

Mining Joint Venture Agreement
Bokney Project Joint Venture

Between

Ogre Resources (**Ogre**)

and

Bokney Two (Mining) Pty Ltd ACN -----
(**Bokney**)

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Particulars: Bokney Project Joint Venture

**Dated
as of**

Parties

Party 1

Name	Ogre Resources Swan Pty Ltd (Ogre)
ABN	
Address	Sydney NSW 2000
Email	John@Ogreresources.com.au
Fax	+61 2 9259 9944
Authorised Officer	Managing Director

Party 2

Name	Bokney Two (Mining) Pty Ltd (Bokney)
ACN	157 889 346
Address	
Email	
Fax	
Authorised Officer	

Manager

Name	Ogre Resources Swan Pty Ltd
ABN	14 149 783 068
Address	Sydney NSW 2000
Email	John@Ogreresources.com.au
Fax	+61 2 9259 9944

- Recitals A.** The Joint Venturers are, or are entitled to be, registered as the holders and owners of the Tenements set out in Schedule 2.
- B.** The Joint Venturers have agreed to enter into a joint venture to explore for Minerals in the Mining Area and, if approved in accordance with the terms of this agreement, to undertake the Development and Mining of the Deposit and the Treatment of the Products on the terms and conditions set out in this agreement.
- C.** The Manager has agreed to act as the first manager of the Joint Venture in accordance with this agreement.
-

The parties agree:

in consideration of, among other things, the mutual promises contained in this agreement:

1 Definitions and interpretation

1.1 Definitions

Unless the context otherwise requires, the following expressions have the respective meanings in this agreement (including the Recitals):

Abandon means to intentionally and permanently give up, surrender, leave and relinquish all, substantially all, or a severable part, of the Joint Venture Activities or Joint Venture Property, and **Abandonment** has the equivalent meaning. **Accounting Procedure** means the accounting procedure set out in Schedule 3. **additional GST amount** has the meaning given in clause 19.3(a).

Agreed Interest Rate means the rate of interest which is the average bid rate for bills (as defined in the *Bills of Exchange Act 1909 (Cth)*) having a tenor of 90 days which is displayed on the page of the Reuters Monitor System designated “BBSY” plus 2 percent calculated on a daily basis and compounded with monthly rests.

Annual Accounts has the meaning given in clause 9.3(a).

Approvals Period has the meaning given in clause 2.2(a).

Approved Programme and Budget means a programme and budget relating to Joint Venture Activities for a particular period which has been approved or deemed to have been approved by the Management Committee.

Associate means an associate as defined in the Corporations Act.

ASX means ASX Limited (ACN 008 624 691), or its lawful successor.

Auditor means a registered company auditor under the Corporations Act appointed by the Management Committee at the cost of the Joint Venture to conduct an audit each Year of the accounts of the Joint Venture.

Authorisation is any consent, authorisation, registration, filing, lodgement, notification, agreement, certificate, commission, lease, licence, permit, approval or exemption from, by or with an Authority (including the Tenements).

Authorised Officer means the person nominated by a party in its Particulars, or any person replacing the nominated person as its authorised officer by notice given in accordance with this agreement.

Authority is any government department, local government council, government or statutory authority or any other party under a Law which has a right to impose a requirement or whose consent is required with respect to Joint Venture Activities.

Bokney Deposit means the body of Ore located within the Tenements which has been the subject of the Bokney DFS (including any extension, addition or expansion of such body of Ore within the Mining Area) and which the Joint Venturers have determined is economically feasible to be subject to Development, Mining, Treatment, Rehabilitation and Mine Closure.

Bokney Development Proposal has the meaning given in clause 3.3(a).

Bokney DFS means the 'Bokney Project Iron Ore, Vanadium and Titanium Feasibility Study' into the technical, commercial and economic feasibility of Development and Mining in the Mining Area and producing Minerals in significant commercial quantities prepared by GR Engineering Services Pty Ltd for FE Australia Pty Ltd and Au Resources Limited and dated June 2011, as amended or supplemented from time to time.

Bokney Mine means the mine, referred to in the Bokney DFS, for the Mining and Treatment of Iron Products that the Joint Venturers have decided to develop and operate in the Mining Area, but does not include a Phosphate Mine.

Bokney ML Area has the meaning given in clause 3.3(b).

Bokney Sale and Purchase Agreement means the sale and purchase agreement dated 15 December 2011 between OGRE, OGRE Resources Limited, FE Limited and AG Australia Pty Limited (as amended), relating to, amongst other things, the sale of the Tenements to OGRE and Bokney.

Bankable Feasibility Study means a study of the technical, commercial and economic feasibility of Development, Mining, Treatment, Rehabilitation and Mine Closure in the Mining Area and producing Products, which includes exploration, geological, engineering, environmental and other relevant data and capital and operating cost estimates and (if appropriate) marketing studies in sufficient detail to enable options for optimum Development, Mining, Treatment, Rehabilitation and Mine Closure to be identified in reasonable detail, which study is of a standard suitable to be submitted to a financial institution as the basis for lending of funds for the development and operation of the Mining activities contemplated in the study and is capable of supporting a Decision to Mine.

BB Sole-Risk Proposal has the meaning given in clause 13A.2(a)(i).

Breach Default Event is the happening of an Insolvency Event in relation to a Joint Venturer or a Joint Venturer committing a material breach of any of its material obligations under this agreement (other than an Unpaid Monies Default Event), including where an Encumbrance (other than an Encumbrance approved by the Joint Venturers under this agreement) is created over or attached to the Joint Venture Interest of a Joint Venturer.

Business Day has the meaning given in clause 20.2(b).

Buy-Out Election has the meaning given in clause 12.5(a).

Buy-Out Offer means an offer by any of the Joint Venturers to buy a Non-Participating Joint Venturer's Percentage Share in accordance with the procedures set out in clause 13A.6.

Buying Joint Venturer has the meaning given in clause 13A.6(b).

Called Sum means the Percentage Share of funds required to be paid by a Joint Venturer in accordance with this agreement to finance Joint Venture Expenditure.

Capital Works means capital works and services, either associated with a Development described in a Bankable Feasibility Study or to further support, expand, suspend, Rehabilitate or Abandon Mining and Treatment, as approved by the Management Committee.

Cartel Provision has the meaning defined in section 44ZZRD of the *Trade Practices Act 1974* (Cth).

Change of Control means, in relation to a Joint Venturer, that it ceases to be a Subsidiary (as defined in the Corporations Act) of its Ultimate Holding Company.

Changed Joint Venturer has the meaning given in clause 11.6(a).

Commencement Date means the date on which the Condition Precedent has been satisfied or waived in accordance with this agreement or, if there are no Conditions Precedent, then the date of this agreement.

Completion has the meaning given to that term in the Bokney Sale and Purchase Agreement.

Completion Date has the meaning given in clause 13.1.

Condition Precedent means the condition set out in Schedule 1 which is required to be satisfied or waived for this agreement to be effective.

Confidential Information has the meaning given in clause 15.1.

Corporations Act means the *Corporations Act 2001* (Cth).

Cross Security means a deed of cross security in substantially the same form as the pro forma deed of cross security set out in Schedule 4.

Decision to Mine means a decision made by the Management Committee to proceed to Development and Mining of a Deposit located within the Tenements.

Deed of Covenant means a deed of covenant in substantially the same form as the pro forma Secured Party's deed of covenant set out in Schedule 5.

Deemed Sale Offer means an offer required to be made under this agreement by a Joint Venturer to sell all of its Joint Venture Interest to the other Joint Venturers, free from Encumbrances, at a Transfer Price.

Default Event means a Breach Default Event or an Unpaid Monies Default Event.

Defaulting Joint Venturer means a Joint Venturer which has committed a breach of this agreement, whether as an Unpaid Monies Default Event or a Breach Default Event or to which (or to a Related Body Corporate of which) a Breach Default Event relates, which breach has not been remedied by the Joint Venturer.

Delivery Point means:

- (a) in the case of the delivery of Iron Products, the place at which Product is delivered to a Joint Venturer as set out in Schedule 1 or at such other place determined by the Management Committee from time to time; or
- (b) in the case of the delivery of Phosphate Products or Other Products, such place as is determined by the Management Committee from time to time.

Deposit means:

- (a) the Bokney Deposit; or (b) each

Other Deposit.

Development means the construction, supply, completion and commissioning of a commercial Mining and Treatment operation for extraction and processing of Products, including the construction or supply of Mining Plant and a Treatment Plant, an Ore pad and associated crushing systems, conveyors, stockpiles, loading systems, utilities, vehicles, offices, workshops, and all other facilities, systems, plant, equipment and personnel required for the safe and efficient development, operation and rehabilitation of the Mine in accordance with the Mine Plans, but does not include Mining or Treatment.

Dispute has the meaning given in clause 16.1.

Dispute Notice has the meaning given in clause 16.2(a).

Dispute Resolution Process has the meaning given in clause 16.1

Due Date means the date on which a payment is due under this agreement.

Emergency means a situation involving actual or reasonably apprehended substantial damage to or loss of Joint Venture Property or Joint Venture Activities or serious injury to persons or loss of life.

Encumbrance means any mortgage, pledge, lien, charge, title retention arrangement, trust or power, or other form of security or interest having effect as a security for the payment of any monetary obligation or the observance of any other obligation whether existing or agreed to be granted or created.

Enforcing Joint Venturers has the meaning given in clause 13.1.

Expert means a person independent of the parties appointed in accordance with this agreement who is suitably qualified and capable of making an expert determination under this agreement in accordance with, and subject to, the Institute of Arbitrators & Mediators Australia Expert Determination Rules.

Exploration means searching for, discovery and delineation of commercial Deposits and the evaluation of such deposits, including prospecting, surface mapping, sampling, aerial mapping and reconnaissance, drilling, trenching and related field work, geophysical and geochemical testing, core sampling, assaying, exploration declines, test mining, analysis and evaluation of activities undertaken and results obtained, conducting preliminary feasibility studies, preparing feasibility study reports, and planning, supervising and administering all activities undertaken, but does not include Development, Mining or Treatment, and **Explore** has the equivalent meaning.

Feasibility Study means a study of the technical, commercial and economic feasibility of Development and Mining in the Mining Area and producing Minerals in significant commercial quantities, which includes all available exploration, geological, engineering and other relevant data and capital and operating cost estimates and (if appropriate) marketing studies in sufficient detail to enable options for optimum Development, Mining and Treatment to be identified in reasonable detail, including:

- (a) exploration results and estimates of Mineral Resources, and Proven and Probable Ore Reserves (all as defined in the JORC Code);
- (b) the proposed methods of Development, Mining and Treatment, including the extraction, beneficiation and transportation of the Ore and the Treatment and production of Minerals, including waste disposal;
- (c) an estimate of operating levels, environmental costs, shutdown and rehabilitation costs, including an estimate of required capital expenditure and operating costs;
- (d) an economic evaluation of the proposed Development, Mining and Treatment and the marketing and sale of the Minerals including a comparative analysis of the effect of various assumptions, financing methods, operating costs and taxation; and
- (e) a schedule of relevant Authorisations required to be obtained before Mining may commence,
- (f) and includes any preliminary, scoping or pre-feasibility study.

Ogre Entity means Ogre Resources or a body corporate that is a Related Body Corporate of Ogre Resources.

Ogre Resources means Ogre Resources Ltd (ACN 000 000 000).

Good Australian Mining Practice means recognised mining methods, procedures and practices, together with the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from an experienced and competent contractor in Australia under conditions comparable to those applicable to the relevant activity in the light of known facts, or facts which should reasonably have been known at the time, and consistent with applicable Laws and Authorisations and having regard to the need for:

- (a) suitable and experienced personnel and adequate materials;
-

- (b) ongoing monitoring and testing of plant and equipment performance, safe operating procedures and appropriate maintenance procedures;
- (c) the observance of relevant Australian and international standards; and
- (d) in the case of design, engineering and construction, internationally accepted design, engineering and construction practices that reasonably would be expected from recognised designers, engineers and constructors of comparable plant, equipment and facilities in Australia.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth.) and associated GST legislation.

Gross Negligence means such wanton and reckless conduct as constitutes an utter disregard for the harmful, foreseeable and avoidable consequences which result from that conduct.

Indemnified Persons has the meaning given in clause 6.6.

Independent Auditor has the meaning given in clause 13A.6(a).

Insolvency Event means the happening of any of the following events in relation to a body corporate:

- (a) it is unable to pay all its debts as and when they become due and payable or it has failed to comply with a statutory demand as provided in section 459F(1) of the Corporations Act;
- (b) a resolution is validly passed to wind up the body corporate voluntarily or to appoint an administrator;
- (c) it, or any other person, makes an application to a court for its winding up, being an application that is not stayed, withdrawn or dismissed within 7 days;
- (d) an order is made for it to be wound up;
- (e) the appointment of a controller as defined in section 9 of the Corporations Act) of any of its assets;
- (f) it proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them, including a deed of company arrangement; or
- (g) it becomes an insolvent under administration as defined in section 9 of the Corporations Act.

Iron Products means all vanadium, titanium and all ferrous minerals including, but not limited to, magnetite, haematite, geothite, limonite and jarosite extracted from the Mining Area under this agreement which are capable of being sold.

Joint Venture means the unincorporated joint venture established by and under this agreement to be known by the name set out in the Particulars.

Joint Venture Accounts means the accounts on an accrual basis maintained in Australian dollars by the Manager on behalf of the Joint Venturers in accordance with this agreement, including the Accounting Procedure, and containing a record of all charges and credits that are attributable to the Joint Venture consistent with standard accounting procedures, expenditure classifications and reporting formats as accepted by the Management Committee.

Joint Venture Activities means all Exploration, Development, Mining, Treatment, Rehabilitation and Mine Closure activities involved in the acquisition, use, development, operation and maintenance of Joint Venture Property and all other activities, undertakings, and operations undertaken by the Joint Venturers pursuant to this agreement, but does not include the marketing or sale of Products.

Joint Venture Asset Register means the register of assets owned by the Joint Venturers and maintained by the Manager for the purposes of the Joint Venture.

Joint Venture Expenditure means all costs reasonably and properly incurred by the Manager, in accordance with the Accounting Procedure, on behalf of the Joint Venturers in connection with Joint Venture Activities pursuant to an Approved Programme and Budget or incurred in an Emergency or

as a permitted cost overrun or otherwise approved by the Management Committee, and includes all the items which may be charged to the Joint Venture Accounts as set out in the Accounting Procedure.

Joint Venture Intellectual Property means all business names, trade marks, copyright, patents, patent applications, discoveries, inventions, and similar rights developed by the Manager pursuant to an Approved Programme and Budget in the course of Joint Venture Activities.

Joint Venture Interest means the following rights, liabilities and obligations of a Joint Venturer determined under this agreement:

- (a) the obligation, subject to the terms of this agreement, to contribute its Percentage Share of all Joint Venture Expenditure;
- (b) the ownership of and the right to receive in kind and to dispose of for its own account its Percentage Share of Products produced under this agreement;
- (c) the beneficial ownership as a tenant in common of an undivided share in its Percentage Share of Joint Venture Property; and
- (d) all other rights, liabilities and obligations accruing to or incurred by the Joint Venturers in or arising out of this agreement in its Percentage Share.

Joint Venture Property means all rights, titles, interest, claims, benefits and all other property of whatever kind, real or personal, from time to time owned by any Joint Venturer for the purposes of the Joint Venture, and includes the Tenements, Joint Venture Account, Mining Plant, Treatment Plant, Joint Venture Intellectual Property and all items listed in the Joint Venture Asset Register, and includes Products before delivery to a Joint Venturer at the Delivery Point.

Joint Venturer means a party which holds a Joint Venture Interest, but does not include a party in its capacity as Manager.

JV Indemnified Persons has the meaning given in clause 6.7.

Law means Commonwealth and State legislation including regulations, by-laws, and other subordinate legislation, the requirements and guidelines of any Authority, including the Listing Rules, with which a party is legally required to comply, and common law and equity.

Listing Rules means the ASX Listing Rules or, to the extent that a party or its Related Body Corporate is bound thereby, the listing rules of another recognised stock exchange.

Majority Vote means a resolution voted in favour by representatives entitled to vote and be present at the meeting which satisfies the Passmark, excluding for this purpose the votes held by a Defaulting Joint Venturer.

Management Committee means the committee of representatives of the Joint Venturers established under this agreement to supervise the management of the Joint Venture.

Management Fee means the remuneration payable by the Joint Venturers to the Manager under this agreement as set out in Schedule 1.

Manager means the person or entity named as Manager in Schedule 1 or such other person or entity as may be engaged or appointed by the Management Committee as Manager from time to time under this agreement.

Mine means:

- (a) the Bokney Mine; or
- (b) each mine, the name and location of which are to be determined by the Management Committee, for the Mining and Treatment of Other Products and/or Phosphate Products that the Joint Venturers have decided to develop and operate in the Mining Area.

Mine Closure means all or any action or conduct by the Manager for the purpose of suspending or Abandoning all, or a severable part of, the Joint Venture Activities or Joint Venture Property under this agreement whether by way of demolition, removal, destruction, conversion, placement on

permanent care and maintenance or other basis, or any similar action or conduct, and all other action or conduct as the Manager considers necessary to comply with all applicable Laws, the requirements of an Authority or Good Australian Mining Practice in relation to such Mine Closure.

Mine Closure Obligations means the obligations of the Joint Venturers under the Mining Act, all Tenements and Authorisations, and all applicable statutory and contractual obligations on and following Mine Closure.

Mine Plans means the long term life of mine plan, and shorter term mining plans of various terms, as amended from time to time, which describe the sequencing of mining Ore, overburden and waste from the Mine, and which incorporate the key parameters for mining, including mining sequence plans, landform designs, access and haulage roads, and which provide schedules for the volumes of Ore, overburden and waste to be mined, stored, processed or disposed of, and the production of Products within the range and periods required by the Management Committee from time to time.

Mineral or **Minerals** means the mineral or minerals specified in Schedule 1.

Minimum Interest means the Percentage Share of Joint Venture Interest specified in Schedule 1.

Mining means all operations associated with the extraction of Ore from the Mining Area, and haulage and delivery to the Treatment Plant, including pre-stripping, and the removal and disposal of overburden and waste, but does not include Exploration, Development, Treatment, Rehabilitation or Mine Closure.

Mining Act means the mining legislation described in Schedule 1.

Mining Area means the whole of the area within the Tenements set out in Schedule 2 depicted on the plan annexed as Exhibit A, and any other additional Tenements or areas of land applied for or acquired for the purposes of this agreement.

Mining Information means all information, data and records relating to the Tenements and Joint Venture Activities including all surveys, maps, aerial photographs, electronically stored data, sketches, drawings, memoranda, drill cores, logs of those drill cores, geophysical, geological or drill maps, sampling and assay reports and notes.

Mining Plant means all Capital Works, plant, equipment, machinery, facilities and other infrastructure required to carry out Mining operations.

Native Title Claims means either:

- (a) any claim, application or proceeding in respect of Native Title Rights which is accepted by the Native Title Tribunal or the Registrar thereof pursuant to the *Native Title Act 1993* (Cth); or
- (b) any claim, application or proceeding in respect of those rights, interests and statutory protections of and relating to aboriginal persons as set out in the legislation of the Nominated State or the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

Native Title Rights has the same meaning as the expressions “native title” or “native title rights and interests” as defined in section 223(1) of the *Native Title Act 1993* (Cth) and includes those rights, interests and statutory protections of and relating to aboriginal persons as set out in the relevant legislation of the Nominated State or the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

NGER Act has the meaning given in clause 7.3(a).

Nominated State is the State or Territory of Australia set out in Schedule 1.

Non-Defaulting Joint Venturer means a Joint Venturer which is not a Defaulting Joint Venturer and is not a Related Body Corporate of a Defaulting Joint Venturer.

Non-Participating Joint Venturers has the meaning given in clause 13A.3(f)(i).

Non-Participating Joint Venturer Percentage Share has the meaning given in clause 13A.4(a).

Non-payment Notice has the meaning given in clause 12.2(a).

Non-Selling Joint Venturer has the meaning given in clause 11.3(d).

Offer has the meaning given in clause 11.3(b).

Option Period has the meaning given in clause 11.3(d).

Ore means any mineral or mixture of minerals of intrinsic economic interest located in or on the Earth's crust at a concentration above background level.

Other Deposit means a body of Ore located within the Mining Area (excluding the Bokney Deposit and any Phosphate Deposit) which has been the subject of a Bankable Feasibility Study and which the Joint Venturers have determined is economically feasible to be subject to Development, Mining, Treatment, Rehabilitation and Mine Closure.

Other Joint Venturers has the meaning given in clause 13A.7.

Other ML Area has the meaning given in clause 3.5(b).

Other Project has the meaning given in clause 3.5(a).

Other Products means all mineral or metallic Ores, concentrates, metals and other mineralised products, and any other mineral resources, processed, smelted or refined from Ores extracted from the Mining Area under this agreement which are capable of being sold but excludes Iron Products and Phosphate Products.

Other Sole Risk Area has the meaning given in clause 13A.1(c).

Other Sole Risk Proposal has the meaning given in clause 13A.1(c).

Particulars means the particulars of a party and the Joint Venture given on page 1 of this agreement, or any particular amended by the party by notice given in accordance with this agreement.

Passmark means the requirements needed to be satisfied as set out in Schedule 1 to pass a resolution of the Management Committee by a Majority Vote.

Payee has the meaning given in clause 19.4(a).

Paying Joint Venturer means a Joint Venturer, not being a Defaulting Joint Venturer, which makes a payment of Unpaid Monies on behalf of Defaulting Joint Venturer in order to remedy an Unpaid Monies Default Event.

Percentage Share means the percentage Joint Venture Interest which a Joint Venturer has in the Joint Venture in accordance with this agreement.

Personal Property means all of the Joint Venture Property that is personal property as defined in the PPSA and to which the PPSA applies.

Phosphate means *all naturally occurring forms of the element phosphorus*.

Phosphate Deposit means a body of Ore located within the Mining Area containing Phosphate (excluding the Bokney Deposit and any Other Deposit) which has been the subject of a Bankable Feasibility Study and which the Joint Venturers have determined is economically feasible to be subject to Development, Mining, Treatment, Rehabilitation and Mine Closure.

Phosphate Mine means the mine, the name and place of which is to be determined by the Management Committee, for the Mining and Treatment of Phosphate Products that the Joint Venturers have decided to develop and operate in the Mining Area.

Phosphate ML Area has the meaning given in clause 3.4(b).

Phosphate Products means all Phosphate extracted from the Mining Area under this agreement which are capable of being sold.

Phosphate Project has the meaning given in clause 3.4(a).

PPSA means the *Personal Properties Securities Act 2009* (Cth.) and all regulations made pursuant to it.

Products means:

- (a) Iron Products;
- (b) Phosphate Products; and/or (c) Other Products.

