

Form 603Corporations Act 2001
Section 671B**Notice of initial substantial holder**To Company Name/Scheme **VERDANT MINERALS LTD**ACN/ARSN **ACN 112 131 622****1. Details of substantial holder (1)**Name **CD CAPITAL NATURAL RESOURCES FUND III LP**

ACN/ARSN (if applicable)

The holder became a substantial holder on **11 /03/ 2019****2. Details of voting power**

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
ORDINARY	368,941,067	368,941,067	33.43%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
PER ANNEXURE A TO THIS FORM		

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
PER ANNEXURE A TO THIS FORM			

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
PER ANNEXURE A TO THIS FORM				

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/AFSN (if applicable)	Nature of association
PER ANNEXURE A TO THIS FORM	

7. Addresses

The addresses of persons named in this form are as follows:

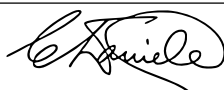
Name	Address
PER ANNEXURE A TO THIS FORM	

Signature

print name **CARMEL DANIELE**

capacity **AUTHORISED SIGNATORY**

sign here



date **11/ 03 / 2019**

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

This is Annexure A of 1 page referred to in form 603 Notice of Initial substantial holder.

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
1. CD Capital Natural Resources Fund III LP (DM-80426) Associates: 2. CD Capital Natural Resources Fund III GP Limited (293859); 3. Mr Roger Hanson; 4. Ms Tammy Seymour; and 5. Ms Carmel Daniele.	CD Capital Natural Resources Fund III LP holds the power to control the exercise of a power to dispose of the securities. See: Annexure B: Deed of Irrevocable Undertaking Annexure C: Shareholders' Agreement	Ordinary, 368,941,067

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
CD Capital Natural Resources Fund III LP	Washington H Soul Pattinson & Company Limited (ACN: 000 002 728)	Washington H Soul Pattinson & Company Limited (ACN: 000 002 728)	Ordinary, 368,941,067

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration		Class and number of securities
		Cash	Non-cash	
CD Capital Natural Resources Fund III LP	11-Mar-19	Nil	Nil	Ordinary, 368,941,067

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
CD Capital Natural Resources Fund III GP Limited (registered)	General partner of CD Capital Natural Resources Fund III (the General Partner)
Mr Roger Hanson	Director of General Partner
Ms Tammy Seymour	Director of General Partner
Ms Carmel Daniele	Authorised signatory and investment manager of CD Capital Natural Resources Fund III LP

7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Verdant Minerals Ltd	Unit 20, 90 Frances Bay Drive, Stuart Park NT 0820
CD Capital Natural Resources Fund III LP	DMS Corporate Services Ltd., P.O. Box 2587, DMS House, 20 Genesis Close, Grand Cayman KY1-1108, Cayman Islands
CD Capital Natural Resources Fund III GP Limited (registered number 235439)	DMS Corporate Services Ltd., P.O. Box 1344, DMS House, 20 Genesis Close, Grand Cayman KY1-1108, Cayman Islands
Mr Roger Hanson	DMS Corporate Services Ltd., P.O. Box 314, DMS House, 20 Genesis Close, Grand Cayman KY1-1108, Cayman Islands
Ms Tammy Seymour	DMS Corporate Services Ltd., P.O. Box 314, DMS House, 20 Genesis Close, Grand Cayman KY1-1108, Cayman Islands
Ms Carmel Daniele	DMS Corporate Services Ltd., P.O. Box 314, DMS House, 20 Genesis Close, Grand Cayman KY1-1108, Cayman Islands
Washington H Soul Pattinson & Company Limited	First Floor, 160 Pitt Street, Sydney NSW 2000



Carmel Daniele
Authorised Signatory
CD Capital Natural Resources Fund III LP

11 / 03 / 2019

Date

DEED OF IRREVOCABLE UNDERTAKING

WASHINGTON H. SOUL PATTINSON AND COMPANY LIMITED

(ACN: 000 002 728)

11 March 2019

To: CD Capital Natural Resources Fund III LP
DMS House, 20 Genesis Close
PO Box 2587
KY11 1103
Cayman Islands

(the "Offeror")

Dear Sirs

Verdant Minerals Ltd (ACN 122 131 622) (the "Target")

In connection with the proposal by the Offeror to acquire the issued share capital of the Target other than the shares held by Washington H. Soul Pattinson and Company Limited (the "**Acquisition**") by means of a scheme of arrangement under Part 5.1 of the *Corporations Act 2001* (Cth) (the "**Act**") on the terms and subject to the conditions referred to in the Scheme Implementation Agreement entered into between the Offeror and the Target on the date of this deed, and the Scheme of Arrangement and Deed Poll annexed to that agreement, each of which are attached in Schedule 1 to this letter (which must not be amended or assigned except to the extent that such amendment or assignment does not alter our rights or obligations under this deed) (the "**Scheme**"), we the undersigned hereby irrevocably and unconditionally (subject to the conditions, and save as, set out below) undertake, confirm, warrant and agree with you as set out below:

1. Nature of this deed

- 1.1 This deed does not confer any control over, or power to substantially influence, the exercise of a voting right attached to any securities in the Target held by us.
- 1.2 Clause 2 of this deed shall be conditional upon, and shall not become legally binding until, one of the following conditions is satisfied:
- (a) shareholders of the Target pass a resolution under item 7 of section 611 of the Act approving the acquisition by the Offeror of a Relevant Interest (as defined in the Act) in the securities held by us; or
 - (b) the Australian Securities and Investments Commission ("**ASIC**") grants relief to the Offeror and us under section 655A of the Act from section 606 of the Act to permit the acquisition by the Offeror of a Relevant Interest in the securities held by us, where such relief is not subject to the "*Acceptance into higher rival bid / No vote against higher rival scheme*" condition referred to in item 2 of Table 9 in ASIC Regulatory Guide 9 and is otherwise on terms and subject to conditions acceptable to us and the Offeror.

2. Dealings

- 2.1 Subject to Clause 1.2 and Clause 4 below, in our capacity as a shareholder, we irrevocably and unconditionally undertake and agree:
- (a) to consent to the Target issuing a public announcement of the Scheme materially in the form attached in Annexure A to the Scheme Implementation Agreement (attached in Schedule 1 to this letter);

This is Annexure B of 6 pages referred to in form 603 Notice of initial substantial shareholder.

12391646.1


Carmel Daniele

11 / 03 /2019
Date

- (b) not to sell, transfer or otherwise dispose of, charge, encumber or grant any option or other right over the ordinary shares in the capital of the Target listed in Schedule 2 to this deed ("Shares") or any of them or any interest therein or permit any of the same and not to give any undertaking or letter of intent to accept any Third Party Proposal (as defined below) in respect of all or any of the Shares, whether conditionally or unconditionally;
- (c) if any further interest in any shares in the share capital of the Target is acquired by us, such shares shall be deemed to be included in the expression "Shares" for the purpose of this undertaking; and
- (d) not to enter into any agreement, arrangement or obligation with any person, whether conditionally or unconditionally to do all or any of the acts referred to in this clause 2 or which would or might in any way restrict the disposal of the Shares and references in this paragraph 2.1(d) to any agreement, arrangement or obligation shall include any such agreement, arrangement or obligation whether or not subject to any conditions or which is to take effect upon or following the Acquisition closing (or, if applicable, becoming effective) or lapsing or upon or following this undertaking ceasing to be binding or upon or following any other event.

3. Warranties, confirmations and undertakings

- 3.1 We irrevocably and unconditionally undertake, represent and warrant to the Offeror that, as at the date of this deed, we are the beneficial owner, free from all liens, charges, options, rights of pre-emption, encumbrances and any other third party rights and interests of any nature, of the Shares and that the Shares are all the shares in the Target owned or controlled by us or in which we have an interest.

4. Termination

- 4.1 The obligations under this deed will terminate immediately and will cease to be of any further force or effect if:
 - a) the Scheme is terminated by the Target including on the grounds that an offer by a third party has been made on more advantageous terms;
 - b) the Scheme fails to receive the required approval of the shareholders or the court within 4 months of the date of this deed;
 - c) the Scheme Booklet (as defined in the Scheme Implementation Agreement) is not posted to Target shareholders within 60 days from the date of this deed;
 - d) the Scheme does not become Effective (as defined in the Scheme Implementation Agreement) on or before the date being 4 months following the date of this deed;
 - e) the Scheme is withdrawn or otherwise lapses, or the Offeror otherwise intends to not proceed with the Scheme;
 - f) the Scheme Implementation Agreement, the Scheme or the Deed Poll is amended (including a change to the consideration to be offered to Target shareholders), or assigned without our prior written consent;
 - g) there is a Target Prescribed Event (as defined in the Scheme Implementation Agreement) and the Offeror waives its right to terminate the Scheme Implementation Agreement without our prior written consent;
 - h) the Effective Date (as defined in the Scheme Implementation Agreement) has occurred;
 - i) we give notice in writing to CD Capital that we consider that a Third Party Proposal which has been announced to ASX is a superior proposal;

- j) one of the conditions in clause 1.2 of this deed is not satisfied on or by the date that is 3 months (or such longer period as extended by ASIC) after the date of this deed; or
- k) the condition precedent in clause 3.1(h) (Options) of the Scheme Implementation Agreement is waived without our prior written consent.

5. Interpretation

5.1 In this undertaking, the following words and expressions have the following meanings:

the "Target Group" means the Target and its subsidiary undertakings; and

a "Third Party Proposal" means (a) any offer, scheme of arrangement, share issue or other proposal, arrangement or transaction which, if completed substantially in accordance with its terms, would involve any person or group of persons acting in concert (other than the Offeror or CD Capital Asset Management Limited and persons acting in concert with it) acquiring control (as defined in section 50AA of the Act) of the Target or a material member of the Target Group; or (b) any proposal, arrangement or transaction for the transfer of any interest in all or substantially all of the business and assets of the Target Group or in any part thereof which is material in the context of the Target Group, taken as a whole; or (c) any proposal, arrangement or transaction which under the Act and/or the ASX Listing Rules would require approval by shareholders of the Target; or (d) any other proposal, arrangement or transaction which, if completed substantially in accordance with its terms, would involve any person or group of persons acting in concert acquiring or merging (including by reverse takeover bid or dual listed company structure) with the Target Group.

In this undertaking, "include(s)" and "including" shall be construed as if followed by "without limitation" and any reference:

to a word or expression defined in the Act (unless otherwise defined herein) shall bear the same meaning as in the Act;

to a business day means any day other than a Saturday, Sunday or any other day which is a public holiday in Sydney, Australia;

to a Clause or Schedule is to a Clause of or Schedule to this deed;

to any provision of any statute or subordinate legislation is to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, consolidated or re-enacted and in force.

6. General

- 6.1 We agree that damages may not be an adequate remedy for breach of this undertaking and accordingly that the Offeror shall be entitled, without proof of special damages, to seek the remedies of injunction and other equitable relief for any threatened or actual breach of this undertaking.
- 6.2 Time shall be of the essence as regards any time, date or period mentioned in this undertaking or extended by mutual agreement.
- 6.3 This undertaking shall be governed by and construed in accordance with New South Wales law and we submit to the jurisdiction of the New South Wales courts for all purposes in connection with this undertaking.

SCHEDULE 1
Scheme Documents

SCHEDULE 2

Shares

The following represent our current holdings in the Target:

Holding

Number of Shares	Registered Holder	Beneficial Owner
WASHINGTON H. SOUL PATTINSON AND COMPANY LIMITED (ACN: 000 002 728)	368,841,067 ordinary shares	[NIL]

We hereby declare that we intend this document to be a deed and we agree to execute and deliver it as a deed.

IN WITNESS of which this document has been duly executed and delivered as a deed on the day and the year first stated above.

Executed as a deed by
**WASHINGTON H. SOUL
PATTINSON AND COMPANY
LIMITED (ACN: 000 002 728)**
in accordance with section 127(1) of the
Corporations Act by:



.....
Authorised Signatory

Print name..... **Tessa BARLOW**



.....
Authorised Signatory

Print name..... **Ian D Bloodworth**

CD Capital Natural Resources Fund III L.P.

AND

Washington H. Soul Pattinson and Company Limited

AND

Verdant Minerals Ltd

**SHAREHOLDERS' AGREEMENT
RELATING TO
VERDANT MINERALS LTD**



This is Annexure C of 54 pages referred to in form 603 Notice of initial substantial shareholder.



Carmel Daniele

11 / 03 /2019
Date

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THIS AGREEMENT is made as a deed and dated 11 March 2019.

PARTIES

- (1) **CD Capital Natural Resources Fund III LP**, a limited partnership formed under the laws of Cayman Islands whose registered office is at DMS House, 20 Genesis Close, PO Box 2587, KY11 1103 Cayman Islands (**CD Capital**).
- (2) **Washington H. Soul Pattinson and Company Limited** ACN 000 002 728, a public limited company incorporated in New South Wales whose registered office is at First Floor, 160 Pitt Street, Sydney NSW 2000 (**Soul Pattinson**).
- (3) **Verdant Minerals Ltd** ACN 122 131 622, a public limited company incorporated in Victoria whose registered office is at Unit 20, 90 Frances Bay Drive, Stuart Park NT 0820 (the **Company**).

BACKGROUND

- (A) At the Completion Date, CD Capital will acquire the issued share capital of the Company pursuant to a scheme of arrangement conducted under Part 5.1 of the *Corporations Act 2001* (Cth) (the **Act**) other than the shares in the Company held by Soul Pattinson, as contemplated by the Scheme Implementation Agreement (the **Scheme of Arrangement**).
- (B) Immediately following the Completion Date, the issued share capital of the Company will comprise 1,103,761,492 ordinary shares, held by the Shareholders as set out in Schedule 1. The Shareholders have agreed to regulate their affairs with respect to the Company from the Completion Date on and subject to the terms of this Agreement.

