

Form 604
Corporations Act 2001
Section 671B

Notice of change of interests of substantial holder

To Company Name/Scheme Whitehaven Coal Limited

ACN/ARSN 124 425 398

1. Details of substantial holder (1)

Name AMCI Euro-Holdings B.V, AMCI WH LLC and their related and controlled bodies corporate (AMCI Group)

ACN/ARSN (if applicable) _____

There was a change in the interests of the substantial holder on

15/10/2014

The previous notice was given to the company on

28/08/2014

The previous notice was dated

28/08/2014

2. Previous and present 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 when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Ordinary shares (fully paid)	111,649,992	10.88%	86,170,596	8.40%

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
15/10/2014	AMCI Group, AMCI Euro Holdings B.V and AMCI WH LLC	Acquisition of shares by AMCI WH LLC under a share sale and purchase agreement dated 22/08/2014 attached as Annexure A	US\$60,066,225.40	38,219,096 Ordinary shares (fully paid)	38,219,096

4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (8)	Class and number of securities	Person's votes
AMCI Group, AMCI Euro Holdings B.V and AMCI WH LLC	J.P. Morgan Nominees Australia Limited	J.P Morgan Nominees Australia Limited	AMCI WH LLC is the beneficial owner of the shares and controls the disposal of the shares	47,951,500 Ordinary shares (fully paid)	47,951,500
AMCI Group, AMCI Euro Holdings B.V and AMCI WH LLC	UBS Nominees Pty Ltd	UBS Nominees Pty Ltd	AMCI WH LLC is the beneficial owner of the shares and controls the disposal of the shares	38,219,096 Ordinary shares (fully paid)	38,219,096

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
Not applicable	

6. Addressee

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

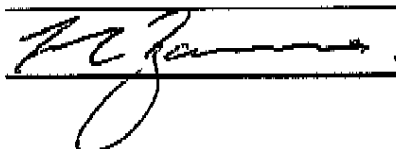
Name	Address
AMCI Euro-Holdings B.V	Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands
AMCI WH LLC	1007 Orange Street, Suite 1410, Wilmington, DE 19801, USA
J.P. Morgan Nominees Australia Limited	Level 19, 55 Collins Street, Melbourne, Victoria 3000
UBS Nominees Pty Ltd	Level 16, 2 Chifley Square Sydney NSW 2000

Signature

print name Mark Tzannes

capacity CFO

sign here



date 17/10/2014

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 6 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 person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
 - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. 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.
- (7) 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 on 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.
- (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) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

ANNEXURE A

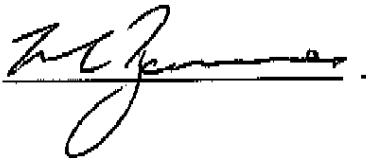
SHARE SALE AND PURCHASE AGREEMENT

THIS IS ANNEXURE A OF 25 PAGES REFERRED TO IN FORM 604 NOTICE OF CHANGE OF INTERESTS OF SUBSTANTIAL HOLDER IN RELATION TO WHITEHAVEN COAL LIMITED ACN 124 425 396.

THIS IS A TRUE COPY OF THE SHARE SALE AND PURCHASE AGREEMENT UNDER WHICH SHARES WERE ACQUIRED BY AMCI WH LLC.

ALL TERMS AND CONDITIONS ARE CONTAINED IN THE **ATTACHED** DOCUMENT.

DATED: 17-10-2014

SIGNED: 

Share Sale and Purchase Agreement

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ERC Whitehaven Holdings B.V.

AMCL Euro-Holdings B.V.

Share Sale and Purchase Agreement

Sale of shares in Whitehaven Coal Limited

The Allens contacts for this document are Andrew Knox / John Hedge

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Share Sale and Purchase Agreement

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Share Sale and Purchase Agreement

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This Agreement is made on 22 August 2014

Parties

- 1 ~~ERC Whitehaven Holdings B.V. a company with limited liability incorporated under the laws of the Netherlands, having its registered address at Prins Bernhardplein 200, 1097 JB Amsterdam, the Netherlands (the Vendor).~~
- 2 ~~AMCI Euro Holdings B.V. of Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands (the Purchaser).~~

Recitals

- A The Vendor is the registered holder and beneficial owner of the Shares.
- B The Vendor has agreed to sell the Shares to the Purchaser, and the Purchaser has agreed to buy the Shares from the Vendor, on the terms of this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Business Days means a day which is not a Saturday, Sunday or a public holiday in Brisbane and London.