Proposed Programme and Budget means a work programme and budget for a given Year, or other relevant period, in relation to the conduct of Joint Venture Activities proposed in accordance with this agreement.

Re-Buy Amount has the meaning given in clause 13A.4(c)(i).

Re-Buy Expiry Date means the date falling one month after the date that the Sole Risking Joint Venturers have provided a notice in writing to the Non-Participating Joint Venturers, notifying them that the development of the relevant Sole Risk Operation is more than 50% complete.

Re-Buy Interest has the meaning given in clause 13A.4(a).

Re-Buy Joint Venturer has the meaning given in clause 13A.4(b).

Re-Buy Premium has the meaning given in clause 13A.4(c)(ii).

Recipient has the meaning given in clause 19.3(a).

Rehabilitation means all undertakings, works and efforts for the reclamation, revegetation, decontamination and cleaning up of the Mining Area and Joint Venture Property associated with, or preparing for, the suspension or final physical shutdown of all or part of Mining or Treatment, or as otherwise determined by the Management Committee, in a safe and workmanlike manner including, without limitation, the payment of all Shutdown Costs in accordance with all applicable Laws, and Authorisations granted to the Joint Venturers, including all applicable rehabilitation objectives, indicators, compliance criteria, and “**Rehabilitate**” has an equivalent meaning.

Rehabilitation Fund means the fund or other investments, sureties or securities established by the Manager on the Commencement Date, or such other date approved by the Management Committee, for the purpose of satisfying the Rehabilitation Obligations.

Rehabilitation Obligations means the obligations of the Joint Venturers under the Act, all Tenements and Authorisations, and all applicable statutory and contractual obligations relating to Rehabilitation during and following completion of Joint Venture Activities.

Rejected Development Decision has the meaning given in clause 13A.1(a).

Related Body Corporate means a related body corporate as defined in the Corporations Act.

Sale Price has the meaning given in clause 13A.6(a).

Secured Party has the meaning given in clause 10.2(a)(ii).

Security Interest in relation to any Personal Property has the same meaning as in the PPSA.

Selling Joint Venturer has the meaning given in clause 11.3(b).

Shutdown Costs means all costs associated with shutting down or suspending Joint Venture Activities within the Mining Area including the costs associated with satisfaction of Rehabilitation Obligations and Mine Closure Obligations, and any redundancy or termination benefits or payments to any consultant or contractor or employee who is engaged by the Manager in the conduct of Joint Venture Activities, but only to the extent of the period for which an employee was engaged in Joint Venture Activities.

Sole-Risk Area means, as applicable:

- (a) that part of the Mining Area in which it is necessary to undertake a Sole-Risk Operation as a result of a BB Sole-Risk Proposal; or (b) any Other

Sole-Risk Area.

Sole-Risk Notice means a notice provided by a Joint Venturer under clause 13A.2 electing to proceed with a Sole Risk Proposal.

Sole-Risk Operation has the meaning given in clause 13A.3(a).

Sole-Risk Proposal means, as applicable:

- (a) a BB Sole-Risk Proposal; or
- (b) an Other Sole-Risk Proposal.

Sole-Risking Joint Venturer has the meaning given in clause 13A.2(e).

Special Passmark means the requirements needed to be satisfied as specified in Schedule 1 to pass a resolution of the Management Committee by a Super Majority Vote.

Super Majority Vote means a resolution voted in favour by representatives entitled to vote and be present at the meeting which satisfies the Special Passmark, excluding for this purpose the votes held by a Defaulting Joint Venturer.

Supplier has the meaning given in clause 19.3(a).

Supporting BB Party has the meaning given in clause 13A.2(a).

Supporting Other Party has the meaning given in clause 13A.2(b).

Tenements means:

- (a) the mining tenements listed in Part A of Schedule 2 and includes any lease, licence, claim or permit issued or to be issued under the Mining Act to the Joint Venturers for the purposes of the Joint Venture which confers or may confer a right to prospect, explore for or mine any mineral in the Mining Area, or which may facilitate the enjoyment of such right; and
- (b) the applications for mining tenements listed in Part B of Schedule 2, and any extension, renewal, conversion or substitution of, any of those tenements.

Termination Events has the meaning given in clause 14.1.

Third Party means a person not a party, or the Related Body Corporate of a party, to this agreement.

Bokney Entity means The Bokney Corporation Limited (a company incorporated in New Zealand, company number 3491) and any of its Related Bodies Corporate.

Transfer Price means a fair market price for a Joint Venture Interest as at the date of a Deemed Sale Offer, less all amounts due by the transferring Joint Venturer to the Manager or the other Joint Venturers under this agreement, including interest, and the amount of all liability of the transferring Joint Venturer to meet existing Rehabilitation Obligations and Mine Closure Obligations as determined by the Manager as at the date of payment.

Treatment means the processing, smelting, and refining of Ore, overburden and waste up to and including producing Products, and includes crushing, weighing, sampling, assaying, refining, treatment, transportation, handling, storage, loading and delivery of the Products, but does not include Mining or Development.

Treatment Plant means all Capital Works, buildings, plant, facilities and other infrastructure established for Treatment, including the Ore pad and associated crushing systems, conveyors, stockpiles, loading systems, offices, workshops and recovery areas.

Ultimate Holding Company means an ultimate holding company as defined in the Corporations Act.

Unanimous Vote means a resolution voted in favour by all representatives entitled to vote and be present at the meeting in respect of the matters set out in: (a) Part B of Schedule 1, where there are only two Joint Venturers;

- (b) Part C of Schedule 1, where there are more than two Joint Venturers; or
-

(c) as otherwise set out in this agreement, excluding for this purpose the votes held by a Defaulting Joint Venturer.

Unpaid Monies are monies due for payment under this agreement, and include monetary compensation and damages payable by a Defaulting Joint Venturer which is agreed, awarded or determined following an unremedied Breach Default Event for so long as it is unpaid, and interest and costs payable or reimbursable in accordance with this agreement.

Unpaid Monies Default Event is the failure by a Joint Venturer to pay Unpaid Monies on or before the Due Date.

Unpaid Monies Default Notice has the meaning given in clause 12.2(b).

Wilful Misconduct means an act or omission that is a reckless and intentional disregard of:

- (a) any provision of this agreement;
- (b) any Approved Programme or Budget, except in the case of an Emergency;
- (c) any Law required to be observed in connection with Joint Venture Activities;
or
- (d) the terms or conditions of a Tenement, but does not include any error of judgement or mistake made by the Manager or any of its directors, employees, agents or contractors in the exercise, in good faith, of any function, authority or discretion conferred upon the Manager.

Year means a year commencing on and including the first day of January and ending on and including the following thirty first day of December.

1.2 Interpretation

In this agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice-versa;
- (b) headings do not affect the interpretation of this agreement;
- (c) a reference to a party means a party to this agreement as listed on page 1 of this agreement and includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (d) references to a part, clause, schedule, exhibit and annexure refers to a part, clause, schedule, exhibit or annexure of, in or to this agreement;
- (e) a reference to this agreement includes all schedules, exhibits and annexures to this agreement;
- (f) a reference to an agreement, deed, instrument or other document includes the same as amended, novated, supplemented, varied or replaced from time to time;
- (g) a reference to a court is to an Australian court;
- (h) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinated legislation issued under, that legislation or legislative provision;
- (i) a reference to a day, month or year is relevantly to a calendar day, calendar month or calendar year;
- (j) a reference to \$, AUD or dollars is to the lawful currency of the Commonwealth of Australia;
- (k) the expressions "including", "includes" and "include" have the meaning as if followed by "without limitation";
- (l) no rule of construction is to apply to the disadvantage of a party on the basis that that party drafted the whole or any part of this agreement;

- (m) a party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise; and
- (n) where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

2 Condition precedent

2.1 Coming into effect of agreement

This clause 2 and clauses 1 (definitions), 15 (confidentiality), 20 (notices) and 21 (ancillary) come into effect immediately. The remainder of this agreement comes into effect on the Commencement Date.

2.2 Satisfaction of Condition Precedent

- (a) Each party must use all reasonable endeavours (other than waiver) at its cost to ensure that the Condition Precedent is satisfied on conditions acceptable to it within the time set out in Schedule 1 (**Approvals Period**).
- (b) Each party must keep each other informed of its progress in obtaining satisfaction of the Condition Precedent and any circumstance that may result in any the Condition Precedent not being satisfied in accordance with its terms.

2.3 Failure to satisfy Condition Precedent

If the Condition Precedent is not satisfied or the Bokney Sale and Purchase Agreement terminates prior to Completion occurring, within the Approvals Period, either party may terminate this agreement by notice to the other party.

2.4 Consequence of failure to satisfy Condition Precedent

If a party terminates this agreement by notice for failure to obtain satisfaction of the Condition Precedent for any reason, then each party is released from all further obligations under this agreement and no party has any claim against another party as a consequence of the termination.

3 Joint Venture objectives and relationships

3.1 Joint Venture agreement

With effect from the Commencement Date, the Joint Venturers agree to establish the Joint Venture as an unincorporated joint venture according to the terms and conditions contained in this agreement.

3.2 Objects and scope of the Joint Venture

The objects of the Joint Venture are to undertake Joint Venture Activities associated with the Mining Area and, in particular, to:

- (a) design, construct, develop and operate Bokney Mine and associated works and services in accordance with the terms of this agreement;
 - (b) mine and, as appropriate, crush, screen, beneficiate, process, convey, handle, store and stockpile Ore, overburden and waste extracted from the Bokney Mine, and produce Iron Products;
 - (c) store and deliver Iron Products in kind to the Joint Venturers at the Delivery Point;
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- (d) decommission any Joint Venture Property no longer required for Mining and Treatment and Rehabilitate any areas within the Mining Area where the Joint Venture has ceased Mining;
- (e) maintain the Tenements and further Explore and evaluate the Mining Area for reserves of Ore;
- (f) if Exploration indicates the probable existence of a further commercially minable Deposit in any part of the Mining Area, carry out a Bankable Feasibility Study, including the construction and operation of a pilot plant (if required) to test the feasibility of further Development;
- (g) do all things incidental to any of the objects as resolved by the Management Committee; and
- (h) undertake such other activities as the parties agree from time to time upon the terms and conditions set out in this agreement.

3.3 Development and Mining of the Bokney Deposit

- (a) The Manager or any Joint Venturer may, at any time, propose to the Management Committee that the Joint Venture undertake Development and Mining of the Bokney Deposit (a **Bokney Development Proposal**).
- (b) Within 90 days of receipt of a Bokney Development Proposal, the Management Committee shall meet to consider and then either approve or reject that Bokney Development Proposal.
- (c) If the Management Committee decides by Unanimous Vote or a Super Majority Vote (as applicable in accordance with clause 5.5) to approve a Bokney Development Proposal and make a Decision to Mine, each Joint Venturer must, to the extent that such mining lease has yet to be applied for or granted, participate in an application for a mining lease over the area of the Tenements agreed to be mined (**Bokney ML Area**).
- (d) If the Management Committee does not approve a Bokney Development Proposal then the parties shall, for a period of 90 days from the date of the decision of the Management Committee, endeavour to agree such amendments to the Bokney Development Proposal as will enable it to achieve a Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5). At any time after the expiry of the 90 day period referred to in this clause 3.3(d), the Manager or any Joint Venturer may submit:
 - (i) a revised version of the Bokney Development Proposal it has previously submitted; or
 - (ii) a new Bokney Development Proposal, to the Management Committee for approval.
- (e) Within 20 days of receipt of a resubmitted or new Bokney Development Proposal in accordance with clauses 3.3(d), the Management Committee shall meet for a second time to consider and then either approve or reject that Bokney Development Proposal. If the Management Committee decides by Unanimous Vote or a Super Majority Vote (as applicable in accordance with clause 5.5) to approve that Bokney Development Proposal and make a Decision to Mine then clause 3.3(c) shall apply.
- (f) If at a meeting of the Management Committee convened pursuant to clause 3.3(e), the Management Committee does not approve a Bokney Development Proposal then the following provisions shall apply:
 - (i) the matter must be referred to the respective Chief Executive Officers of each party (or their equivalent, as indicated in clause 16.2(c)) who must negotiate in good faith with a view to agreeing amendments to that Bokney Bella Development Proposal as will enable it to achieve a Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5); and
 - (ii) if the matter is not resolved in accordance with clause 3.3(f)(i) within 45 days of the meeting of the Management Committee convened pursuant to clause 3.3(e), it shall

be referred to the respective Chairmen of each party (or their equivalent, as indicated in clause 16.2(d)) who must negotiate in good faith with a view to agreeing amendments to that Bokney Bella Development Proposal as will enable it to achieve a Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5).

- (g) If the matter is not resolved in accordance with clause 3.3(f) within 45 days of the meeting of the Management Committee convened pursuant to clause 3.3(e) then, at any time thereafter, the Manager or any Joint Venturer may submit:
 - (i) a revised version of the Bokney Development Proposal it has previously submitted; or
 - (ii) a new Bokney Development Proposal, to the Management Committee for approval.
- (h) Within 20 days of receipt of a resubmitted or new Bokney Development Proposal in accordance with clauses 3.3(g), the Management Committee shall meet for a third time to consider and then either approve or reject that Bokney Development Proposal. If the Management Committee decides by Unanimous Vote or a Super Majority Vote (as applicable in accordance with clause 5.5) to approve that Bokney Development Proposal and make a Decision to Mine then clause 3.3(c) shall apply.
- (i) If at a meeting of the Management Committee convened pursuant to clause 3.3(h), the Management Committee does not approve a Bokney Development Proposal then, but only then, any Joint Venturer that voted in favour of the Bokney Development Proposal at the meeting of the Management Committee convened pursuant to clause 3.3(h), may propose that Bokney Development Proposal as a Sole-Risk Proposal in accordance with clause 13A.
- (j) The Joint Venturers agree that if, in the normal course of Mining at the Bokney Mine any part of a Phosphate Deposit is removed, then all Phosphate must be placed on a separate stockpile within the Mining Area and can only be dealt with in accordance with clause 3.4 provided that, for the avoidance of doubt, unless a Phosphate Project is in existence at the time of such removal, the associated Joint Venture Expenditure incurred in removing and stockpiling such Phosphate will be borne and paid severally by the Joint Venturers in proportion to each Joint Venturers' respective Percentage Shares.

3.4 Development and Mining of a Phosphate Deposit

- (a) The Manager or any Joint Venturer may propose to the Management Committee that the Joint Venture undertake Development and Mining of any Phosphate Deposit in a defined area of the Tenements (**Phosphate Project**) which proposal must include a Bankable Feasibility Study.
 - (b) If the Management Committee decides by Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5) to approve the Phosphate Project and make a Decision to Mine, each Joint Venturer must, to the extent that such mining lease has yet to be applied for or granted, participate in an application for a mining lease over the area of the Tenements agreed to be mined (**Phosphate ML Area**).
 - (c) Subject to clause 3.4(e), if the Management Committee does not approve the Phosphate Project then the Phosphate Project will not proceed, but this does not prevent a further proposal for Development and Mining of the Phosphate Deposit being later submitted to the Management Committee for approval.
 - (d) If the Joint Venturers elect to proceed with a Phosphate Project while Bokney and Ogre are the only Joint Venturers under this agreement, then from the date of such election the following will apply: (i) all Joint Venture Expenditure:
 - (A) incurred exclusively in respect of the Phosphate Project; or
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- (B) if incurred in respect of both the Bokney Mine and the Phosphate Project, which is over and above the standard cost of Mining at the Bokney Mine,

will be borne and paid for by the Bokney and Ogre in accordance with clause 8 in equal proportions. If in the normal course of Mining at the Bokney Mine, Phosphate, from a Phosphate Deposit located within the Bokney ML Area is removed and placed on a separate stockpile within the Mining Area, the associated Joint Venture Expenditure will be borne and paid severally by the Joint Venturers in proportion to the Joint Venturers' respective Percentage Shares;

- (ii) for the purposes of clause 5.5(a), on any resolution or vote at any meeting of the Management Committee in respect of the Phosphate Project, the Percentage Share of Bokney and Ogre shall be revised as follows:

Joint Venturer	Revised Percentage Share
Ogre	50%
Bokney	<u>50%</u>
	<u>100.00 %</u>

- (iii) for the purposes of clause 4.3, the Manager must deliver to each of Bokney and Ogre their respective entitlement to Phosphate Products at the Delivery Point in accordance with the revised Percentage Shares set out in clause 3.4(d)(ii).

- (e) The Joint Venturers acknowledge that if the Management Committee does not approve the Phosphate Project, any Joint Venturer may propose the Phosphate Project as a Sole-Risk Proposal in accordance with clause 13A, provided that the consent of the other Joint Venturers is obtained, which consent must not be unreasonably withheld provided that:
- (i) the Sole Risk Proposal will not, on the basis of an objective evaluation made by the other Joint Venturers acting reasonably, conflict in a material way with any other existing or planned Joint Venture Activities; or
 - (ii) if the Sole Risk Proposal would conflict in a material way with other existing or planned Joint Venture Activities and cannot be undertaken on a stand-alone basis, the Joint Venturers have first agreed the terms on which the Joint Venturers proposing the Sole-Risk Proposal may use the existing Joint Venture Property for the purposes of the Sole Risk Proposal,

provided that, for the avoidance of doubt, a Sole-Risking Joint Venturer will not be liable to pay, or reimburse, any Non-Participating Joint Venturer for any Joint Venture Expenditure incurred in removing and stockpiling any Phosphate under clause 3.3(d)(e) prior to the commencement of such Sole-Risk Operation.

3.5 Development and Mining of any Other Deposit

- (a) The Manager or any Joint Venturer may propose to the Management Committee that the Joint Venture undertake Development and Mining of any Other Deposit in a defined area of the Tenements (**Other Project**) which proposal must include a Bankable Feasibility Study.
- (b) If the Management Committee decides by Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5) to approve the Other Project and make a Decision to Mine, each Joint Venturer must, to the extent that such mining lease has yet to be applied for or granted, participate in an application for a mining lease over the area of the Tenements agreed to be mined (**Other ML Area**).
- (c) If the Management Committee does not approve the Other Project within the required period then the Other Project will not proceed, but this does not prevent a further proposal for

Development and Mining of the Other Deposit being later submitted to the Management Committee for approval.

- (d) The Joint Venturers acknowledge that if the Management Committee does not approve an Other Project, any Joint Venturer may propose such Other Project as a Sole-Risk Proposal in accordance with clause 13A.

3.6 Rights, obligations and liabilities of Joint Venturers

- (a) The rights, duties, obligations and liabilities of the Joint Venturers arising out of this agreement are several in proportion to their respective Percentage Shares and are neither joint nor joint and several.
- (b) Each Joint Venturer is severally liable, in proportion to its Percentage Share, for all obligations and liabilities incurred in the course of carrying out Joint Venture Activities.
- (c) Nothing in this agreement is to be construed or interpreted as constituting a partnership between the parties or making any Joint Venturer the agent or representative of any other Joint Venturer, except for the Manager when acting as manager, and not, if applicable, as a Joint Venturer, or as the Joint Venturers acting in concert with one another.
- (d) Each Joint Venturer must indemnify and hold harmless each other Joint Venturer from and against all damage, loss, expense or liability of any nature (other than consequential, economic or indirect losses, including any lost production or loss of profits) suffered or incurred by the other Joint Venturers caused by the Joint Venturer's breach of this agreement or its negligent act or omission in the course of Joint Venture Activities.

3.7 Joint Venturer covenants

Each Joint Venturer covenants separately with each other Joint Venturer:

- (a) to perform every obligation and commitment which it has in relation to the Mining Area under the Mining Act or other applicable Law;
- (b) to perform its obligations under or relating to the fulfilment of any contract which relates to the Joint Venture or Joint Venture Activities;
- (c) not to do or cause to be done any act matter or thing whereby the continued enjoyment of the Tenements by any Joint Venturer might be jeopardised;
- (d) to act co-operatively, honestly and reasonably in all its dealings with each other and the Manager concerning the Joint Venture provided that, except as expressly provided by this agreement, no Joint Venturer is under any fiduciary duty to the other Joint Venturers or the Manager;
- (e) not to engage either alone or in association with another or others or through a Related Body Corporate in any activity over the Mining Area except as provided or authorised by or under this agreement; and
- (f) that each Joint Venturer has the unrestricted right to engage in and receive the full benefit of any competing activities outside the Mining Area.

Subject to the confidentiality provisions of this agreement, each Joint Venturer is entitled to use and apply Mining Information outside the Mining Area, provided that such activities are carried out in a manner which does not prejudice, impair or impede Joint Venture Activities.

3.8 Party warranties

Each party warrants for the benefit of each other party that:

- (a) **(Incorporation)** it is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation;
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- (b) **(Power and capacity)** it has full power and capacity to enter into and perform its obligations under this agreement;
- (c) **(Corporate authorisations)** all necessary authorisations for the execution, delivery and performance by it of this agreement in accordance with its terms have been obtained;
- (d) **(No legal impediment)** its execution, delivery and performance of this agreement complies with its constitution and does not constitute a breach of any law or obligation, or cause a default under any agreement by which it is bound; and
- (e) **(No trust)** it enters into and performs this agreement on its own account and not as trustee for or nominee of any other person.

4 Joint Venture Property

4.1 Joint Venture Interests

The Joint Venture Interests of the Joint Venturers at the Commencement Date are:

Joint Venturer	Joint Venture Interest Percentage Share
Ogre	75%
Bokney	25%
	<u>100.00 %</u>

4.2 Use and ownership of Joint Venture Property

- (a) All Joint Venture Property is owned by the Joint Venturers severally as tenants in common in the proportions of their respective Percentage Shares from time to time.
- (b) Each Joint Venturer must ensure that its Percentage Share of all Joint Venture Property that it controls is available for the purpose of Joint Venture Activities for the duration of the Joint Venture.
- (c) To the extent that ownership of any Joint Venture Property is not registered or recorded in the names of the individual Joint Venturers pro rata in proportion to their respective Percentage Shares, then the person registered or recorded as owner holds the property on trust for all the Joint Venturers pro rata in proportion to their respective Percentage Shares.

4.3 Delivery and sale of Products

- (a) The Manager must deliver each Joint Venturer's Percentage Share of Products to the Joint Venturer at the Delivery Point and, if separately delivered, by use of equipment and techniques which are specifically designed and intended not to favour any one Joint Venturer over another.
- (b) Title to, and the risk of loss of, or damage to, the Products passes to each Joint Venturer at the Delivery Point.
- (c) Each Joint Venturer has the right and obligation to take in kind and separately sell and dispose of its Percentage Share of Products on delivery to it. Any extra expenditure incurred in the separate taking and disposition by a Joint Venturer of its Percentage Share of Products, including all royalties, taxes, costs and expenses, must be borne by such Joint Venturer.
- (d) If a Joint Venturer fails to take its Percentage Share of Products within 14 days after receiving notice from the Manager requiring the Joint Venturer to take delivery, the Manager may sell those Products as agent for the Joint Venturer at not less than the available arms length market price (as determined by the Manager acting reasonably) for those Products. The Manager must

account to the Joint Venturer for the proceeds of any such sale after first deducting its reasonable expenses and additional storage costs incurred in the sale.