AGREED TERMS

1. Definitions and interpretation

- 1.1 The following words, expressions and abbreviations apply in this Agreement (including the Background):

Affiliate means in respect of a person ("**Primary Person**"), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person;
- (c) directly or indirectly Controlled by a person who Controls the Primary Person (whether alone or with another person or persons); or
- (d) directly or indirectly under the common Control of the Primary Person and another person or persons;

Agreement means this agreement.

Announcement has the meaning given in Clause 32.

Anti-Bribery Laws means:

- (a) *Criminal Code Act 1995* (Cth) (and any amendments to it currently in force);
- (b) (State and territory legislation including the Crimes Act 1900 (NSW), Crimes Act 1958 (Vic.), Criminal Law Consolidation Act 1935 (SA), Criminal Code Act 1899 (Qld), Criminal Code (WA), Criminal Code Act 1924 (Tas), Criminal Code 2002 (ACT) and Criminal Code Act 1983 (NT);
- (c) OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of December 17, 1997,

and all other applicable laws, regulations and codes of practice relating to anti-bribery and corruption in any jurisdiction.

Auditors means the auditors of the Company from time to time.

Background Rights has the meaning given in Clause 27.2.

Board means the board of Directors.

Budget means a budget containing the items set out in Clause 11.6 which may be approved from time to time in accordance with Clause 11.

Budget Period means, for the First Budget and the First Business Plan, the period from the Completion Date until 30 June 2020 and thereafter a period comprising each Financial Year.

Business means the business carried on by the Group, including the business of resources exploration and development, mining, processing, production, marketing and sale of phosphoric acid and/or related products produced.

Business Days means days (other than Saturdays, Sundays or public holidays) on which banks in each of Sydney (Australia) and George Town (Cayman Islands) are customarily open for business and **Business Day** shall be construed accordingly.

Business Hours means 9.00 am to 5.00 pm on a Business Day.

Business Plan means a business plan containing those items specified in Clause 11.5 which may be approved from time to time in accordance with Clause 11.

Buyer has the meaning given in Clause 24.1.

Chairman means the chairman of the Board from time to time.

CEO means the Chief Executive Officer of the Company from time to time, or their delegate.

Clauses mean the clauses of this Agreement and **Clause** shall be construed accordingly.

Competent Authority means:

- (a) any person (whether autonomous or not) having legal and/or regulatory and/or enforcement powers, including any national, supra-national, or sub-national authority, governmental agency or department or regulatory authority;

- (b) any court of law or tribunal or arbitrator in any jurisdiction; or
- (c) any taxation authority.

Completion Date means the date on which the Scheme of Arrangement is implemented.

Confidential Information means any information that:

- (a) concerns the business, affairs, customers, clients or suppliers of a party;
- (b) is made available by or on behalf of one party to another, or is otherwise obtained by or on behalf of the receiving party; and
- (c) is by its nature confidential or the receiving party knows, or ought to know, is confidential.

Consent Matters means those matters set out in Clause 9.1.

Consequential Loss means any of the following, however arising and even if it is reasonably contemplated by the parties, at the date of this Agreement, as a probable result of a breach of this Agreement:

- (a) incidental, special, remote or unforeseeable loss or damage;
- (b) loss of revenue, profit, income, bargain, opportunity, use, production, business, contract, goodwill, or anticipated savings, loss caused by business interruption, or the cost of obtaining new financing or maintaining existing financing, but excluding loss of any amounts that would, but for the act or omission of a party, have otherwise been payable under this Agreement;
- (c) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (d) loss or damage of the nature set out above in paragraphs (a) to (c) (inclusive) that is incurred or suffered by or to a third party.

Constitution means the constitution of the Company, as in force from time to time.

Control has the definition given to that term in section 50AA of the Act, and **Controller** and **Controlled** will be construed accordingly.

Deed of Adherence means a deed of adherence in the form set out in Schedule 2, completed as indicated in that Schedule.

Default Notice means a notice issued under Clause 14.4.2 setting out all relevant details of the Event of Default the Non-defaulting Shareholder is aware of and requiring the Defaulting Shareholder to remedy the Event of Default in accordance with Clause 14.4.

Defaulting Shareholder has the meaning given in Clause 14.1.

Directors means the directors of the Company appointed by the Shareholders in accordance with Clause 5 and **Director** means any one of them.

Dispose, in respect of a Share, means to sell, transfer, create a trust over, alienate or encumber the Share or the right to exercise any votes attached to the Share.

Disputed Matter has the meaning given in Clause 26.1.1.

Encumbrance means any claim, mortgage, pledge, equity, lien, charge or other encumbrance in favour of a third party.

Event of Default has the meaning given in Clause 14.1.

Excluded Security means Securities issued following conversion of any Security previously issued by the Company in accordance with this Agreement.

Financial Year means the Company's financial year, as determined by the Board from time to time in accordance with applicable law.

First Budget means the budget for the Company for the period commencing from the Completion Date and ending 30 June 2020 as may be amended from time to time in accordance with Clause 11.

First Business Plan means the business plan for the Company for the period commencing from the Completion Date and ending 30 June 2020 as may be amended in accordance with Clause 11.

First Reconvened Board Meeting has the meaning set out in Clause 6.6.

First Reconvened Shareholder Meeting has the meaning set out in Clause 8.4.

Group means the Company and each of its Subsidiaries from time to time and **Group Company** means any of them.

Independent Accountant has the meaning given in Clause 12.2.

Initial Funding Amount means an aggregate amount of A\$15,000,000 minus the aggregate amount paid or payable to the Company for the exercise of options over Shares in the Company between the date of this Agreement and the Record Date.

Insolvency Event has the meaning given in Clause 14.1.4.

Interests means the Shares held by a Shareholder for the time being.

Intellectual Property means (a) patents, trademarks, service marks, registered designs, applications for any of those rights, trade and business names (including internet domain names and e-mail address names), unregistered trademarks and service marks, copyrights, database rights, know how, rights in designs and inventions, and (b) rights of the same or similar effect or nature as or to those in paragraph (a), in each case in any jurisdiction.

Liquidity Event means one of the following, or similar corporate transaction:

- (a) shares in the Company or an appropriate subsidiary or holding vehicle becoming quoted on any recognised securities exchange;
- (b) a sale of all the issued share capital of the Company; or

- (c) the sale of all or substantially all of the Business or assets of the Group to a bona fide third party purchaser and the subsequent distribution and/or payment to the Shareholders of the proceeds obtained by the Company following the completion of this sale.

Loan means the A\$800,000 unsecured 6% loan agreement entered into between CD Capital as lender and the Company as borrower on the date of the Scheme Implementation Agreement.

Losses means any and all liabilities, losses, damages, demands, judgments, awards, penalties, costs and expenses (including reasonable legal fees) howsoever arising but excluding Consequential Loss.

Material Contract means any contract, agreement or arrangement entered into by the Company for which the consideration provided by the Company or the counterparty has a value of A\$500,000 or more.

Ordinary Resolution means a resolution of Directors or Shareholders passed by at least 50% of the votes cast by those entitled to vote on such resolution.

Pre-Scheme Shareholder means a shareholder of the Company as at the Record Date.

Project means all the projects owned by the Company from time to time, including the Ammaroo Phosphate Project located in the Northern Territory.

Quarter means one of the four three-month periods in a Financial Year as follows: 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.

Record Date has the meaning given in the Scheme Implementation Agreement.

Relevant Clauses has the meaning given in Clause 24.4.

Remedy Period means a period of 30 days commencing on the date on which the Defaulting Shareholder:

- (a) becomes aware of the Event of Default; or
- (b) is taken to have received a Default Notice issued pursuant to Clause 14.4.2,

whichever is earlier.

Right has the meaning given in Clause 40.2.

Sale Interests has the meaning given in Clause 24.1.

Schedules mean the schedules to this Agreement and **Schedule** shall be construed accordingly.

Scheme Implementation Agreement means the agreement of that name between the Company and CD Capital dated the date of this Agreement setting out the mechanism by which the Scheme of Arrangement is to be effected.

Scheme of Arrangement has the meaning set out in the Background to this Agreement.

Second Reconvened Meeting has the meaning set out in Clause 6.6.

Second Reconvened Shareholder Meeting has the meaning set out in Clause 8.4.

Security Interest means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or any other security interest of any kind in any jurisdiction; and
- (b) any proprietary interest over an asset, or any contractual arrangement in relation to any asset, in each case created in relation to financial indebtedness or any actual or contingent liability and which has the same commercial effect as if security had been created over that asset.

Securities means Shares and any options, convertible notes, warrants or any other equity or debt instruments or securities in the Company convertible into Shares or other securities.

Seller has the meaning given in Clause 24.1.

Sender has the meaning given in Clause 35.1.

Shareholder means a shareholder of the Company from the Completion Date.

Shares mean the ordinary shares in the capital of the Company.

Special Resolution means a resolution of Shareholders passed by at least 75% of the votes cast by those entitled to vote on such resolution.

Subsidiary means a subsidiary of the Company as defined in the Act.

Transfer Notice means any notice provided in respect of a Transfer.

Valuer means an independent accountancy firm, which can be any of KPMG, Deloitte, Ernst & Young, BDO or PWC (however any of these firms will not be independent if they currently advise a Shareholder) as determined by an Ordinary Resolution of the Shareholders in the event the Board cannot agree on the appointment.

1.2 In this Agreement:

- 1.2.1 a reference to a party is to a party to this Agreement;
- 1.2.2 Clause, Schedule and paragraph headings will be disregarded in its construction;
- 1.2.3 a reference to a Clause, Schedule or appendix is to the relevant Clause, Schedule or appendix and a reference to a paragraph is to a paragraph of the Schedule in which it appears;
- 1.2.4 the Schedules form part of this Agreement and have effect as if set out in full in the body of it;
- 1.2.5 "A\$", "\$" and "dollars" means the lawful currency of the Commonwealth of Australia;

- 1.2.6 unless the context otherwise requires, words in the singular include the plural and the plural include the singular and reference to one gender includes all genders;
- 1.2.7 a reference to a person includes any individual, company, firm, partnership, joint venture, unincorporated association, organisation, foundation and trust, government, state or agency of state, in each case whether or not having separate legal personality;
- 1.2.8 a reference to a company includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.9 reference to a statute, enactment, statutory provision, subordinate legislation, code or guideline, includes a reference to any consolidation, re-enactment, modification or replacement and to any subordinate legislation made under the same from time to time, unless this would create, extend or increase the liability of any party under this Agreement;
- 1.2.10 reference to a legal term in the Commonwealth of Australia for any action, remedy, method or form of judicial proceeding, legal document, legal status, court, official or any other legal concept, or thing will, in respect of any jurisdiction outside the Commonwealth of Australia relevant to the transactions contemplated by this Agreement or the terms of this Agreement, be deemed to include a reference to the corresponding or most similar legal term in that jurisdiction;
- 1.2.11 except in relation to the calculation of periods of time, any reference to the terms **including** and **include** (or any similar term) is not to be construed as implying any limitation on the words, description, definition, phrase or term preceding those terms;
- 1.2.12 a reference to a document being **in the agreed form** or similar will be construed to mean in a form agreed between the parties (whether electronic or hard-copy) and initialled by a representative of each of the parties for the purposes of identification;
- 1.2.13 any reference to **law** or **laws** includes all applicable laws (whether civil, criminal or administrative), common laws or civil codes, legislation, subordinate legislation, treaties, regulations, directives and bye laws in any jurisdiction, in each case for the time being in force (whether before, on or after the date of this Agreement);
- 1.2.14 a reference to books and records or other information means books, records or other information in any form including paper, electronically stored data, magnetic media, film and microfilm; and
- 1.2.15 any reference to writing or written includes any method of reproducing words or text in legible, permanent and tangible form (including e-mail).
- 1.3 Where any obligation in this Agreement is expressed to be undertaken or assumed by any party, that obligation is to be construed as including a requirement that the party concerned exercises all rights of control over the affairs of any other person which that party is able to exercise (whether directly or indirectly) in order to secure performance of the obligation.
- 1.4 Any reference to a Shareholder's Interests will be deemed to include Interests held by its Affiliates, and each Shareholder shall procure that any such Affiliate shall comply with all obligations imposed on such Affiliate under this Agreement.

2. Conditions

- 2.1 This Agreement will take effect on and from, and shall not become legally binding until, the Completion Date, provided one of the following conditions has been satisfied:
- 2.1.1 Pre-Scheme Shareholders of the Company pass a resolution under item 7 of section 611 of the Act approving the acquisition by CD Capital of a Relevant Interest (as defined in the Act) in the Securities held by Soul Pattinson; or
 - 2.1.2 the Australian Securities and Investments Commission (ASIC) grants relief to CD Capital and Soul Pattinson under section 655A of the Act from section 606 of the Act to permit the acquisition by CD Capital of a Relevant Interest in the Securities held by Soul Pattinson, where such relief is not subject to the "Acceptance into higher rival bid / No vote against higher rival scheme" condition referred to in item 2 of Table 9 in ASIC Regulatory Guide 9 and is otherwise on terms and subject to conditions acceptable to Soul Pattinson and CD Capital.

3. Warranties

- 3.1 Each party warrants and represents to each other party that, as at the date of this Agreement:
- 3.1.1 it has full power and authority to enter into and perform fully its obligations under this Agreement in accordance with its terms and that this Agreement, when executed, will be legal, valid and binding on it and enforceable in accordance with its terms;
 - 3.1.2 it has obtained all necessary corporate and other consents and approvals required in relation to the entry into and delivery of this Agreement; and
 - 3.1.3 the performance of its obligations under this Agreement will not result in any:
 - (a) breach of any provision of its constitution or other constitutional documents;
 - (b) breach of any contract or other agreement to which it is a party or by which it is bound; or
 - (c) violation or breach of any applicable laws or regulations or of any order, decree or judgment of any Competent Authority.
- 3.2 Each party (**indemnifying party**) agrees to indemnify and hold harmless each other party against any and all Losses suffered by any of them resulting from any breach by the indemnifying party of Clause 3.1.
- 3.3 Each party undertakes to give written notice immediately to each other party of any matter or event coming to its attention that:
- 3.3.1 shows any of the representations and warranties given by it in this Agreement to be or to have been untrue or misleading or breached; or
 - 3.3.2 constitutes or is reasonably likely to constitute (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof) a breach of this Agreement.

