



COURT FILE NUMBER: 2101 05019  
 COURT COURT OF QUEEN'S BENCH OF ALBERTA  
 JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c C-36, AS AMENDED

OT  
 COM  
 April 26, 2021  
 Justice Mah

AND IN THE MATTER OF THE COMPROMISE OR  
 ARRANGEMENT OF COALSPUR MINES (OPERATIONS)  
 LTD.

DOCUMENT: **AFFIDAVIT OF MICHAEL BEYER**

ADDRESS FOR **OSLER, HOSKIN & HARCOURT LLP**  
 SERVICE AND Barristers & Solicitors  
 CONTACT Brookfield Place, Suite 2700  
 INFORMATION OF 225 6 Ave SW  
 PARTY FILING THIS Calgary, AB T2P 1N2  
 DOCUMENT

Solicitors: Randal Van de Mosselaer / Emily Paplawski  
 Telephone: (403) 260-7000  
 Facsimile: (403) 260-7024  
 Email: [RVandemosselaer@osler.com](mailto:RVandemosselaer@osler.com) / [EPaplawski@osler.com](mailto:EPaplawski@osler.com)  
 File Number: 1217428

**AFFIDAVIT OF MICHAEL BEYER**

**SWORN APRIL 19, 2021**

I, Michael Beyer, of the City of Palm Beach Gardens, in the State of Florida, **MAKE OATH AND SAY THAT:**

1. I am the Chief Executive Officer (“CEO”) of Vista Energy Holdings LLC (“**VE Holdings**”), the parent corporation of Coalspur Mines (Operations) Ltd. (“**Coalspur**”). I have been CEO of VE Holdings and a related company, Vista Energy Resources LLC (“**VE Resources**”), since February 2019. As CEO of VE Holdings, I am responsible for overseeing, among other things, all coal mining operations of Coalspur and other subsidiaries of VE Holdings. Prior to my roles at VE Holdings and VE Resources, I served as President and CEO of Foresight Energy Inc, an Illinois Basin coal producer, and as President of American Electric Power Coal Inc, a Columbus,

Ohio based coal producer. I have held both finance and engineering positions related to the mining industry at PNC Bank and BethEnergy. I hold a Bachelor of Science in mining engineering from Pennsylvania State University, and a Master of Business Administration from Duquesne University.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where such matters are stated to be based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe such information to be true. In preparing this Affidavit, I consulted with Coalspur's management team and advisors and reviewed relevant documents and information concerning Coalspur's operations, financial affairs and restructuring activities.

3. I swear this Affidavit in support of an application by Coalspur for an Order (the "**Initial Order**"):

- (a) declaring that Coalspur is a company to which the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**") applies;
- (b) authorizing Coalspur to remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") and continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property;
- (c) entitling Coalspur to pay reasonable expenses incurred by it in operating the Business in the ordinary course, including making payment of obligations owing in

respect of goods and services supplied to Coalspur prior to the date of the Initial Order, subject to the consent of the Monitor (as defined herein);

- (d) staying, for an initial period of not more than ten (10) days (the “**Stay Period**”), all proceedings and remedies taken or that might be taken in respect of Coalspur, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (e) preventing any Person (as defined in the Initial Order) from accelerating performance of any rights in respect of Coalspur, except with the written consent of Coalspur and the Monitor, or leave of this Honourable Court;
- (f) restraining any Person from interfering with the supply of goods or services to Coalspur;
- (g) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of Coalspur that relate to liability of such Persons in their capacity as directors or officers of Coalspur, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (h) appointing FTI Consulting Canada Inc. (“**FTI**”) as Monitor of Coalspur in these proceedings;
- (i) authorizing Coalspur to pay all reasonable fees and disbursements of its counsel, the Monitor and the Monitor’s counsel;
- (j) granting an Administration Charge (as defined below) in the amount of \$250,000 CAD;

- (k) scheduling a comeback application for hearing at a date and time to be set by this Honourable Court, but in no event later than May 6, 2021; and
- (l) such further and other relief as counsel may request and this Honourable Court may grant.

## **PART I - OVERVIEW**

4. Coalspur is an Alberta coal development company which owns and operates the Vista Coal Mine Project (as defined below) located approximately 10 kilometers east of Hinton. Prior to the opening of the mine, the Vista Coal Mine Project was one of the largest undeveloped coal properties in North America, and is now one of the most significant employers in the Hinton and Edson regions of Alberta, providing full time employment to more than 300 individuals.