- (e) Nothing in this agreement provides for any joint or cooperative marketing or selling of Products by the Joint Venturers or, except with the prior unanimous approval of the parties, the processing of minerals owned by any Third Party at any Treatment Plant established under this agreement.
- (f) Any Joint Venturer may mine Minerals produced from sources outside the Mining Area and market those Minerals in competition with Products produced from within the Mining Area and in competition with any other Joint Venturer.

4.4 Joint Venture Intellectual Property

Each Joint Venturer and its Related Bodies Corporate are entitled to use, on a nonexclusive world-wide royalty-free basis, Joint Venture Intellectual Property, including any modifications and enhancements, outside the Mining Area in activities other than Joint Venture Activities provided that the intended use of such Joint Venture

Intellectual Property is first disclosed to each of the other Joint Venturers and is subject to the obligations of confidentiality contained in this agreement.

4.5 No partition of Joint Venture Property

- (a) Subject to any Law or contrary provision of this agreement, each Joint Venturer waives any right it may have to partition or divide Joint Venture Property, whether by way of physical partition, judicial sale or otherwise.
- (b) Nothing in this clause affects a Joint Venturer's right and obligation to take separately its Percentage Share of any Products or to make an assignment or disposal as permitted by this agreement.

4.6 Perpetuity period

If the vesting of any interest of any Joint Venturer in any Joint Venture Property would, but for this clause, be void under the rule against perpetuities at common law or under any statute imposing perpetuity periods, then that interest terminates within the maximum time from the Commencement Date permitted by the law of the Nominated State for that interest to be valid.¹

4.7 Disposal of Joint Venture Property

- (a) The Manager may, with the approval of the Management Committee and in accordance with the Accounting Procedure, dispose of any item of Joint Venture Property it considers is no longer needed or suitable for Joint Venture Activities as economically and reasonably as possible, in accordance with the Accounting Procedure.
- (b) The proceeds of recovery and disposal of Joint Venture Property, net of selling and disposal costs, must be credited to the Joint Venturers pro rata in proportion to their respective Percentage Shares.

4.8 Rehabilitation of Joint Venture Property

- (a) As soon as possible after the Commencement Date, the Manager must formulate and present to the Management Committee for its approval, a Proposed Programme and Budget for Rehabilitation designed to enable the Rehabilitation Obligations to be performed and discharged, including the proposed or forecast timing of any Mine Closure and the value of any performance bonds provided in connection with the Rehabilitation.
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- (b) Unless the Management Committee otherwise determines, any Approved Programme and Budget for Rehabilitation must be carried out by the Manager, and must be reviewed annually and updated by the Manager and the Management Committee.
- (c) From the Commencement Date, or such other date determined by the Management Committee, the Manager must establish and invest as trustee for the Joint Venturers a reserve of funds which with all interest earned must be deposited with a prime bank, or as required by Law, and applied by the Manager to meet Rehabilitation Obligations.
- (d) The amounts to be paid into the Rehabilitation Fund from time to time must be determined by the Management Committee in an Approved Programme and Budget for Rehabilitation.
- (e) The Manager must apply the Rehabilitation Fund in the performance and discharge of the Rehabilitation Obligations in accordance with the Approved Program and Budget for Rehabilitation.

- (f) Each Joint Venturer must comply with and discharge the Rehabilitation Obligations, and bear all costs, expenses, obligations and liabilities, to the extent of its Percentage Share, related to the Rehabilitation Obligations and the payments required to be made into the Rehabilitation Fund.
- (g) If and when considered desirable, the Management Committee may employ an independent expert to review and report on any Programme and Budget for Rehabilitation including the likely cost of proposed Rehabilitation, the value of any performance bonds lodged from time to time and whether there are any surplus funds in the Rehabilitation Fund. If the independent expert determines that there are surplus funds in the Rehabilitation Fund, such surplus must be returned to the Joint Venturers pro rata in proportion to their respective Percentage Shares.
- (h) The Management Committee may determine that all or part of the Rehabilitation Fund be applied in performing and discharging obligations under an Approved Programme and Budget for Mine Closure.

4.9 Mine Closure and Abandonment

- (a) If the Management Committee decides to undertake Mine Closure or Abandon any Joint Venture Property, the Manager must formulate and present to the Management Committee for its approval, a Proposed Programme and Budget designed to satisfy the obligations of the Joint Venturers in respect of the Mine Closure or the Joint Venture Property proposed to be Abandoned.
- (b) Unless the Management Committee otherwise determines, any Approved Programme and Budget for Mine Closure or Abandonment must be carried out by the Manager.
- (c) Upon the Management Committee adopting an Approved Programme and Budget for Mine Closure and Abandonment for whole or any part of Joint Venture Property, the Manager must require each Joint Venturer to provide its Percentage Share of any security for Mine Closure and Abandonment Costs provided in accordance with Schedule 7.

4.10 Native Title Claims and Native Title Rights

- (a) A Joint Venturer must promptly notify the other Joint Venturers and the Manager of any Native Title Claims or Native Title Rights affecting the Tenements, whether made before or after the Commencement Date.
- (b) The Manager must refer to all the Joint Venturers any notification or correspondence it receives concerning Native Title Claims or Native Title Rights which affect the Tenements.

- (c) Except with the prior written approval of all the Joint Venturers and the Manager, a Joint Venturer must not conduct, either on its own behalf or on behalf of the Joint Venture, any material dealings concerning Native Title Claims or Native Title Rights affecting the Tenements and, in particular, must not notify the Registrar of the Native Title Tribunal that it:
 - (i) consents, in whole or in part, conditionally or unconditionally, to a grant of native title to an applicant; or
 - (ii) has reached an agreement with any applicant for native title.
- (d) The Joint Venturers acknowledge and agree that in response to Native Title Claims or to protect the Joint Venturer's interests it may become necessary for them:
 - (i) to participate in site surveys or in procedures established under the Law in respect of the Tenements or Joint Venture Activities or both; and
 - (ii) to negotiate with holders of Native Title Claims or Native Title Rights (or their representatives) either by themselves, or by the Manager as their agent, and reach agreements in order to obtain the grant of a new Tenement or to permit the conduct of Joint Venture Activities.
- (e) Any costs or expenses incurred (including, without limitation, any compensation) in negotiating or executing, or complying with obligations under, an agreement with a native title claimant or holder is to be treated as Expenditure, unless otherwise agreed.

5 Management Committee

5.1 Establishment of Management Committee

- (a) A Management Committee is established on the Commencement Date. Each Joint Venturer must appoint two representatives to the Management Committee in writing.
 - (b) The role of the Management Committee is to supervise the Manager in the management of the Joint Venture and to make, subject to this agreement, all strategic decisions relating to the conduct of Joint Venture Activities, including the consideration and approval of any Proposed Programme and Budget, Mine Plans, and other management plans and any amendments to any Approved Programme and Budget, approved Mine Plans and approved management plans.
 - (c) Unless the Joint Venturers otherwise unanimously agree, the Joint Venturer with the largest individual Joint Venture Interest will be entitled to appoint (and may replace) one of its representatives to be chair of the Management Committee. The Joint Venturer appointing the chair must cause the chair to preside at all meetings of the Management Committee.
 - (d) The Manager must appoint (and may dismiss) a person, who may be one of its employees, to be secretary of the Management Committee. The Manager must cause the secretary to prepare agendas for meetings, keep proper minutes of all meetings and coordinate communications among the Joint Venturers regarding meetings of the Management Committee.
 - (e) For any meeting of the Management Committee, a Joint Venturer may in writing appoint a person as an alternate representative for its representative and may remove any person so appointed.
 - (f) At meetings of the Management Committee each representative present must act solely as representative of the Joint Venturer which appointed him or her but a representative may also represent the Manager at Management Committee meetings.
 - (g) Each representative has full power and authority to represent and bind the Joint Venturer which appointed him or her in all matters decided by the Management Committee, and the Joint Venturer is bound by all votes cast by its representative.
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- (h) Any decision made by the Management Committee under this agreement is deemed to be a decision of all the Joint Venturers, and each Joint Venturer is bound as if that decision was an agreement entered into by them.

5.2 Functions of Management Committee

Except as otherwise provided in this agreement, the Management Committee may decide all matters relating to the conduct of Joint Venture Activities, including (but not limited to):

- (a) establishing policies from time to time covering Joint Venture Activities; (b) deciding on matters relating to:
 - (i) the price to be paid, or pricing formula to be applied, for goods and services to be used in the carrying out of Joint Venture Activities;
 - (ii) the production of Products, or any matters relating to the capacity to produce Products;
 - (iii) acquiring goods or services from persons that will be used in the carrying out of Joint Venture Activities;
 - (iv) the allocation of contracts, arrangements or understandings to persons supplying goods or services that will be used in the carrying out of Joint Venturer Activities;
 - (v) bids in relation to the acquisition of goods or services that will be used in the carrying out of the Joint Venture Activities.
- (c) approving cost overruns by the Manager under any Approved Programme and Budget; and
- (d) appointing an Auditor.

5.3 Meetings of the Management Committee

- (a) All meetings of the Management Committee must be held in Sydney, New South Wales, unless otherwise agreed by the Joint Venturers and, in default of agreement, at the office of the Manager.
- (b) The Manager shall ensure that, unless otherwise agreed by the Joint Venturers, a meeting of the Management Committee is convened at least once every six months.
- (c) The Manager shall ensure that the secretary calls meetings and gives at least 15 days prior written notice to the Manager and all Joint Venturers entitled to be present specifying the nature of the business to be discussed and including all documentation required to be considered at the meeting. Meetings may be held on less than 15 days notice if agreed in writing by all Joint Venturers entitled to be present.
- (d) Meetings may be convened in person, or by video meeting or conference telephone call at which all representatives of all Joint Venturers have the opportunity to be present. All persons participating in the video meeting or conference telephone call must be able to hear each of the others.
- (e) If the existing chair of the Management Committee is not present within 15 minutes after the time appointed for holding the meeting, the representatives present must elect one of themselves to be chair of the meeting.
- (f) Each Joint Venturer must bear all expenses incurred by its representatives in attending meetings of the Management Committee.
- (g) A representative of the Manager must attend every meeting of the Management Committee at the cost of the Joint Venturers, unless the Management Committee otherwise decides for a particular meeting or for a particular subject matter at any meeting.

5.4 Quorum

- (a) A quorum for any meeting of the Management Committee is present if the representative of each Non-Defaulting Joint Venturer is in attendance at such meeting.
- (b) If a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting must be adjourned to the same place, day and time in the next week.
- (c) If a quorum is not present at a reconvened meeting then, provided the reconvened meeting is conducted as a personal meeting (not by video or telephone meeting) and all Joint Venturers were given at least 6 days notice of the reconvened meeting, the representative(s) present at the reconvened meeting are deemed to constitute a quorum for the purposes of the business before that meeting, but are precluded from making any decision requiring a Unanimous Vote.

5.5 Voting and decision making

- (a) On any resolution or at any meeting of the Management Committee, a Joint Venturer (other than a Defaulting Joint Venturer) may cast, through its representative, the number of votes equal to its Percentage Share.
- (b) At meetings of the Management Committee, the Manager or its representative is not entitled to vote, and the chair does not have a second or casting vote.
- (c) Unless otherwise specified in this agreement:
 - (i) all decisions of the Management Committee relating to any matter not referred to in Schedule 1, must be determined by Majority Vote;
 - (ii) where there are only two Joint Venturers, a decision relating to any matter referred to in Part B of Schedule 1 must be made by Unanimous Vote
 - (iii) where there are more than two Joint Venturers (with Related Bodies Corporate counting as a single Joint Venturer):
 - (A) a decision relating to a matter specified in Part C of Schedule 1 must be made by Unanimous Vote;
 - (B) a decision relating to a matter specified in Part D of Schedule 1 must be made by Super Majority Vote.
- (d) A resolution in writing (which may consist of one or several documents in the same terms) signed by at least one representative of each of the Non-Defaulting Joint Venturers or approved by facsimile or by authenticated email transmitted by at least one representative of each Non-Defaulting Joint Venturer and subsequently confirmed in writing is as valid and effectual as if it had been passed at a duly convened meeting of the Management Committee.

5.6 Minutes

A copy of the minutes of each Management Committee meeting must be given to each Joint Venturer as soon as practicable, but no later than 14 days, after each meeting. The minutes of a meeting must be submitted for approval at the next meeting held after that 14 day period and, if approved, must be signed by the chair of the later meeting and when signed are evidence of the proceedings and the decisions of the meeting to which they relate. The Manager may act on any matter approved by the Management Committee notwithstanding that the minutes have not been approved.

5.7 Sub-committees

The Management Committee may from time to time create sub-committees (comprising such persons as the Management Committee thinks fit) to consider and report back to the Management Committee on any particular issues relating to Joint Venture Activities.

5.8 Loss of rights of participation and voting

Unless otherwise agreed by all Non-Defaulting Joint Venturers, a Defaulting Joint Venturer (through its representative and alternate) is not entitled to attend or to vote at any meeting of the Management Committee or any sub-committee formed under this agreement or join in passing a resolution, nor will the presence of the representative of any such Joint Venturer be necessary to form a quorum at any meeting, until the relevant Default Event has been remedied.

6 Manager

6.1 Appointment of Manager

The Joint Venturers severally appoint the Manager to be manager of the Joint Venture and agent of the Joint Venturers for the purposes of this agreement from the Commencement Date, and the Manager accepts that appointment, on and subject to the provisions of this agreement.

6.2 Term of appointment of Manager

The appointment of the Manager continues:

- (a) until this agreement is terminated for any reason;
- (b) until the Manager resigns, having given at least 180 days notice to the Joint Venturers of its intention to resign as Manager;
- (c) if the largest Joint Venture Interest is no longer held by the Manager, until the Management Committee determines if and when a new Manager should be appointed; or
- (d) until the Manager suffers an Insolvency Event or commits a material breach or default in the performance of a material obligation under this agreement and fails to remedy the default within 60 days of receipt of a written notice of default served by a Joint Venturer.

6.3 Remuneration of the Manager

- (a) In consideration of the performance by the Manager of its obligations under this agreement, each Joint Venturer must pay the Manager its Percentage Share of the Management Fee as part of a Called Sum.
- (b) Within 14 days of the meeting of the Management Committee scheduled to occur at any time on or after the date falling 6 months from the Commencement Date, the Manager must submit to the Management Committee:
 - (i) any revision to the amount or calculation of the Management Fee that it considers should apply and the further period (as proposed by the Manager) for which the revised Management Fee should apply; and
 - (ii) a breakdown of its actual costs and expenses incurred for the period prior to that date, for consideration at that Management Committee meeting.

6.4 Appointment of new Manager

- (a) Upon the termination of the appointment of the Manager, the Joint Venturers must promptly appoint a new Manager under the terms of this agreement, if this agreement is not otherwise terminated. The Joint Venturers must not reappoint a Manager removed for default or due to an Insolvency Event.
- (b) If a new Manager cannot be appointed and act immediately, the Joint Venturer holding the largest Joint Venture Interest must act as interim manager until the new Manager is appointed and commences its duties.

- (c) Upon the new or interim Manager commencing its duties, the previous Manager must immediately deliver to the new or interim Manager all Joint Venture Property and all documents, books, records and accounts relating to the Joint Venture held by it or under its control.
- (d) If title to any Joint Venture Property is held in the name of the previous Manager, it must promptly transfer such title to the new or interim Manager at the cost of the Joint Venture.

6.5 Liability of Manager

Except as a Joint Venturer to the extent of its Percentage Share, the Manager is not liable to the Joint Venturers for losses sustained or liabilities incurred in connection with the Joint Venture, even if arising from the negligence of the Manager or any person for whom the Manager may be vicariously liable, except where, in the circumstances of the particular case, the Manager (or that person) has committed fraud or Gross Negligence or Wilful Misconduct.

6.6 Full indemnity of Manager by Joint Venturers

Each Joint Venturer severally, to the extent of its Percentage Share, must indemnify and hold harmless the Manager, its directors, employees, agents and contractors (**Indemnified Persons**) from and against all damage, loss, expense or liability of any nature suffered or incurred by the Indemnified Persons (including any claims made by Third Parties) in connection with Joint Venture Activities, including any personal injury, disease, illness or death, or physical loss of or damage to property, of the Indemnified Persons or any Third Party, except, in respect of an Indemnified Person, where that Indemnified Person has committed fraud or Gross Negligence or Wilful Misconduct.

6.7 Limited indemnity by Manager of Joint Venturers

The Manager must indemnify and hold harmless the Joint Venturers, its and their respective directors, employees, agents and contractors (**JV Indemnified Persons**) from and against all damage, loss, expense or liability of any nature suffered or incurred by the JV Indemnified Persons (including any claims made by Third Parties) in connection with its management of Joint Venture Activities while it is the Manager, including any personal injury, disease, illness or death, or physical loss of or damage to property, of the JV Indemnified Persons or any Third Party, to the extent directly caused or contributed to by the fraud or Gross Negligence or Wilful Misconduct of the Manager, its directors, employees, agents and contractors.

7 Functions, powers and duties of Manager

7.1 Functions of the Manager

The Manager reports to the Management Committee and must:

- (a) by itself or through its employees, agents or contractors manage, direct and control Joint Venture Activities as agent for and on behalf of the Joint Venturers;
 - (b) exercise and discharge its powers and duties under this agreement in accordance with Approved Programmes and Budgets and decisions made by the Management Committee;
 - (c) conduct Joint Venture Activities in a good, workmanlike and commercially reasonable manner in accordance with Good Australian Mining Practice;
 - (d) report to the Management Committee at the places and times determined by the Management Committee; and
 - (e) act in utmost good faith in all its dealings, as Manager, with each Joint Venturer.
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7.2 Rights, powers and duties of Manager

In the course of managing, supervising and conducting Joint Venture Activities, the Manager is entitled to have possession and control of all Joint Venture Property and must, either itself or through such third parties as it may engage:

- (a) **(Mine Plans and other management plans)** prepare and submit to the Management Committee for approval Mine Plans and other management plans required by the Management Committee for the life of the Mine and such shorter periods as the Management Committee determines;
- (b) **(Proposed Programmes and Budgets)** prepare and submit to the Management Committee for approval all Proposed Programmes and Budgets required to implement any approved Development, Capital Works, Mine Plans, Mine Closure and other management plans so as to comply with all applicable Laws and Authorisations, and all amendments and variations to any Approved Programme and Budget;
- (c) **(Approved Programmes and Budgets)** carry out effectively and efficiently the work required to implement all Approved Programmes and Budgets;
- (d) **(Capital Works)** by itself and through contractors carry out the work required to implement the Approved Programme and Budget for Capital Works so as to establish as soon as possible the approved rate and level of production of Products set out in the Mine Plans and other management plans, or to suspend, Abandon or Rehabilitate Mining and Treatment;
- (e) **(tenders and contracts)** obtain, evaluate and accept quotes and tenders (within the limits determined by the Management Committee), and enter into, administer and enforce, as agent of the Joint Venturers, all contracts required for the performance of works and services necessary to perform this agreement and undertake Joint Venture Activities;
- (f) **(personnel)** engage, dismiss, supervise and control all management, technical and labour personnel necessary for performance of its obligations under this agreement including determining the terms and conditions of such engagement and conducting all industrial relations;
- (g) **(payment and bank accounts)** pay on behalf of the Joint Venturers out of funds provided by the Joint Venturers all costs and expenses incurred by the Manager in the conduct of Joint Venture Activities and for such purpose open, maintain and operate one or more separate bank accounts (within which its own funds are not commingled) on behalf of the Joint Venturers for the purposes of the Joint Venture;
- (h) **(overdraft)** borrow on overdraft on behalf of the Joint Venturers, severally in proportion to their respective Percentage Shares, such amounts as may be approved by the Management Committee by Unanimous Vote from time to time;
- (i) **(foreign currency)** with the prior unanimous approval of the Joint Venturers, take forward cover for any obligations in foreign currencies or pre-pay or take any other appropriate action to avoid currency losses, but in no circumstances is the Manager responsible for or entitled to any currency gains and losses, such losses and gains being borne by or credited to the Joint Venturers pro rata in proportion to their respective Percentage Shares;
- (j) **(Laws and Authorisations)** comply with all Laws and Authorisations applicable to the conduct of Joint Venture Activities, including those relating to health, safety and environmental protection, and ensure that all Authorisations required to conduct Joint Venture Activities are applied for, obtained and maintained;
- (k) **(Tenements)** keep and renew those Tenements in good standing (including paying all rents, taxes, expenditures and other outgoings by the Due Date), and manage, administer, protect and enforce the rights and obligations of the holders under the Tenements;

- (l) **(Security Bonds)** provide such security deposits, performance bonds and guarantees and other instruments for the performance of the Joint Venturers' obligations under any leases, contracts, service agreements or any other agreement which the Management Committee has authorised;
 - (m) **(statutory reports)** prepare, file and lodge all statutory reports as and when required under the Mining Act and any other applicable Laws in respect of the Mining Area (other than reports required to be submitted by the Joint Venturers in their individual capacities as Joint Venturers);
 - (n) **(Rehabilitation)** formulate a Rehabilitation management plan, establish a Rehabilitation Fund for approval by the Management Committee, and carry out the Rehabilitation Obligations;
 - (o) **(native title)** subject to clause 4.10, act as the Joint Venturers' representative in respect of Native Title Rights and Aboriginal heritage issues, negotiate and enter into agreements with the parties to Native Title Claims and in all other respects deal with issues of this kind as and when they arise, provided that the Manager may not recognise any Native Title Rights or agree or settle any Native Title Claims, without the prior approval of the Management Committee;
 - (p) **(insurances)** effect and maintain all insurances appropriate in relation to Joint Venture Property and Joint Venture Activities, or as required by Law, and any additional insurances which the Management Committee requires to be effected, provided that the Manager must wherever possible procure that all such insurances include a provision that the insurer has no right of subrogation against any Joint Venturer or the Manager and that the Joint Venturers and Manager are to be named, to the extent of their interests, on each policy of insurance;
 - (q) **(insurance certificates)** if requested, provide full details to a Joint Venturer of all insurances effected by the Manager under this agreement, including certificates of currency;
 - (r) **(no Encumbrances)** keep the Joint Venture Property free and clear of all Encumbrances, except for those Encumbrances specifically permitted under this agreement or existing at the time of, or created concurrent with, the acquisition of such Joint Venture Property, or liens arising in the ordinary course of business which the Manager must arrange to be released or discharged in a diligent manner;
 - (s) **(disposal of surplus equipment)** dispose of by sale, assignment, abandonment or other transfer Joint Venture Property which the Manager classifies as surplus and is no longer needed for Joint Venture Activities and which the Management Committee approves for disposal;
 - (t) **(litigation)** institute, defend, compromise or settle any court or arbitration proceedings or insurance claims commenced or threatened by or against the Manager or a Joint Venturer affecting or relating to Joint Venture Activities or Joint Venture Property, provided that:
 - (i) unless otherwise instructed by a Joint Venturer, the Manager may conduct such proceedings or claims for and on behalf of and in the name of each Joint Venturer;
 - (ii) the Manager must regularly report to the Joint Venturers the conduct of such commenced or threatened proceedings and claims, including any proceedings and claims related to environmental impacts, and keep the Joint Venturers informed of the progress of such proceedings and claims; and
 - (iii) the Manager may not institute, compromise or settle any court or arbitration proceedings or insurance claims exceeding an amount determined by the Management Committee without the prior approval of the Management Committee;
 - (u) **(emergencies)** take such action as the Manager may consider necessary or advisable to prevent or respond to an Emergency;
 - (v) **(GST)** act as the Joint Venturers' representative for the purposes of seeking registration of the Joint Venture as a GST joint venture under the GST Act and manage, administer and enforce the rights and obligations of the Joint Venturers under such GST joint venture;
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- (w) **(cartel exception)** undertake the following for the purposes of the Joint Venture, as agent and on behalf of the Joint Venturers:
- (i) acquire goods and services related to the carrying of the Joint Venture Activities, and, if the Management Committee has given direction as to the price, or pricing formula, to be used in acquiring such a good or service, complying with that direction;
 - (ii) make decisions or take actions relating to the production of Products, or to the capacity to produce Products, and comply with any direction of the Management Committee on these matters;
 - (iii) make decisions as to the persons from whom to acquire goods or services to be used in the carrying out of Joint Venture Activities, and comply with any direction from the Management Committee as to the person from whom to acquire such goods or services;
 - (iv) allocate contracts, arrangements or understandings to persons supplying goods or services to be used in the carrying out of Joint Venturer Activities, and comply with any direction from the Management Committee in making such allocations;
 - (v) make bids in relation to the acquisition of goods or services to be used in the carrying out of the Joint Venture Activities, and comply with any direction from the Management Committee in making such bids;; and
- (x) **(other incidental)** do all other acts and things that are reasonably necessary or desirable to fulfil its functions or are incidental to its powers and duties.