Claim means any claim, demand, legal proceeding or cause of action including any claim, demand, legal proceeding or cause of action:

- (a) based in contract (including breach of warranty);
- (b) based in tort (including misrepresentation or negligence);
- (c) under common law; or
- (d) under statute (including the Australian Consumer Law (as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) or as applying under any State or Territory fair trading legislation),

whether present, unascertained, immediate, future or contingent.

Company means Whitehaven Coal Limited (ACN 124 425 396).

Completion means, in the case of each of the Unconditional Shares and Conditional Shares completion of the sale and purchase of the relevant Shares under this Agreement.

Completion Date means:

- (a) for Completion in respect of the Conditional Shares, 15 October 2014 or an earlier date which is three Business Days after the Purchaser notifies the Vendor in writing of that earlier completion date provided that any such earlier date must:
 - (i) only be notified after satisfaction of the Condition Precedent; and
 - (ii) not be notified after notice has already been given by the Vendor to exclude the Conditional Shares from this Agreement under clause 2.5(b);

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- (b) for Completion in respect of the Unconditional Shares, 15 October 2014 or an earlier date which is three Business Days after the Purchaser notifies the Vendor in writing of that earlier completion date.

Condition Precedent has the meaning given in clause 2.1.

Condition Precedent Target Date means 15 October 2014.

Conditional Shares means 2,516,000 Shares.

Conditional Shares Purchase Price means US\$3,954,349.

Governmental Agency means a government or a governmental, semi-governmental or judicial entity or authority. It also includes a self-regulatory organisation established under statute or a stock exchange.

Legal Opinion means a legal opinion from a Dutch law firm as to the Vendor's:

- (a) authority to enter into this Agreement and perform its obligations under this Agreement, including to effect Completion; and
- (b) valid execution of this Agreement and the instruments of transfer of the Shares by the Vendor's signatory.

Liability means Claims, debts, obligations, losses, liabilities, costs and damages of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

Nominee has the meaning given in clause 11.

Relevant Shares means:

- (a) as at the date of this Agreement, the Shares; and
- (b) as at a Completion Date, either the Conditional Shares or Unconditional Shares as are relevant to the Completion occurring on that Completion Date.

Security Interest includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind or any other right of, or arrangement with, any creditor to have its claim satisfied in priority to other creditors with, or from the proceeds of, any asset. It includes retention of title other than in the ordinary course of day-to-day trading and a deposit of money by way of security but it excludes a charge or lien arising in favour of a Governmental Agency by operation of statute unless there is default in payment of money secured by that charge or lien.

Shares means 63,698,492 ordinary shares in the capital of the Company together with all the benefits of all rights (including dividend rights) attached or accruing to those shares as at the date of this Agreement.

Unconditional Shares means 61,182,492 Shares.

Unconditional Shares Purchase Price means US\$96,159,360.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation.

- (a) Mentioning anything after includes, including, for example, or similar expression does not limit what else might be included.
- (b) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.

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The following rules of interpretation apply unless the context requires otherwise.

- (c) The singular includes the plural, and the converse also applies.
- (d) A gender includes all genders.
- (e) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (f) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (g) A reference to a clause is a reference to a clause of this Agreement.
- (h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (j) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
- (k) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (l) A reference to *conduct* includes an omission, statement or undertaking, whether or not in writing.

2 Condition precedent for Conditional Shares

2.1 Conditions precedent

In respect of the Conditional Shares:

- (a) Clauses 3 to 9 will not apply or bind the Parties; and
- (b) no Completion will occur which includes the sale and purchase of the Conditional Shares, unless and until the Treasurer of the Commonwealth of Australia:
 - (c) ceases to be empowered to make an order under Part II of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) in respect of the acquisition of the Conditional Shares contemplated by this Agreement; or
 - (d) gives the Purchaser advice in writing of a decision by the Treasurer that the Commonwealth Government has no objection to the acquisition of the Conditional Shares contemplated by this Agreement,

whichever first occurs (the **Condition Precedent**) and provided the Condition Precedent is satisfied on or before 5pm, Brisbane time on 15 October 2014.

2.2 Parties must co-operate

Each Party must co-operate with the other and do all things reasonably necessary to procure that the Condition Precedent is fulfilled as soon as reasonably possible, and in any event on or before the Condition Precedent Target Date.