5. Since inception, Coalspur has invested more than \$700 million CAD in the Project - more than 67% of which has been spent on goods, materials and services provided by Canadian vendors. Coalspur is party to 8 Impact Benefit Agreements (“**IBAs**”) with various First Nation and Métis groups, and has made substantial investments in the local communities that rely upon and are affected by the Vista Coal Mine Project.

6. While Coalspur’s operations have significant value, with Phase I alone having the capacity to produce roughly 6.5 million tonnes of clean coal per year, Coalspur’s ability to conduct its business and generate revenue and liquidity has been severely impacted by: (a) the shut down of the mine in February 2021 as a result of a permitting issue with the Alberta Energy Regulator (“**AER**”), thereby suspending all coal production and cutting off Coalspur’s only source of revenue; and (b) the simultaneous crystallization of an approximately \$59.9 million USD hedge

obligation to Trafigura Lte. Ltd. (“**Trafigura**”) following the rapid escalation in global coal prices in late 2020.

7. As discussed further below, Coalspur operates the Vista Coal Mine Project pursuant to, and in accordance with, numerous licenses, permits, and approvals granted by the AER. Shortly after mine start-up in 2019, Coalspur determined that the composition of raw coal feed exceeded the design capacity of the Project’s filter process plant and, as a result, an alternate means of processing slurry was required. In February 2020, the AER approved an application by Coalspur to repurpose a mined out pit located within the Phase I Project boundary as a tailings cell to store, settle and dewater fine refuse from the Project’s preparation plant. The tailings cell was expected to reach its maximum permitted level within 9 to 10 months, at which time, further tailings cells would be required to avoid Project shut down.

8. Accordingly, in June 2020, Coalspur submitted an application to the AER for approval of an additional 8 tailings cells and advised the AER that approval of the application was required by no later than October 2020 for Phase I to remain operational.

9. By late 2020, no approval of the application had been received from the AER and Coalspur was forced to apply on an emergency basis for a temporary permit amendment to allow for the continued flow of slurry from the preparation plant. While the temporary amendment extended the life of the tailings cell by an additional approximately 4 weeks, the situation became increasingly urgent throughout January and, on February 1, 2021, the tailings cell reached its maximum permitted level and Coalspur was forced to immediately suspend further processing operations at the Project. Shortly thereafter, all mining operations at the Vista Coal Mine Project were suspended and the mine was moved to care and maintenance.

10. At the same time that Coalspur was facing a potential shut down of the Project because of the foregoing permit issues with the AER, the global market price of coal was rapidly increasing. In August 2020, the market price of coal was approximately \$49.78 USD/tonne. By the last week of December 2020, the market price had climbed by almost 60% to more than \$85.31 USD/tonne. This unprecedented escalation in the price of coal triggered a contractual obligation by Coalspur to post collateral of approximately \$59.9 million USD in favour of Trafigura under various fixed-price, forward coal sales transacted between them. Coalspur's inability to post sufficient cash or letters of credit in favour of Trafigura triggered a cross default under a prepayment agreement between the parties and, by mid-January, Coalspur owed Trafigura more than \$72 million USD.

11. Throughout early January, Trafigura and Coalspur successfully negotiated and finalized a term sheet which, subject to execution of definitive documents, permitted Coalspur to repay all indebtedness to Trafigura over a two-year period, thereby ensuring that Coalspur could continue operating the Project and generating revenue for the benefit of the company and its stakeholders.

12. However, in late January, because the AER had not yet approved Coalspur's tailings cell application, Trafigura advised Coalspur that in light of the imminent shut down of the Project and because ongoing coal shipments were necessary to ensure repayment of amounts under the term sheet, Trafigura was no longer prepared to proceed in accordance with the term sheet. Instead, simultaneous with shut down of the Project, Trafigura exercised its right to take title to, and sell, the entirety of Coalspur's coal inventory.

13. The result of the foregoing was to leave Coalspur with no inventory capable of monetization, little liquidity, and no ability to generate new coal production or revenue streams because of Project shut down. What little liquidity remained available to Coalspur was required to

fund basic care and maintenance operations at the Project to protect the health and safety of all employees, safeguard the environment, and preserve the Project's assets and infrastructure.

14. Coalspur has now received approvals from the AER of the tailings cell application (for 2 of the 8 additional tailings cells) and to restart mining operations. However, Coalspur lacks sufficient funding to restart the Project and begin producing coal because of the depletion of its coal inventory and the loss of all revenue since January 2021. Coalspur requires a significant injection of capital to fund it through mine start-up and initial production. As discussed further below, Coalspur is working diligently to secure interim financing and intends to apply for approval of such interim financing in the near term.

