsc-usa.com/eligibility/peabody> or call Global Bondholder Services Corporation, the Information Agent and Exchange Agent for the Exchange Offer and Consent Solicitation at (212) 430-3774 (for banks and brokers) or (866) 470-4500 (toll free).

On December 24, 2020, Peabody entered into a Transaction Support Agreement with certain of its subsidiaries, each of the revolving lenders under Peabody’s credit agreement, the administrative agent under Peabody’s credit agreement, and certain holders, or investment advisors, sub-advisors, or managers of discretionary accounts that hold the Existing Notes, pursuant to which the parties agreed, among other things and subject to the terms thereof, to effectuate the Exchange Offer described herein.

In connection with the Exchange Offer and within 15 days of the Settlement Date, Peabody has agreed to make an offer to purchase up to \$22.5 million in aggregate accreted value of the New Peabody Notes at a purchase price equal to 80% of the accreted value of the New Peabody Notes, plus accrued and unpaid interest, if any, to, but excluding, the applicable purchase date.

The New Notes have not been and will not be registered under the Securities Act, or any state securities laws. Therefore, the New Notes may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements of the Securities Act, and any applicable state securities laws.

The complete terms and conditions of the Exchange Offer are described in the Offering Memorandum dated December 24, 2020. Requests for documentation should be directed to Global Bondholder Services Corporation at (212) 430-3774 (for banks and brokers) or (866) 470-4500 (toll-free).

None of Peabody, its board of directors (or any committee thereof), the dealer manager, the information agent, the exchange agent, the trustee for the Existing Notes, the trustee for the New Peabody Notes, the Trustee for the New Co-Issuer Notes or their respective affiliates is making any recommendation as to whether or not holders should exchange all or any portion of their Existing Notes in the Exchange Offer.

This announcement is not an offer to purchase or sell, a solicitation of an offer to purchase or sell or a solicitation of consents with respect to any securities. The Exchange Offer is being made solely by the Offering Memorandum and Consent Solicitation Statement dated December 24, 2020. The Exchange Offer is not being made to holders of Existing Notes in any jurisdiction in which the making or acceptance thereof would not be in compliance with the securities, blue sky or other laws of such jurisdiction.

Peabody (NYSE: BTU) is a leading coal producer, serving customers in more than 25 countries on six continents. We provide essential products to fuel baseload electricity for emerging and developed countries and create the steel needed to build foundational infrastructure. Our commitment to sustainability underpins our activities today and helps to shape our strategy for the future. For further information, visit PeabodyEnergy.com.

Contact:

Julie Gates
314.342.4336

Forward-looking Statements

This press release contains forward-looking statements within the meaning of the securities laws. Forward-looking statements can be identified by the fact that they do not relate strictly to historical or current facts. They often include words or variation of words such as “expects,” “anticipates,” “intends,” “plans,” “believes,” “seeks,” “estimates,” “projects,” “forecasts,” “targets,” “would,” “will,” “should,” “goal,” “could” or “may” or other similar expressions. Forward-looking statements provide management’s current expectations or predictions of future conditions, events or results. All statements that address operating performance, events, or developments that Peabody expects will occur in the future are forward-looking statements, including the Company’s ability to consummate the Exchange Offer and Consent Solicitation and the Company’s expectations regarding future liquidity, cash flows, mandatory debt payments and other expenditures. They may also include estimates of sales targets, cost savings, capital expenditures, other expense items,

actions relating to strategic initiatives, demand for the company's products, liquidity, capital structure, market share, industry volume, other financial items, descriptions of management's plans or objectives for future operations and descriptions of assumptions underlying any of the above. All forward-looking statements speak only as of the date they are made and reflect Peabody's good faith beliefs, assumptions and expectations, but they are not guarantees of future performance or events. Furthermore, Peabody disclaims any obligation to publicly update or revise any forward-looking statement, except as required by law. By their nature, forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. Factors that might cause such differences include, but are not limited to, a variety of economic, competitive and regulatory factors, many of which are beyond Peabody's control, including the ongoing impact of the COVID-19 pandemic and factors that are described in Peabody's Annual Report on Form 10-K for the fiscal year ended Dec. 31, 2019, and other factors that Peabody may describe from time to time in other filings with the SEC. You may get such filings for free at Peabody's website at www.peabodyenergy.com. You should understand that it is not possible to predict or identify all such factors and, consequently, you should not consider any such list to be a complete set of all potential risks or uncertainties.