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2.3 Specific obligations of co-operation

Without limiting the generality of clause 2.2:

- (a) The Purchaser must, within 5 Business Days of the execution of this Agreement make the notification to the Foreign Investment Review Board for the purpose of facilitating fulfilment of the Condition Precedent;
- (b) The Purchaser may not withdraw or procure the withdrawal of any notification made under paragraph (a) of this clause 2.3 (without the Vendor's prior written consent);
- (c) no Party may take any action that would or would be likely to prevent or hinder the fulfilment of the Condition Precedent; and
- (d) each Party must:
 - (i) supply to the other Party copies of all notifications made and all information supplied for the purpose of facilitating fulfilment of the Condition Precedent;
 - (ii) keep the other Party informed in a timely manner of the status of any discussions or negotiations with third parties regarding the Condition Precedent; and
 - (iii) promptly notify the other Party on becoming aware of the fulfilment of the Condition Precedent or of the Condition Precedent becoming incapable of being fulfilled.

2.4 Waiver

The Condition Precedent contained in this clause 2 cannot be waived.

2.5 Exclusion of Conditional Shares from this Agreement before Completion

- (a) Subject to clause 2.5(b), the Vendor may exclude the sale and purchase of the Conditional Shares from this Agreement before Completion occurs in respect of the Conditional Shares if the Condition Precedent is not fulfilled, or it is incapable of being fulfilled, on or before the Condition Precedent Target Date.
- (b) The Vendor may only exclude the sale and purchase of the Conditional Shares from this Agreement under this clause 2.5, if it has complied with clauses 2.2 and 2.3 and has given written notice of the exclusion to the Purchaser.

3 Sale and Purchase of the Shares

- (a) The Vendor as legal and beneficial owner sells the Shares free from all Security Interests and the Purchaser (or the Nominee or Nominees) buys the Shares on the terms set out in this Agreement.
- (b) Title to and property in the Unconditional Shares and Conditional Shares remain solely with the Vendor until the applicable Completion and, subject to the provisions of this Agreement, passes to the Purchaser (or the Nominee or Nominees) with effect from the applicable Completion (which, for the avoidance of doubt, may occur separately or simultaneously for the Unconditional Shares and Conditional Shares)

4 Consideration

- (a) On Completion in respect of the Unconditional Shares, the Purchaser must pay the Vendor the Unconditional Shares Purchase Price in accordance with the method of payment required under clause 5.3.

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- (b) On Completion in respect of the Conditional Shares, the Purchaser must pay the Vendor the Conditional Shares Purchase Price in accordance with the method of payment required under clause 5.3.

5 Completion**5.1 Date for Completion**

Completion must take place on the relevant Completion Date. For the avoidance of doubt, time is of the essence in respect of the Parties' obligations on Completion.

5.2 Obligations of the Vendor on Completion

- (a) On each Completion Date, the Vendor must deliver to its solicitors:
- (i) duly executed instruments of transfer of the Unconditional Shares or Conditional Shares (as relevant) in favour of the Purchaser (or the Nominee or Nominees); and
 - (ii) an irrevocable direction to hold those instruments in escrow and release them to the Purchaser (or the Nominee or Nominees) on receiving confirmation from the Vendor of receipt of the Unconditional Shares Purchase Price or Conditional Shares Purchase Price (as relevant).
- (b) On each Completion Date, the Vendor must deliver to the Purchaser the Legal Opinion in a form reasonably acceptable to the Purchaser.

5.3 Payment of purchase price

The Purchaser must pay the Unconditional Shares Purchase Price and Conditional Shares Purchase Price, by way of direct transfer of immediately available funds to the bank account nominated in writing by the Vendor and provided to the Purchaser at least two Business Days prior to the relevant Completion. The Vendor will confirm to its solicitors that it has received the Unconditional Shares Purchase Price or Conditional Shares Purchase Price as soon as practicable after that has occurred.

6 Warranties and indemnity by the Vendor**6.1 Warranties**

The Vendor represents and warrants to the Purchaser (who, as a result, has been induced to enter into this Agreement) as at the date of this Agreement and as at Completion the following:

- (a) The Vendor is and will at Completion be the legal and beneficial owner of the Relevant Shares free from all Security Interests.
- (b) The Vendor is duly incorporated and validity exists under the law of its place of incorporation.
- (c) The Vendor is not insolvent, is not in liquidation, is not under official management and no proceedings have been brought or threatened for the purpose of winding up the Vendor or placing it under official management, and, no receiver has been appointed over any part of its assets and no such appointment has been threatened and no proceedings have been brought or threatened to appoint such a receiver.
- (d) The execution and delivery of this Agreement has been properly authorised by all necessary corporate action of the Vendor.
- (e) The Vendor has full corporate power and lawful authority to execute and deliver this Agreement and to consummate and perform or cause to be performed its obligations

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under this Agreement and each transaction contemplated by this Agreement to be performed by it.