15. For these reasons, while Coalspur has a valuable and viable business critical to the economic wellbeing of a number of communities located in proximity to the Vista Coal Mine Project, Coalspur is currently insolvent and urgently requires protection under the CCAA to give it a reasonable time to advance its restructuring efforts. Coalspur's management is optimistic that the overall value of its business will be enhanced to the benefit of its stakeholders as compared to a forced liquidation.

## **PART II - COALSPUR'S BUSINESS**

### **A. Coalspur's Corporate Structure**

16. Coalspur is a corporation existing under the laws of the Province of Alberta with an office in Hinton, Alberta.

17. Coalspur is a wholly owned subsidiary of VE Holdings a limited liability company organized under the laws of the State of Delaware. Prior to December 31, 2020, an affiliate of VE Holdings - VE Resources - owned 100% of the shares of Coalspur. In accordance with a corporate

reorganization effective December 31, 2020, VE Holdings took an assignment of substantially all of the assets, and assumed certain of the liabilities, of VE Resources.

18. The ultimate beneficial owners of VE Holdings (and the majority ultimate beneficial owners of VE Resources) are various irrevocable trusts established for the benefit of the descendants of the late Christopher Cline.

19. Coalspur has three wholly-owned subsidiaries, none of which are applicants within these CCAA proceedings:

- (a) Bighorn Mining Ltd. (“**Bighorn**”) is a corporation existing under the laws of the Province of Alberta with an office in Hinton, Alberta. Bighorn is not a debtor or guarantor under any debt instruments to which Coalspur is a party, nor does it have any assets. Bighorn provides independent contractor services to Coalspur;
- (b) Chinook Mine Construction Company Ltd. (“**Chinook**”) is a corporation existing under the laws of the Province of Alberta with an office in Hinton, Alberta. Chinook is not a debtor or guarantor under any debt instruments to which Coalspur is a party, nor does it have any assets. Chinook provides independent contractor services to Coalspur; and
- (c) 2047109 Alberta Ltd. (“**204**”) is a corporation existing under the laws of the Province of Alberta with an office in Edmonton, Alberta. 204 does not carry on business and does not have any material assets or liabilities.

20. Copies of corporate searches for Coalspur, Bighorn, Chinook and 204 are attached hereto as **Exhibit “A”**. An organizational chart showing Coalspur and its affiliates and subsidiaries is attached hereto as **Exhibit “B”**.

## **B. Financial Position of Coalspur**

21. A copy of Coalspur's audited consolidated financial statement for the years ended December 31, 2018 and December 31, 2019, and draft, unaudited consolidated financial statement for the year ended December 31, 2020 (the "**2020 Financial Statement**"), are attached hereto as **Exhibits "C" and "D"**, respectively. The 2020 Financial Statement is summarized below.

### **(a) Assets**

As at December 31, 2020, Coalspur had total assets of \$716,120,000 CAD<sup>1</sup> comprised of:

- Cash - \$24,039,000
- Accounts Receivable - \$18,214,000
- Inventory - \$50,231,000
- Prepaids and Other Assets - \$3,727,000
- Property, Plant, Equipment and Mine Development - \$592,543,000
- Restricted Cash - \$7,886,000
- Deposits and Other Assets - \$16,862,000
- Receivable from Affiliates - \$2,618,000

(all amounts are in CAD)

### **(b) Liabilities**

As at December 31, 2020, Coalspur had total liabilities of \$590,512,000, comprised of:

---

<sup>1</sup> The functional currency of Coalspur is in Canadian dollars. As a result, assets and liabilities are translated at period and exchange rates (i.e. as of December 31, 2020), and revenue and costs are translated using average exchange rates for the period.

- Accounts Payable – \$44,111,000
- Accrued Expenses and Other Current Liabilities - \$9,138,000
- Short-term Borrowings - \$17,250,000
- Current Portion of Long-Term Payables Related Party - \$4,389,000
- Current Portion of Capital Lease Obligations - \$27,644,000
- Current Portion of Long-Term Debt Related Party - \$380,836,000
- Long-Term Debt (Equipment Financing) - \$10,582,000
- Long-Term Capital Lease Obligations - \$80,728,000
- Long-Term Payables Related Party - \$9,027,000
- Asset Retirement Obligations - \$6,655,000
- Payable to Affiliates - \$152,000

(all amounts are in CAD)