7.3 Greenhouse and energy reporting by the Manager

- (a) The Joint Venturers and the Manager acknowledge that the Manager has '**operational control**' (as defined in the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**)) of the Joint Venture Activities.
- (b) If necessary for the purpose of establishing such operational control, the Joint Venturers authorise the Manager to prepare, introduce and implement such operating, health and safety, and environmental policies and to take any other steps necessary for it to have operational control and the Manager agrees to undertake such responsibilities on behalf of the Joint Venturers.
- (c) The Manager undertakes to report, or procure that a Related Body Corporate of the Manager reports, greenhouse gas emissions and energy production and consumption attributable to the Joint Venture Activities as required by the NGER Act.
- (d) The Joint Venturers agree that any actions taken by the Manager, or a Related Body Corporate of the Manager, under this clause are Joint Venture Activities for the purposes of this agreement and that the cost of reporting is Joint Venture Expenditure to the extent that those costs are reasonably attributable to those Joint Venture Activities.
- (e) If a Joint Venturer is required to report separately under the NGER Act on greenhouse gas emissions and energy production and consumption attributable to the Joint Venture Activities, the Manager agrees to supply that Joint Venturer with all the information required by the Joint Venturer to enable it to comply with its reporting requirements under the NGER Act in relation to those matters.
- (f) The Joint Venturers authorise:
 - (i) the Manager to disclose to its Related Bodies Corporate; and
 - (ii) the Manager and its Related Bodies Corporate to use and disclose

all information in relation to the greenhouse gas emissions, energy production and energy consumption attributable to Joint Venture Activities as reasonably required for the Manager

and its Related Bodies Corporate to comply with any obligations imposed on them under the NGER Act.

7.4 Maintenance of the Joint Venture Accounts

- (a) The Manager must maintain the Joint Venture Accounts and the Joint Venture Asset Register in accordance with the Accounting Procedure on behalf of the Joint Venturers in their Joint Venture Interests.
- (b) The Manager must make available to any Joint Venturer on request copies of the Accounting Procedure, expenditure classifications and reporting formats underlying the Joint Venture Accounts.
- (c) The Manager must retain all receipts, vouchers and other documents relating to Joint Venture Expenditure until directed otherwise by the Management Committee.

7.5 Limitations on Manager's obligations

- (a) Notwithstanding anything to the contrary elsewhere in this agreement, the performance by the Manager of its obligations under this agreement is subject to the Manager being provided with sufficient funds by the Joint Venturers to enable the Manager to perform those obligations.
- (b) The rights and obligations of the Manager under this agreement do not extend outside the scope of the Joint Venture and, in particular, do not apply to or in relation to Product once it has passed the Delivery Point, unless the parties and the Manager otherwise agree.

7.6 Manager may delegate

The Manager may delegate any of its rights, remedies, powers, discretions and obligations, provided that:

- (a) the Manager may only delegate the whole of its rights, remedies, powers, discretions and obligations with a Unanimous Vote of the Management Committee;
- (b) any delegation does not relieve the Manager of any of its obligations or responsibilities under this agreement;
- (c) the Manager informs the Management Committee at its next meeting of the identity of the delegate and the matter which has been delegated; and (d) the delegation is at no additional cost to the Joint Venturers.

7.7 Agreement with a Related Body Corporate

The Manager may not enter into an agreement with a Joint Venturer or a Related Body Corporate of a Joint Venturer or the Manager for the supply of goods or services or both under this agreement unless the proposed agreement is on terms and conditions which are no less favourable to the Joint Venturers than an arm's length commercial agreement with a Third Party supplier which is not a Related Body Corporate of the Manager or the Joint Venturer, and the proposed agreement is approved by the Management Committee.

7.8 Litigation

A Joint Venturer has the right to participate, at its own expense, in litigation or administrative proceedings initiated by the Manager on behalf of the Joint Venturers.

7.9 Provision of insurances

- (a) The Manager must, at all times while conducting Joint Venture Activities, comply fully with the applicable Laws relating to worker's compensation and purchase, or provide protection for the Joint Venturers comparable to that provided under standard form insurance policies for the following risk categories:
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- (i) comprehensive public liability and Third Party property damage with combined limits of not less than \$[*to be inserted*]for bodily injury and property damage;
 - (ii) automobile insurance with combined limits of not less than \$[*to be inserted*]; and
 - (iii) adequate and reasonable insurance against risk of fire and other risks ordinarily insured against in similar operations.
- (b) If the Manager elects to self-insure, it shall charge to the Joint Venture Account an amount equal to the premium it would have paid had it secured and maintained a policy or policies of insurance on a competitive bid basis in the amount of such coverage.
- (c) Each Joint Venturer must self-insure or purchase for its own account such additional insurance as it deems necessary.

8 Programmes, Budgets and Called Sums

8.1 Proposed Programmes and Budgets

- (a) By no later than 1 September in each Year or such other date as the Management Committee may agree, the Manager must provide the Joint Venturers with a Proposed Programme and Budget prepared in accordance with the Accounting Procedure, which must include:
- (i) details of the programme of Joint Venture Activities proposed for the next Year, or for the period of any proposed Capital Works;
 - (ii) an itemised budget specifying all estimated Joint Venture Expenditure proposed to be called by the Manager on a monthly basis under this agreement; and
 - (iii) all available proposed major contracts and supporting documentation.
- (b) Each Proposed Programme and Budget must include expenditure on the Tenements sufficient to comply with minimum expenditure obligations under the Mining Act and the Tenements during that period.

8.2 Approved Programme and Budget

- (a) Within 28 days after provision by the Manager of a Proposed Programme and Budget (or in the case of the first Year, within 128 days of the Commencement Date) the Management Committee may determine, the Management Committee must meet (as many times as necessary) and discuss the Proposed Programme and Budget for the next Year, or appropriate period and adopt, with or without amendment, an Approved Programme and Budget for that Year or period.
- (b) Subject to the prior approval by the Management Committee to the awarding of all contracts in accordance with the procedure set out in Schedule 6 and the approval of AFEs in accordance with clause 8.3, once the Proposed Program and Budget is approved by the Management Committee, the Manager is authorised to undertake all Joint Venture Activities and incur all Joint Venture Expenditures referred to therein and must implement the Approved Programme and Budget, and give a copy to each Joint Venturer.
- (c) An Approved Programme and Budget may be amended by the Manager with the approval of the Management Committee. If the amendments to the Approved Programme and Budget are material, the approval must be by way of a Unanimous Vote.
- (d) {tc \l 2 "8.7 Activities During Deadlock"}If the Management Committee for any reason fails to approve a Proposed Programme and Budget, prior to the commencement of the Year to which it relates, the Management Committee must continue to meet and use all reasonable efforts to reach agreement. In the meantime, the Manager must, subject to any contrary direction of the Management Committee and receipt of necessary funds, continue to:

- (i) do (or, as appropriate, refrain from doing) whatever is necessary to maintain the Tenements in good standing; and
- (ii) perform and discharge all its existing obligations as Manager under this agreement, the Mining Act, the Tenements or to Third Parties or otherwise; and

all costs and expenses incurred by the Manager in maintaining the Tenements and performing and discharging all its existing obligations is Joint Venture Expenditure and each Joint Venturer must pay its Percentage Share of those costs and expenses as a Called Sum when due under a billing statement rendered by the Manager.

8.3 Authorisation for Expenditure (AFE) Procedure

- (a) The Manager must not enter into any commitment or incur any expenditure for Joint Venture Activities from the Joint Venture Account, which is estimated to be:
 - (i) in excess of \$500,000 in an Approved Programme and Budget relating to Exploration;
 - (ii) in excess of \$5,000,000 in an Approved Programme and Budget relating to Development; or
 - (iii) in excess of \$2,000,000 in an Approved Programme and Budget relating to Mining, Treatment, Rehabilitation or Mine Closure,

whether under an Approved Programme or Budget or otherwise, except in accordance with an AFE approved in accordance with the following provisions of this clause.

- (b) The Manager must submit the AFE to the Joint Venturers in a timely fashion having regard to the works to be carried out under the Approved Programme and Budget.
- (c) Each AFE provided by the Manager must:
 - (i) identify the operation by specific reference to applicable line items in the Approved Programme and Budget;
 - (ii) describe the work in detail;
 - (iii) contain the Manager's best estimate of the total funds required to carry out the work;
 - (iv) outline the proposed schedule;
 - (v) provide a timetable of expenditures, if known; and
 - (vi) be accompanied by such other supporting information as is necessary for an informed review.
- (d) Each AFE will require approval by the Management Committee in accordance with clause 5.5 and the Manager will have no authority to make any expenditure under each AFE unless it has been approved.
- (e) If the AFE has not been implemented within six months of the date of its approval, then unless the AFE was approved on the basis of a longer or delayed period for implementation, it will be deemed to have expired and will no longer be valid

8.4 Multi-year programs

- (a) Any Joint Venture Activities the subject of an Approved Programme or Budget, which cannot be or are not reasonably expected to be, completed within a Year, may be proposed by the Manager in a multi-year AFE.
 - (b) Upon approval of the AFE by the Management Committee in accordance with clause 8.3, such multi-year AFE will, subject to any revision in accordance with this agreement:
 - (i) remain in effect as between the Joint Venturers throughout the
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completion of the relevant Joint Venture Activities; and

- (ii) be reflected in each Approved Programme and Budget for each relevant Year, as a percentage of the multi-year AFE expenditure expected to be incurred during that Year.

8.5 Joint Venture Expenditure not covered by Programme and Budget or AFE

- (a) The Manager must not undertake any Joint Venture Activities which are not substantially in accordance with an Approved Programme and Budget except:
 - (i) in case of an Emergency, the Manager may make such immediate expenditure as the Manager deems necessary for the protection of life or property including the Joint Venture Property, in which case the Manager must promptly notify the Joint Venturers of such expenditure; or
 - (ii) if the Manager expects there will be a cost overrun on any one line item in carrying out an Approved Programme and Budget or AFE which cannot be avoided by Good Australian Mining Practice, the Manager may exceed any line item of a current Approved Budget and Budget or AFE by not more than 10% of the authorised amount for that line item, provided that the cumulative total for all amounts that have been exceeded by the Manager does not exceed 5% of that Approved Programme and Budget or AFE; or
 - (iii) if otherwise permitted by this agreement or by the Management Committee.
- (b) If the Manager reasonably anticipates that the limits in clause 8.5(a)(ii) will be exceeded, the Manager must provide to the Management Committee a reasonably detailed estimate for the Management Committee's approval. If approved in accordance with clause 8.2(c), then the Approved Programme and Budget will be revised accordingly and the over-expenditures permitted in clause 8.5(a)(ii) will be based on the revised Approved Programme and Budget.
- (c) The Manager must report to the Joint Venturers as soon as reasonably practicable any unbudgeted expenditure incurred by the Manager for whatever reason.

8.6 Costs borne in proportion to Percentage Shares

Except as otherwise provided for in this agreement, all Joint Venture Expenditure incurred in accordance with an Approved Programme and Budget or as permitted by this agreement must be borne and paid by the Joint Venturers severally in proportion to their respective Percentage Shares.

8.7 Billing statements for Called Sums

- (a) On or before the 10th day of each month (or such other date or period as the Management Committee directs), the Manager must submit to each Joint Venturer a billing statement of proposed Joint Venture Expenditure prepared in accordance with the Accounting Procedure specifying:
 - (i) the Called Sum to be paid by that Joint Venturer to finance Joint Venture Activities set out in an Approved Programme and Budget during the next month (or such other period as the Management Committee directs) including all existing and reasonably expected liabilities of the Joint Venture, less any amount standing to the credit of the Joint Venturer in the Joint Venture Accounts; and
 - (ii) the amount paid cumulatively to date for the current Year.
- (b) During the period of any Approved Programme and Budget, the Manager may submit a billing statement to the Joint Venturers for Called Sums in accordance with clause 8.7(a), at shorter intervals than otherwise provided in that clause, provided that the billing statements are not issued more frequently than weekly.

- (c) The billing statement for Called Sums rendered by the Manager must be accompanied by statements reflecting all existing and expected charges and credits to the Joint Venture Accounts, summarised by appropriate classifications indicative of the nature thereof.
- (d) All billing statements rendered by the Manager during any Year are presumed conclusively to be true and correct, except and only to the extent a Joint Venturer makes written objection thereto within 12 months after the date of such statement specifying the items excepted and the grounds for such exception, and makes claim for adjustment.

8.8 Payment of Called Sums

- (a) A Joint Venturer must pay each Called Sum to the Manager within 14 days of receipt of a billing statement.
- (b) Subject to clause 8.8(c), all payments must be in Australian currency and made to a bank account in Australia nominated by the Manager.
- (c) The Manager may only request Called Sums to be paid in a foreign currency if:
 - (i) the Joint Venture Expenditure has been incurred in that currency; and
 - (ii) the parties have given their prior consent to the Manager making a request for a Called Sum to be paid in that currency.

9 Accounts, reports, audit and access

9.1 Joint Venture accounting

- (a) The Manager must maintain separate books, accounts and records for the Joint Venture of Joint Venture Expenditure in accordance with the Accounting Procedure and generally accepted accounting principles adopted from time to time by the Institute of Chartered Accountants in Australia, consistently applied.
- (b) The Manager must develop and provide to the Joint Venturers standard accounting procedures, expenditure classifications and reporting formats in accordance with the Accounting Procedure as appropriate to the Joint Venture to satisfy the requirements of the Management Committee and the Auditor.

9.2 Reports to Joint Venturers

The Manager must keep the Joint Venturers informed of all Joint Venture Activities by submitting in writing to the Joint Venturers:

- (a) within 20 days of the end of each calendar quarter, quarterly progress reports which include statements of Joint Venture Expenditure and comparisons of such expenditures to the Approved Programme and Budget, including quarterly summaries of data acquired;
 - (b) within 30 days of the end of each Year or other relevant period, a detailed final report after completion of each Approved Programme and Budget, which must include comparisons between actual and budgeted Joint Venture Expenditure;
 - (c) as soon as possible thereafter, a report on the happening of any event or occurrence:
 - (i) which the Manager considers is likely materially to affect the interests of any of the Joint Venturers or the value or worth of any Joint Venturer Property of the Tenements; or
 - (ii) that would be required to be disclosed to the market by a Joint Venturer (or by a Related Body Corporate of a Joint Venturer) pursuant to the Listing Rules provided that, in respect of a foreign stock exchange, the Joint Venturer has previously
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informed the Manager of the disclosure requirements applying to the stock exchange on which its, or one of its Related Bodies Corporate's, securities are listed;

- (d) within one month in each case of its completion, a copy of any material report concerning Joint Venture Activities produced by the Manager; and (e) such other reports as the Management Committee may direct.

9.3 Joint Venture Accounts and audit

- (a) The Manager must prepare accounts for the Joint Venture reflecting the results for each Year of all transactions connected with Joint Venture Activities as disclosed by the records and accounts kept by the Manager and reflecting the Joint Venture Property in the possession or control of the Manager as at the end of such Year in accordance with this agreement (**Annual Accounts**) which Annual Accounts must be completed, audited by the Auditor and provided to the Joint Venturers (together with the Auditor's report) no later than 3 months after the end of the Year.
- (b) Any Joint Venturer which requires any particular audit requirements to be satisfied by the Auditor may make known to the Manager in writing its additional particular requirements before the audit is completed. The Manager must provide the particular audit requirements to the Auditor forthwith and the additional cost of conducting any additional audit must be paid by that Joint Venturer.
- (c) The Manager must rectify any issues or qualifications raised by the Auditor concerning the Joint Venture Accounts or Joint Venture Activities as soon as is reasonably practicable.

9.4 Individual Joint Venturer recording responsibilities

- (a) Each Joint Venturer is responsible, in respect of its Joint Venture Interest, for all financial and accounting records required by Law or to support its income tax returns or any other reports required by any Authority.
- (b) The Manager must provide to each Joint Venturer such Joint Venture information prepared by the Manager in accordance with this agreement, as the Joint Venturer may reasonably require to prepare its financial and accounting records.

9.5 Joint Venturer access

A Joint Venturer is entitled during working hours at reasonable intervals, and the Manager must give, on reasonable notice at the Joint Venturer's expense and risk, access to, and the right to inspect any Joint Venture Property, including all books and records maintained by the Manager, provided that the Joint Venturer ensures that there is no interference with Joint Venture Activities.

10 Cross Security and Deed of Covenant

10.1 Cross Security

- (a) For the purpose of better securing:
 - (i) the payment of all Called Sums; and
 - (ii) payment to each of the Joint Venturers of any amount due and payable to it pursuant to this agreement

each Joint Venturer must, as a condition precedent to entering into this agreement, or upon becoming a Joint Venturer under this agreement, execute and deliver to the other Joint Venturers a first-ranking Cross Security over:

- (i) its Joint Venture Interest; and

- (ii) its Percentage Share in the Products.
- (b) Each Joint Venturer creating a Cross Security must at its cost obtain all Authorisations in relation to the Cross Security and duly register or lodge the same for recording in every jurisdiction and registry where registration, lodgement or recording is required or permitted to perfect the Cross Security.

10.2 No Encumbrances without consent

- (a) Except for entry into a Cross Security, a Joint Venturer must not create an Encumbrance over its Joint Venture Interest unless:
 - (i) the Encumbrance is over the whole (but not part) of its Joint Venture Interest;
 - (ii) the rights of each person claiming a Security Interest under the Encumbrance (each of whom is a **Secured Party**) must be expressly subject to this agreement, the Cross Security created by the Joint Venturer in accordance with this agreement, and the Deed of Covenant applicable to the Encumbrance;
 - (iii) the Encumbrance must be a charge granting a Security Interest in the Personal Property but may be a fixed charge in respect of the Joint Venture Interest of the Joint Venturer in the Tenements, any present or future freehold or leasehold land, fixtures and water rights included in the Joint Venture Property, and must be postponed to and ranks as a security after the Cross Security created by the Joint Venturer in accordance with this agreement;
 - (iv) all funds to be made available by the Secured Party to the Joint Venturer and secured by the Encumbrance are, and must be applied, solely for either or both of the following purposes:
 - (A) financing a Development or other Joint Venture Activities; or
 - (B) purchasing all or any part of its Joint Venture Interest; and
 - (v) before creating the Encumbrance the Joint Venturer first:
 - (A) gives to the other Joint Venturers at least 14 days notice of its intention to create an Encumbrance giving particulars of its compliance with the whole of this clause; and
 - (B) causes all of the proposed Secured Parties to execute and deliver to the other Joint Venturers a Deed of Covenant.
- (b) On receipt of a Deed of Covenant (in a form and content reasonably satisfactory to all the Joint Venturers) duly executed by all the proposed Secured Parties, the Joint Venturers must execute and deliver a counterpart of the Deed of Covenant to the Secured Parties.
- (c) The Joint Venturer creating the Encumbrance must at its cost obtain all Authorisations in relation to the Deed of Covenant and duly register or lodge the same for recording in every jurisdiction and registry where registration, lodgement or recording is required or permitted to perfect the Deed of Covenant.

11 Assignment

11.1 Restriction on assignment

- (a) A Joint Venturer may not assign, transfer, sub-lease or otherwise deal with the whole or any part of its Joint Venture Interest unless the consideration involves payment of cash to the Joint Venturer in whatever form and over any period (including immediate cash, deferred cash,
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royalty, net smelter return, net profit interest and the like, and including payment of Joint Venture Expenditure) and is otherwise:

- (i) permitted by this agreement; or
 - (ii) done with the prior written consent of all the other Joint Venturers, which consent may be given or refused in each Joint Venturers absolute discretion.
- (b) Except as otherwise provided in this agreement, a Defaulting Joint Venturer may not assign, transfer, sub-lease or otherwise deal with the whole or any part of its Joint Venture Interest.
- (c) Any purported dealing by a Joint Venturer with its Joint Venture Interest contrary to this agreement is void.
- (d) Notwithstanding any other provision of this agreement, a Joint Venturer must not, without the prior written consent of all the other Joint Venturers, (which they may give or refuse in their absolute discretion), effect or permit an assignment, transfer, sub-lease or other dealing (or agree so to do) of the whole or any part of its Joint Venture Interest within the first 2 years from and including the Commencement Date.