- (f) This Agreement constitutes a legal, valid and binding obligation of the Vendor enforceable in accordance with its terms by appropriate legal remedy.
- (g) The execution, delivery and performance by the Vendor, of this Agreement and each transaction contemplated by this Agreement does not or will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under:
 - (I) any provision of the constituent documents of the Vendor;
 - (II) any material term or provision of any security arrangement, undertaking, agreement or deed; or
 - (III) any writ, order or injunction, judgment, law, rule or regulation to which the Vendor is a party or is subject or by which it is bound.

6.2 Other warranties and conditions excluded

Except as expressly set out in this Agreement:

- (a) all terms, conditions, warranties and statements, (whether express, implied, written, oral, collateral, statutory or otherwise) relating to the Shares, the Company or the Company's business are excluded to the maximum extent permitted by law and, to the extent they cannot be excluded, the Vendor disclaims all Liability in relation to them to the maximum extent permitted by law; and
- (b) neither the Vendor or any other person acting on behalf of or associated with the Vendor has made any representation, given any advice or given any warranty or undertaking, promise or forecast of any kind in relation to the Shares, the Company, the Company's business or this Agreement.

6.3 Claims and conditions of payment

Despite any other provision of this Agreement each of the following applies in respect of this Agreement.

- (a) **(Notice of Claims):**
 - (I) The Vendor is not liable to make any payment (whether by way of damages or otherwise) for any Claim unless the Claim is made in writing by the Purchaser against the Vendor (setting out full details including details of the fact, circumstance or matter giving rise to the Claim, the nature of the Claim and the Purchaser's calculation of the loss suffered) as soon as reasonably practicable after the Purchaser becomes aware of the fact, circumstance or matter on which the Claim is based and, in any event on or before the time:
 - (A) for Claims in respect of the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; or
 - (B) for Claims in respect of the Conditional Shares, immediately after Completion in respect of the Conditional Shares.
 - (II) The Purchaser must also, on an on-going basis, keep the Vendor informed of all developments.
- (b) **(Maximum aggregate liability for all Claims)** The maximum aggregate amount that the Purchaser may recover from the Vendor (whether by way of damages or otherwise) in respect of all Claims whenever made is:

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- (i) for Claims in respect of the Unconditional Shares, the Unconditional Shares Purchase Price; or
 - (ii) for Claims in respect of the Conditional Shares, the Conditional Shares Purchase Price.
- (c) **(No indirect loss)** The Vendor is not liable to make any payment (whether by way of damages or otherwise) to the Purchaser in respect of any Claim for any indirect loss or for any:
 - (i) loss of income, profits or business;
 - (ii) loss of opportunity; or
 - (iii) damage to goodwill and business reputation, however arising.
- (d) **(General limitations)** The Vendor is not liable to make any payment (whether by way of payment of damages or otherwise) for any Claim to the extent that any Liability:
 - (i) **(contingent liability)** is contingent, prospective, not ascertained or ascertainable, unless and until such liability becomes an actual liability and is due and payable;
 - (ii) **(change in law or interpretation)** arises from:
 - (A) any legislation not in force at the date of this Agreement including legislation which takes effect retrospectively;
 - (B) a change in the judicial interpretation of the law in any jurisdiction after the date of this Agreement; or
 - (C) a change in the administrative practice of any Governmental Agency after the date of this Agreement including any change which takes effect retrospectively.
 - (iii) **(remediable loss)** is remediable, provided it is remedied to the satisfaction of the Purchaser, acting reasonably, within 10 Business Days after the Vendor receives written notice of the Claim in accordance with clause 6.3(a).

6.4 Proceedings in respect of a Claim

Unless the Vendor otherwise agrees, any Claim by the Purchaser against the Vendor will be taken to be waived or withdrawn and will be barred and unenforceable (if such Claim has not been previously satisfied, settled or withdrawn) unless legal proceedings in respect of the Claim have been issued and served on the Vendor on or before the time:

- (a) for Claims in respect of the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; or
- (b) for Claims in respect of the Conditional Shares, immediately after Completion in respect of the Conditional Shares,

and for this purpose legal proceedings will not be deemed to have been commenced unless they have been properly issued and validly served upon the Vendor.

6.6 Remedies for breach of Vendor's Warranty

The Purchaser acknowledges that its sole remedy for a breach of a Vendor's warranty is damages.

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6.6 Reduction of purchase price

Any amount payable to the Purchaser for a breach of any representation or warranty in clause 6.1 will be treated as a reduction of the Unconditional Shares Purchase Price or Conditional Shares Purchase Price (as applicable) paid by the Purchaser under clause 4.