**C. Employees/Consultants**

22. As at the date of this Affidavit, Coalspur does not have any employees. Coalspur retains the following three companies to provide all labour necessary for the Vista Coal Mine Project (the “**Project**” or the “**Vista Coal Mine Project**”) and the administration of Coalspur:

- (a) Bighorn, which provides all necessary general and administrative labour for Coalspur, excluding logistics;
- (b) Chinook, which provides all necessary labour at the Vista Coal Mine Project site, excluding the coal preparation plant; and

- (c) Yellowhead Processing Inc. (“**Yellowhead**”), which provides all necessary labour for operation of the coal preparation plant and all logistics services required by Coalspur pursuant to the terms of a Preparation Plant/Logistics Services Agreement, dated October 29, 2018.

23. In addition to Bighorn, Chinook and Yellowhead, VE Holdings provides various corporate, general and administrative services to Coalspur pursuant to a management services agreement.

24. Each of Bighorn, Chinook and Yellowhead maintain separate benefit plans for their employees providing medical, dental, Rx, and vision benefits, and life insurance policies.

25. Each of Bighorn, Chinook and Yellowhead also sponsor a pension plan for all full-time employees.

26. As discussed further below, in February 2021, Coalspur was required to temporarily suspend operations at the Vista Coal Mine Project because of the Permit Issue (as defined below) with the AER and, as a result, 274 employees of Bighorn, Chinook and Yellowhead were temporarily laid off. Only 55 individuals remain actively employed by Bighorn, Chinook and Yellowhead as at the date of this Affidavit. On April 8, 2021, the AER issued the required approvals of the Tailings Cell Application (as defined below) and, on April 12, 2021, the AER issued the approvals required for resuming mining operations. As a result, Coalspur is hopeful that upon restart of Phase I of the Vista Coal Mine Project, most, if not all, of the 274 furloughed employees will return to active employment with Bighorn, Chinook and Yellowhead.

#### **D. Operations**

##### **(a) The Vista Coal Mine Project**

27. Coalspur's Vista Coal Mine Project was, prior to the opening of the mine, one of the largest undeveloped coal properties in North America, and is now one of the most significant employers in the Hinton region of Alberta. The Project is located about 10 kilometres east of Hinton and is comprised of the Vista North and Vista South properties. Together the Vista North and Vista South properties include 40 contiguous coal leases and one non-contiguous coal lease and occupy approximately 48,715 hectares of leased coal holdings.

28. Prior to coal production commencing in 2019 on the Vista North Property, the property was estimated to have 527 million clean recoverable tonnes of reserves, 386 million clean recoverable tonnes of measured and indicated resources, and 765 million clean tonnes of inferred resources. The Vista South property has been estimated to have 470.3 million clean recoverable tonnes of measured and indicated resources, and 604.6 million clean tonnes of inferred resources.

29. Coalspur is currently the owner of Phase I of the Project, and the proponent of both Phase II of the Project and the Underground Test Mine (which is an exploratory underground mine located wholly within the boundary of the existing Phase I permits and licenses). Both Phases of the Project and the Underground Test Mine are located on the Vista North property.

30. Phase I's area of mining operations is 1435.08 hectares. On an annual basis, Phase I has capacity to produce roughly 6.5 million tonnes of clean coal (and will produce close to 65 million tonnes over its approximately 10-year life).

31. In order to achieve that level of production at Phase I, an average of 30 million cubic meters of rock and overburden is mined per year. The production process for Phase I's open pit operations is as follows:

- (a) merchantable timber is harvested within the mine disturbance area;

- (b) topsoil within the mine disturbance area is salvaged and placed in stockpiles for future placement, or placed directly, on reclaimed areas;
- (c) ponds and ditches are created to control water flow in respect of the disturbance area and to carefully control, and allow for treating of, water discharged from mine and plant operations in order to maintain water quality and protect against any pollution of neighboring water sources;
- (d) till above the bedrock is removed with hydraulic shovels and placed in haul trucks where it is transported to designated stockpile locations;
- (e) rock (overburden) above the coal seams is drilled and blasted using explosives;
- (f) blasted rock is both pushed into previously mined pit void space with bulldozers and removed with hydraulic shovels, excavators, and/or loaders and placed in haul trucks, which then transport the rock to designated stockpile or pit backfill areas;
- (g) the uncovered raw coal is mined by:
  - (i) hydraulic excavator and/or loader and hauled to the truck dump to be sized and belted to the raw coal stockpile area, located near the coal preparation plant; and
  - (ii) highwall mining method, which is used to recover additional coal reserves by means of advancing a machine (known as a continuous miner) and a series of conveying cars into exposed coal seams in the final highwall. While the machine follows the coal seam underground, employees operating the machine loading the coal remain on the surface;