4. Business of the Company

- 4.1 The Shareholders will from time to time use all reasonable endeavours to exercise their respective rights and powers to ensure that, so far as they lawfully can, the Company and each Group Company complies with its obligations under this Agreement and any other agreements to which the Company or any Group Company is a party, and that the Business is conducted in accordance with good industry practice and on sound commercial, profit-making principles. The Shareholders must act reasonably and in good faith when exercising the voting rights provided they will be entitled to act in their own interests and for their own benefit.
- 4.2 Without prejudice to Clause 4.1, the Shareholders agree that the Company will be run in accordance with the following general principles:
- 4.2.1 the Company will conduct the Business in a proper and efficient manner and for its own benefit;
 - 4.2.2 the Business will be carried on in accordance with the policies laid down from time to time by the Board and in accordance with any current Business Plan and Budget;
 - 4.2.3 all decisions relating to the management and control of the business of the Company shall be determined by the Board, with matters to be determined by Ordinary Resolution of the Directors except for Consent Matters or as otherwise provided under this Agreement;
 - 4.2.4 the Company will transact its business on arm's length terms;
 - 4.2.5 subject to Clause 27, the Company will own or licence all assets and property relating to the Business, will enter into all contracts required in respect of the Business and will bear all obligations, costs, expenses and liabilities arising from or in connection with the Business; and
 - 4.2.6 the Company will use all reasonable endeavours to obtain and maintain in full force and effect all permissions, approvals, consents, permits and licences required for the carrying on of the Business.
- 4.3 Without prejudice to Clauses 4.1 and 4.2, the Shareholders agree that each Group Company will be run in accordance with the principles set out in Clause 4.2, except that Business shall be read to mean "the business of the relevant Group Company".
- 4.4 Each party agrees, and must use all reasonable endeavours to ensure, that the board and operation of each Group Company follows the board composition, board operation, rules and management rules set out or referred to in this Agreement, provided that those rules will apply as if a reference to the Company were a reference to the relevant Group Company.

5. The Board

Appointment and removal of Directors

- 5.1 The Board will initially consist of at least five Directors appointed in accordance with Clause 5.5 and 5.6 (the **Core Directors**).

- 5.2 The Board may appoint a maximum of three independent Directors if deemed appropriate for local residency requirements and/or strategic reasons, in accordance with this Agreement and the Constitution, if applicable. The appointment of independent Directors, including the amount of consideration to be paid to such an independent Director, must be approved in writing by a majority of each class of Core Directors, with Core Directors appointed by CD Capital and Soul Pattinson acting as separate classes.
- 5.3 The maximum number of Directors will be eight Directors. The maximum number of Directors cannot change without the approval of a Special Resolution of Shareholders, provided a change which reduces Soul Pattinson's director appointment rights under this Agreement cannot be made without the approval of all Shareholders.
- 5.4 All Directors will be individuals and not corporate directors, and must be persons of good standing and reputation.
- 5.5 Each of CD Capital and Soul Pattinson will have the right to appoint and remove the following number of Core Directors to the Board, depending on the percentage of issued share capital held by that Shareholder (together with its Affiliates) from time to time:

Shareholding	Number of Core Directors
Less than 10%	0
10% or more but less than 25%	1
25% or more but less than 40%	2
40% or more	3

- 5.6 In the event that a Shareholder entitled to appoint a Director under Clause 5.5 elects to appoint only one Director, that Director will be able to exercise at the relevant board meeting such number of votes equal to the number of votes that would have been exercisable by Directors appointed by that Shareholder if all of the Directors which that Shareholder is entitled to appoint under clause 5.5 had been appointed and were present.
- 5.7 A Shareholder may from time to time appoint a Director or remove or replace any such Director whom it appointed by delivering a written notice signed by a director or secretary of the Shareholder to the Company at its registered office for the attention of the Directors, and such appointment or removal will take effect from the date the notice is delivered or such later date specified in the notice (or, if later, on receipt by the Company of a proper consent to act signed by the appointee director). Subject to the Act and clause 5.9, a Director may only be removed by their appointing Shareholder.
- 5.8 If a Shareholder ceases to be entitled to appoint a Director, it must immediately remove each Director appointed by it that it is no longer entitled to appoint.
- 5.9 If a Director is disqualified or prohibited from acting as a Director under this Agreement, the Constitution, the Act or any other law, the office of the Director is vacated and the appointing Shareholder may appoint a replacement under clause 5.7.

- 5.10 A Shareholder which removes a Director appointed by it will indemnify and hold harmless the other Shareholders and the Company against any claim by that Director arising out of such removal, whether for unfair or wrongful dismissal or otherwise.
- 5.11 Directors will be entitled to such remuneration in their capacity as directors of the Company as is approved by an Ordinary Resolution of the Directors.
- 5.12 Directors are entitled to be reimbursed by the Company for any reasonable expenses (including travel or other out-of-pocket expenses) incurred by Directors in the performance of his/her duties as a Director.

Director is nominee of appointing Shareholder

- 5.13 Each party acknowledges that a Director appointed by a Shareholder under this clause 5 is the nominee of the appointing Shareholder.
- 5.14 Subject to the Director's duties and this Agreement, a Director appointed pursuant to this clause 5 may:
 - 5.14.1 have regard to and represent the interests of the Shareholder who appointed them; and
 - 5.14.2 act on the wishes of that Shareholder,

in performing any of his or her duties or exercising any power, right or discretion as a Director of the Company to the extent permitted by law.

Director may provide information to the appointing Shareholder

- 5.15 Subject to the Director's duties, a Director may:
 - 5.15.1 communicate any information, in respect of the affairs of the Company, received or made available to the Director; and
 - 5.15.2 provide copies of the information,
- to the Shareholder who appointed him or her and to the Shareholder's officers only if the person to whom he or she discloses the information agrees to comply with the confidentiality obligations in clause 31.

Chairman

- 5.16 The Shareholder who is the largest Shareholder of the Company from time to time is entitled to appoint a Chairman by written notice to the Directors, who must also be a Director.
- 5.17 At the Completion Date, the Chairman will be appointed by CD Capital, and will hold office for two years from the date of appointment or until a new Chairman is appointed pursuant to Clause 5.16 (whichever comes first). The Chairman will not have a second or casting vote. If the Chairman is not present at any Board meeting, the Directors present may appoint any one of their number to act as Chairman for the purposes of the meeting.

Alternate Directors

- 5.18 A Director is entitled to appoint from time to time an alternate (who may be another Director) and to remove an alternate so appointed by written notice signed by the Director and delivered to the Company at its registered office for the attention of the Directors.
- 5.19 An alternate will be entitled to receive notice of all Board meetings for so long as he remains an alternate, and to attend and vote as such at any meeting which his appointing Director does not attend, and generally, in the absence of his appointor, to do all the things which his appointor is entitled to do by virtue of his office as a Director. An alternate will not be entitled to appoint another alternate in his place.
- 5.20 A Director who is also an alternate is entitled, in the absence of his appointor:
- 5.20.1 to be counted as part of the quorum at any Board meeting on his own account and for the Director for whom he is the alternate; and
- 5.20.2 to vote separately on his own behalf and on behalf of his appointor.

Observer

- 5.21 While such party has a Core Director appointed to the Board, CD Capital and Soul Pattinson shall each have the right to appoint a Board observer. A Board observer may speak at Board meetings but may not vote.

Directors' protections

- 5.22 The Company will insure and keep insured with a reputable insurer each Director in respect of any liability incurred by the Director as an officer of the Company. For the avoidance of doubt, such insurance may exclude coverage for liabilities which are commonly excluded from coverage under directors' and officers' insurance, including, but not limited to, insurance for wilful misconduct..

6. Board meetings

Place of meeting and notice

- 6.1 Board meetings will be held in Sydney, Australia or as otherwise agreed by the Directors.
- 6.2 Board meetings will be held at least once every Quarter or as otherwise agreed by the Directors. Board meetings may be convened by any Director.
- 6.3 Subject to Clause 6.4, at least five Business Days' written notice of a Board meeting will be given to each Director (and his alternate), accompanied by an agenda setting out in reasonable detail the issues to be considered by the Directors at the meeting and including any documents or other information to be tabled. Unless all Directors agree in writing otherwise, a meeting of Directors may only resolve matters specifically described in that agenda.
- 6.4 The notice period under Clause 6.3 may be reduced to 48 hours if all Directors entitled to vote at the meeting agree in writing.

Quorum

- 6.5 The quorum for Board meetings will be one Director appointed by each Shareholder who at the time is not a Defaulting Shareholder. Each Shareholder will use all reasonable endeavours to ensure that its appointed Director(s) (or their duly appointed alternates) attend each Board meeting and that a quorum is present throughout each meeting.
- 6.6 If within half an hour of the time specified for the Board meeting a quorum is not present, the meeting will be adjourned to the same day of the next week at the same time and place (**First Reconvened Board Meeting**). If within half an hour of the time specified for the First Reconvened Board Meeting a quorum is not present, the meeting will be adjourned to 48 hours later (**Second Reconvened Board Meeting**). If a quorum is not present at the time specified for the Second Reconvened Board Meeting and the business of the meeting includes a Consent Matter, Clause 9 will apply in relation to such matter and, otherwise, those Directors present will constitute a quorum. Notice of each adjournment must be given to the Directors (and their alternates). No business may be conducted at an adjourned meeting except the business which was meant to be conducted at the meeting which was adjourned.

Voting

- 6.7 The Directors appointed by a Shareholder will have such number of votes as is determined in accordance with Clause 6.8 and 6.9
- 6.8 Subject to Clause 6.9, each Director has one vote.
- 6.9 If, at a Board meeting:
- 6.9.1 a Director appointed by a Shareholder is not in attendance;
- 6.9.2 from time to time, a Shareholder has appointed a number of Directors which is fewer than the number of Directors which it is entitled pursuant to Clause 5.5,
- any other Director appointed by that Shareholder and in attendance at the meeting may exercise the voting rights attributable to each such absent Director or vacant Directorship (where such absent Director would have been entitled to exercise such voting rights, or, had a Director been appointed to the vacant Directorship, that Director would have been so entitled).
- 6.10 For the purposes of Clause 6.9, where more than one Director appointed by that Shareholder is in attendance, the voting rights must be allocated evenly between them, or otherwise in such manner as may be agreed between them.
- 6.11 A Director appointed by a Defaulting Shareholder is not entitled to vote.
- 6.12 Except for Consent Matters or otherwise provided under this Agreement, resolutions of the Directors at any Board meeting must be decided by an Ordinary Resolution of Directors.
- 6.13 No resolution proposed at a Board meeting in relation to a Consent Matter will be effective unless it has been approved in accordance with Clause 9.
- 6.14 No resolution proposed at a Board meeting which requires the approval of separate classes of Core Directors will be effective unless it has been approved by a majority of each class of Core

Directors, with Core Directors appointed by CD Capital and Soul Pattinson acting as separate classes.

6.15 The Directors may pass a resolution without a Board meeting being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

6.16 During any period that the Company is a proprietary limited company under the Act and to the extent permitted by law, any Director who has an interest in any matter, decision or resolution to be considered by the Board may, provided that Director has given the other Directors notice of the interest in accordance with the Act:

6.16.1 be counted for the purposes of determining whether a quorum is present;

6.16.2 be present, including by teleconference or by other electronic means while the matter, decision or resolution is being considered; and

6.16.3 is entitled to vote on the matter, decision or resolution

as if the Director had no interest in the matter, decision or resolution for consideration, except to the extent to which the Director is excluded from such actions pursuant to Clause 10 (Related Party Proposal).

7. Executive management

7.1 The Board shall have the right to appoint the executive management team of the Company (including the CEO), who shall be responsible for the day-to day management and general administration of the Company and the Business.

7.2 All full time employees will be engaged by the Company and subject to individual employment contracts between the employee and the Company.

7.3 The management team appointed by the Board in accordance with Clause 7.1 will not be required to seek approval from the Board and/or the Shareholders before making decisions in the ordinary course of conducting the Business, so long as those decisions:

7.3.1 are made in accordance with the relevant Business Plan;

7.3.2 are provided for in accordance with the relevant Budget, prepared in accordance with Clause 11.4, subject to a 10% allowance for cost overruns and changes in pricing provided any such overrun or change is first notified to the Board in writing; and

7.3.3 are not Consent Matters within the meaning of Clause 9.

8. Shareholder meetings

8.1 A meeting of the members of the Company:

8.1.1 may be convened at any time by the Board;

8.1.2 may be convened at any time by a Shareholder; and

- 8.1.3 must be convened by the Board when required by notice from a Shareholder, by the Act or by an order made under the Act.
- 8.2 Unless all Shareholders agree to meet at short notice and where permitted by law, Shareholders must receive at least 21 days' prior written notice of each meeting of the members of the Company. The notice must include an agenda and, unless all Shareholders otherwise agree in writing, a meeting of Shareholders may only resolve matters specifically described in that agenda.
- 8.3 The quorum for a meeting of the members of the Company is where a representative of each Shareholder is in attendance. Each Shareholder will use all reasonable endeavours to procure that its representatives attend all meetings of the members of the Company and that a quorum is present throughout each such meeting.
- 8.4 If within half an hour of the time specified for a meeting of the members of the Company a quorum is not present, the meeting will be adjourned to the same day of the next week at the same time and place (**First Reconvened Shareholder Meeting**). If within half an hour of the time specified for the First Reconvened Shareholder Meeting a quorum is not present, the meeting will be adjourned to the same day of the next week (**Second Reconvened Shareholder Meeting**). If a quorum is not present at the time specified for the Second Reconvened Shareholder Meeting, those Shareholders present will constitute a quorum. Notice of each adjournment must be given to the Shareholders. No business may be conducted at an adjourned meeting except the business which was meant to be conducted at the meeting which was adjourned.
- 8.5 No resolution proposed at a meeting of members of the Company in relation to a Consent Matter will be effective unless it has also been approved in accordance with Clause 9.
- 8.6 If a Shareholder is a Defaulting Shareholder, the quorum for a meeting of members of the Company will be one representative appointed by each Shareholder that is not a Defaulting Shareholder.
- 8.7 A Defaulting Shareholder is not entitled to vote.
- 8.8 A written resolution signed by all Shareholders entitled to vote on the resolution is taken to be a resolution of Shareholders without the need for a meeting. A copy of a written resolution passed in accordance with this clause must be provided to each of the Directors and Shareholders as soon as practicable.