6.7 Expiry and merger of warranties

The warranties provided by the Vendor under this clause 6 expire, and cease to be of any effect:

- (a) as they relate to the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; and
- (b) as they relate to the Conditional Shares, immediately after Completion in respect of the Conditional Shares.

6.8 Independent limitations

Each qualification and limitation in this clause 6 is to be construed independently of the others and is not limited by any other qualification or limitation.

7 Purchaser Warranties**7.1 Warranties**

The Purchaser represents and warrants to the Vendor (who, as a result, has been induced to enter into this Agreement) as at the date of this Agreement and as at Completion the following:

- (a) The Purchaser is duly incorporated and validity exists under the law of its place of incorporation.
- (b) The Purchaser is not insolvent, is not in liquidation, is not under official management and no proceedings have been brought or threatened for the purpose of winding up the Purchaser or placing it under official management, and, no receiver has been appointed over any part of its assets and no such appointment has been threatened and no proceedings have been brought or threatened to appoint such a receiver.
- (c) The execution and delivery of this Agreement has been properly authorised by all necessary corporate action of the Purchaser.
- (d) The Purchaser has full corporate power and lawful authority to execute and deliver this Agreement and to consummate and perform or cause to be performed its obligations under this Agreement and each transaction contemplated by this Agreement to be performed by it.
- (e) This Agreement constitutes a legal, valid and binding obligation of the Purchaser enforceable in accordance with its terms by appropriate legal remedy.
- (f) The execution, delivery and performance by the Purchaser, of this Agreement and each transaction contemplated by this Agreement does not or will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under:
 - (i) any provision of the constituent documents of the Purchaser;
 - (ii) any material term or provision of any security arrangement, undertaking, agreement or deed; or
 - (iii) any writ, order or injunction, judgment, law, rule or regulation to which the Purchaser is a party or is subject or by which it is bound

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7.2 Claims and conditions or payment

Despite any other provision of this Agreement each of the following applies in respect of this Agreement.

(a) **(Notice of Claims):**

(i) The Purchaser is not liable to make any payment (whether by way of damages or otherwise) for any Claim unless the Claim is made in writing by the Vendor against the Purchaser (setting out full details including details of the fact, circumstance or matter giving rise to the Claim, the nature of the Claim and the Vendor's calculation of the loss suffered) as soon as reasonably practicable after the Vendor becomes aware of the fact, circumstance or matter on which the Claim is based and, in any event on or before the time:

(A) for Claims in respect of the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; or

(B) for Claims in respect of the Conditional Shares, immediately after Completion in respect of the Conditional Shares.

(ii) The Vendor must also, on an on-going basis, keep the Purchaser informed of all developments.

(b) **(Maximum aggregate liability for all Claims)** The maximum aggregate amount that the Vendor may recover from the Purchaser (whether by way of damages or otherwise) in respect of all Claims whenever made is:

(i) for Claims in respect of the Unconditional Shares, the Unconditional Shares Purchase Price; or

(ii) for Claims in respect of the Conditional Shares, the Conditional Shares Purchase Price.

(c) **(No indirect loss)** The Purchaser is not liable to make any payment (whether by way of damages or otherwise) to the Vendor in respect of any Claim for any indirect loss or for any:

(i) loss of income, profits or business;

(ii) loss of opportunity; or

(iii) damage to goodwill and business reputation,

however arising.

(d) **(General limitations)** The Purchaser is not liable to make any payment (whether by way of payment of damages or otherwise) for any Claim to the extent that any Liability:

(i) **(contingent liability)** is contingent, prospective, not ascertained or ascertainable, unless and until such liability becomes an actual liability and is due and payable;

(ii) **(change in law or interpretation)** arises from:

(A) any legislation not in force at the date of this Agreement including legislation which takes effect retrospectively;

(B) a change in the judicial interpretation of the law in any jurisdiction after the date of this Agreement; or

(C) a change in the administrative practice of any Governmental Agency after the date of this Agreement including any change which takes effect retrospectively.

Share Sale and Purchase Agreement

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- (iii) **(remediable loss)** is remediable, provided it is remedied to the satisfaction of the Vendor, acting reasonably, within 10 Business Days after the Purchaser receives written notice of the Claim in accordance with clause 7.2(a).

7.3 Proceedings in respect of a Claim

Unless the Purchaser otherwise agrees, any Claim by the Vendor against the Purchaser will be taken to be waived or withdrawn and will be barred and unenforceable (if such Claim has not been previously satisfied, settled or withdrawn) unless legal proceedings in respect of the Claim have been issued and served on the Purchaser on or before the time:

- (a) for Claims in respect of the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; or
- (b) for Claims in respect of the Conditional Shares, immediately after Completion in respect of the Conditional Shares,

and for this purpose legal proceedings will not be deemed to have been commenced unless they have been properly issued and validly served upon the Purchaser.