11.2 Assignment to Related Body Corporate

A Joint Venturer which is not a Defaulting Joint Venturer may at any time without obtaining the prior consent of the other Joint Venturers assign the whole (but not part) of its Joint Venture Interest to a Related Body Corporate. If a Joint Venturer assigns the whole of its Joint Venture Interest to a Related Body Corporate, then that Joint Venturer:

- (a) must, within 14 days following the date of the assignment, notify all of the other Joint Venturers of the identity of the assignee and its relationship to the Joint Venturer;
- (b) continues to be bound by this agreement and is not released from any of its obligations or discharged from any of its liabilities under this agreement, except to the extent that they are discharged by its Related Body Corporate or unless all the other Joint Venturers agree; and
- (c) must, by the time that the Related Body Corporate to which the whole of its Joint Venture Interest has been assigned ceases to be a Related Body Corporate of the Ultimate Holding Company of the Joint Venturer, ensure that all the rights assigned to that Related Body Corporate have been re-assigned to that Joint Venturer or assigned to another Related Body Corporate of that Joint Venturer.

An assignment under this clause is free of any rights of pre-emption set out in this agreement.

11.3 Permitted right of pre-emption

- (a) A Joint Venturer has the right of pre-emption on the terms and conditions set out in this clause in respect of a sale of the whole or part of the Joint Venture Interest by another Joint Venturer.
- (b) Where a Joint Venturer receives a bona fide offer to purchase or farm-in to, or intends to make an offer to sell or farm-out, for a consideration involving payment of cash to the Joint Venture or a Joint Venturer in whatever form and over any period (including immediate cash, deferred cash, royalty, net smelter return, net profit interest and the like, and including payment of Joint Venture Expenditure), the whole or part of its Joint Venture Interest which it is willing to accept and dispose of or sell or farm-out, the Joint Venturer (**Selling Joint Venturer**) must promptly send written notice to the other Joint Venturers of the offer to purchase, or farm-in, or sell or farm-out making the same offer to the other Joint Venturers (**Offer**).
- (c) The Offer must:
 - (i) set out all the details of the offer to purchase, farm-in, sell or farm-out that the Selling Joint Venturer has received, including the identity of the proposed acquirer (if then known), to enable an assessment of the acquirer's financial standing including, where applicable, details

of the financial standing of the acquirer's Ultimate Holding Company and any proposed parent company guarantees; and (ii) attach a copy of all of the Offer documents.

- (d) Each other Joint Venturer (**Non-Selling Joint Venturer**) has the right for a period of 45 days following receipt of an Offer (**Option Period**) to accept the Offer in full.
- (e) To accept the Offer, a Non-Selling Joint Venturer must give written notice of acceptance to the Selling Joint Venturer during the Option Period.
- (f) Where more than one Non-Selling Joint Venturer accept the Offer from the Selling Joint Venturer the accepting Non-Selling Joint Venturers are deemed to have accepted the Offer pro rata in proportion to their respective Percentage Shares, unless otherwise mutually agreed between them.
- (g) In circumstances where the Selling Joint Venturer is a OGRE Entity and ASX Listing Rule 11.1.2 or 11.2 applies to the relevant disposal, sale or farm-out of the whole or part of its Joint Venture Interest, then without limiting clause 11.5 the relevant Offer (and any acceptance of it) will be conditional upon the shareholders of OGRE Resources approving the relevant transaction in accordance with the applicable Listing Rule(s).
- (h) In circumstances where a Non-Selling Joint Venturer which is a OGRE Entity has accepted the Offer and ASX Listing Rule 11.1.2 applies to the OGRE Entity's proposed acquisition, purchase or farm-in of the whole or part of the Selling Joint Venturer's Joint Venture Interest, then such acceptance will not be effective unless the shareholders of OGRE Resources have approved the relevant transaction in accordance with the applicable Listing Rule(s).

11.4 Selling Joint Venturer free to sell or assign

- (a) If none of the Non-Selling Joint Venturers validly accepts the Offer then, following the Option Period, the Selling Joint Venturer is free within 6 months from the date of the Offer, and subject to subsequent completion and delivery of the required assignment documentation specified in this agreement, to dispose of, sell or farm out its Joint Venture Interest the subject of the Offer to the prospective acquirer at a price and subject to the terms and conditions which are no less favourable to the Selling Joint Venturer than the price, terms and conditions set out in the Offer.
- (b) For the avoidance of doubt, where clause 11.3(g) applies to the Offer then clause 11.4(a) will not apply if one or more of the Non-Selling Joint Venturers accepts the Offer but the condition in clause 11.3(g) is not satisfied. In such circumstances the Selling Joint Venturer cannot dispose of, sell or farm out its Joint Venture Interest the subject of the Offer without again following the provisions of clause 11.3.

11.5 Requirements of assignee

A sale, disposal, farm-in or farm-out of part or all of a Joint Venture Interest is not effective unless and until the assignee:

- (a) has obtained all relevant Authorisations; and
 - (b) has executed and delivered to each Joint Venturer a form of assumption deed approved by the Joint Venturers (which approval must not be unreasonably withheld) under which the assignee agrees to assume the obligations of the assignor under, and be bound by the terms and conditions of, this agreement, including the obligations of the assignor under any Cross Charge granted to the assignor by the other Joint Venturers and any Deed of Covenant entered into by any Third Party with the assignor, to the extent of the Joint Venture Interest assigned or upon the Joint Venture Interest being earned under the terms of the sale, assignment, farm-in or farm-out;
 - (c) has executed and delivered to each of the Joint Venturers a Cross Security and Deed of Covenant, to the extent required under this agreement; and
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- (d) has received from the assignor an executed assignment of the benefit of any Cross Security granted to the assignor by the other Joint Venturers and any Deed of Covenant entered into by any Third Party with the assignor.

11.6 Assignment on Change of Control or less than Minimum Interest

- (a) If a Change of Control occurs in respect of a Joint Venturer (**Changed Joint Venturer**), any other Joint Venturer may, by notice given to all the Joint Venturers and the Manager, cause the Changed Joint Venturer to make a Deemed Sale Offer to the other Joint Venturers.
- (b) If the Joint Venture Interest of a Joint Venturer reduces to below the Minimum Interest, whether by sale, or other disposition or dilution as permitted under this agreement, any other Joint Venturer may, by notice given to all the Joint Venturers and the Manager, cause that Joint Venturer to make a Deemed Sale Offer to the other Joint Venturers.
- (c) If clause 11.6(d) or clause 11.6(e) applies, the Transfer Price will be determined by an Expert. Otherwise, the Transfer Price will be as negotiated and agreed in good faith by the Joint Venturers provided that if, within 30 days after notice of the Deemed Sale Offer is given, the Joint Venturers have not agreed on the Transfer Price an Expert must determine the Transfer Price.
- (d) This clause 11.6(d) applies where the Joint Venturer making a Deemed Sale Offer is a Ogre Entity, and the recipients of the Deemed Sale Offer include a Bokney Entity, unless:
 - (i) the circumstances of the transaction are such that none of ASX Listing Rule 10.1, 11.1.2 or 11.2 has any potential application; or
 - (ii) the Bokney Entity has irrevocably confirmed that it will not accept the Deemed Sale Offer),(in either of which cases this clause 11.6(d) will not apply).
- (e) This clause 11.6(e) applies where the Joint Venturer making a Deemed Sale Offer is a Bokney Entity, and the recipients of the Deemed Sale Offer include a Ogre Entity, unless:
 - (i) the circumstances of the transaction are such that neither ASX Listing Rule 10.1 or 11.1.2 has any potential application; or
 - (ii) the Ogre Entity has irrevocably confirmed that it will not accept the Deemed Sale Offer),(in either of which cases this clause 11.6(e) will not apply).
- (f) On agreement or determination of the Transfer Price, the Deemed Sale Offer is open for acceptance by all the other Joint Venturers pro rata in proportion to their respective Percentage Shares or such other proportions as they may agree and is irrevocable for a period of 60 days.
- (g) Subject to clause 11.6(k):
 - (i) a Deemed Sale Offer by a Changed Joint Venturer may be accepted by one or more of the other Joint Venturers; and
 - (ii) a Deemed Sale Offer of a less than Minimal Interest must be accepted by all of the other Joint Venturers.
- (h) Upon a Deemed Sale Offer being accepted:
 - (i) the transferring Joint Venturer must sell, and the accepting Joint Venturers must purchase, the whole of its Joint Venturer Interest on the terms of the Deemed Sale Offer, subject only to obtaining all relevant Authorisations; and
 - (ii) completion of the transfer of the Joint Venture Interest must occur within 60 days after acceptance at which time the transferring Joint Venturer must complete and deliver all required assignment documentation, including a discharge of all Encumbrances, to the accepting Joint Venturers and the accepting Joint Venturers must pay the

Transfer Price to the transferring Joint Venturer in immediately available funds subject to the relevant Authorisations being obtained.

- (i) If the Deemed Sale Offer made as a result of the Change of Control is not accepted by any Joint Venturer in accordance with this clause, the Changed Joint Venturer is not liable to transfer its Joint Venturer Interest as a result of such Change of Control.
- (j) If the Deemed Sale Offer of a less than Minimal Interest is not accepted by all of the other Joint Venturers in accordance with this clause, the Joint Venturer holding less than a Minimal Interest is not liable to transfer its Joint Venture Interest.
- (k) In circumstances where a OGRE Entity receives a Deemed Sale Offer and ASX Listing Rule 11.1.2 applies to the acceptance of that Deemed Sale Offer by the OGRE Entity, it will not be entitled (or obliged) to accept the relevant offer unless shareholders of OGRE Resources have approved the acceptance in accordance with that ASX Listing Rule.

11.7 Joint Venturer ceasing to be a Joint Venturer

- (a) If a sale or assignment of the whole or part of a Joint Venture Interest is made in accordance with this agreement (other than an assignment to a Related Body Corporate) the assignor is released from obligations under this agreement incurred and arising after the sale or assignment to the extent of the Joint Venture Interest sold or assigned, other than the obligations of confidentiality contained in this agreement.
- (b) If a person ceases to be a Joint Venturer, that person is not relieved of any liability under this agreement which was incurred or arose on or before the date when it ceased to be a Joint Venturer, unless this agreement otherwise provides.

12 Default

12.1 Breach Default Event to be remedied

- (a) The Manager or any Non-Defaulting Joint Venturer may at any time after a Breach Default Event occurs serve a written notice on the Defaulting Joint Venturer specifying the nature of the Breach Default Event and requiring it to be remedied. The Defaulting Joint Venturer must then:
 - (i) if the Breach Default Event is capable of being remedied, remedy the default within 14 days of its receipt of the notice of default; or
 - (ii) if the Breach Default Event is not remedied within 14 days or is not capable of being remedied, pay adequate monetary compensation to the Non-Defaulting Joint Venturers such payment to be made within 7 days of receipt of notification of the amount of compensation payable as determined under this agreement.
- (b) The Joint Venturers must agree in writing the amount of adequate monetary compensation to be paid by the Defaulting Joint Venturer under this clause. If the Joint Venturers have not reached agreement within 14 days after the date on which notice of default is given, that amount must be determined by an Expert appointed under this agreement, who must make such determination within 30 days of his or her appointment.
- (c) On agreement or determination of the amount of adequate monetary compensation under this clause, that amount, and any interest and costs payable or reimbursable under this agreement, becomes Unpaid Monies due under this agreement.

12.2 Unpaid Monies Default Event to be remedied

- (a) If an Unpaid Monies Default Event occurs, the Manager must promptly give to the Defaulting Joint Venturer a notice to pay all Unpaid Monies within 7 days after the Due Date (**Non-payment Notice**).
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- (b) If the Defaulting Joint Venturer fails to comply with the Non-payment Notice, the Manager must promptly give notice of such failure to all of the other Joint Venturers together with the amount of Unpaid Monies due but not paid (**Unpaid Monies Default Notice**).
- (c) Each Joint Venturer receiving an Unpaid Monies Default Notice has the right (but not the obligation) after 7 days from receipt of the notice to pay to the Manager all or part of Unpaid Monies referred to in the Unpaid Monies Default Notice on behalf of the Defaulting Joint Venturer. A Joint Venturer which makes a payment of Unpaid Monies on behalf of the Defaulting Joint Venturer becomes a Paying Joint Venturer.
- (d) All monies paid by the Manager or a Paying Joint Venturer on behalf of a Defaulting Joint Venturer to remedy an Unpaid Monies Default Event constitute a debt due by the Defaulting Joint Venturer and are included in indebtedness secured under the Cross Charge granted by the Defaulting Joint Venturer to the Manager or the Paying Joint Venturer, as applicable. The rights of the Manager or a Paying Joint Venturer against a Defaulting Joint Venturer under this sub-clause are in addition to any other rights or remedies available to them.
- (e) Upon payment of all Unpaid Monies including all interest and costs payable or reimbursable in respect of the Default Event, the Defaulting Joint Venturer is released from liability to pay the Called Sum on which it defaulted, but otherwise remains liable to indemnify each other Joint Venturer and the Manager as provided in this agreement.

12.3 Interest and costs

- (a) Interest is payable on all Unpaid Monies not paid on or before the Due Date, from but excluding the Due Date up to and including the date upon which the moneys are paid.
- (b) All interest paid on Unpaid Monies by the Manager, a Paying Joint Venturer or a Non-Defaulting Joint Venturer directly attributable to a Default Event become Unpaid Monies due for payment by the Defaulting Joint Venturer to the payer on demand.
- (c) A Defaulting Joint Venturer must pay or reimburse all reasonable costs and expenses (including legal costs and expenses on a full indemnity basis) incurred by the Manager, a Paying Joint Venturer or a Non-Defaulting Joint Venturer consequent upon, or which are directly attributable to remedying, a Default Event. All reasonable costs and expenses so paid become Unpaid Monies due for payment by the Defaulting Joint Venturer to the payer on demand.
- (d) If the Manager or one or more Paying Joint Venturer pays Unpaid Monies on behalf of the Defaulting Joint Venturer, interest at the Agreed Interest Rate must be credited in the Joint Venture Accounts to the Manager or the Paying Joint Venturers pro rata in proportion to their respective Percentage Shares, and the Defaulting Joint Venturer must pay to the Manager on demand the aggregate of the sums so credited.

12.4 Period of Unpaid Monies Default

An Unpaid Monies Default Event must not be treated as having been remedied for the purposes of this agreement until:

- (a) the Defaulting Joint Venturer has paid, or caused to be paid, all Unpaid Monies due to the Manager, the Paying Joint Venturers or the Non-Defaulting Joint Venturers (as the case may be); or
- (b) the whole of the Defaulting Joint Venturer's Joint Venture Interest is acquired pursuant to this agreement by a Non-Defaulting Joint Venturer or a Third Party.

12.5 Buy-Out Election following an Unpaid Monies Default Event

- (a) If an Unpaid Monies Default Event is not remedied within 14 days from the Due Date, any one or more Non-Defaulting Joint Venturers may (but are not obliged to) give notice to the

other Joint Venturers (including the Defaulting Joint Venturer) and the Manager stating that it wishes, or they wish, to acquire the whole (but not part) of the Defaulting Joint Venturer's Joint Venture Interest pursuant to this agreement (**Buy-Out Election**).

- (b) Where more than one Non-Defaulting Joint Venturer wishes to enforce a Buy Out Election, those Non-Defaulting Joint Venturers must do so, unless otherwise mutually agreed between them, severally in the proportion to their respective Percentage Shares.
- (c) Where a Buy Out Election has been made, the Non-Defaulting Joint Venturers may not enforce their Cross Charges unless the Defaulting Joint Venturer suffers an Insolvency Event.
- (d) In circumstances where a Ogre Entity is a Non-Defaulting Joint Venturer and ASX Listing Rule 11.1.2 applies to the enforcement of a Buy-Out Election by the Ogre Entity, it will not be entitled to enforce a Buy-Out Election unless shareholders of Ogre Resources have approved the enforcement in accordance with that ASX Listing Rule.

12.6 Preservation of other rights

Nothing in this agreement affects the right of a party to:

- (a) subject to observance of the Dispute resolution provisions of this agreement, commence litigation in respect of a Default Event; or
- (b) exercise any other rights or remedies available to the party under this agreement or at law or in equity.

13 Enforcement of Buy-Out Election

13.1 Effect of Buy-Out Election

Upon a Buy-Out Election being made, the Non-Defaulting Joint Venturers which have agreed or elected to pursue the Buy-Out Election (**Enforcing Joint Venturers**) must, within 28 days from the Buy-Out Election coming into effect, subject to the agreement or determination and acceptance of the fair market value and the date for completion (**Completion Date**), acquire the whole (but not part) of the Defaulting Joint Venturer's Joint Venture Interest, provided that if the relevant Unpaid Monies Default Event is remedied in full in accordance with this agreement before the Completion Date, the Buy-Out Election under this agreement lapses.

13.2 Determination of fair market value and Completion Date (a) For the

purposes of this clause 13.2:

- (i) This clause 13.2(a)(i) applies where the Defaulting Joint Venturer is a Ogre Entity and the Enforcing Joint Venturers include a Bokney Entity, unless the circumstances of the transaction are such that none of ASX Listing Rule 10.1, 11.1.2 or 11.2 has any potential application (in which case this clause 13.2(a)(i) will not apply).
 - (ii) This clause 13.2(a)(ii) applies where the Defaulting Joint Venturer is a Bokney Entity and the Enforcing Joint Venturers include a Ogre Entity, unless the circumstances of the transaction are such that neither ASX Listing Rule 10.1 or 11.1.2 has any potential application (in which case this clause 13.2(a)(ii) will not apply).
- (b) If clause 13.2(a)(i) or clause 13.2(a)(ii) applies:
- (i) the fair market value of the Defaulting Joint Venturer's Joint Venture Interest as at the date of the relevant Default Event (and, if the Defaulting Joint Venturer and the Enforcing Joint Venturers cannot agree the Completion Date within 14 days of the Buy-Out Election coming into effect, that date) must be determined by an Expert appointed under this agreement, who must make a determination within 30 days of appointment;
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- (ii) the Expert may determine that the Defaulting Joint Venturer's Joint Venture Interest has nil or a negative value; and
 - (iii) no payment is due if the amount of consideration payable to the Defaulting Joint Venturer is determined to be negative.
- (c) Where neither clause 13.2(a)(i) nor clause 13.2(a)(ii) applies, the Defaulting Joint Venturer and the Enforcing Joint Venturers must use their best endeavours to agree:
- (i) on the fair market value of the Defaulting Joint Venturer's Joint Venture Interest as at the date of the relevant Default Event; and
 - (ii) the Completion Date,
- and if the parties cannot agree on the fair market value and the Completion Date within 14 days of the Buy-Out Election coming into effect, then:
- (iii) those matters may be determined by an Expert appointed under this agreement, who must make a determination within 30 days of appointment;
 - (iv) the Expert may determine that the Defaulting Joint Venturer's Joint Venture Interest has nil or a negative value; and
 - (v) no payment is due if the amount of consideration payable to the Defaulting Joint Venturer is determined to be negative.
- (d) Upon the fair market value and the Completion Date being determined by the expert, each Enforcing Joint Venturer must within 7 days of receiving the expert's determination advise the Defaulting Joint Venturer whether it accepts or rejects the expert's determination and whether or not it agrees to pay the fair market value of the Defaulting Joint Venturer's Joint Venture Interest on the Completion Date as determined by the expert.
- (e) Where more than one Enforcing Joint Venturer agrees to pay the fair market value for the Defaulting Joint Venturer's Joint Venture Interest on the Completion Date as agreed or determined by the expert, the Enforcing Joint Venturers must do so, unless otherwise mutually agreed between them, severally in proportion to their respective Percentage Shares.
- (f) If no Enforcing Joint Venturer agrees to pay the fair market value for the Defaulting Joint Venturer's Joint Venture Interest on the Completion Date as agreed or determined by the expert, any one or more of the Enforcing Joint Venturers may enforce the Cross Charge.

13.3 Consequence of Buy-Out Election

On the agreement, or determination and acceptance, of the fair market value of the Defaulting Joint Venturer's Joint Venture Interest and the Completion Date, the Defaulting Joint Venturer must on or before the Completion Date:

- (a) transfer the whole of its Joint Venture Interest to the Enforcing Joint Venturers by executing and delivering all deeds and documents necessary for, and complete (and register, if required by the law of the Nominated State), the assignment of its Joint Venture Interest to the Enforcing Joint Venturers; and
- (b) pay all stamp duty and other transfer costs which become payable upon, or are to be borne by, the Enforcing Joint Venturers acquiring its Joint Venture Interest,

and, in exchange for the assignment and transfer of the Joint Venture Interest, the Enforcing Joint Venturers must severally in proportion to their respective Percentage Shares, or in such other proportions they agree:

- (a) cure any relevant Default Event of the Defaulting Joint Venturer which is capable of being cured;

- (b) assume all future obligations and liabilities in respect of the whole of the Defaulting Joint Venturer's Joint Venture Interest;
- (c) pay the amount of consideration to the Defaulting Joint Venturer being the fair market value agreed or determined and accepted for the Joint Venture Interest being acquired by the Enforcing Joint Venturers less:
 - (i) the reasonable administrative and out-of-pocket expenses of the Enforcing Joint Venturers;
 - (ii) all amounts due from the Defaulting Joint Venturer to any party or Third Party under or pursuant to this agreement;
 - (iii) all amounts paid by the Non-Defaulting Joint Venturers or the Manager to cure any relevant Default Event of the Defaulting Joint Venturer, including interest and costs payable under this agreement; and
 - (iv) the amount of all liability of the Defaulting Joint Venturer to meet existing Rehabilitation Obligations and Mine Closure Obligations as determined by the Manager as at the date of payment.
- (d) pay any amounts deducted by them from the fair market value for payment to any party or Third Party, to that party or Third Party as soon as reasonably possible; and
- (e) release the Defaulting Joint Venturer from all claims the Enforcing Joint Venturers have against the Defaulting Joint Venturer in connection with the relevant Default Event.

13.4 Release of Defaulting Joint Venturer

Upon completion (and registration, if required) of the assignment of its Joint Venture Interest to the Enforcing Joint Venturers, including the payment of all transfer costs, the Defaulting Joint Venturer is released from its obligations under this agreement arising after completion of the assignment, other than the obligations of confidentiality set out in this agreement.

13.5 Attorney

For so long as it is in default, each Defaulting Joint Venturer irrevocably appoints the Enforcing Joint Venturers jointly and severally as its lawful attorney to act for it in its name or otherwise as the Manager (acting reasonably) deems fit for the purposes of:

- (a) doing all such acts and executing all such documents as may appear to the Enforcing Joint Venturers (acting reasonably) to be necessary or desirable to comply with the obligations and, to the extent necessary to perform obligations, to exercise the rights of the Defaulting Joint Venturer under this agreement; and
- (b) with the agreement of all other Non-Defaulting Joint Venturers (if any), terminating the Joint Venture and doing all things reasonably necessary or desirable for completion and winding up of Joint Venture Activities.

The Defaulting Joint Venturer is bound by all acts of the Enforcing Joint Venturers as attorney pursuant to this clause.