9. Consent Matters

- 9.1 Subject to the Act, CD Capital, Soul Pattinson and the Company undertake that the following matters in respect of the Company and its Subsidiaries (the **Consent Matters**) will not occur without a unanimous resolution of the Core Directors (a **Special Directors' Resolution**):
- 9.1.1 the expansion of the business of the Company otherwise than through the Company and its Subsidiaries;
- 9.1.2 changing the nature of the business of the Company;

- 9.1.3 passing any resolution to wind up the Company or any Subsidiary solvently or entering into a scheme of arrangement with creditors;
 - 9.1.4 any distribution in specie or payment of a dividend by the Company other than pro-rata to all Shareholders; and
 - 9.1.5 entry into any Related Party Proposal as defined in Clause 10.
- 9.2 In determining whether a matter is a Consent Matter, a series of related transactions will be construed as a single transaction and any amounts involved in the related transactions will be aggregated.
- 9.3 This Clause 9 will not apply to any matter which is expressly permitted or required under this Agreement.

10. Related Party Proposal

- 10.1 The Company (or a related entity) may not enter into or vary any understanding, arrangement or agreement with or provide any financial benefit to a Shareholder (or their Affiliate) or to exercise, enforce or waive rights in relation to, or not comply with, such understanding, arrangement or agreement (a **Related Party Proposal**) unless the Related Party Proposal has been approved in accordance with the following procedure:
- 10.1.1 The CEO, together with one Director appointed by the Shareholder who is not proposing the Related Party Proposal (the **Non-Interested Director**), and/or a nominee/s of the Non-Interested Director, may enter into negotiations in relation to the Related Party Proposal on behalf of the Company. Such negotiations must be conducted having regard to the best interests of the Company and the Business Plan;
 - 10.1.2 If the CEO and the Non-Interested Director (or nominee) are able to negotiate a Related Party Proposal which they both consider to be in the best interests of the Company, they may jointly recommend that Related Party Proposal to the Board;
 - 10.1.3 Each Director will be entitled to request any information from the CEO which they reasonably require in order to assist in their consideration of the Related Party Proposal; and
 - 10.1.4 If a Related Party Proposal has been jointly recommended to the Board pursuant to 10.1.2, the Company may enter into that Related Party Proposal if it is approved by a Special Directors' Resolution.

11. Budget and Business Plan

- 11.1 The following matters are to be approved by an Ordinary Resolution of the Board:
- 11.1.1 The First Budget and First Business Plan;
 - 11.1.2 Any subsequent Budget and Business Plan; and
 - 11.1.3 Any variations to the matters listed in this Clause 11.

- 11.2 As soon as practicable after the Completion Date, executive management will prepare the First Budget and First Business Plan for the Company and submit it to the Board.
- 11.3 The Board must adopt a Business Plan and Budget for each Financial Year (or such other period as determined by the Board) following the expiry of the First Budget and First Business Plan in accordance with this clause.
- 11.4 The CEO will submit to the Board at least 30 days before the start of a Budget Period a draft Budget and a draft Business Plan for the next Budget Period.
- 11.5 A Business Plan must contain:
- 11.5.1 A description of the current and planned business activities and objectives of the Company in as much detail as possible;
 - 11.5.2 Technical, commercial and operational targets for the Company; and
 - 11.5.3 Any other information requested by the Board.
- 11.6 A Budget must contain:
- 11.6.1 A funding plan setting out the amount, timing and kind of funding or credit support required to meet the expenditure contemplated in the Business Plan; and
 - 11.6.2 Where relevant, in light of the Company's operating status, monthly budgets for:
 - (a) Profit & loss;
 - (b) Balance sheet;
 - (c) Cash flow;
 - (d) Growth capital expenditure;
 - (e) Maintenance capital expenditure;
 - (f) Operating expenditure; and
 - (g) Key performance indicators; and
 - (h) Any other information requested by the Board.
- 11.7 The Board must consider and vote on the draft Budget and draft Business Plan at least 10 days before the end of the previous Budget Period.
- 11.8 The Board may approve a Business Plan or Budget either without condition or may otherwise provide conditional approval.
- 11.9 If the Board fails to adopt a Business Plan and Budget for a Financial Year in accordance with clause 11.3, then:

- 11.9.1 each Shareholder must ensure that its appointed Directors continue to use their best endeavours to adopt a Business Plan and Budget for the Financial Year; and
- 11.9.2 until the Shareholders approve a Business Plan and Budget for the Financial Year, the Business Plan and Budget for the Financial Year consists of:
 - (a) that part of the Business Plan and Budget for the immediately preceding Financial Year that applies to the Financial Year; and
 - (b) a continuation of the Business and the business activities proposed in the Business Plan and Budget for the immediately preceding Financial Year to the extent they apply to the relevant Financial Year.
- 11.10 The Board must review the implementation of the Budget and Business Plan at least once in any six month period and may review the implementation more regularly if required. On review, the Board may resolve to amend the Budget and Business Plan by Ordinary Resolution of the Board.

12. Information rights

- 12.1 For so long as a Shareholder (together with its Affiliates) holds 10% or more of the total number of Shares in the Company, each such Shareholder will receive:
 - 12.1.1 within one hundred and twenty (120) days of the end of each half financial year and full financial year, consolidated annual financial statements of the Company;
 - 12.1.2 within twenty one (21) days after each month end, monthly management accounts of the Company and each Subsidiary;
 - 12.1.3 at the same time they are provided to directors of the Company or the Subsidiary (as the case may be), all papers and documents distributed to directors of the Company and each Subsidiary, including documents to call a meeting of directors (unless that Shareholder notifies the Company in writing that it does not wish to receive any specific documents); and
 - 12.1.4 such other information and documents as such Shareholder reasonably requests from time to time.
- 12.2 If the Company fails to provide information to a Shareholder as required by this Clause 12, the Shareholder will be entitled to appoint an independent firm of accountants (**Independent Accountant**) to provide such information to it (and will notify the Company and the other Shareholders of any appointment so made). The Company will provide such assistance as the Independent Accountant may request (including full and unrestricted access to the books and records of the Company pursuant to Clause 12.3) and will pay the reasonable costs of the Independent Accountant within 14 days of presentation of the relevant invoice.
- 12.3 A Shareholder (together with its Affiliates) holding 10% or more of the total number of Shares in the Company may from time to time, by giving reasonable notice to the Company, require that an audit or review of the business and affairs of the Company be conducted by any appointed Auditors or an Independent Accountant during usual Business Hours. The Company will afford to the Shareholder's representatives, the Auditors and any Independent Accountant

such access and co-operation as may be reasonable in the circumstances to facilitate that audit or review, including permitting them to:

12.3.1 visit and inspect any premises of the Company and to discuss its affairs, finances and accounts with its officers and employees; and

12.3.2 inspect, request and retain copies of any books, accounts, records or other documents relating to its business and affairs.

12.4 The costs of any audit or review including any internal costs of the Company conducted by a Shareholder or by the Auditors at a Shareholders' request will be borne by the Shareholder. The Shareholders and the Company will act reasonably in ensuring that no undue disruption is caused to the operation of the Company as a result of such audit or review.

13. Obligation to Issue PFIC Form

13.1 For each taxable year that the Company or CD Capital determines that the Company or any relevant Subsidiary is likely a passive foreign investment company ("PFIC") within the meaning of under Section 1297 of the US Internal Revenue Code of 1986, as amended (the "Code"), the Company will make available to CD Capital, by 30 January of each calendar year or such later date as agreed, a "PFIC Annual Information Statement" under US Treasury Regulation Section 1.1295-1(g) (including for the avoidance of doubt the information referred to in Section 1.1295-1(g)(1)(ii)(A) and all necessary information on income for that year required to make the necessary US tax lodgements) to enable CD Capital's United States investors to make "qualified electing fund" elections under Section 1295 of the Code (and on going annual tax lodgements) with respect to the Company and any Subsidiary that the Company or CD Capital has determined is also likely a PFIC. If the Company owns, directly or indirectly, 50% or less of any such Subsidiary's total aggregate voting power, the Company's obligation in the preceding sentence will be limited to using all reasonable endeavours to obtain a PFIC Annual Information Statement from such Subsidiary.

14. Events of Default

Matters constituting an Event of Default

14.1 Each of the following will constitute an **Event of Default** in relation to a Shareholder (**Defaulting Shareholder**) for the purposes of this Agreement:

14.1.1 a material breach by the Shareholder of any of its obligations under this Agreement;

14.1.2 the Shareholder assigns, novates, mortgages, charges or otherwise transfers or Disposes of all or part of the legal or beneficial interest in any Shares or other Securities that it holds other than as permitted by this Agreement or the Constitution;

14.1.3 a person has become a Shareholder in a manner inconsistent with the Constitution or this Agreement;

14.1.4 the Shareholder suffers an **Insolvency Event**, which for this purpose means:

- (a) it is insolvent or unable (or admits its inability) to pay its debts (or any class of them) when they fall due;

- (b) its assets are less than its liabilities, taking into account contingent and prospective liabilities;
- (c) any judgment or order against the Shareholder is not stayed or complied with within 14 days; any execution, distress, sequestration of other legal process is commenced against a material part of its assets and is not discharged within 7 days; or any step is taken to enforce any Security Interest over the assets of the Shareholder;
- (d) any corporate action, legal or insolvency proceeding or any other procedure (or any analogous procedure in any jurisdiction), or any preliminary step, is taken in respect of:
 - (i) it ceasing to carry on business or stopping payment in respect of its debts (or any class of them); or
 - (ii) its liquidation, winding-up, dissolution, administration, administrative receivership or receivership, or any compromise or arrangement or scheme or arrangement with creditors (excluding any members' voluntary liquidation or scheme of arrangement for the purpose of a fully solvent reorganisation or amalgamation); and
- (e) any of the matters referred to in this Clause 14.1.4 occurs:
 - (i) in relation to a holding company of the Shareholder; or
 - (ii) in relation to any guarantor of a Shareholder's obligations under this Agreement and the Shareholder concerned has not within 30 days of such Insolvency Event procured a replacement guarantor acceptable to the other Shareholders (acting reasonably).

14.2 A Shareholder must notify the other Shareholder and the Company immediately after:

14.2.1 it commits an Event of Default or an Event of Default occurs in respect of it; or

14.2.2 it remedies an Event of Default,

and the notice must set out full details of the Event of Default or how the Event of Default has been remedied, as the case may be.

Company to notify of Event of Default

14.3 The Company must notify the Shareholders immediately after it becomes aware:

14.3.1 of anything, which in the Company's reasonable opinion, is likely to result in a Shareholder committing an Event of Default or an Event of Default occurring in respect of a Shareholder;

14.3.2 that a Shareholder has committed an Event of Default or an Event of Default has occurred in respect of a Shareholder; or

14.3.3 that a Shareholder has remedied an Event of Default.

Default Notice

- 14.4 If an Event of Default is committed by or occurs in respect of a Defaulting Shareholder:
- 14.4.1 the Defaulting Shareholder must act to remedy the Event of Default within the Remedy Period; and
 - 14.4.2 the other Shareholder (**Non-defaulting Shareholder**) may, within 28 days after becoming aware of the Event of Default, give to the Defaulting Shareholder a Default Notice.