7.4 Expiry and merger of warranties

The warranties provided by the Purchaser under clause 7 expire, and cease to be of any effect:

- (a) as they relate to the Unconditional Shares, immediately after Completion in respect of the Unconditional Shares; and
- (b) as they relate to the Conditional Shares, immediately after Completion in respect of the Conditional Shares.

7.5 Independent limitations

Each qualification and limitation in this clause 7 is to be construed independently of the others and is not limited by any other qualification or limitation.

8 Vendor Remedies

The Parties agree and acknowledge that, as the relevant First Reserve fund will be in the process of winding up shortly after Completion, damages are not an adequate remedy for breach of the obligations of the Purchaser on Completion under clauses 4 and 5.3 and any breach of warranty by the Purchaser and that the Vendor shall have a right to seek other remedies including equitable remedies and specific performance of the Purchaser's obligations on Completion and warranty breaches.

9 GST

- (a) Terms with an initial capital letter which have a defined meaning in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) shall have that meaning in this clause except that Taxable Supply excludes the reference to section 84-5 of the GST Act.
- (b) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the amount of GST payable in respect of that supply must be paid as additional Consideration. This clause does not apply to the extent that the Consideration for the supply is expressly stated to be GST inclusive.
- (c) Any reference in the calculation of any amount payable under this Agreement to a cost, expense or other liability incurred by a party must exclude the amount of any Input Tax Credit in relation to that cost, expense or other liability.

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- (d) No additional amount is payable under clause 9(b) until the Recipient of the supply has received a Tax Invoice or Adjustment Note.

10 Substantial Holdings Notices

The parties acknowledge that this Agreement will be disclosed to the Company and ASX in order to comply with the substantial holdings provisions of the Corporations Act 2001 (Cth).

11 Nominations by the Purchaser

- (a) The Purchaser may nominate one or more third party entities (each a **Nominee**) to complete the purchase of part or all of the Relevant Shares under the Agreement by serving a notice in writing of that nomination or those nominations in the form set out in Schedule 1 on the Vendor at least three Business Days before the relevant Completion Date.
- (b) When clause 11(a) applies the Vendor must deliver at Completion duly executed Instruments of transfer of the Unconditional Shares or Conditional Shares (as relevant) in favour of that Nominee or those Nominees in order to comply with clause 5.2(a)(i).

12 Notice**12.1 Method of giving notice**

A notice, consent or communication under this Agreement is only effective if it is:

- (a) in writing in English, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) given as follows:
- (i) delivered by hand to that person's address;
 - (ii) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas;
 - (iii) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission was made without error and showing the relevant number of pages and the correct destination fax number or name of recipient; or
 - (iv) sent by email to that person's email address where the sender does not receive a report that the email was not delivered.

12.2 When is notice given

A notice, consent or communication given under clause 12.1 is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

If a notice is	It is given and received on
Delivered by hand, sent by fax or sent by email	(a) that day, if delivered by 5.00pm on a Business Day; or (b) the next Business Day, in any other case.
Sent by post	(a) three Business Days after posting, if sent within Australia; or (b) seven Business Days after posting, if sent to or from a place outside Australia.

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12.3 Address for notices

A person's address, fax number and email address are those set out below, or as the person notifies the sender:

Name	FRC Whitehaven Holdings B.V.
Attention	Alex Williams
Address	Intertrust (Netherlands) B.V. Prins Bernhardplein 200, 1097 JB Amsterdam, the Netherlands with a copy to: First Reserve International Limited, 7 th Floor, 25 Victoria St., London, SW1H 0EX, United Kingdom
Fax	+44 (0) 20 7930 2130
Email	awilliams@firstreserve.com

Name	AMCI Euro-Holdings B.V.
Attention	Brian Beem
Address	c/- AMCI Capital, 2 nd Floor, 475 Steamboat Road, Greenwich CT 06830, USA
Fax	+ 1 203 625 9231
Email	bbeem@amcigroup.com

13 Entire Agreement

This Agreement contains the entire agreement between the Parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the Parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. Neither Party has relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it.

14 Amendment

This Agreement may be amended only by another Agreement executed by all the Parties.

15 Assignment

Neither Party can assign, charge, create security interest over, encumber or otherwise deal with any of its rights or obligations under this Agreement, or attempt or purport to do so, without the prior written consent of the other Party.