13A Sole-Risk

13A.1 Sole Risk Proposal

- (a) If, at any time after the Commencement Date, the Management Committee does not approve a proposal before it for the Development and Mining of a Deposit (which, in the case of a decision relating to a Bokney Deposit, will be taken to have occurred at the third meeting of the Management Committee convened pursuant to clause 3.3(h)) in accordance with clauses
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3.3, 3.4 or 3.5 of this agreement (**Rejected Development Decision**), then the provisions of this clause 13A shall apply.

- (b) Not more than 3 months following a Rejected Development Decision in relation to any Phosphate Project or Other Project, any Joint Venturer may, by 30 days' notice to the Manager and the other Joint Venturers, require that:
 - (i) the matter be referred to the respective Chief Executive Officers of each party (or their equivalent, as indicated in clause 16.2(c)) who must negotiate in good faith with a view to agreeing amendments to that Rejected Development Proposal as will enable it to achieve a Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5); and
 - (ii) if the matter is not resolved in accordance with clause 13A.1(b)(i), it shall be referred to the respective Chairmen of each party (or their equivalent, as indicated in clause 16.2(d)) who must negotiate in good faith with a view to agreeing amendments to that Rejected Development Proposal as will enable it to achieve Unanimous Vote or Super Majority Vote (as applicable in accordance with clause 5.5).
- (c) If the matter is not resolved within 60 days of receipt of the notice under clause 13A.1(b), any Joint Venturer may, by providing a further 30 days' prior notice, propose that a Proposed Programme and Budget for the Development and Mining of the Deposit the subject of the Rejected Development Decision be prepared (**Other Sole Risk Proposal**) in that part of the Mining Area identified in the notice in which the Other Sole Risk Proposal is to be undertaken (**Other Sole Risk Area**).
- (d) The Manager must convene a meeting of the Management Committee within 7 days of the expiration of the 30 days' notice period referred to in clause 13A.1(c) and at that meeting the Management Committee may resolve that the Manager proceed with the Sole Risk Proposal as Joint Venture Activities.

13A.2 Sole Risk Notice

- (a) If the Management Committee does not pass a resolution to proceed with a Bokney Development Proposal at the third meeting of the Management Committee convened pursuant to clause 3.3(h), any Joint Venturer that voted in favour of the Bokney Development Proposal at the third meeting of the Management Committee convened pursuant to clause 3.3(h) (**Supporting BB Party**) may:
 - (i) propose that Bokney Development Proposal as a Sole-Risk Proposal (**BB Sole Risk Proposal**) by providing a Sole Risk Notice to the Manager and the other Joint Venturers to that effect; or
 - (ii) elect to make a Buy-Out Offer in accordance with the provisions of clause 13A.6,provided that, if the Supporting BB Party elects to undertake the BB Sole Risk Proposal, then any other Joint Venturer may, within 30 days of receipt of the Sole Risk Notice, by notice to the Manager and the other Joint Venturers, elect to:
 - (i) make a Buy-Out Offer in accordance with the provisions of clause 13A.6; or
 - (ii) participate in the BB Sole Risk Proposal in which case the BB Sole Risk Proposal will be carried on as Joint Venture Activities and this clause 13A will cease to apply.
- (b) Where the Management Committee does not pass a resolution to proceed with an Other Sole Risk Proposal as Joint Venture Activities and the Other Sole Risk Proposal was in respect of the Mining and Development of any Phosphate Deposit or Other , any Joint Venturer that voted in favour of the resolution to proceed with the Other Sole Risk Proposal as Joint Venture Activities (**Supporting Other Party**) may, within 10 days of the meeting of the Management Committee which failed to pass the resolution, provide a Sole Risk Notice to the Manager and

the other Joint Venturers, to either undertake the Other Sole Risk Proposal, provided that if an election is not made within

the period specified in clause 13A.2(b), the Supporting Other Party will be deemed to have elected not to undertake the Other Sole Risk Proposal.

- (c) If all of the Joint Venturers elect to participate in the Other Sole Risk Proposal, then the Other Sole Risk Proposal will be carried on as Joint Venture Activities and this clause 13A will cease to apply.
- (d) A Sole Risk Notice must include the scope and cost of the Sole Risk Proposal.
- (e) A Joint Venturer electing to participate in the Sole Risk Proposal is referred to in this clause as a **Sole-Risking Joint Venturer**.

13A.3 Sole Risk Operation

- (a) The Sole-Risking Joint Venturers are, subject to the terms of this clause 13A, entitled to undertake the activities the subject of the Sole Risk Proposal (**Sole Risk Operation**) in relation to the Sole Risk Area.
 - (b) The interests of the Sole-Risking Joint Venturers in the Sole Risk Operation are in the same proportion as their Percentage Shares in the Joint Venture (immediately prior to the date of the Sole Risk Notice) bear to each other.
 - (c) The Joint Venturers must grant such releases as are necessary under the Cross Security in respect of the Sole Risk Area to enable the Sole-Risking Joint Venturers to hold their interests in the Sole Risk Operation in the same proportion as their Percentage Shares in the Joint Venture (immediately prior to the date of the Sole Risk Notice) bear to each other.
 - (d) The Sole Risk Operations must be carried out at the cost, risk and expense of the Sole-Risking Joint Venturers strictly in accordance with the Sole Risk Proposal.
 - (e) The Sole Risk Operations must be managed by the Manager, if the Manager is a Sole-Risking Joint Venturer, or if the Manager is not a Sole-Risking Joint Venturer, by such person as the Sole-Risking Joint Venturers decide.
 - (f) Upon commencement of the Sole Risk Operation:
 - (i) each Sole-Risking Joint Venturer must indemnify and keep indemnified the Joint Venturers not electing to undertake the Sole Risk Proposal (**Non-Participating Joint Venturers**) against all claims and liability arising out of any acts or omissions committed by the Sole-Risking Joint Venturers in carrying out any Sole Risk Operation. The Sole-Risking Joint Venturers are liable under this indemnity to the Non-Participating Joint Venturers severally in accordance with their respective interests in the Sole Risk Operation Joint Venture;
 - (ii) if the Sole-Risking Joint Venturers fail to commence Sole Risk Operations in the Sole Risk Area within 12 months from the date of the Sole Risk Notice, the Sole-Risking Joint Venturers are deemed to have agreed not to proceed with Mining in the Sole Risk Area, whereupon the Sole Risk Proposal will be cancelled.
 - (g) The Non-Participating Joint Venturers must take all reasonable steps, including entering into such contractual and other arrangements as are reasonably necessary, to allow the Sole-Risking Joint Venturers to undertake the Sole Risk Operation including agreeing arrangements with third party contractors and financiers relating to the development, construction, operation and financing of the Sole Risk Operation, which arrangements shall have regard to the option that each Non-Participating Joint Venturer has to acquire the ReBuy Interest in accordance with the terms of this clause 13A
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13A.4 Sole Risk Operations Re-Buy

- (a) If a Sole Risk Operation is undertaken in accordance with this clause 13A, then each Non-Participating Joint Venturer may, at any time before the Re-Buy Expiry Date, by notice in writing to the Sole-Risking Joint Venturers, elect to purchase from the Sole-Risking Joint Venturers a Joint Venture Interest in the Sole Risk Operation (**Re-Buy Interest**) equal to the Percentage Share in the Joint Venture which it surrendered to the Sole-Risking Joint Venturers under this clause 13A (**Non-Participating Joint Venturer's Percentage Share**) in the same proportion as the Sole-Risking Joint Venturers' Percentage Shares in the Sole Risk Operation bear to each other.
- (b) Each Non-Participating Joint Venturer which gives notice under this clause to purchase a Re-Buy Interest in the Sole Risk Operation is called a **Re-Buy Joint Venturer**.
- (c) The consideration payable by a Re-Buy Joint Venturer to the Sole-Risking Joint Venturers, pro-rata in the proportion that the Sole-Risking Joint Venturers' Percentage Shares in the Sole Risk Operation bear to each other, for the purchase of the Re-Buy Interest is:
 - (i) a lump sum in cash equal to the amount of such Non-Participating Joint Venturer Percentage Share of all costs and expenses that were incurred by the Sole-Risking Joint Venturers in the Sole Risk Operation up to the date of the exercise of the election by the Re-Buy Joint Venturer (**Re-Buy Amount**); plus
 - (ii) a further lump sum in cash equal to two (2) times the Re-Buy Amount (**Re-Buy Premium**) in compensation for the risk that the Sole-Risking Joint Venturers undertook in undertaking the Sole Risk Operation.
- (d) Each Re-Buy Joint Venturer must, in exercising its option to purchase the ReBuy Interest, do all things reasonably necessary to comply with the obligations of the Sole-Risking Joint Venturer that were entered into prior to the Re-Buy Expiry Date insofar as they relate to the purchase of the Re-Buy Interest in the Sole Risk Operation including, to the extent necessary, entering into such arrangements as are reasonably necessary to enable the Re-Buy Joint Venturers to become a party to, or assume obligations under, any contracts or commitments that have been entered into by, or on behalf of, the Sole Risking Joint Venturers up to the date of the exercise of the election by the Re-Buy Joint Venturer to acquire the Re-Buy Interest that are required by their terms to be assigned to, or assumed by, the Re-Buy Joint Venturers. For the avoidance of doubt, the obligations may include the provision of completion and commissioning guarantees by the ultimate holding companies of the Re-Buy Joint Venturers.
- (e) Within 60 days of exercising its right to purchase the Buy-Back Interest, the Re-Buy Joint Venturer must, in exchange for the purchase of the Re-Buy Interest pay the Re-Buy Amount and the Re-Buy Premium to the Sole-Risking Joint Venturers and, if more than one, in the same proportion as the SoleRisking Joint Venturers' Percentage Shares in the Sole Risk Operation bear to each other.
- (f) A Ogre Entity may not elect to purchase a Re-Buy Interest in circumstances where ASX Listing Rule 11.1.2 applies to the relevant purchase unless shareholders of Ogre Resources have approved the transaction in accordance with that ASX Listing Rule.

13A.5 Consequences of Re-Buy

- (a) If all the Non-Participating Joint Venturers acquire a Re-Buy Interest, so that the Joint Venturers then hold the same Percentage Share of Joint Venture Interest in the Sole Risk Operation as in the Joint Venture, the parties may agree to terminate the Sole Risk Operation as an independent operation.
- (b) If not all the Non-Participating Joint Venturers acquire a Re-Buy Interest, and the Sole Risk Operation continues:

- (i) the Sole-Risking Joint Venturers have the right to use the Joint Venture Assets and other facilities of the Joint Venture, such as any treatment or processing plant and equipment, on terms and conditions agreed between the Non-Participating Joint Venturers and the Sole-Risk Joint Venturers, and in default of agreement as determined by arbitration under the rules set out in the *Commercial Arbitration Act 1985* (WA) and otherwise in accordance with clause 16.2(f).
- (ii) the existing Joint Venture Activities that are not the subject of the Sole-Risk Operation have priority at all times over any Sole-Risk Operation and the Non-Participating Joint Venturers are under no obligation to provide or make available additional property or extra capacity in any existing Joint Venture Property for the purposes of the operations to be or being conducted as part of the Sole-Risk Project; and
- (iii) the Non-Participating Joint Ventures shall have no rights to any additional property or extra capacity provided or created in any of the existing Joint Venture Property by the Sole-Risking Joint Venturers or in any Products produced from the Sole-Risk Operation.

13A.6 Buy-Out Offer

- (a) If any one or more of the Joint Venturers give notice to the other Joint Venturers under clause 13A.2 stating that it has elected, or they have elected, to make a Buy-Out Offer then, within 20 days of making such election, each Joint Venturer must provide an independent auditor agreed to by the parties, or failing agreement being reached within 5 days of such election, an independent auditor selected by the President of the Law Society of Western Australia (**Independent Auditor**), a confidential written offer to acquire all of (but not part of) the Joint Venture Interests of the other Joint Venturers at the price per Percentage Share set out in the offer (**Sale Price**).
- (b) The Independent Auditor must, within 2 days of receiving the Sale Price from all of the Joint Venturers, notify all of the Joint Venturers of the highest Sale Price and the identity of the Joint Venturer who has offered the highest Sale Price (**Buying Joint Venturer**).

13A.7 Consequence of Buy-Out Offer

Once the Independent Auditor has provided details to all of the Joint Venturers in accordance with clause 13A.6, then subject to clause 13A.8 each Joint Venturer other than the Buying Joint Venturer (**Other Joint Venturers**), must within 60 days:

- (a) transfer the whole of its Joint Venture Interest to the Buying Joint Venturer by executing and delivering all deeds and documents necessary for, and complete (and register, if required by the law of the Nominated State), the assignment of its Joint Venture Interest to the Buying Joint Venturer; and
- (b) pay all stamp duty and other transfer costs which become payable upon, or are to be borne by, the Buying Joint Venturer,

and, in exchange for the assignment and transfer of the Joint Venture Interest, the Buying Joint Venturer must:

- (c) pay to each Other Joint Venturer (severally in proportion to their respective Percentage Shares), an amount in cash, for the sale of its Joint Venture Interest, equal to the Selling Joint Venturer's Percentage Share multiplied by the Sale Price less:
 - (i) the reasonable administrative and out-of-pocket expenses of the Buying Joint Venturer;
 - (ii) all amounts due from the Other Joint Venturer to any party or Third Party under or pursuant to this agreement; and
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- (iii) the amount of all liability of the Other Joint Venturer to meet existing Rehabilitation Obligations and Mine Closure Obligations as determined by the Manager as at the date of payment;
- (d) assume all future obligations and liabilities in respect of the whole of the Other Joint Venturer's Joint Venture Interest.

13A.8 Buy-Out not Authorised

In circumstances where:

- (a) the Buying Joint Venturer is a Ogre Entity and the Other Joint Venturers include a Bokney Entity, or vice versa; and
- (b) ASX Listing Rule 10.1, 11.1.2 or 11.2 applies to the relevant purchase of Joint Venture Interests, then the transactions contemplated by clause 13A.7 will be conditional upon the shareholders of Ogre Resources approving the relevant transactions in accordance with the applicable Listing Rule(s).

14 Term, suspension and termination of Joint Venture

14.1 Term of agreement

This agreement commences on the date of this agreement and continues until the earliest to occur of any of the following **Termination Events**:

- (a) all Non-Defaulting Joint Venturers (for themselves and as attorney for each Defaulting Joint Venturer) agree in writing to terminate the Joint Venture;
- (b) the Management Committee determines unanimously that all economically recoverable reserves of Products in the Mining Area have been recovered;
- (c) the Management Committee determines unanimously that Joint Venture Activities should cease due to a failure to obtain approval under the Act for any required proposals for the extension of Mining into any undeveloped deposits within the Mining Area upon terms and conditions acceptable to all the Joint Venturers; or
- (d) the Joint Venturers cease to hold any interest in any Tenement and further until completion of the winding up of all Joint Venture Activities.

14.2 Suspension of Joint Venture Activities or Mine Closure

- (a) The Manager may, at any time subsequent to 12 months from the Commencement Date, submit to the Management Committee a Proposed Programme and Budget for the temporary suspension or permanent Mine Closure of all or any part of Joint Venture Activities.
- (b) The Manager must implement any Approved Programme and Budget for the suspension of Joint Venture Activities or Mine Closure, together with any other directions that the Management Committee may give to the Manager in respect of that Approved Programme and Budget.
- (c) If Joint Venture Activities are suspended under an Approved Programme and Budget, then the Management Committee may at any subsequent time direct that those Joint Venture Activities resume.

14.3 Winding up of Joint Venture

- (a) Immediately following the occurrence of a Termination Event, the Manager must commence winding up Joint Venture Activities including:

- (i) arranging for an evaluation of the Shutdown Costs as at the date of the termination of the Joint Venture, including the cost of satisfying the Rehabilitation Obligations and the Mine Closure Obligations;
 - (ii) taking such steps to dispose of Joint Venture Property as it is directed to take by the Management Committee;
 - (iii) satisfying all Rehabilitation Obligations and Mine Closure Obligations;
 - (iv) to the extent reasonably possible, meeting the Shutdown Costs from the proceeds of realization of Joint Venture Property;
 - (v) after paying the Shutdown Costs distributing any net amount remaining from the proceeds of realization of Joint Venture Property among the Joint Venturers pro rata in proportion to their respective Percentage Shares; and
 - (vi) requiring payment of a Called Sum from each Joint Venturer to the extent that the proceeds of realization of Joint Venture Property are insufficient to meet the Shutdown Costs.
- (b) If a Joint Venturer fails to pay any Called Sum to meet the Shutdown Costs, the Non-Defaulting Joint Venturers are obliged, severally in proportion to their respective Percentage Shares, to contribute any amount unpaid by the Defaulting Joint Venturer and the Defaulting Joint Venturer is liable to repay all amounts paid by the Non-Defaulting Joint Venturers, together with interest payable under this agreement. The amount paid by the Non-Defaulting Joint Venturers is a debt payable by the Defaulting Joint Venturers to the NonDefaulting Joint Venturers on demand.

14.4 Certain obligations continue beyond termination

Upon termination of this agreement for any reason, all rights and obligations of the Joint Venturers to each other in their capacity as Joint Venturers cease, other than:

- (a) the obligations of confidentiality set out in this agreement; and
- (b) the obligation to pay any actual or contingent liabilities relating to Joint Venture Activities, including the cost of all Rehabilitation Obligations and Mine Closure Obligations and any severance, sickness and other employee benefit costs incurred or imposed in connection with Joint Venture Activities, or otherwise arising from this agreement, that have not been discharged as at the date of termination.

14.5 Extension of term

The Joint Venturers may at any time consult with each other for the purpose of determining whether the term of this agreement should be extended beyond the period it would otherwise expire. A failure by any Joint Venturer to agree to such extension may not be referred to any dispute resolution procedure.

15 Confidentiality

15.1 Agreement is confidential

The terms and conditions of this agreement and all information flowing to any Joint Venturer from Joint Venture Activities, or in relation to Joint Venture Activities, other than information which is already within the public domain independently of any breach by a party of this agreement (**Confidential Information**), are confidential.

15.2 No disclosure except as permitted

Except as permitted by this agreement, each Joint Venturer and the Manager undertakes that it will keep confidential all Confidential Information received by it and that neither it nor its employees will, without the consent of each of the other Joint Venturers, disclose any Confidential Information to any Third Party.

15.3 Permitted disclosure

A Joint Venturer may disclose Confidential Information:

- (a) to the professional advisers or agents of that Joint Venturer;
- (b) to a Related Body Corporate of that Joint Venturer;
- (c) as required by Law or by any competent Authority, whether the obligation arises as a consequence of the act of the Joint Venturer or otherwise;
- (d) to any stock exchange pursuant to Listing Rules which require disclosure;
- (e) where reasonably necessary for the purposes of any arbitration or administrative or legal proceedings involving only the Joint Venturers; or
- (f) to a Third Party, and its advisers, bona fide tendering for or negotiating the purchase of all or part of the interest of that Joint Venturer in the Joint Venture or for the provision of finance to that Joint Venturer but only if the Third Party and its advisers first covenant in writing to the disclosing Joint Venturer to preserve confidentiality of information disclosed in the same terms as this clause.

A Joint Venturer making a permitted disclosure under this clause must take all reasonable steps to ensure that the person to whom disclosure is made keeps confidential all Confidential Information disclosed.

15.4 Confidential Information disclosed only as necessary

- (a) Each Joint Venturer and the Manager must take all steps reasonably necessary to ensure that the Confidential Information obtained is disclosed to and known by only those persons who need to acquire that knowledge in the course of their duties.
- (b) Each Joint Venturer, but not the Manager, may use for its own internal purposes not related to Joint Venture Activities any geological, geophysical, geochemical, metallurgical or operational concept, model or principle of any kind, even if derived from the Confidential Information.

15.5 Publicity and disclosure

- (a) Except for an announcement or other disclosure required by Law or permitted by this agreement, no public announcement naming a Joint Venturer or other public disclosure may be made in relation to Joint Venture Activities or Joint Venture Property unless the text of the announcement or disclosure has been approved by the other Joint Venturers.
- (b) To the extent that an announcement or other disclosure is required by Law, the Joint Venturers must use all reasonable endeavours to agree, as soon as reasonably practicable, the wording of such announcement or disclosure before it is made.

15.6 Obligations exist beyond termination

The obligations in relation to Confidential Information imposed by this agreement continue until all the Confidential Information ceases to be confidential despite the termination of this agreement for any reason.

16 Dispute Resolution

16.1 Limitation on proceedings

The parties agree that it is a condition precedent to the commencement of any litigation proceedings by a party in respect of a dispute under, or in relation to, this agreement (**Dispute**) that the party has complied fully with the agreed process for resolving a Dispute (**Dispute Resolution Process**) under this clause (regardless of the level or levels on which the Dispute has previously been considered) except:

- (a) where the Dispute concerns the non-payment of monies due, the quantum of which is certain;
- (b) if the party seeks urgent interlocutory, injunctive or declaratory relief; or
- (c) if the other party has failed to observe the requirements of this clause and the party seeks to enforce compliance with the Dispute Resolution Process in respect of the Dispute.

16.2 Dispute Resolution Process

- (a) Where a Dispute arises between the parties, a party may give notice to the other parties initiating a Dispute Resolution Process in respect of the Dispute (**Dispute Notice**) which Dispute Notice must:
 - (i) state that the notice is given under this subclause; (ii) describe the nature of the Dispute; and
 - (iii) nominate a representative of the party who is authorised to negotiate and settle the Dispute on the party's behalf.
 - (b) Each other party must within 7 days after receipt of a Dispute Notice nominate in writing to the other parties a representative authorised to negotiate and settle the Dispute on its behalf.
 - (c) The parties' representatives must negotiate in good faith with a view to resolving the Dispute within 21 days after the receipt of the Dispute Notice, (or such longer period as those representatives agree), failing which the Dispute must immediately be referred to the respective Chief Executive Officers (or equivalent) of the parties which in the case of Ogre and Bokney will be:
 - (i) the Managing Director of Ogre; and
 - (ii) the Vice President – Corporate Development of Bokney.
 - (d) The Chief Executive Officers (or equivalent) must negotiate in good faith with a view to resolving the Dispute within 14 days of the Dispute being referred to them (or such longer period as the Chief Executive Officers agree) failing which the Dispute must immediately be referred to the respective Chairmen (or equivalent) of the parties which in the case of Ogre and Bokney will be:
 - (i) the Chairman of Ogre; and
 - (ii) the Group Chief Executive Officer of Bokney.
 - (e) The Chairmen must negotiate in good faith with a view to resolving the Dispute within 14 days of the Dispute being referred to them (or such longer period as the Chairmen agree), failing which the Dispute may, subject to clause 16.2(g), be immediately referred by any party by notice to be finally settled by arbitration under the rules set out in the *Commercial Arbitration Act 1985* (WA) (**Arbitration Notice**).
 - (f) The following provisions will apply to the arbitration:
 - (i) the seat of the arbitration will be Perth;
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- (ii) the number of arbitrators will be one (1). The parties to the Dispute must agree to nominate the arbitrator within 14 days of the Arbitration Notice. If the parties cannot agree on the nomination of the arbitrator, either party can request that the President of the Law Society of Western Australia appoint the arbitrator, which decision will be final and binding on the parties;
- (iii) every award will be binding on the disputing parties and by submitting the Dispute to arbitration under this agreement, the disputing parties undertake to carry out any award without delay.