Rights of the Defaulting Shareholder

- 14.5 If a Default Notice is given, despite any other provision of this Agreement, from the date the Defaulting Shareholder receives the Default Notice until the earlier of the Event of Default being remedied or the Non-defaulting Shareholder withdrawing the Default Notice:
- 14.5.1 the Non-Defaulting Shareholder's obligation to contribute additional equity or debt capital is suspended;
 - 14.5.2 the Defaulting Shareholder will be precluded from exercising any voting rights or other powers of control in relation to the Company under this Agreement, the Constitution or otherwise;
 - 14.5.3 each Director appointed by the Defaulting Shareholder will be precluded from attending and voting at any Board meeting and, for the purposes of Clause 6.5, the quorum for Board meetings will not require a Director appointed by the Defaulting Shareholder;
 - 14.5.4 the Defaulting Shareholder will be precluded from attending and voting at meetings of members of the Company and the Defaulting Shareholder's Interest will not be taken into account in determining the aggregate number of eligible votes for the purposes of achieving any required voting majority, including with respect to a Consent Matter; and
 - 14.5.5 the Defaulting Shareholder will cease to be entitled to any dividends or other distributions declared or payable in respect of its Shares. The Company will hold the same in an interest bearing account and if:
 - (a) the Event of Default is remedied or the completion of the sale and purchase of the Defaulting Shareholder's Shares has occurred in accordance with this clause 14, the amount standing to the credit of such account will be paid to the Defaulting Shareholder (or, insofar as the same constitute any dividend or other distribution payable by reference to a record date following such completion, to the purchaser) as soon as practicable; or
 - (b) the Event of Default is not remedied within the Remedy Period, the amount standing to the credit of such account will be released to the Company as soon as practicable and the Defaulting Shareholder shall have no further right or interest in such amount once such release has been effected.
- 14.6 If a Default Notice is given and the Event of Default is not remedied within any Remedy Period, the Non-defaulting Shareholder may:

- 14.6.1 in respect of an Event of Default under clause 14.1.1, 14.1.2 or 14.1.3, enforce its legal rights in relation to the breach; or
- 14.6.2 in respect of an Event of Default as a result of an Insolvency Event, within 45 days after the end of any Remedy Period, give a notice to the Defaulting Shareholder either:
- (a) requiring the Defaulting Shareholder to sell to the Non-defaulting Shareholder, or its nominee, all (but not part) of its Shares free from any Encumbrance and at:
 - (i) a price (**Agreed Price**) the Shareholders agree on in writing within 14 days after the Defaulting Shareholder receives the notice; or
 - (ii) if the Shareholders fail to agree on a price under clause 14.6.2(a)(i), an amount equal to 95% of the Valuer's Price; or
 - (b) terminating this Agreement with effect from the date specified in the notice, being a date at least seven days after the date of the notice.
- 14.7 If the Non-defaulting Shareholder requires the Defaulting Shareholder to sell its Shares under clause 14.6.2 and the Shareholders fail to agree on a price within the 14 day period specified in that clause, the Shareholders must arrange for a Valuer to be appointed and instruct the Valuer to determine, and certify in writing, the Valuer's price on the basis set out in clause 17.3 (**Valuer's Price**). The Valuer's determination is, in the absence of manifest error, final and binding on the Shareholders.
- 14.8 The Defaulting Shareholder must pay the cost of obtaining the Valuer's Price and all expenses (including stamp duty) incurred by the Non-defaulting Shareholder (or its nominee) in relation to a sale under this clause 14.
- 14.9 The Shareholders must complete the sale of the Defaulting Shareholder's Shares under this clause 14 on the latest of:
- 14.9.1 the day which is 14 days after the Shareholders agree on a price under clause 14.6.2(a) or the Valuer certifies the Valuer's Price under clause 14.7, as the case may be;
 - 14.9.2 the day which is 14 days after the conditions referred to in clause 20.3 has been satisfied or waived (where capable of waiver); and
 - 14.9.3 any other day the Shareholders agree on in writing before the later of the dates referred to in clause 14.9.1 and 14.9.2.
- 14.10 At completion of the sale of the Defaulting Shareholder's Shares under this clause 14:
- 14.10.1 the Defaulting Shareholder must do anything (including execute any document) reasonably required by the Non-defaulting Shareholder to give effect to the sale of the Defaulting Shareholder's Shares free from any Encumbrance; and
 - 14.10.2 the Non-defaulting Shareholder must pay (or ensure its nominee pays) to the Defaulting Shareholder by bank cheque or as the Defaulting Shareholder otherwise directs the Agreed Price or Valuer's Price, as the case may be, less:

- (a) the costs and expenses specified in clause 14.8; and
- (b) any other amounts owing by the Defaulting Shareholder to the Non-defaulting Shareholder or the Company under this Agreement;

14.10.3 the Non-defaulting Shareholder must pay (or ensure its nominee pays) any amounts deducted from the Agreed Price or the Valuer's Price, as the case may be, under clause 14.10.2 to the persons owed those amounts by the Defaulting Shareholder.

14.11 For the purposes of this clause 14, the Defaulting Shareholder irrevocably appoints each Director severally as its attorney to do anything (including execute any document) necessary for the transfer of its Shares under this clause.

14.12 A Default Notice is withdrawn or taken to be withdrawn, by the Non-defaulting Shareholder if the Non-defaulting Shareholder:

14.12.1 withdraws the Default Notice by notice to the Defaulting Shareholder; or

14.12.2 does not give a notice within the period specified in clause 14.6.2.

14.13 If a Default Notice is withdrawn, no further steps can be taken under this clause based on that Default Notice.

14.14 The rights and remedies under this clause 14 are in addition to, and do not take away from any other right or remedy a Shareholder may have at law or in equity.

General

14.15 The Shareholders will promptly keep each other and the Company informed at all times in respect of any notices issued pursuant to this Clause 14.

15. Allotment of Shares

15.1 Following completion of the Initial Funding Issue, the Company may only allot, issue or grant any Securities (or agree or undertake to do so):

15.1.1 which are Excluded Securities; or

15.1.2 otherwise, in accordance with this clause 15.

15.2 If the Board resolves that an issue of Securities is necessary or desirable then that issue must be carried out in accordance with this clause 15, unless all Shareholders give their written consent to an issue of Securities other than in accordance with this clause 15.

15.3 If the Board resolves to make an issue of Securities (other than of Excluded Securities or an issue of Securities to which all the Shareholders have given their written consent), the Company must first make a written offer (**Offer Notice**) to each Shareholder to subscribe for the additional Securities.

15.4 An Offer Notice must:

15.4.1 be in writing and signed by or on behalf of the Company;

- 15.4.2 specify the total number of additional Securities available for subscription (together with a description of the rights attaching to such Securities if they are not ordinary shares) (**Offered Securities**);
 - 15.4.3 specify, in Australian currency, the amount payable per Offered Security, which must be calculated in accordance with clause 17;
 - 15.4.4 specify the acceptance period of the offer (**Offer Period**) which must be no more than 10 Business Days and no less than 5 Business Days (unless all Shareholders agree otherwise) from the date of receipt of the notice; and
 - 15.4.5 include any other relevant terms.
- 15.5 Each Shareholder may, on or before the last day of the Offer Period, by written notice to the Board (**Response Notice**):
- 15.5.1 accept the offer to subscribe for all of the Offered Securities;
 - 15.5.2 accept the offer to subscribe for the Offered Securities in respect of a specified number of the Offered Securities; or
 - 15.5.3 reject the offer to subscribe for any of the Offered Securities.
- 15.6 If a Shareholder does not give a Response Notice to the Board during the Offer Period, the Shareholder is taken to have rejected the offer to subscribe for any of the Offered Securities.
- 15.7 If a Shareholder provides a Response Notice to the Board accepting the offer to subscribe for all of the Offered Securities, or accepting the offer in respect of a specified number of the Offered Securities, the Response Notice is deemed to constitute an application by the Shareholder for up to the number of Offered Securities that it accepts by the Response Notice.
- 15.8 If the total number of Offered Securities accepted by all Shareholders in the Response Notices is less than or equal to the total number of Offered Securities, the Board must allocate to each Shareholder that accepts an offer to subscribe for the Offered Securities (**Accepting Shareholder**), the number of Offered Securities that the Accepting Shareholder accepts by its Response Notice.
- 15.9 If the total number of Offered Securities accepted by all the Accepting Shareholders in the Response Notices exceeds the total number of Offered Securities, the Offered Securities will be allocated as follows:
- 15.9.1 subject to clause 15.9.2, in such proportion as the Shares of each Accepting Shareholder bear to the total number of Shares of all the Accepting Shareholders on the date of the Offer Notice (**Pro Rata Allocation**); and
 - 15.9.2 if the Pro Rata Allocation would result in an Accepting Shareholder being allocated more than the number of Offered Securities that it accepts in its Response Notice (**Accepted Amount**), the Accepting Shareholder will only be allocated its Accepted Amount, and any remaining Offered Securities must be reallocated between the other Accepting Shareholders in such proportion as the Shares of each such Accepting

Shareholder bear to the total number of Shares of all such Accepting Shareholders on the date of the Offer Notice.

- 15.10 The allocation process in clause 15.9.2 must be repeated until all of the Offered Securities have been allocated.
- 15.11 The Company must procure that the Board must notify each Accepting Shareholder within two Business Days of the end of the Offer Period the number of Offered Securities it has been allocated in accordance with the allocation process in clauses 15.8 to 15.10. In addition:
- 15.11.1 the Company must at the same time notify the Shareholders of the Offered Securities not allocated to any Shareholder, and the fact that the Shareholders may elect to acquire some or all of that shortfall;
- 15.11.2 within three Business Days after receipt of the notice under this clause 15.11, the Shareholders may each notify the Company of additional Offered Securities that the Shareholder wishes to subscribe for from the shortfall; and
- 15.11.3 if the total number of additional Offered Securities from the shortfall accepted by all the Shareholders exceeds the total number of Offered Securities in the shortfall, those Offered Securities from the shortfall will be allocated in such proportion as the Shares of each of those accepting Shareholders bear to the total number of Shares of all those accepting Shareholders on the date of the Offer Notice, and otherwise the Shareholders will be allocated the shortfall Offer Securities that each accepts.
- 15.12 Settlement of the issue and allotment of the Offered Securities allocated to the Accepting Shareholders must occur 17 Business Days after the end of the Offer Period or any earlier date agreed by the Accepting Shareholders.
- 15.13 Within 30 days after the issue of an Offer Notice in accordance with this clause 15, the Board may issue any Securities for which Shareholders have not subscribed in accordance with this clause 15, to persons determined by the Board for a price, determined in accordance with clause 17 and which must not be less than the subscription price set out in the Offer Notice and otherwise on terms no more beneficial to the subscriber than those offered in the Offer Notice.
- 15.14 The Company will not issue or allot any Securities except in accordance with the Constitution, and will not issue or allot any equity Securities to any person, nor register a transfer of any share in favour of any person unless
- that person has entered into and delivered to the Company a Deed of Adherence agreeing to be bound by the terms of this Agreement (duly executed by the relevant parties to it).
- 15.15 The pre-emption right pursuant to this clause 15 will cease to apply where the shareholding of either CD Capital or Soul Pattinson falls below 10% of the issued share capital of the Company.
- 15.16 Any issue of Securities in accordance with Clause 16 will not need to comply with the requirements of this Clause 15.
- 15.17 The Company will ensure that any new share certificate issued by it will carry the statement set out in Clause 24.3.

16. Initial Funding Issue

- 16.1 At any time after the Completion Date, the Company may issue the Shareholders with a notice (the **Initial Funding Notice**) requiring them to make payment of the Initial Funding Amount, which obligation to pay will be allocated between the Shareholders in proportion with their respective shareholdings as set out in Schedule 1 (**Proportionate Funding Amount**).
- 16.2 In consideration for the payment of the Proportionate Funding Amount, the Company will allot and issue a number of new ordinary Shares equal in value to the Initial Funding Amount at a price of \$0.032 per Share (the **Initial Funding Issue**) to the Shareholders in a manner proportionate to their existing shareholdings as set out in Schedule 1 (rounded up to the nearest Share).
- 16.3 Upon receipt of the Initial Funding Notice, unless otherwise specified in its terms, the Shareholders will have the right to elect to make payment of their Proportionate Funding Amount to the Company in the manner specified in the Initial Funding Notice within 10 Business Days.
- 16.4 CD Capital will be able to apply the full amount of the Loan in payment of part of the amount payable under the Initial Funding Notice.
- 16.5 If a Shareholder fails to make payment in accordance with the terms of the Initial Funding Notice and Clause 16.3, that Shareholder:
- 16.5.1 irrevocably forfeits their right to have shares allotted and issued to them pursuant to the Initial Funding Issue; and
 - 16.5.2 assigns to the other Shareholder the right to subscribe for the Shares covered by their Initial Funding Notice.
- 16.6 Failure by one Shareholder to make payment in accordance with Clause 16.5 does not prevent any other Shareholder from making payment and receiving an allotment and issue of shares in accordance with the Initial Funding Issue.

17. Further funding

- 17.1 In respect of the further issues of Securities to CD Capital and Soul Pattinson after completion of the Initial Funding Issue, the price per Security will be:
- 17.1.1 Until the Shareholders have contributed (in one or a number of instalments) the aggregate amount of A\$35 million in addition to the Initial Funding Amount or 24 months have elapsed since the Completion Date, whichever occurs first, the same price per Security as the price per Security for the Initial Funding Issue; and
 - 17.1.2 After the period covered by Clause 17.1.1 above, the price per Security will be approved by a Special Directors' Resolution, agreed in writing between the Shareholders, or failing such approval or agreement, it will be the price/value determined by a Valuer.

- 17.2 In respect of any issue of Securities to a third party under clause 15.13, the Securities will be issued at a price per Security approved by a Special Directors' Resolution, agreed in writing between the Shareholders or failing such approval or agreement, it will be the price/value determined by a Valuer.
- 17.3 The Valuer will be instructed to determine the price per Security under either Clause 17.1.2 or 17.2 within 15 Business Days of its appointment on the following basis:
- 17.3.1 the Valuer will act as expert and not as arbitrator and its determination will, in the absence of fraud or manifest error, be final and binding on the parties;
 - 17.3.2 the price per Security will be determined using generally accepted valuation methods, including discounted cash flow valuation and market-based metrics, and otherwise using such methods as are commonly used at the date of valuation;
 - 17.3.3 the Securities will be issued on arm's length terms between a willing seller and a willing buyer;
 - 17.3.4 the Securities are capable of being transferred without restriction;
 - 17.3.5 the Company is and will continue to carry on business as a going concern;
 - 17.3.6 the currency of the valuation will be Australian dollar;
 - 17.3.7 any dividend or other distribution declared on or after the valuation date;
 - 17.3.8 valuing the Securities as a rateable proportion of the total value of all the issued Securities, without any premium or discount being attributable to such interests being majority or minority interests; and
 - 17.3.9 the Valuer will take into account such other factors as it reasonably considers relevant.
- 17.4 The Valuer will notify the Shareholders and the Company of its determination and the fees and expenses of the Valuer will be borne by the Shareholders equally.
- 17.5 The Company will provide such assistance and co-operation as the Valuer may request (including full and unrestricted access to the books and records of the Company).

18. Use of funds

- 18.1 The Company must use, and each Shareholder must take all reasonable steps that are within its power to procure that the Company uses, the Initial Funding Amount for the purpose of developing the Projects in accordance with the Business Plan and Budget.

19. Trade sale of Project

- 19.1 Unless otherwise agreed in writing, in the event that all or part of the Project is sold to a third party, and subject to the Constitution, the Company will as soon as practicable distribute, to the extent permitted by law, the proceeds of that sale to the Shareholders in proportion to the percentage of shares held.