16 Costs and Duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All duty (including fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne by the Purchaser. The Purchaser must indemnify the Vendor on demand against any liability for that duty.

Share Sale and Purchase Agreement

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17 Governing Law and Jurisdiction

This Agreement and, to the extent permitted by law, all related matters including non-contractual matters is governed by the laws of Queensland. In relation to such matters each Party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

18 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one instrument

Executed

Signed for FRC Whitehaven Holdings B.V.
by:



Managing Director A

Daren Schneider

Print Name

Managing Director B

Print Name

Signed for AMCI Euro-Holdings B.V. by:



Managing Director A

Print NameThomas Bürger
Director

Managing Director B

Print Name

Share Sale and Purchase Agreement

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18 Counterparts

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Executed

Signed for FRC Whitehaven Holdings B.V.
by:

Managing Director A

Print Name



Managing Director B

Print Name Intertrust Management B.V.

J.A. Broekhuis
Proxyholder

Lobke Zonneveld
Proxy holder

Signed for AMCI Euro-Holdings B.V. by:

Managing Director A

Print Name

Managing Director B

Print Name

Share Sale and Purchase Agreement

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17 Governing Law and Jurisdiction

This Agreement and, to the extent permitted by law, all related matters including non-contractual matters is governed by the laws of Queensland. In relation to such matters each Party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

18 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one instrument

Executed

Signed for FRC Whitehaven Holdings B.V.
by:

Managing Director A

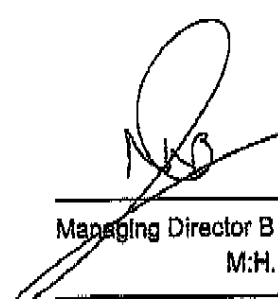
Managing Director B

Print Name

Print Name

Signed for AMCI Euro-Holdings B.V. by:

Managing Director A

Managing Director B

M.H. Bakker

Print Name

Print Name

Share Sale and Purchase Agreement

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Schedule 1

Notice of Nomination by Purchaser

TO: FRC Whitehaven Holdings B.V.
Att: Alex Williams
Email: awilliams@firstreserve.com

In accordance with clause 11 of the share sale and purchase agreement dated [#insert date] between FRC Whitehaven Holdings B.V. and AMCI Euro-Holdings B.V., AMCI Euro-Holdings B.V. nominates the following to be the purchaser of the Relevant Shares:

No	Name of Nominee	Number of Shares*
1		
2		
3		
4		

* specify number of Unconditional Shares and/or Conditional Shares for each Nominee

Dated: 2014

Signed for AMCI Euro-Holdings B.V. by:

Managing Director A

Managing Director B

Print Name

Print Name

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FRC Whitehaven Holdings B.V.

and

AMCI Euro-Holdings B.V.

Amendment Agreement

Amendment of Share Sale and Purchase Agreement

The Allens contacts for this document are John Hedge / Andrew Knox

Riverside Centre
123 Eagle Street
Brisbane QLD 4000 Australia
T +61 7 3334 3000
F +61 7 3334 3444
www.allens.com.au

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Amendment Agreement

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Amendment Agreement

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This Agreement is made on 15 October 2014

Parties

- 1 **FRC Whitehaven Holdings B.V.** of Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands (the *Vendor*).
- 2 **AMCI Euro-Holdings B.V.** of Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands (the *Purchaser*).

Recitals

- A The Vendor and Purchaser are parties to a Share Sale and Purchase Agreement dated 22 August 2014 (the *Principal Agreement*) under which the Vendor agrees to sell to the Purchaser shares in Whitehaven Coal Limited on the terms set out in the Principal Agreement.
- B The parties wish to amend the Principal Agreement in the manner set out in this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

- (a) Words which are defined in the Principal Agreement and which are used in this Agreement have the same meaning in this Agreement as in the Principal Agreement, except to the extent those definitions are expressly amended by this Agreement.
- (b) The provisions of clauses 1.2 of the Principal Agreement form part of this Agreement as if set out at length in this Agreement.

2 Amendments

The Principal Agreement is amended as follows.

(a) Deletion of Previous Completion Mechanics

Clause 5.2, Clause 5.3 and Clause 11(b) of the Principal Agreement are deleted.