16.3 Dispute Resolution Process not to interrupt Joint Venture Activities

The parties must ensure that neither the commencement nor conduct of any Dispute Resolution Process, including Expert determination, causes any interruption to Joint Venture Activities or to the performance by the parties of their respective obligations under this agreement, nor will it affect any of the time limits fixed in this agreement unless the performance of Joint Venture Activities or a party under this agreement is materially affected by the submission of the matter in dispute to arbitration, litigation or by the result of the litigation or arbitration.

16.4 Clause does not apply to matters where consent required

If this agreement refers to the parties reaching agreement on a matter or the consent of any party being given then, except where this agreement requires that consent or agreement is not to be unreasonably withheld, the Dispute Resolution Process cannot be used to resolve a dispute between the parties in relation the reaching of that agreement or the giving of that consent.

17 Expert Determination

17.1 Expert determination

Where a matter is permitted or required by this agreement to be determined by an Expert or if the parties otherwise agree, any party may refer the matter to the expert determination of an Expert and the following provisions apply:

- (a) subject to any other determination by the Expert, the costs of obtaining the determination must be at the cost and expense of the parties equally (except that each party must pay its own advisers, consultants and legal fees and expenses) unless the parties otherwise agree;
- (b) the Expert determination must be conducted by:
 - (i) in circumstances where clause 11.6(d), 11.6(e), 13.2(a)(i) or 13.2(a)(ii) applies, a person or body nominated by the Institute of Arbitrators & Mediators Australia at the request of any party; and
 - (ii) in all other circumstances, a person or body agreed to by the parties or, failing agreement within 14 days after a party proposes a person or body, by the person or body nominated by the Institute of Arbitrators & Mediators Australia at the request of any party; and (c) in

making a determination:

- (i) the Expert must act in that capacity and not as an arbitrator;
- (ii) the Expert's finding is final and binding upon the parties in the absence of manifest error;
- (iii) the Expert must determine which party or parties should bear the costs of any such determination and in what proportion. In making this decision, the Expert must consider the degree to which he or she considers such party was unreasonable in failing to agree to the matter; and
- (iv) the Expert may employ consultants to assist the Expert to carry out his or her duties.

18 Force Majeure

18.1 Meaning of Force Majeure

The term “**Force Majeure**” as used in this agreement means any cause which is not reasonably within the control of the Joint Venturer or the Manager claiming relief by reason of Force Majeure, which cause may include:

- (a) an act of God;
- (b) strike, lockout, stoppage, ban or other types of labour difficulty whether at the Mining Area, railway or port or otherwise;
- (c) war (whether declared or undeclared), blockade, act of the public enemy, act of terrorism, revolution, insurrection, riot or civil commotion;
- (d) earthquake, lightning, fire, flood, storm, cyclone, explosion or epidemic;
- (e) embargoes or restraint by an Authority (including heritage related restraints);
- (f) Native Title Claims;
- (g) unavailability of equipment or transport, or inability to access the Tenements or any relevant portion of them;

and any other cause whether of the kind specifically listed above or otherwise which is not reasonably within the control of the Joint Venturer or Manager claiming Force Majeure.

18.2 Relief

If, as a direct result of Force Majeure, a Joint Venturer or the Manager becomes unable, wholly or in part, to perform an obligation (other than an obligation to pay money) under this agreement:

- (a) that Joint Venturer or the Manager may give the other Joint Venturers notice of the Force Majeure with reasonably full particulars and, insofar as is known to it, the probable extent to which it will be unable to perform, or be delayed in performing its obligation;
- (b) on giving the notice of the Force Majeure, that obligation is suspended but only to the extent that and for so long as it is affected by the Force Majeure;
- (c) the Joint Venturer or Manager affected by Force Majeure must use all reasonable diligence to overcome or remove the effect of the Force Majeure as quickly as possible;
- (d) if the Force Majeure cannot be removed, overcome or abated to an extent that allows resumption of performance within 6 months (or such other period as the Joint Venturers agree) from the date the Joint Venturers first became so affected, the Joint Venturers must consider and determine whether this agreement must be modified or terminated; and
- (e) notwithstanding the Force Majeure, the Joint Venturers must continue to pay the Manager such monies as are necessary to maintain the Joint Venture Property in good condition.

18.3 Labour disputes and Native Title matters

The obligation to use all reasonable diligence to overcome or remove the effect of the Force Majeure does not require the affected Joint Venturer or Manager to:

- (a) settle any strike, or other labour dispute;
- (b) contest the validity or enforceability of any law, regulation or legally enforceable order by way of legal proceedings; or
- (c) settle Native Title Claim or enter into any agreement with respect to Native Title Rights,

on terms not acceptable to it solely for the purpose of removing the event of Force Majeure.

18.4 Resumption

The affected Joint Venturer or Manager must resume performance of its obligations as soon as, and to the extent that, it is no longer affected by the Force Majeure.

19 Goods and Services Tax

19.1 Joint Venturers registered for GST

Each Joint Venturer warrants that it is as at the Commencement Date, and will be during the term of this agreement, registered for GST. The Joint Venturers agree to form a GST Joint Venture and require the Manager to apply for registration of the Joint Venture as a GST Joint Venture.

19.2 Supply of going concern

- (a) The Joint Venturers agree that the transfer of any Joint Venture Interest under this agreement is a supply of a going concern within the meaning of subdivision 38-J of the GST Act.
- (b) If, despite the agreement of the parties, the transfer of all or any part of any Joint Venture Interest is not the supply of a going concern for GST purposes and is a Taxable Supply, clause 20.3 will apply to that supply. In addition the transferee will indemnify the transferor for all

interest, fines, penalties, charges and similar amounts payable as a result of the supply being incorrectly treated in whole or in part as the supply of a going concern. It will not be a defence to any claim for indemnification pursuant to this clause that the transferor failed to mitigate its loss and damage by paying an amount of GST when it fell due under the GST Act.

19.3 GST liability

- (a) Except where the consideration for a supply (other than a supply of a going concern) is expressed to be GST inclusive, if any Joint Venturer (**Supplier**) (or the Representative Member of any GST Group of which that party is a Member) is liable to pay GST on any Supply made to any other Joint Venturer (**Recipient**) under this agreement, then the Recipient agrees to pay the Supplier an additional amount equal to that GST (**additional GST amount**).
- (b) Where a party is liable to pay GST in respect of any indemnity payment made by another party under this agreement, the other party must in addition to any amount it is required to pay by way of indemnity also pay to that party on demand the GST imposed in respect of the indemnity payment.
- (c) The additional GST amount is payable at the same time and in the same manner as the consideration for the Supply to which the additional GST amount relates.
- (d) The obligation to pay the additional GST amount arises only if the Supplier of the Supply has issued the Recipient of the Supply with a valid Tax Invoice for the Supply.
- (e) If the additional GST amount differs from the amount of GST payable by the Supplier on the Supply:
 - (i) the Supplier must promptly issue an Adjustment Note to the Recipient; and
 - (ii) an amount equal to the difference must be paid by the Supplier to the Recipient, or by the Recipient to the Supplier, as appropriate.

19.4 Reimbursement

An amount required to be reimbursed or contributed to must not include the amount of any Input Tax Credit where:

- (a) a Joint Venturer is required to or does pay an amount to another Joint Venturer (**Payee**) (including by way of adjustment or set-off) to reimburse or contribute to an amount payable by the Payee for a Supply to the Payee from a Third Party; and
- (b) the Payee or the Representative Member of any GST Group of which the Payee is a Member is entitled to an Input Tax Credit in respect of that Supply.

19.5 Definitions

In this clause, the following terms have the same meaning as in the GST Act:

Adjustment Note, GST, GST Group, GST Joint Venture, Input Tax Credit, Member, Representative Member, Supply, Tax Invoice and Taxable Supply.

20 Notices

20.1 Form of Notice

Unless expressly stated otherwise in this agreement, any notice, certificate, consent, approval, waiver or other communication in connection with this agreement (**Notice**):

- (a) must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender;

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- (b) must be delivered to the intended recipient by registered prepaid post (or if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number below or the address or fax number last notified by the intended recipient to the sender; and
 - (c) and marked for the attention of the person identified in the Particulars or, if the recipient has notified otherwise, then marked for attention in the last way notified.

20.2 When Notices are taken to have been given and received

- (a) A Notice is regarded as given and received:
 - (i) if delivered by hand, when left at the address given in the Particulars;
 - (ii) if sent by registered pre-paid post, when delivered (as evidenced by signature on behalf of the recipient accepting delivery);
 - (iii) if given by fax, on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the recipient's fax number, unless the recipient informs the sender that the Notice is illegible or incomplete within 4 hours of it being transmitted; and
 - (iv) if sent by email, at the time shown in the delivery confirmation report generated by the sender's email system which indicates that the email was sent to the recipient's email address.
- (b) A Notice delivered or received other than on a day on which trading banks are open for business in the capital city of the Nominated State (**Business Day**) or after 5.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day. A Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

21 Ancillary provisions

21.1 Entire agreement

This agreement contains everything the parties have agreed and overrides and supersedes all earlier agreements in relation to the Joint Venture.

21.2 Enurement

The provisions of this agreement enure for the benefit of and are binding on each party and their respective successors and permitted assigns.

21.3 No third party reliance or inducement

Each party warrants and agrees that when entering into this agreement it relied exclusively on the terms expressly contained in this agreement and on:

- (a) its own inspections, investigations, skill and judgement; and
- (b) opinions and advice obtained by it

and did not rely on any statements, inducements, undertakings, representations or advice given or made, whether orally or in writing, by or on behalf of any other party, including without limitation by any officer, employee or agent of any party.

21.4 Amendment

No modification, variation or amendment of this agreement is of any force unless it is in writing and has been signed by each of the parties.

21.5 Severability

If any provision of this agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of other provisions in this agreement.

21.6 Waiver

A waiver of any right, power or remedy under this agreement must be in writing signed by the party granting it. A waiver is only effective in relation to the particular right, power or remedy in respect of which it is given. It is not to be taken as an implied waiver of any other right, power or remedy or as an implied waiver of that right, power or remedy in relation to any other occasion.

21.7 Applicable law

- (a) This agreement is governed by and must be construed in accordance with the laws of the Nominated State.
- (b) The parties submit irrevocably to the non-exclusive jurisdiction of the Courts of the Nominated State and all Courts competent to hear appeals from those Courts.

21.8 Fees and charges

- (a) Each party must bear its own costs for the preparation, execution, delivery and performance of this agreement.
- (b) Unless otherwise agreed, all stamp duties and registration fees paid relating to the registration and performance of this agreement, and of all other documents arising out of this agreement, are Joint Venture Expenditure.

21.9 Counterparts

This agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed is deemed an original but all of which together constitute one and the same instrument.

Schedule 1

Part A - Basic Particulars

Approvals Period: Six (6) months from the Commencement Date, or such longer period as the parties may agree.

Conditions Precedent: Completion occurring under the Bokney Sale and Purchase Agreement.

Delivery Point: At the ship's rail on customer vessels or such other vessels engaged for final transport of Products to customers.

Manager: Ogre Resources Swan Pty Ltd

(Clause 1.1)

Management Fee: \$100,000 per month being an amount to compensate the Manager for all of the overheads and indirect costs referred to in item 4.3 of the Accounting Procedure and for the compensation or salaries, applicable payroll burden, employee benefits and other expenses of any management, supervisory, administrative, accounting, clerical, other personnel or secondees of the Manager referred to in item 4.2(b) of the Accounting Procedures.

The parties agree that, until such time as the Management Committee agrees otherwise, items 4.2(b) and 4.3 of the Accounting Procedure will not apply (and the Manager will not be entitled to charge the Joint Venture Account in respect of the matters covered by items 4.2(b) and 4.3) whilst the Manager is being paid the Management Fee.

Mineral: has the same meaning given to that term in the *Mining Act 1978 (WA)*

(Clause 1.1)

Minimum Interest: less than a 7.5% Joint Venture Interest.

(Clause 1.1)

Mining Act: Mining Act 1978 (WA). (Clause 1.1)

Nominated State: Western Australia.

(Clause 1.1)

Passmark: more than 50 % Percentage Share of Joint Venturers entitled to vote

(Clause 1.1)

Special Passmark: more than 75% Percentage Share of at least two Joint Venturers (not being Related Bodies Corporate) entitled to vote (Clause 1.1)

Part B - Matters requiring a Unanimous Vote - two Joint Venturers only

(Clauses 1.1 and 5.5(c))

1. Approval of a Proposed Programme and Budget.

2. A Decision to Mine, including the Development Proposal.
3. Material amendments to an Approved Programme and Budget.
4. Following a Decision to Mine, further Exploration outside of the area the subject of the Decision to Mine.
5. The awarding of all contracts in accordance with the procedures set out in Schedule 6.
6. The approval of any AFE.
7. Approval of the terms and conditions of all contracts or series of contracts in respect of the same subject matter between the Manager and a Related Body Corporate of the Manager or an Associate of the Manager, or a Joint Venturer with a value above \$50,000 (clause 8.2(b)).
8. Creation of any Encumbrance, other than a Cross Charge, over the whole or any part of the Joint Venture Interest of a Joint Venturer, unless such Encumbrance arises by operation of Law.
9. Use by an individual Joint Venturer of any asset of the Joint Venture.
10. Sale or disposition of any item of Joint Venture Property which exceeds \$1,000,000 and which is material to the operation of the Joint Venture.
11. Surrender of the whole or any part of the Mining Area except as required for minor boundary adjustments, or under the Mining Act.
12. Suspension, closure, termination or Abandonment of all or any material part of Joint Venture Activities for any reason, including extended Force Majeure.
13. Adjustment, after commencement, of production capacity by more than $\pm 5\%$ of the previously accepted nameplate capacity.
14. Third Party use or toll processing of Third Party Ore in the Treatment Plant.
15. Variation of the Management Fee payable to the Manager.
16. Number, duration, charge and terms of secondees to Manager by Joint Venturers which are not the Manager.
17. Suspension of Mining for 6 weeks or more, other than through Force Majeure.
18. Development of a Phosphate Project.
19. The giving by the Joint Venturers jointly of any guarantee (whether direct or indirect) to secure the obligation of any person arising under this agreement or otherwise in relation to Joint Venture Property.
20. The institution, defence, compromise or settlement of any court or arbitration proceedings involving the Joint Venture involving an amount in excess of [\$250,000].
21. A change to the Accounting Procedure for the time being of the Joint Venture including the appointment and removal of auditors.

Part C - Matters requiring a Unanimous Vote - two or more Joint Venturers

(Clauses 1.1 and 5.5(c))

1. Approval of the terms and conditions of all contracts or series of contracts in respect of the same subject matter between the Manager and a Related Body Corporate of the Manager or an Associate of the Manager, or a Joint Venturer with a value above \$50,000 (clause 8.2(b)).
2. Creation of any Encumbrance, other than a Cross Charge, over the whole or any part of the Joint Venture Interest of a Joint Venturer, unless such Encumbrance arises by operation of Law.
3. Use by an individual Joint Venturer of any asset of the Joint Venture.
4. Sale or disposition of any item of Joint Venture Property which exceeds \$1,000,000 and which is material to the operation of the Joint Venture.
5. Surrender of the whole or any part of the Mining Area except as required for minor boundary adjustments, or under the Mining Act.
6. Suspension, closure, termination or Abandonment of all or any material part of Joint Venture Activities for any reason, including extended Force Majeure.
7. Adjustment, after commencement, of production capacity by more than $\pm 5\%$ of the previously accepted nameplate capacity.
8. Third Party use or toll processing of Third Party Ore in the Treatment Plant.
9. Variation of the Management Fee payable to the Manager.
10. Number, duration, charge and terms of secondees to Manager by Joint Venturers (or their Related Bodies Corporate) which are not the Manager.
11. Suspension of Mining for 6 weeks or more, other than through Force Majeure.
12. Development of a Phosphate Project.
13. The giving by the Joint Venturers jointly of any guarantee (whether direct or indirect) to secure the obligation of any person arising under this agreement or otherwise in relation to Joint Venture Property.
14. The institution, defence, compromise or settlement of any court or arbitration proceedings involving the Joint Venture involving an amount in excess of [\$250,000].
15. A change to the Accounting Procedure for the time being of the Joint Venture including the appointment and removal of auditors.

Part D - Matters requiring a Super Majority Vote

(Clauses 1.1 and 5.5(c))

1. Approval of a Proposed Programme and Budget.
2. A Decision to Mine, including the Development Proposal.
3. Material amendments to an Approved Programme and Budget.
4. Following a Decision to Mine, further Exploration outside of the area the subject of the Decision to Mine.
5. The awarding of all contracts in accordance with the procedure set out in Schedule 6.

6. The approval of any AFE.

Schedule 2

List of Tenements as at the Commencement Date

Part A: Tenements

Exploration Licences

Exploration Licence No. E 47/1234

Exploration Licence No. E 47/12345

Exploration Licence No. E 47/123456

Mining Leases

Mining Lease No. 47/123

Mining Lease No. 47/1234

Mining Lease No. 47/124

Mining Lease No. 47/125

Mining Lease No. 47/126

Mining Lease No. 47/127

Mining Lease No. 47/128

Mining Lease No. 47/129

Prospecting Licence

Prospecting Licence No. 47/123

Part B: Applications for Tenements

Applications for Exploration Licences

Application for Exploration Licence No. E 47/231

Application for Exploration Licence No. E 47/234

Application for Exploration Licence No. E 47/235

Application for Exploration Licence No. E 47/236

Application for Exploration Licence No. E 47/237

Application for Exploration Licence No. E 47/238

Schedule 3

Accounting Procedure

1 Introduction

- (a) This Accounting Procedure sets forth the principles and guidelines to be followed in maintaining proper financial and accounting control required pursuant to this agreement. They also set forth the charges and credits that are attributable to the various operations in order to establish the amounts owing between the parties pursuant to this agreement.
- (b) It is the intent of this Accounting Procedure that, except as otherwise expressly provided by this agreement, no party (including the Manager) will gain or lose by reason of carrying out its duties and responsibilities pursuant to this agreement.
- (c) Nothing in this Accounting Procedure may be interpreted as:
 - (i) relating to the tax accounting of any party or of any joint venture or undertaking including such parties or any of them; or
 - (ii) an election by a party with respect to a matter under the tax or other laws of the jurisdiction to which a party is subject, or an election with respect to any method of accounting for the purpose of reporting to government or an election for any other purpose.

2 Definitions

Terms used in this Accounting Procedure have the same meanings as defined in the agreement to which this Accounting Procedure is annexed and in addition:

Fixed Assets means those assets which by their nature have estimated working lives of more than one year.

Major Items of Joint Venture Property means those items of Materials or Fixed Assets having an estimated original cost of **\$50,000** or more.

Material includes personal property, equipment and supplies acquired or held for use for the Joint Venture.

3 Joint Venture Accounts

3.1 Maintenance of the Joint Venture Accounts

- (a) The Manager must maintain the Joint Venture Accounts on behalf of the Joint Venturers in accordance with their Joint Venture Interests.
 - (b) The Manager must make available to any Joint Venturer on request copies of the accounting procedures, expenditure classifications and reporting formats underlying the Joint Venture Accounts.
 - (c) All receipts, vouchers and other documents relating to Joint Venture Expenditure must be retained by the Manager until directed otherwise by the Management Committee.
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4 Chargeable credits, costs and Joint Venture Expenditures

4.1 Credits

Subject to this agreement, the Manager must credit the Joint Venture Accounts with all credits received on account of the Joint Venture including, without limitation, the following credits:

- (a) any credits received by the Manager which is referable to Joint Venture Property, including income received from the sale of Joint Venture Property; and
- (b) the proceeds of any insurance or claim in connection with Joint Venture Property or Joint Venture Activities collected by the Manager; and
- (c) any other income received which is to be retained separately by the Manager and paid to each Joint Venturer, (pro rata in the proportion to its Joint Venturer Interest) at the end of each month.

4.2 Direct Costs

Subject to this agreement, the Manager must charge the Joint Venture Accounts with all costs reasonably and necessarily incurred in carrying out the Joint Venture Activities and in performing its obligations as Manager including, without limitation, the following direct costs of:

(a) **Rentals and Royalties**

Rentals, rates, royalties, renewal and extension fees, levied on or in respect of the Tenements and Joint Venture Activities, excepting any royalties on production of Products, unless the Joint Venturers otherwise resolve that the Manager to calculate and collect statutory royalty from the Joint Venturers and pay it on their behalf as part of keeping the Tenements in good standing.

(b) **Labour**

Salaries, wages and on-costs of the Manager's employees directly engaged in or temporarily assigned to Joint Venture Activities including the cost of:

- (i) annual leave (including leave loading), sick leave, public holidays, long service leave and other benefits, assessments and obligations paid by agreement or required to be paid by law;
- (ii) all taxes (including fringe benefits tax and payroll tax), workers' compensation and common law insurance in connection with such employees; and
- (iii) payments for employee group life insurance, medical/dental services/hospitalisation, superannuation, pension, and other benefits of like nature

all on a pro rata basis for the time such employees are engaged in performing Joint Venture Activities;

Payments for provision of the Manager's senior staff and technical services staff at an appropriate hourly or daily all-inclusive rate;

Payments made to, or in respect of, contract personnel engaged in Joint Venture Activities;

Reasonable travel and living expenses (except where charged under a separate heading) of the Manager's employees and contract personnel whilst away from their regular place of employment all on a pro rata basis for the time they are engaged in performing Joint Venture Activities;

Reasonable business expenses of those employees whose salaries and wages are chargeable to the Joint Venture Accounts and for which expenses the employees are reimbursed under the Manager's usual practice. (c) **Compliance with legal requirements**

Complying with environmental protection, rehabilitation and other operating requirements imposed by an Authority, or by Law or pursuant to the conditions on which the Tenements are held.

Responding to and settling Native Title Claims, and observing and complying with Native Title Rights.

Obtaining, complying with the provisions of and renewing all Authorisations required for Joint Venture Activities.

All occupational health and safety costs, including the provision of first aid and medical treatment, whether in, near or remote from the Mining Area. (d) **Fixed Assets and Materials, including maintenance**

The purchase, lease or hire (including depreciation, if appropriate) of Fixed Assets and Materials used in Joint Venture Activities except for items provided from the Manager's machinery pool.