20. Disposal of Securities

No Disposal of Securities

20.1 No Shareholder may Dispose of their Securities in the Company during the 12 month period immediately following the Completion Date, unless the Disposal is:

20.1.1 permitted under Clause 21; and

20.1.2 the conditions specified in clause 20.3 have been satisfied or waived (where capable of waiver) by the other Shareholder.

20.2 Following the expiry of the 12 month period in clause 20.1, a Shareholder may only Dispose of a Security:

20.2.1 as permitted under this Clause 20;

20.2.2 as permitted under Clause 21; or

20.2.3 in accordance with Clause 22 or 23,

and the conditions specified in clause 20.3 have been satisfied or waived (where capable of waiver) by the other Shareholder.

20.3 A transfer by a Shareholder of its Securities has no legal force unless:

20.3.1 the transferee obtains all necessary Authorisations to the transfer from Competent Authorities; and

20.3.2 the transferee (if not already a Shareholder) agrees to be bound by the Constitution and enters into Deed of Adherence.

20.4 The Company must note on each Share Certificate that the Shares may only be transferred in accordance with this Agreement.

Notice of Sale

20.5 A Shareholder who wants to Dispose of Securities (the **Seller**) to any person (whether or not a Third Party) must first serve a notice (**Notice of Sale**) on the Company specifying:

20.5.1 the number of Securities it wishes to Dispose (the **Sale Securities**) and the percentage that those Sale Securities represent compared to all Securities then on issue;

20.5.2 the sale price per Sale Security;

20.5.3 any other terms of the proposed Disposal;

20.5.4 if known, the name of the proposed buyer of the Sale Securities (including the proposed beneficial owner(s) where the proposed buyer is a nominee or a trustee of a trust); and

20.5.5 if applicable, attaching a copy of any offer to purchase the Sale Securities received by it from a proposed purchaser.

Pre-emption Offer

- 20.6 Within 5 Business Days of receipt of the Notice of Sale, the Company must offer the Sale Securities to all Shareholders other than the Seller (the **Remaining Shareholders**) by written notice (the **Pre-emption Offer**) that attaches a copy of the Notice of Sale and includes a statement that each Remaining Shareholder may, by written notice received by the Company on or before the date that is 15 Business Days after the date of the Pre-emption Offer (**Pre-emption Closing Date**), agree to buy the number of Sale Securities to be allocated in accordance with Clause 20.5 on the terms set out in the Notice of Sale.

Remaining Shareholders' option to buy Sale Securities

- 20.7 Following receipt of a Pre-emption Offer, each Remaining Shareholder may serve on the Company and the Seller a notice that it wishes to acquire a specified number of Sale Securities, with such notice to be given on or before the Pre-emption Closing Date.
- 20.8 If a Remaining Shareholder serves a notice under Clause 20.7:
- 20.8.1 the Seller must sell to that Remaining Shareholder the number of Sale Securities allocated to that Remaining Shareholder under Clause 20.9; and
- 20.8.2 that Remaining Shareholder must buy them on the terms set out in the Notice of Sale.

Allocation of Sale Securities

- 20.9 The Company must allocate for sale to each Remaining Shareholder who serves a notice under Clause 20.7 (**Pre-emption Buyer**):
- 20.9.1 if the Seller receives offers on or before the Pre-emption Closing Date for equal to or less than the number of Sale Securities the number of Sale Securities that the Pre-emption Buyer has offered to buy and the remaining Sale Securities will be dealt with in accordance with Clause 20.11; and
- 20.9.2 if the Seller receives offers on or before the Pre-emption Closing Date for more than the number of Sale Securities:
- (a) such proportion of the Sale Securities that the Pre-emption Buyer's existing holding of Shares bears to the total number of Shares held by all of the Pre-emption Buyers, provided that no allocation shall be made to a Pre-emption Buyer of more than the maximum number of Sale Securities that he has offered to buy; and
- (b) once the Sale Securities have been allocated in accordance with Clause 20.9.2(a) each Pre-emption Buyer whose offer has not been satisfied (each an **Excess Pre-emption Buyer**) will be allocated such proportion of the remaining Sale Securities that the Excess Pre-emption Buyer's existing holding of Shares bears to the total number of Shares held by all of the Excess Pre-emption Buyers, and this process will be repeated until all of the Sale Securities have been allocated.

20.9.3 The Company may round a fraction up or down as it thinks fit, if the operation of this Clause 20.9 would otherwise result in a fraction of a Share.

20.9.4 The Company must notify the Seller and each Pre-emption Buyer of the number of Sale Securities to which each Pre-emption Buyer is entitled within 10 Business Days of the Pre-emption Closing Date.

Completion of the sale of the Sale Securities

20.10 On or before the date that is 5 Business Days after the date of receipt by the Pre-emption Buyer of the notice under Clause 20.9.4:

20.10.1 each Pre-emption Buyer who is allocated Sale Securities under Clause 20.9 must pay to the Seller the purchase price for those Sale Securities; and

20.10.2 upon receipt of the amount owing by a Pre-emption Buyer who is allocated Sale Securities under this Clause 20.9, the Seller must:

- (a) deliver to the Pre-emption Buyer a transfer of the relevant number of Sale Securities duly executed by the Seller; and
- (b) give the Company the Share Certificates for the relevant Sale Securities.

Sale Securities not purchased by Shareholders

20.11 If, after the procedures set out in Clauses 20.6 to 20.9 have been complied with, the Remaining Shareholders have not purchased all of the Sale Securities, the Seller may, subject to Clause 20.12 and at any time before the expiry of 60 days after the date of the Pre-emption Offer, transfer any or all of the Sale Securities not purchased by the Remaining Shareholders to any person on terms and conditions that are no more favourable than the terms and conditions set out in the Notice of Sale.

20.12 The Seller's right to transfer Sale Securities under Clause 20.11 does not apply if the Board reasonably considers that:

20.12.1 the proposed transferee is a person (or a nominee for a person) who is not of suitable character and standing including no beneficial ownership of a person identified under any anti-terrorism, corruption or criminal listings;

20.12.2 the sale of those Sale Securities is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or

20.12.3 the Seller has failed or refused to promptly provide information available to the Seller and reasonably requested by the Board to enable the Board to form the opinions mentioned above.

Creation of Security Interests

20.13 A Shareholder may only create a Security Interest over a Share if the Board approves such action by Ordinary Resolution.

Registration of Transfers

- 20.14 The Board must approve and, so far as is allowed by law, register any transfers of Shares made in accordance with this Agreement.

Waiver of pre-emption rights

- 20.15 The restrictions imposed by this Clause 20 may be waived in relation to any proposed transfer of Securities with the written consent of Shareholders who, but for the waiver, would or might have been entitled to have such Securities offered to them in accordance with this Clause 20.

Tax Indemnity

- 20.16 Soul Pattinson indemnifies on demand the Company and CD Capital for any duty (including stamp duty, fines, penalties and interest) arising from a transfer of Securities in the Company to Soul Pattinson or a transfer of shares/interests in Soul Pattinson (which effects an indirect transfer of shares in the Company).
- 20.17 CD Capital indemnifies on demand the Company and Soul Pattinson for any duty (including stamp duty, fines, penalties and interest) arising from a transfer of Securities in the Company to CD Capital or a transfer of shares/interests in CD Capital (which effects an indirect transfer of shares in the Company).
- 20.18 The Company may refuse to register a transfer of Securities which would or may result in a liability to a Shareholder of the Company pursuant to the above provisions without reasonable evidence that no duty is payable or that the relevant amount of duty has been paid.

21. Permitted Transfers

- 21.1 A Shareholder may transfer all (but not part) of its Securities to its Affiliate, any other investment fund managed and controlled by the same fund manager as is the fund manager of CD Capital, or such other person approved in writing by all other Shareholders, without the need to comply with the procedures set out in clause 20, provided that the Shareholder must procure that, if the transferee ceases to be an Affiliate of the transferor, the transferor will immediately transfer the relevant Securities either to the original Shareholder or to another entity or person that is an Affiliate of the Shareholder.

22. Drag-Along Rights

- 22.1 If, after going through the pre-emption procedures set out in Clause 20, any Shareholder (the **Drag Seller**) wishes to transfer all of their Shares which represent 75% or more of the total Shares on issue in the Company (**Drag Shares**) to a bona fide arm's length Third Party purchaser (**Drag Buyer**), the Drag Seller may require all of the other Shareholders (**Called Shareholders**) to sell and transfer all of their Shares to the Drag Buyer in accordance with the provisions of this Clause 22 (**Drag-Along Option**).

Exercise of Drag-Along Option

- 22.2 The Drag Seller may exercise the Drag-Along Option by giving written notice to that effect (**Drag-Along Notice**) to the Called Shareholders at any time before the transfer of the Drag Shares to the Drag Buyer. The Drag-Along Notice must specify:

- 22.2.1 that the Called Shareholders are required to transfer all of their Shares (**Called Shares**) to the Drag Buyer pursuant to this Clause 22;
 - 22.2.2 the number of the Drag Seller's Shares which are proposed to be transferred to the Drag Buyer (which must be all the Shares held by the Drag Seller) and the proportion which the Drag Seller's Shares represent to the total number of Shares;
 - 22.2.3 the name of the Drag Buyer (including the proposed beneficial owner(s) where the proposed buyer is a nominee or a trustee of a trust);
 - 22.2.4 the consideration payable for the Called Shares which must, for each Called Share, be an amount at least equal to the price per share offered by the Drag Buyer for the Drag Shares and must not be less than the sale price notified in the Notice of Sale (**Drag Price**); and
 - 22.2.5 the proposed date of the transfer of the Called Shares to the Drag Buyer.
- 22.3 If a Drag-Along Notice is given, then:
- 22.3.1 each Drag Seller must offer to transfer its Shares to the Drag Buyer on the terms set out on in the Drag-Along Notice; and
 - 22.3.2 the Drag Seller must not complete the proposed sale to the Drag Buyer, unless, at the same time, the Drag Buyer buys all of the Shares of the Drag Seller at the Drag Price and on the other terms stated in the Drag-Along Notice.
- 22.4 Once issued, a Drag-Along Notice will be irrevocable. However, a Drag-Along Notice will lapse if, for any reason, the Drag Seller has not sold the Drag Shares to the Drag Buyer within 15 Business Days of serving the Drag-Along Notice.

Completion of sale of Called Shares

- 22.5 Completion of the sale of the Called Shares will take place on the Drag Completion Date. In this Clause 22.5, **Drag Completion Date** means the date proposed for completion of the sale of the Drag Shares to the Drag Buyer unless:
- 22.5.1 the Drag Seller and all of the Called Shareholders agree otherwise, in which case the Completion Date will be the date agreed in writing by the Drag Seller and all of the Called Shareholders; or
 - 22.5.2 the date proposed for completion of the sale of the Drag Shares is less than 10 Business Days after the date on which the Drag-Along Notice was served, in which case the Drag Completion Date will be the 10th Business Day after delivery of the Drag-Along Notice.
- 22.6 On or before the Drag Completion Date, the Called Shareholders must deliver duly executed share transfer forms for the Called Shares, together with the relevant share certificates, to the Company.
- 22.7 On the Drag Completion Date, the Company must pay the Called Shareholders, on behalf of the Drag Buyer, the Drag Price for their Called Shares, to the extent that the Drag Buyer has

put the Company in the requisite funds. The Company's receipt for such funds will be a good discharge to the Drag Buyer. The Company shall hold such funds on trust for the Called Shareholders without any obligation to pay interest.

- 22.8 To the extent that the Drag Buyer has not, on the Drag Completion Date, put the Company in the requisite funds to pay the Drag Price to each Called Shareholder, the Called Shareholders will be entitled to the return of the share transfer forms and Share Certificates for the relevant Called Shares and the Called Shareholders will have no further rights or obligations under this Clause 21 in respect of their Called Shares.
- 22.9 Failure to produce a Share Certificate will not impede the registration of shares under this Clause 21.

Preservation of Consent Matter rights

- 22.10 Notwithstanding anything else in this Agreement, if the exercise of a Drag-Along Option under this Clause 21 would result in the Soul Pattinson's interest being diluted such that it is no longer able to appoint a Director in accordance with Clause 5.5, the Drag Seller must either (at its election):
- 22.10.1 adjust the number of Shares it proposed to sell in order for Soul Pattinson to retain its right to appoint at least one Director in accordance with Clause 5.5; or
- 22.10.2 procure that the Soul Pattinson retains its right to vote on Consent Matters in accordance with Clause 9.

23. Tag-Along Rights

Tag-Along Option

- 23.1 If, after going through the pre-emption procedures set out in Clause 20, a Shareholder (or Shareholders) (**Transferring Shareholder**) proposes to transfer some or all of its Shares to a third party purchaser (**Tag Buyer**), the Transferring Shareholder must procure that the Tag Buyer gives a written notice (**Tag Notice**) to the remaining Shareholders which must specify the following:
- 23.1.1 the number of Shares which the Transferring Shareholder proposes to sell (**Sale Securities**);
- 23.1.2 the price per Share payable for the Sale Securities; and
- 23.1.3 any other terms of the proposed sale.
- 23.2 If a Tag Notice is given, then within 14 days following receipt of the Tag Notice, any other Shareholder (**Tagging Shareholder**) may, at its option (**Tag Along Option**) and by written notice (**Tag Along Notice**) require the Transferring Shareholder to procure the Tag Buyer to purchase from the Tagging Shareholder the same percentage of the Tagging Shareholder's Shares as the percentage of the Transferring Shareholder's Shares which the Transferring Shareholder intends to sell or such lesser percentage or number of Shares specified by that Tagging Shareholder at the same price and otherwise on the same terms specified in the Tag Notice.

- 23.3 If the Tag Buyer does not give the Tag Notice to all other Shareholders within 10 Business Days of receipt by the Transferring Shareholder of the offer from the Tag Buyer, the Transferring Shareholder must not accept the offer.