(b) New Completion Mechanics

The following wording is inserted in the Principal Agreement after Clause 5.1:

5.2 Obligations of the Vendor

On or before the Completion Date the Vendor must:

- (a) take all necessary steps to open an account with the Custodian (the *Vendor Account*);
- (b) place the Conditional Shares and Unconditional Shares in the Vendor Account (with, for the avoidance of doubt, legal and beneficial ownership of the Conditional Shares and Unconditional Shares not passing to the Nominees until such time as the Conditional Shares Purchase Price and Unconditional Shares Purchase Price is received in the Vendor Account);
- (c) give an irrevocable direction to the Custodian, in the form agreed on or about the date of this Agreement, to transfer the Conditional Shares and Unconditional Shares from the Vendor Account to the Securities Account of each Nominee in the allocations nominated by the Purchaser under clause 11(a) following receipt in the Vendor Account of the Conditional Shares Purchase Price and Unconditional Shares Purchase Price; and

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Amendment Agreement

Allens & Linklaters

- (d) deliver to the Purchaser the Legal Opinion in a form reasonably acceptable to the Purchaser.

5.3 Obligations of the Purchaser

On or before the Completion Date the Purchaser must procure that each of the Nominees:

- (a) takes all necessary steps to open an account with the Custodian (the *Nominee Accounts*);
 - (b) transfers funds to their Nominee Account sufficient to pay that part of the Conditional Shares Purchase Price and Unconditional Shares Purchase Price attributable to the Conditional Shares and/or Unconditional Shares to be acquired by that Nominee in accordance with the allocations nominated by the Purchaser under clause 11(a); and
 - (c) gives an irrevocable direction to the Custodian, in the form agreed on or about the date of this Agreement, to transfer that part of the Conditional Shares Purchase Price and Unconditional Shares Purchase Price attributable to the Conditional Shares and/or Unconditional Shares to be acquired by that Nominee in accordance with the allocations nominated by the Purchaser under clause 11(a) to the Vendor Account.
- (c) **Consequential Amendments**
- (i) The following new definitions are inserted in Clause 1.1 of the Principal Agreement:

Custodian means UBS AG, Zurich.

Nominee Accounts has the meaning given in Clause 5.3(a).

Securities Account means the J.P. Morgan Nominees Australia Limited securities account for each Nominee as described in the irrevocable direction to the Custodian referred to in Clause 5.2(c).

Vendor Account has the meaning given in Clause 5.2(a).
 - (ii) The definition of Completion Date in Clause 1.1 of the Principal Agreement is deleted and restated as follows:

Completion Date means, in respect of both the Conditional Shares and the Unconditional Shares, 15 October 2014 or such other date as the parties agree in writing.
 - (iii) The definition of Legal Opinion in Clause 1.1 of the Principal Agreement is deleted and restated as follows:

Legal Opinion means a legal opinion from a Dutch law firm as to the Vendor's:

 - (a) authority to enter into this Agreement and perform its obligations under this Agreement, including to effect Completion; and
 - (b) valid execution of this Agreement.
 - (iv) The references in Clause 4 of the Principal Agreement to 'Clause 5.3' are deleted and replaced with references to 'Clause 5.2'.

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Amendment Agreement

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3 Effective Date

This Agreement takes effect, and the parties agree to be bound by the Principal Agreement as amended by this Agreement, from the date of this Agreement (the *Effective Date*).

4 Remaining Provisions Unaffected

Except as specifically amended by this Agreement, all terms and conditions of the Principal Agreement remain in full force and effect. With effect from the Effective Date (as defined in clause 3), the Principal Agreement as amended by this Agreement is to be read as a single integrated document incorporating the amendments effected by this Agreement.

5 Governing Law and Jurisdiction

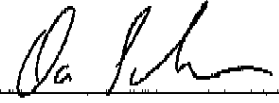
This Agreement is governed by the laws of Queensland. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

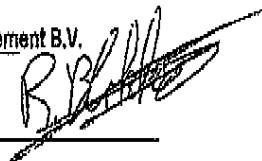
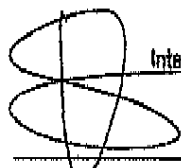
Executed

Signed for FRC Whitehaven Holdings B.V.
by:



Managing Director A
Darren Schneider

Print Name



Managing Director B

Print Name
L. Kuipers
Proxy Holder A

Print Name
René Blokker
Proxy holder

Signed for AMCI Euro-Holdings B.V. by:

Managing Director A

Print Name

Managing Director B

Print Name

Amendment Agreement

Allens & Linklaters

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Executed

Signed for FRC Whitehaven Holdings B.V.
by:

Managing Director A_____
Managing Director B_____
Print Name_____
Print Name

Signed for AMCI Euro-Holdings B.V. by:

Managing Director A_____
Managing Director B

Thomas Bürger

M.H. Bakker

Print Name

Director

Print Name