The routine maintenance of all buildings, machinery, plant and equipment (including the Manager's or a Joint Venturer's machinery pool items) used in Joint Venture Activities and repairs, insurance and licensing of all buildings, machinery, plant and equipment other than the Manager's or a Joint Venturer's machinery pool items, in accordance with usual reasonable accounting practices.

The cost of use or hire of exclusively owned equipment and facilities of the Manager or a Joint Venturer or any Related Body Corporate of any of them, including depreciation, licensing, insurance and repairs (but not routine maintenance nor fuel, each of which is to be separately charged to the Joint Venture) such cost of use or hire being no more than the usual commercial rental rate for such items in the area in which they are being used, less any trade and/or cash discount normally granted to third parties. The cost and capability of such equipment and facilities must be competitive with other sources of comparable equipment and facilities that may be available.

(e) **Transportation**

Transportation of employees and Material necessary for the conduct of the Joint Venture Activities, including all customs duties and handling charges incurred in that transportation, but subject to the following limitations:

- (i) if Material is moved to the Mining Area, no charge may be made in respect of any distance greater than the distance from the nearest reliable supply store or railway receiving point where like Material is available, except by agreement with the Management Committee; and
- (ii) if surplus Material is moved to the Manager's warehouse or other storage point, no charge shall be made to the Joint Venture Accounts for a distance greater than the distance to the nearest reliable supply store or railway receiving point, except by agreement with the Management Committee. No charge shall be made to the Joint Venture Accounts for moving Material to other properties belonging to the Manager, except by agreement with the Management Committee.

Transportation costs may include travelling expenses applicable to employees of the Manager and their families and effects at the time of employment, separation, vacation, compassionate leave and/or transfer.

(f) **Services**

Outside Services

The actual cost of contract services and utilities required for Joint Venture Activities and procured from any outside sources, including but not limited to fuel, oil, light, power, water, gas, field office supplies and tools.

Geo-scientific services

The cost of contractors engaged to perform Joint Venture Activities including (but not limited to) drilling, assaying, surveying, and other geo-scientific tasks;

Professional Services

The cost of procuring contract, legal, accounting, auditing and other outside professional services by the Manager for logistic and administrative support of Joint Venture Activities, including the reasonable costs of the Auditor. (g) **Damages/Losses to Joint Venture Property and Equipment**

All costs and expenses necessary for the replacement or repair costs resulting from damages or losses incurred to Joint Venture Property by fire, explosion, flood, storm or any other causes not controllable by the Manager through the exercise of reasonable diligence, where such costs and expenses are not covered by insurance. The Manager must furnish the Joint Venturers with written notice of loss or damage howsoever caused as soon as practicable the Manager has become aware of the loss or damage.

(h) **Legal Costs, Litigation, Judgments and Claims**

All legal costs and expenses including those of litigation, or legal services necessary or expedient for the protection of the Joint Venture Property, together with all judgments obtained against the Joint Venturers or any of them and any agreed settlement insofar as they relate to Joint Venture Activities or the subject matter of this agreement.

Actual expenses incurred by any Joint Venturer in securing evidence for the purpose of defending or prosecuting any action or claim or negotiating any settlement relating to the Joint Venture Accounts or the subject matter of this agreement.

(i) **Taxes**

All taxes, rates, levies and assessment of every kind and nature levied, assessed or imposed upon or in connection with the Joint Venture Property or any part thereof, or anything operated by or produced from Joint Venture Property, which is for the benefit of the Joint Venturers, excepting any taxes levied upon or measured by income, and royalty and taxes on production of Products.

(j) **Insurance**

Premiums paid for insurance required to be carried for the benefit of the Joint Venturers together with all expenditures incurred and paid in settlement of any and all losses, claims, damages, judgments and other expenses, including legal services, not recovered from the insurer.

Premiums on any additional insurance required by some but not all of the Joint Venturers must be separately charged to the Joint Venturers requiring such additional insurance.

(k) **Field Office Supervision and Camp Expense**

The expense of using, operating and maintaining all necessary field operations, field offices, camps and housing facilities for employees, consultants and contractors of the Manager (including housing facilities for their families) and any warehouses or work-shops exclusively used in connection with Joint Venture Activities. When other operations are served by those facilities, the expense, including depreciation, less any revenue derived from those facilities, must be pro-rated on an equitable basis determined by the Management Committee against all operations served. (l)

Contractors costs

Payments to contractors engaged to perform Joint Venture Activities including (but not limited to) drilling, assaying, surveying, and geoscientific tasks and to contractors engaged in Development, Mining, Treatment, Rehabilitation and Mine Closure; (m) **Capital costs**

All capital costs of Development and the capital costs of construction of facilities for Mining, Treatment, Rehabilitation and Mine Closure unless these capital costs are directly funded by the parties rather than through the Manager; (n) **Operating costs**

All Joint Venture operating costs of Development, Mining, Treatment, Rehabilitation and Mine Closure; (o) **Other expenditure**

Any other expenditures which are not of a capital nature and which are not covered or dealt with in the foregoing provisions of these Accounting Procedures and which are reasonably incurred by the Manager for the necessary and proper conduct of Joint Venture Activities, or the protection of Joint Venture Property, or which the parties agree to treat as Joint Venture Expenditure.

PROVIDED THAT where any of the above facilities or services is used not only for Joint Venture Activities but also for unrelated operations of the Manager the costs must be adjusted on a pro rata basis on the proportion of time such facilities or services are used for Joint Venture Activities.

4.3 Indirect Costs

The Manager may charge the Joint Venture Accounts with an overhead charge to compensate the Manager for:

- (a) a pro rata portion of the compensation or salaries, applicable payroll burden, employee benefits and other expenses of any management, supervisory, administrative, accounting, clerical or other personnel of the Manager serving the Joint Venture Property which are not otherwise chargeable under this Accounting Procedure; and
- (b) a pro rata portion of the expenses of operating and maintaining the offices and facilities of the Manager not required exclusive for the Joint Venture Activities,

which charge may equal the Manager's actual costs for those overheads but in any event shall not exceed 1% of all other costs and expenses charged to the Joint Venture Accounts in respect of Exploration, Development, Mining or Treatment.

5 Materials charged to Joint Venture Accounts

5.1 Purchases

Imported and locally produced Material purchased, and all services procured, for the Joint Venture by or for the Manager (including Materials purchased for warehouse stock) must be charged at the price paid, after deduction of all discounts actually received. The cost of such Materials must include, if appropriate, insurance costs, handling and transportation costs to warehouse; customs fees and duties

and like expenses chargeable against the Materials, and external purchasing, shipping and forwarding service fees.

5.2 Material purchased directly for Joint Venture Activities

The cost of Materials purchased directly for Joint Venture Activities which do not pass through a Joint Venture warehouse may include handling, transportation and insurance costs to the site of installation and use.

5.3 Material purchased from a party or Related Body Corporate

Any Material which is produced, processed, manufactured or controlled by a party or a Related Body Corporate of a party may be purchased from such party or Related Body Corporate and if so purchased such purchase shall be on "arm's length" commercial terms including any trade and/or cash discounts normally granted to Third Party purchasers and shall further be competitive with other sources of supply that may be available PROVIDED THAT no such purchase shall be made by the Manager from a party or a Related Body Corporate for the purposes of the Joint Venture where the consideration payable exceeds \$50,000 without the prior approval of the Management Committee.

5.4 Material furnished by the Manager or Joint Venturer

Material required for Joint Venture Activities must be purchased for direct charge to Joint Venture Accounts whenever practicable, except that a party or a Related Body Corporate of a party may furnish Material to the Joint Venture from its own stocks under the following conditions:

(a) New Material

New Material (**Condition A**) transferred from the party's warehouse or other properties to the Manager must be priced on an "arm's length" basis less trade and/or cash discounts normally granted to Third Party purchasers and must be competitive with other sources of supply that may be available.

(b) Used Material

- (i) Used Material which is in sound and serviceable condition and is suitable for re-use without reconditioning must be classed as **Condition B** Material and priced at 75% of current new price.
- (ii) Used Material which cannot be classified as Condition B but which after reconditioning will be further serviceable for original function as good second-hand Material is to be classified as Condition B Material.
- (iii) Used Material which is serviceable for original function but substantially not suitable for reconditioning, must be classified as **Condition C** Material and priced at 50% of current new price.

(c) Bad Order Material

Bad order Material (**Condition D**), being Material not further useable for its original function but which may be used for possible other service, must be graded and priced as to condition of the material normally used for such other purpose.

There may also be cases where some items of Material, due to their unusual condition, may be fairly and equitably priced by the Manager, subject to approval of all Joint Venturers.

Current new price, wherever used in this Accounting Procedure is the price f.o.b. or f.o.r. the nearest reputable supply store or railway receiving point, where such Material is available at current replacement costs of the same kind of Material.

(d) **Material Furnished by the Manager When Not Readily Available**

When Material and/or supplies are not readily available from reputable supply sources due to scarcity, national emergency or governmental regulations, the Manager may furnish such from its stock or properties at its nearest available supply and charge the Manager's full cost or replacement costs, as circumstances may require, of those Materials or supplies to the Joint Venture Accounts, including without limitation, purchase price, procurement, warehouse, handling, transportation and all other costs incurred in connection therewith up to the time of delivery to the Joint Venture Property.

5.5 Premium Prices

Whenever Materials are not readily obtainable at the customary supply point and at normal prices because of national emergencies, strikes or other unusual causes over which the Manager has no control, the Joint Venturers must be charged for the required Materials on the basis of the direct cost and expense incurred in procuring such Materials, in making it suitable for use, and in moving it to the location.

5.6 Warranty of Material Furnished by a Manager

To the extent permitted by law, the Manager does not give any warranty as to the merchantable quality or fitness for purpose of the Material furnished, but the Joint Venturers are entitled to the benefit of the dealer's or manufacturer's guarantee or warranty. In case of defective Material, credit shall not be passed until an adjustment has been received by the Manager from the manufacturers or their agents.

5.7 Minimisation of surplus Materials

So far as it is reasonable, practical and consistent with efficient and economical operations, the Manager must purchase or otherwise acquire as Joint Venture Property only such Material as is required for immediate or controlled forward use and the Manager must use its best endeavours to avoid the accumulation of surplus stocks.

6 Fixed Assets

6.1 Fixed Assets accounting and records

- (a) The Manager must agree with the Joint Venturers the procedures for accounting and control of Fixed Assets, giving due regard to their unit cost. Such procedures may exclude minor items of little value.
- (b) The Manager must maintain detailed records in the Joint Venture Accounts of all Fixed Assets acquired for the Joint Venture, as part of the Joint Venture Asset Register, and advise the Joint Venturers of the analysis of those assets into discrete categories.

6.2 Fixed Assets losses

The Manager must promptly notify the Joint Venturers of any major Fixed Asset which is damaged or lost, or disposed of in accordance with this Accounting Procedure, which notification must include details of the applicable cost of the disposal to enable the Joint Venturers to make the necessary accounting entries.

7 Inventories

7.1 Records of Material

The Manager must maintain appropriately detailed records of Material stocks which are Joint Venture Property, as part of the Joint Venture Asset Register, and advise the Joint Venturers of the analysis of those assets into discrete categories.

7.2 Fixed Asset inventories

The Manager must conduct a physical inventory of Fixed Assets on an annual basis, or at such periods as will enable adequate control to be exercised, so that all Fixed Assets must be inventoried at intervals of not more than 5 Years

7.3 Periodic Material inventories

The Manager must at reasonable intervals during each Year take either a physical count of the Joint Venture warehouse Materials, or alternatively, a progressive Material stock count in accordance with a planned schedule to ensure that each item in the inventory is checked physically against records at least once per Year. Inventory adjustments must be made to the Joint Venture Accounts for averages and shortages disclosed by such physical inventories. Details of such averages and shortages must be advised regularly to the Joint Venturers.

7.4 Special Inventories

Special inventories may be taken (at the expense of the purchaser) whenever there is any sale or change of Joint Venture Interest. Both the selling Joint Venturer and the purchaser may be represented and must be governed by the inventory so taken.

7.5 Notice

Notice of intention to take inventory must be given by the Manager to the Joint Venturers at least fourteen days before any inventory is to begin, so that each Joint Venturer may be represented when any such inventory is taken.

7.6 Failure to be Represented

Failure of a Joint Venturer to be represented at the physical inventory binds that Joint Venturer to accept the inventory taken by the Manager, who shall in that event furnish the Joint Venturer with a copy thereof.

7.7 Reconciliation of Inventory

Reconciliation of Inventory with charges to the Joint Venturers must be made by the Manager and a list of overages and shortages must be provided to the Joint Venturers.

7.8 Adjustment of Inventory

Inventory adjustment must be made by the Manager to the Joint Venturers for overages and shortages.

7.9 Inventory Expenses

The expense of the Joint Venturers' nominee present at the taking of regular inventory may not be charged to the Joint Venture Accounts but the expenses incurred by the Manager must be so charged.

8 Disposal of Material

8.1 Sale of Joint Venture Property

- (a) The Manager must not offer Major Items of Joint Venture Property for sale to third parties without first giving the Joint Venturers an opportunity to tender for the purchase of such items.
- (b) The Manager may sell Major Items of Joint Venture Property only if it receives a Majority Vote of the Management Committee. The Manager may sell Fixed Assets and Materials which are not Major Items of Joint Venture Property without reference to the Management Committee.
- (c) Sales of Joint Venture Property may be billed directly by the Manager to the purchaser, The net proceeds from the sale of all Joint Venture Property must be paid by the Manager to the Joint Venture Accounts for the credit of the Joint Venturers.
- (d) Any proven and paid claims by the purchaser for defective Materials or other cause must be charged back to the Joint Venture Accounts.
- (e) The Manager must advise the Joint Venturers of the applicable cost of Joint Venture Property sold or disposed of for scrap, for the purpose of eliminating such costs from their books.

8.2 Manager's rights of purchase and disposal

- (a) The Manager is under no obligation to purchase the interests of the Joint Venturers in any surplus new or second-hand Material.
- (b) Major Items of Joint Venture Property must not be removed by the Manager from the Joint Venture without the approval of the Joint Venturers.
- (c) The Manager must not sell major items of Material to a Third Party without giving the Joint Venturers an opportunity to purchase the same at the price offered.
- (d) The Manager has the right to dispose of normal accumulations of scrap Material from the Joint Venture Property and any moneys received must be credited to the Joint Venture Accounts.

8.3 Material Purchased by Joint Venturers

Material purchased by any Joint Venturer must be invoiced by the Manager and paid for immediately following receipt of invoice. The Manager must credit the purchase price to the Joint Venturers and include details of the sale in the next periodic statement of operations.

8.4 Division in Kind

Division of Joint Venture Property in kind, if made between the Manager and the Joint Venturers, must be pro rata in proportion to their respective Percentage Shares in such Joint Venture Property. Each Joint Venturer must be charged individually with the value of Joint Venture Property received or receivable by it, and corresponding credits must be made by the Manager to the Joint Venture Accounts.

8.5 Sales to Third Parties

Sales to Third Parties of Material from the Joint Venture Property must be credited by the Manager to the Joint Venturers at the net amount collected from the purchaser. Any claims by the purchaser for defective Material must be charged back to the Joint Venturers, if and when paid by the Manager.

8.6 Basis of pricing Material transferred from Joint Venture Property

Jointly owned Material

Jointly owned Material sold to the Manager, unless otherwise agreed, must be valued on the same basis of condition and price for Condition A, Condition B, Condition C and Condition D Material defined in this Accounting Procedure.

Other Material in less condition must be assessed and priced on the following basis:

(a) **Scrap**

Scrap, being obsolete and unserviceable Material (**Condition E**), must be priced at prevailing scrap prices in the area.

(b) **Other Cases**

Cases where items of Material are in unusual condition must be fairly and equitably priced by the Manager and approved by the Joint Venturers.

(c) **Temporarily Used Material**

When the use of Material is temporary and its service to the Joint Venture does not justify the reduction in price, such Material must be priced on the basis that will have a net charge to the Joint Venture Accounts consistent with the value of the service rendered.

9 Disputes

9.1 Referral to Auditor

Any disputes between the Manager and any Joint Venturer or between Joint Venturers as to value of Joint Venture Property or the correctness of entries to the Joint Venture Accounts must be referred to the Auditor for determination as if the Auditor was the Expert.

Schedule 4
Cross Security

[Insert AMPLA Model Cross Security, amended as required]

Schedule 5

Secured Party's Deed of Covenant

[Insert AMPLA Model Permitted Chargee's Deed of Covenant, amended as required]

Schedule 6

Procedure to award contracts

The Manager must award each contract for all Joint Venture Activities on the following basis (the amounts stated are in Australian dollars, inclusive of taxes):

	Procedure A	Procedure B	Procedure C
Exploration	0 to \$500,000	>\$500,000 to \$2,000,000	>\$2,000,000
Development	0 to \$2,000,000	>\$2,000,000 to \$5,000,000	>\$5,000,000
Mining, Treatment, Rehabilitation and Mine Closure	0 to \$2,000,000	>\$2,000,000 to \$5,000,000	>\$5,000,000

1.1 Procedure A

The Manager will have the authority to award the contract to the best qualified third party contractor as determined by cost, quality, safety and environmental performance and ability to perform the contract within the required timeframe without the obligation to tender and without informing or seeking the approval of the Management Committee. Contract awards in excess of the amounts set out in Procedure A above must be competitively bid, unless the Management Committee otherwise agrees. Upon the request of a Joint Venturer, the Manager must provide such Joint Venturer a copy of the executed contract.

1.2 Procedure B

Subject to item 1.2 of this Schedule 6, the Manager will have the authority to award the contract, or a series of related contracts, (same contractor, same service or equipment, same operation) to a third party contractor for aggregate amounts of less than or equal to that set out above under Procedure B. Contract awards under this Procedure B must be competitively bid, unless the Management Committee otherwise agrees. Contract awards in excess of the amounts set out above in Procedure B will be subject to Management Committee approval, unless otherwise agreed. Upon the request of a Joint Venturer, the Manager must provide such Joint Venturer a copy of the executed contract.

1.3 Procedure C

Unless the Management Committee otherwise agrees the Manager must provide the Management Committee an award recommendation that contains the following, and follows the procedures set out below:

- (a) a list of the entities whom the Manager invited to tender for the contract;
- (b) a list of other suppliers/contractors considered;

- (c) the scope and timing of the work to be executed;
- (d) a competitive bid analysis, stating the Manager's recommendation as to the entity to whom the contract should be awarded the Manager's reasons for such recommendation;
- (e) obtain the approval of the Management Committee of the recommended award; and
- (f) upon the request of a Joint Venturer, provide such Joint Venturer with a copy of the final version of the contract.

1.4 Contracts to related parties

Notwithstanding anything to the contrary contained in this agreement, the Manager must obtain the unanimous approval of the Management Committee before awarding contracts for services or series of contracts in respect of the same subject matter to a Related Body Corporate of the Manager or an Associate of the Manager or a Joint Venturer with a value above \$50,000.

Schedule 7

Security for Mine Closure and Abandonment Costs

1 Objective

The objective of this Schedule 7 is to ensure that adequate funds will be available to the Manager to pay and discharge the costs of Mine Closure and Abandonment as and when due.

2 Application

This Schedule 7 applies:

- (a) severally to each Joint Venturer in proportion to its Percentage Share; and
 - (b) separately in respect of each Approved Programme and Budget for Mine Closure and Abandonment.
-

3 Mine Closure and Abandonment Security

If under the terms of the Tenements or any applicable Laws, the Joint Venturers are or may become obliged to pay or contribute to the cost of Mine Closure and Abandonment, then the following provisions shall apply:

- (a) During preparation of a Mine Closure Management Plan, the parties must negotiate and agree a security agreement, which shall be completed and executed by all parties participating in such Mine Closure Management Plan. The security agreement must incorporate the following principles:
 - (i) Mine Closure and Abandonment Security must be provided by each Joint Venturer to the extent of its Percentage Share for each Year commencing with the Year in which the Discounted Net Value is equal to or less than 200% of the Discounted Net Cost; and
 - (ii) the amount of Mine Closure and Abandonment Security required to be provided by each such Party in any Year (including security previously provided which will still be current throughout such Year) shall be equal to its Percentage Share of the amount by which 200% of the Discounted Net Cost exceeds the Discounted Net Value.
- (b) Failure to provide Mine Closure and Abandonment Security constitutes a default under this agreement.
- (c) For the purposes of this agreement and unless the context otherwise requires, the following expressions have their respective meanings in this agreement:
 - (i) **Mine Closure and Abandonment Security** means (for each Joint Venturer, as that Joint Venturer elects):
 - (i) a standby letter of credit or bank guarantee issued by a bank or an on demand bond issued by a surety corporation, such bank or corporation having a credit rating indicating it has sufficient worth

- to pay its obligations in all reasonably foreseeable circumstances; or
- (ii) cash contributed to a secure fund administered by independent trustees and invested in a fund approved by the Management Committee, or by irrevocable and unconditional guarantee given by the parent company of the Joint Venturer unless the Management Committee or a Joint Venturer reasonably determines that the financial standing of such parent company is unacceptable to support such guarantee.
 - (ii) **Discounted Net Cost** means that portion of each Joint Venturer's anticipated before tax cost of Mine Closure and Abandonment in accordance with all applicable Laws and the Tenement obligations which remains after deduction of salvage value. Such portion must be calculated at the anticipated time of the Mine Closure and Abandonment and discounted at the Discount Rate at the last day of the Year in question.
 - (iii) **Discounted Net Value** means the value of the Joint Venture which remains after payment of estimated liabilities and expenses required to produce and transport the final Product extracted and recovered from the Mine to the Delivery Point and after deduction of estimated applicable taxes, royalties, imposts and levies on such Product. Such value must be calculated using the actual (to the extent known) and estimated contract prices and including taxes on income, discounted at the Discount Rate at the last day of the Year in question. No account may be taken of tax allowances expected to be available in respect of the costs of Mine Closure and Abandonment.
 - (iv) **Discount Rate** means the Agreed Interest Rate applicable on the first day to which the relevant Mine Closure Management Plan applies.

Signing page

EXECUTED by in accordance with)
section 127(1) of the Corporations Act by
authority of its directors in the) presence of:

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Signature of director

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)
)

Name of director (block letters)

Signature of witness)

)

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Signature of director/company
secretary*

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Name of witness (block letters))

*delete whichever is not applicable

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Name of director/company secretary*
(block letters)

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*delete whichever is not applicable

SIGNED, SEALED AND)
DELIVERED by)
as attorney for)
.....)
under power of attorney registered book in)
the presence of:)
.....)
.....)
Signature of witness)
.....)
Name of witness (block letters))
.....)
Address of witness)
.....)
Occupation of witness)
.....)

.....
By executing this agreement the attorney states that the attorney has received no notice of revocation of the power of attorney