Transferring Shareholder may not sell without Tagging Shareholder

- 23.4 If a Tagging Shareholder exercises the Tag-Along Option, the Transferring Shareholder must procure the simultaneous sale of the Tagging Shareholder's Shares on the terms and conditions referred to in the Tag Notice and may only sell its Shares to the Tag Buyer if it ensures that the Tag Buyer agrees to purchase the Tagging Shareholder's Shares on this basis.
- 23.5 If the Tag Buyer refuses or fails to purchase all the Tagging Shareholders' Shares covered by a Tag Along Notice, the Transferring Shareholder must not sell any of their Shares to the Tag Buyer without the prior written consent of all of the remaining Shareholders.

24. Completion of Transfer of Shares

- 24.1 Any transfer of Shares (**Sale Interests**) by a Shareholder (**Seller**) to one or more Shareholders or third party (**Buyer**) pursuant to this Agreement will be made:

24.1.1 with full title guarantee and free from all Encumbrances;

24.1.2 with the benefit of all rights attaching to them as at the date of the relevant Transfer Notice; and

24.1.3 on the terms set out in this Clause 24.

- 24.2 On the date of completion of a transfer of Sale Interests under this Agreement:

24.2.1 the Seller will:

- (a) if any Buyer is not already a Shareholder, procure that the Buyer delivers to the Company a Deed of Adherence duly executed by the relevant parties to it;
- (b) deliver to the Buyer(s) duly executed share transfer forms in respect of the Shares being sold, along with the relevant share certificates for cancellation (or an indemnity in a form satisfactory to the Buyer if such share certificate(s) have been lost or destroyed);
- (c) procure the resignation, with effect from the transfer date, of such number of Directors appointed by it as are necessary to ensure that the number of Directors appointed by it is compliant with the requirements of Clause 5 and provide such letters of resignation, settlement agreements or other documents as may be necessary in respect of such resignations, and will indemnify and hold harmless each other Shareholder and the Company from and against any and all claims arising out of any such resignation (including any claim for wrongful dismissal);
- (d) repay (or procure the repayment of) such proportion of loans made by the Company to the Seller or its Affiliates (including all outstanding principal and accrued interest) as are necessary to ensure that the loans which remain

outstanding and owing by the Seller or its Affiliates to the Company reflect the Seller's reduced shareholding in the Company; and

- (e) if the Seller will no longer be a Shareholder following the transfer, give to the Company, or destroy, all material documentation relating to the Company, including Budgets, Business Plans, financial records and correspondence held by it or any Affiliate, provided that the Seller may keep such documents as may be necessary to comply with applicable law;

24.2.2 the Buyer(s) will pay the Seller the consideration for the Sale Interests by electronic transfer to the bank account of the Seller notified in writing for the purpose; and

24.2.3 the parties will do all such things and execute and deliver all such other documents as any other party may reasonably require to give effect to the transfer of the Sale Interests.

24.3 The parties will procure that a transfer of Shares will not be approved for registration unless this Agreement and the Constitution have been complied with. The Company will procure that each share certificate issued by it will carry the following statement:

"Any disposition, transfer, charge of or dealing in any other manner in the shares represented by this certificate is subject to a Shareholders' Agreement between CD Capital Natural Resources Fund III L.P., Washington H. Soul Pattinson and Company Limited and Verdant Minerals Ltd dated on or about 11 March 2019."

Power of attorney and appointment of agent

24.4 In respect of any failure by a Shareholder to comply with its obligations pursuant to Clauses 20 (Disposal of Securities), 22 (Drag-Along Rights) and 23 (Tag-Along Rights) (**Relevant Clauses**):

24.4.1 each Shareholder irrevocably appoints each Director severally as its attorney by way of security for the performance of its obligations pursuant to the Relevant Clauses and, separately, as its agent, in each case to execute, deliver and issue any necessary document, agreement or instrument required to be executed by it under the Relevant Clauses;

24.4.2 the Company will be entitled to receive the purchase price for the Sale Interests on trust for the Seller and to cause the Buyer to be registered as the holder of the Sale Interests; and

24.4.3 the receipt by the Company of the purchase price for any transfer pursuant to a Relevant Clause will be a good discharge to the Buyer (who will not be bound to see the application of those monies) and after the Buyer has been registered as the holder of the Sale Interests in exercise of the powers under this Clause 24.4, the validity of such exercise will not be questioned by any person.

25. Liquidity Event

25.1 The Company must use all reasonable endeavours, and the Shareholders must use all reasonable endeavours to procure the Company, to complete a Liquidity Event during the

period between the 4th and 6th anniversary of the Completion Date, or such other periods agreed by all Shareholders, to enable Shareholders to realise their investments in the Company.

26. Deadlock

26.1 If:

26.1.1 by reason of an equality of votes, the Board cannot reach agreement on any resolution where failure to pass such resolution would result in a breach by the Company of any Material Contract (**Disputed Matter**); or

26.1.2 three consecutive Board meetings at which such Disputed Matter was to be considered have been dissolved because a quorum is not present,

such matter will be referred immediately to the Shareholders for resolution by an Ordinary Resolution of Shareholders.

26.2 The Shareholders shall each inform their Directors of the results of the resolution and a Board meeting shall be called as soon as reasonably practicable at which the Directors will note the resolution reached by the Shareholders and pass such resolutions as are required to effect such resolution.

27. Intellectual Property

27.1 All Intellectual Property developed or acquired by the Company will belong to the Company, and, if capable of registration, will be registered in the name of the Company.

27.2 If any Intellectual Property of the Company contains or is based on Intellectual Property owned or licenced by any Shareholder (or its Affiliate) (**Background Rights**) then the Company will not own any such Background Rights.

27.3 If any Shareholder (or its Affiliate) owns or is the licensee of Background Rights proposed to be used by the Company, such Shareholder may give or seek to secure (as the case may be) a licence for the Company of such Background Rights on such terms as may be agreed with the Company. If the Company is permitted to use any Background Rights without a licence first having been agreed, the relevant Shareholder will (or will procure that its Affiliate will) grant an irrevocable, non-exclusive, world-wide, royalty-free licence to use such Background Rights for so long as that Shareholder remains a Shareholder.

28. Procedures and compliance

28.1 The Company will develop, maintain and administer such policies, procedures and controls as may be reasonably expected to ensure:

28.1.1 compliance by the Company with applicable laws and regulations, including Anti-Bribery Laws;

28.1.2 appropriate reporting and recording of the agreements, transactions and arrangements comprising the Business; and

- 28.1.3 the retention of books and records for a period of at least six years from the end of the accounting period to which such records relate or (if later) the time at which tax liabilities of the Company in respect of such accounting period have been finally determined.

29. Expenses

- 29.1 On completion of the Initial Funding Issue, the Company will:

29.1.1 Pay up to A\$300,000 of CD Capital's tax and legal costs in relation to the preparation of this Agreement and the implementation of the Scheme and such amount may be deducted from the payment of the Initial Funding Amount. CD Capital will procure that the Company receives an invoice to evidence the tax and legal costs paid pursuant to this provision; and

29.1.2 Pay up to A\$300,000 of Soul Pattinson's tax and legal costs in relation to the preparation of this Agreement and the implementation of the Scheme and such amount may be deducted from the payment of the Initial Funding Amount. Soul Pattinson will procure that the Company receives an invoice to evidence the tax and legal costs paid pursuant to this provision.

- 29.2 Otherwise, all out-of-pocket third party transaction expenses incurred in connection with this Agreement, the Scheme and the Initial Funding Issue, including all costs, expenses and fees of the Company incurred prior to or after the completion of the Initial Funding Issue in connection with, or incidental to, the Initial Funding Issue or the Scheme, shall be paid by the Party incurring such expenses, whether or not the Initial Funding Issue or the Scheme is consummated.

30. Termination

- 30.1 Subject to Clause 30.2, this Agreement will terminate immediately upon:

30.1.1 the Shareholders agreeing in writing to terminate this Agreement;

30.1.2 an effective resolution being passed or a binding order being made for the winding up of the Company;

30.1.3 the listing of the Company on the Australian Securities Exchange or a market of the London Stock Exchange;

30.1.4 one Shareholder holding all the issued Shares in the Company; or

30.1.5 a Liquidity Event has occurred;

and, except in the case of a transfer of Shares to an Affiliate, this Agreement will cease to have effect as regards to any Shareholder who ceases to hold Shares.

- 30.2 Termination and cessation of this Agreement will be without prejudice to:

30.2.1 any provision of this Agreement which expressly or impliedly survives cessation (including Clauses 1, 3, 31 to 46); and

- 30.2.2 any liability or obligation of a Shareholder which at the time of cessation has accrued to another party or may so accrue in respect of any act or omission occurring on or prior to such cessation.

31. Confidentiality

- 31.1 Each party undertakes that it will keep strictly confidential and will not at any time disclose to any person the Confidential Information of the other party, including the terms of this Agreement, except as permitted by Clause 31.2.
- 31.2 Each party may disclose the other party's Confidential Information:
- 31.2.1 to its holding companies, and in respect of CD Capital, CD Capital Asset Management Limited (its fund manager), and their employees, officers, representatives, and advisers who need to know such information for the purposes of exercising the party's rights or the carrying out of its obligations in each case under or in connection with this Agreement, provided that each party will procure that persons to whom it discloses the other party's Confidential Information in accordance with this Clause 31.2.1 comply with this Clause 31;
 - 31.2.2 if such Confidential Information is in or enters the public domain other than as a result of breach of this Clause 31;
 - 31.2.3 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, where reasonably possible, notice will be given to the other party of such required disclosure and the party making such disclosure will use reasonable endeavours to procure and enforce confidentiality undertakings in its favour from the relevant third party;
 - 31.2.4 if the disclosure is required to be made by a recognised securities exchange on which the party's shares (or that of its Related Bodies Corporate, as defined in the Act) are listed; and
 - 31.2.5 to (a) a *bona fide* prospective purchaser of Shareholder Interests, and (b) a *bona fide* prospective lender to the Company or any of its subsidiaries, provided that such prospective purchaser or lender (as the case may be) has entered into a confidentiality agreement containing obligations of confidentiality no less onerous than those contained in this Clause 31.
- 31.3 Neither party will use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement. If a party becomes aware of a breach of this clause 31, that party must immediately notify the other parties.

32. Public announcements

- 32.1 The Shareholders intend that there will be limited public disclosure of the terms and structure of the joint venture (subject to disclosure required by the relevant listing authority or stock exchange).

- 32.2 A Shareholder must not issue any public announcement, circular or other communication relating to the Company or this Agreement (**Announcement**) without the prior written approval of the other Shareholders (such approval not to be unreasonably withheld or delayed). This does not apply to any Announcement required to be made by law or the rules of any recognised stock exchange or any governmental, regulatory or supervisory body or court of competent jurisdiction, provided that the party with an obligation to make an Announcement has, so far as practicable, consulted with the other parties regarding the content of the Announcement before complying with such obligation.

33. Dispute Resolution

- 33.1 If a dispute arises between the parties in relation to this Agreement (**Dispute**) other than a Disputed Matter, a party must comply with this Clause before commencing court proceedings (except proceedings for interlocutory relief).
- 33.2 A party claiming that a Dispute has arisen must give the other parties to the Dispute a notice setting out the details of the Dispute.
- 33.3 Within 20 Business Days after a notice is given under Clause 33.2 (or within such longer period of time as agreed by the parties in writing) (**Resolution Period**), each party to the Dispute must use its reasonable efforts to resolve the Dispute.
- 33.4 If the Dispute is resolved under clause 33.3 within the Resolution Period:
- 33.4.1 the parties must, as soon as possible, execute a statement setting out the terms of the agreement reached; and
 - 33.4.2 each party must do anything (including execute any document) reasonably required by the other parties to give effect to the agreement.
- 33.5 If the parties cannot resolve the Dispute within the Resolution Period, either party may refer the dispute to the courts.
- 33.6 Each party to a Dispute must pay its own costs of complying with this Clause 33.

34. Goods and Services Tax

- 34.1 For the purposes of this clause 34:
- 34.1.1 unless otherwise stated, terms that have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (**GST Act**) have the same meaning as in the GST Act;
 - 34.1.2 if a supply is treated as a periodic or progressive supply under the GST Act, each periodic or progressive component of the supply will be treated as if it is a separate supply.
- 34.2 Unless otherwise stated, all consideration to be paid or provided under this Agreement is expressed exclusive of GST.

- 34.3 If GST applies to a supply made under this Agreement, for consideration that is not stated to include GST, the recipient must pay to the supplier an additional amount equal to the GST payable on the supply (**GST Amount**). The GST Amount is payable at the same time that the first part of the consideration for the supply is to be provided. However, this clause 34.3 will not apply if the GST on the supply is reverse charged and payable by the recipient.
- 34.4 Notwithstanding any other provision, the recipient need not pay the GST Amount until it has received from the supplier a tax invoice or adjustment note (as the case may be).
- 34.5 If an adjustment event arises in respect of a supply to which clause 34.3 applies, the GST Amount must be adjusted to reflect the adjustment event and a payment must be made by the supplier to the recipient, or by the recipient to the supplier, as the case may be.
- 34.6 If a party is entitled to be reimbursed or indemnified for a cost or expense under this Agreement, the amount to be reimbursed must be reduced to the extent that the party (or the representative member for a GST group of which that party is a member) is entitled to an input tax credit for the cost or expense.
- 34.7 Unless otherwise stated, if an amount payable under this Agreement is to be calculated by reference to:
- 34.7.1 the consideration to be received for a supply; or
- 34.7.2 the consideration to be provided for an acquisition;
- 34.7.3 then, for the purposes of that calculation, the consideration is to be reduced to the extent that it includes any amount on account of GST (regardless of whether the amount is separately identified or included as part of the consideration).
- 34.8 This clause 34 will survive the termination of this Agreement.

35. Notices

- 35.1 Any notice or other communication from one party (**Sender**) to another party (**Recipient**) under this Agreement must be in writing, signed by the Sender or a person authorised to sign on behalf of the Sender, and be addressed to the Recipient using the details below (and each party will promptly notify the other in writing of any change to their details for service):

The Company

Attention: Chris Tziolis
Address: Unit 20, 90 Frances Bay Drive, Stuart Park NT 0820

Email address: ctziolis@verdantminerals.com.au
Copy to: Bruce Arnold
Email address: barnold@verdantminerals.com.au

CD Capital

Attention: Carmel Daniele
Address: 105 Piccadilly, London W1J 7NJ, United Kingdom
Email address: carmel@cd-capital.com
Copy to: Alex Worner
Address: Ernst & Young, 200 George St, Sydney NSW 2000, Australia
Email address: alex.worner@au.ey.com

Soul Pattinson

Attention: Ian Bloodworth
 Address: Level 14, 151 Clarence Street, Sydney NSW 2000
 Email address: IBloodworth@whsp.com.au

Copy to: David Scammell
 Address: Level 14, 151 Clarence Street, Sydney NSW 2000
 Email address: DScammell@pcap.com.au

Notices must be given by one of the methods set out in the table below and satisfactory proof of such delivery or sending must be retained by the Sender.

35.2 Any Notice is regarded as given and received at the time set out in the table below.

Notice delivery method	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address.
By pre-paid post to the nominated address	At 9.00 am (addressee's time) on the second Business Day after the date of posting (and on the tenth Business Day after the date of posting to an address outside Australia).
By email to the nominated email address	Immediately after the time sent (as recorded on the device from which the sender sent the email) on the date of delivery if it is a Business Day and the delivery was within a Business Hours Period (unless the sender receives an automated message that the email has not been delivered).

35.3 If the deemed time of service would occur outside Business Hours, the notice will be deemed served at the start of Business Hours on the next Business Day.

35.4 Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party.

35.5 This Clause 35 does not apply to the service of proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

36. Entire agreement

36.1 This Agreement contains the whole agreement between the parties relating to its subject matter as at the date of its execution to the exclusion of any terms implied by law which may be excluded.

36.2 No party has relied on any representation or warranty except as expressly set out in this Agreement.

37. Conflicts

37.1 In the event of any conflict, inconsistency or ambiguity between this Agreement and the Constitution, it is intended that this Agreement will prevail and, accordingly, the Shareholders

will exercise all voting rights and other powers of control available to them so as to give effect to the provisions of this Agreement, including making any necessary amendments to the Constitution.

- 37.2 Each Shareholder agrees that it will not exercise any rights conferred on it by the Constitution which are (or may be) inconsistent with its rights or obligations under this Agreement.

38. Further assurance

Each party will (and will procure, so far as it is able, any necessary third party will) execute and deliver such documents and instruments, and do all such acts and things, as are reasonably required to give full effect to this Agreement and any documents entered into pursuant to it and to give the other parties the full benefit of this Agreement.

39. No partnership

Nothing in this Agreement creates a partnership or establishes any fiduciary relationship between the parties, or (subject to Clause 24.4) any relationship of principal and agent.

40. Release, waiver and remedies

- 40.1 Any liability to any party under this Agreement may be released, compounded or compromised in whole or in part without in any way prejudicing that party's rights against any other party under the same or like liability, whether joint and several or otherwise.
- 40.2 No failure of any party to exercise, nor delay in exercising, any right, power or remedy in connection with this Agreement (a **Right**) will operate as a waiver of that Right, nor will any single or partial exercise of any Right preclude any other or further exercises of that Right or the exercise of any other Right. Any express waiver of any breach of this Agreement will not be deemed to be a waiver of any subsequent breach.
- 40.3 The rights and remedies of each party to this Agreement are, except as expressly stated to the contrary, without prejudice to any other rights and remedies available to it.

41. Variation

No variation of this Agreement will be effective unless it is in writing and signed by or on behalf of each of the parties.

42. Assignment

- 42.1 This Agreement will be binding on and inure to the benefit of the parties and their successors and permitted assigns.
- 42.2 No party will, without the prior written consent of the other parties, assign, novate or otherwise transfer any of its rights or obligations under this Agreement except in connection with a transfer of Interests permitted by this Agreement.
- 42.3 No Shareholder will be entitled to make any claim against another party in respect of any loss which it does not suffer in its own capacity as owner of Shares.

43. Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any applicable law, such provision will to that extent be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement will not be affected.

44. Counterparts

This Agreement may be entered into in any number of counterparts, each of which when so executed shall be an original and all of which when duly executed and delivered will together constitute one and the same instrument.

45. Rights of third parties

Nothing in this Agreement gives a party authority to bind any other party in any way

46. Governing law and jurisdiction

46.1 The Agreement and any non-contractual obligations arising out of it will be governed and construed in accordance with the laws of New South Wales.

46.2 Each of the parties irrevocably:

46.2.1 submits to the exclusive jurisdiction of courts exercising jurisdiction of New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement;

46.2.2 waives any right it has to object to the venue of any legal process in the courts described in Clause 46.2.1 on the basis that:

- (a) any proceeding arising out of or in connection with this Agreement has been brought in an inconvenient forum; or
- (b) the courts described in Clause 46.2.1 do not have jurisdiction.

THIS AGREEMENT has been executed as a deed and delivered on the date stated at the beginning of this Agreement.

Schedule 1
Shareholdings

Shareholder	Class of share	Number of shares
CD Capital Natural Resources Fund III LP	Ordinary shares	734,820,425
Washington H. Soul Pattinson and Company Limited	Ordinary shares	368,941,067
TOTAL		1,103,761,492

Schedule 2
Deed of Adherence

THIS DEED (Deed) is made on *[date]*

PARTIES

- (1) **[NEW SHAREHOLDER NAME]** [ACN OR ABN NUMBER], a *[legal form eg, company]* incorporated in *[jurisdiction]* whose registered office is at *[address]* (**New Shareholder**).
- (2) **CD Capital Natural Resources Fund III L.P.**, a limited partnership formed under the laws of Cayman Islands whose registered office is at DMS House, 20 Genesis Close, PO Box 2587, KY11 1103 Cayman Islands (**CD Capital**).
- (3) **Washington H. Soul Pattinson and Company Limited** ACN 000 002 728, a public limited company incorporated in NSW whose registered office is at First Floor, 160 Pitt Street, Sydney NSW 2000 (**Soul Pattinson**).

RECITALS

- (A) The New Shareholder wishes to [subscribe for] [acquire] shares in the capital of Verdant Minerals Ltd (ACN 122 131 622) (**Company**).
- (B) Clause [15] of an agreement dated *[date]* between (1) CD Capital Natural Resources Fund III L.P. and (2) Washington H. Soul Pattinson and Company Limited and (3) the Company (**Shareholders' Agreement**), requires any proposed [subscriber for] [acquirer of] shares in the capital of the Company to enter into a deed of adherence agreeing to be bound by the terms and conditions of the Shareholders' Agreement.

IT IS AGREED as follows:

- 1.1 Words and expressions defined in the Shareholders' Agreement shall have the same meaning when set out in this Deed.
- 1.2 The New Shareholder confirms that it has been provided with a copy of the Shareholders' Agreement and covenants with each of the persons named in the Schedule to this Deed to observe, perform and be bound by all the terms of the Agreement which are capable of applying to the New Shareholder as if it were a Shareholder and which have not been performed at the date of this Deed to the intent and effect that the New Shareholder will be deemed with effect from the date of this Deed to be a party to the Shareholders' Agreement as if named as a party to it.
- 1.3 [Nothing in this Deed amounts to a waiver of nor in any way affects the rights of the parties arising from any breach before the date of this Deed, or any of *[name of transferor's]* obligations under the Agreement.]
- 1.4 The notice details of the New Shareholder for the purposes of Clause 35 of the Shareholders' Agreement are as follows:

Attention:

Address:

Email:
Copy to:

- 1.5 The Agreement and any non-contractual obligations arising out of it will be governed and construed in accordance with the laws of the State of New South Wales and the Commonwealth of Australia. Each of the parties irrevocably
- 1.5.1 submits to the exclusive jurisdiction of courts exercising jurisdiction in the State of New South Wales and the Commonwealth of Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement;
- 1.5.2 waives any right it has to object to the venue of any legal process in the courts described in Clause 1.5.1 on the basis that:
- (c) any proceeding arising out of or in connection with this Agreement has been brought in an inconvenient forum; or
- (d) the courts described in Clause 1.5.1 do not have jurisdiction.
- 1.6 In respect of any failure by the New Shareholder to comply with its obligations pursuant to the Relevant Clauses, the New Shareholder irrevocably appoints severally each of the other Shareholders and the Company (acting by their directors from time to time) as its attorney by way of Security for the performance of its obligations pursuant to the Relevant Clauses and, separately, as its agent, in each case to execute, deliver and issue any necessary document, agreement or instrument required to be executed by it under the Relevant Clauses.
- 1.7 [The New Shareholder irrevocably appoints *[name of process agent]* of *[address]* as its agent to receive and acknowledge on its behalf service of any proceedings in the Commonwealth of Australia arising out of or in connection with this Agreement and undertakes not to revoke the authority of such agent. Such service will be deemed completed on delivery to that agent (whether or not it is forwarded to and received by its principal). If such agent ceases to be able to act as agent or no longer has an address within the Commonwealth of Australia, the New Shareholder will immediately appoint a substitute and notify the other parties in writing of the substitute agent's name and address within the Commonwealth of Australia. Until any party receives such notification, it will be entitled to treat the agent named above as the agent of the New Shareholder for the purposes of this Clause.]
- 1.8 Nothing in this Deed will affect the right to serve process in any other manner permitted by law.
- THIS DEED has been executed [and has been delivered] on the date set out at the top of the first page.

Schedule
[Parties to the Shareholders' Agreement including those who have executed earlier Deeds of Adherence]

Executed as a deed.

SIGNED, SEALED AND DELIVERED by **CD CAPITAL NATURAL RESOURCES FUND III LP** by its authorised signatory:

Signature of Authorised Signatory

Signature of Witness

Full Name of Signatory

Full Name of Witness

SIGNED, SEALED AND DELIVERED by **WASHINGTON H. SOUL PATTINSON AND COMPANY LTD** by two Directors or a Director and Secretary in accordance with s.127 of the *Corporations Act 2001* (Cth):

Signature of Director

Signature of Director/Secretary

Full Name of Signatory

Full Name of Signatory

SIGNED, SEALED AND DELIVERED by **VERDANT MINERALS LTD** by two Directors or a Director and Secretary in accordance with s.127 of the *Corporations Act 2001* (Cth):

Signature of Director

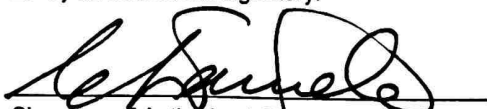
Signature of Director/Secretary

Full Name of Signatory

Full Name of Signatory

Executed as a deed.

SIGNED, SEALED AND DELIVERED by CD
CAPITAL NATURAL RESOURCES FUND III
LP by its authorised signatory:



Signature of Authorised Signatory



Signature of Witness

CAR MEL DANIELE

Full Name of Signatory

Genevieve Madden

Full Name of Witness

SIGNED, SEALED AND DELIVERED by
WASHINGTON H. SOUL PATTINSON AND
COMPANY LTD by two Directors or a Director
and Secretary in accordance with s.127 of the
Corporations Act 2001 (Cth):

Signature of Director

Signature of Director/Secretary

Full Name of Signatory

Full Name of Signatory

SIGNED, SEALED AND DELIVERED by
VERDANT MINERALS LTD by two Directors
or a Director and Secretary in accordance with
s.127 of the *Corporations Act 2001* (Cth):

Signature of Director

Signature of Director/Secretary

Full Name of Signatory

Full Name of Signatory

Executed as a deed.

SIGNED, SEALED AND DELIVERED by CD
CAPITAL NATURAL RESOURCES FUND III
LP by its authorised signatory:

Signature of Authorised Signatory

Signature of Witness


Full Name of Signatory

Full Name of Witness

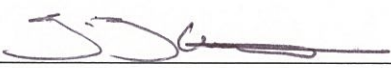
SIGNED, SEALED AND DELIVERED by
WASHINGTON H. SOUL PATTINSON AND
COMPANY LTD by two Directors or a Director
and Secretary in accordance with s.127 of the
Corporations Act 2001 (Cth):



Signature of Director



Full Name of Signatory



Signature of Director/Secretary

Ian D Bloodworth

Full Name of Signatory

SIGNED, SEALED AND DELIVERED by
VERDANT MINERALS LTD by two Directors
or a Director and Secretary in accordance with
s.127 of the *Corporations Act 2001 (Cth)*:

Signature of Director

Full Name of Signatory

Signature of Director/Secretary

Full Name of Signatory

Executed as a deed.

SIGNED, SEALED AND DELIVERED by CD
CAPITAL NATURAL RESOURCES FUND III
LP by its authorised signatory:

Signature of Authorised Signatory

Signature of Witness

Full Name of Signatory

Full Name of Witness

SIGNED, SEALED AND DELIVERED by
WASHINGTON H. SOUL PATTINSON AND
COMPANY LTD by two Directors or a Director
and Secretary in accordance with s.127 of the
Corporations Act 2001 (Cth):

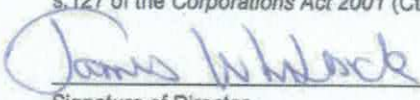
Signature of Director

Signature of Director/Secretary

Full Name of Signatory

Full Name of Signatory


SIGNED, SEALED AND DELIVERED by
VERDANT MINERALS LTD by two Directors
or a Director and Secretary in accordance with
s.127 of the *Corporations Act 2001 (Cth)*:



Signature of Director



Signature of Director/Secretary



Full Name of Signatory

BRUCE W. ARNOLD

Full Name of Signatory