- (h) raw coal is then processed through the coal preparation plant to remove impurities (e.g. rock, clay) from the raw coal to make it a clean marketable coal product;
- (i) coal fines (discussed further below) are then piped to an empty mine pit which have been converted to tailings cells for separation of the fines from the water. A closed loop water management system is utilized onsite in which water is recycled from the tailings cell and pumped directly back to the coal preparation plant;
- (j) coarse refuse (rock separated from the coal in the coal preparation plant) is transported to the refuse stockpile area via conveyor;
- (k) clean coal is then reclaimed from the clean coal stockpile and sent first to the coal storage dome by covered conveyor belt for storage, and later to the loadout bin via a covered conveyor;
- (l) lastly, trains are loaded via a rail loadout facility located on the south side of the Canadian National Railway Company (“CN”) mainline where Coalspur’s clean coal production is loaded onto railcars and transported to two terminals located in British Columbia for loading onto ocean going vessels for shipment to the end user market.

32. Importantly, reclamation efforts, including backfilling, grading, topsoil placement, and revegetation on areas affected by the surface mine impacts, occur contemporaneously with the foregoing mining operations.

33. The existing Phase I surface infrastructure and materials handling systems are capable of achieving not only the production capacity of Phase I, but also the production capacities of Phase II and the Underground Test Mine. Such infrastructure includes the truck dump, the raw coal

materials handling systems, the coal preparation plant, refuse disposal areas, clean coal material handling system and train loadout. These facilities were designed and constructed to achieve a production capacity of 4,500 raw tonnes per hour.

34. In 2018, Coalspur proposed an expansion of the Phase I footprint by adding an additional block of coal reserves located immediately to the west of the Phase I reserves. The Phase II portion of the Project is proposed to: (i) use existing infrastructure for transportation, processing and disposal; (ii) annually produce roughly 4.2 million incremental tonnes (average) of clean coal; and (iii) expand the total area of mining operations by approximately 633.6 hectares after taking into account both the expansion and reduction of existing infrastructure. Subject to permitting, construction was proposed to begin on Phase II in January 2022, with plans to bring the project into operation in April 2022.

35. In addition to Phase II of the Project, Coalspur proposed in 2019 to develop the Underground Test Mine within the scope and boundaries of Phase I of the Project. The Underground Test Mine is proposed to be an exploratory underground mine to test various safety and production methods to determine the feasibility of mining the Project's mineral reserves with underground mining methods. It is anticipated that the Underground Test Mine will increase the production of coal at the Project by about 1,200 tonnes per day or a total of 1.8 million tonnes during its approximately three-years of operation.

36. Phase II of the Project and the Underground Test Mine are currently the subject of an application before the Federal Court in Action No. T-1008-20 by Coalspur for judicial review of an order of the Minister of Environment and Climate Change Canada, issued July 30, 2020 designating Phase II of the Project and the Underground Test Mine under the *Impact Assessment*

*Act.* Phase II of the Project is also currently undergoing a provincial environmental assessment by the AER.

**(b) Benefits of the Vista Coal Mine Project**

37. The Vista Coal Mine Project is one of the single largest employers (via the service contracts executed with Bighorn, Chinook and Yellowhead) in the Hinton and Edson areas of Alberta, a region that has been severely impacted by the suspension of operations or movement to care and maintenance of three adjacent mines between 2014 and 2019, which resulted in a 19% drop in employment opportunities in local communities around the Vista Coal Mine Project. In addition, much like the rest of Alberta over the past number of years, the regions surrounding the Vista Coal Mines Project have experienced significant declines in resources sector employment as a result of low oil and gas prices and the impact of the COVID-19 pandemic.

38. Prior to Coalspur temporarily shutting down operations at Phase I because of the Permit Issue, Phase I of the Project provided full time employment to more than 300 individuals, many of whom are from local Indigenous groups in the area. If Phase II and the Underground Test Mine receive necessary regulatory approvals and commence operations, Coalspur anticipates that an additional approximately 370 full time jobs will be created – 100 at the Underground Test Mine and 270 at Phase II of the Project.

39. In addition to the direct employment offered by the Vista Coal Mine Project, Coalspur estimates (based on a ratio developed by the Coal Association of Canada) that the economic activity generated by Phase I of the Project in the surrounding communities has indirectly supported or contributed to the creation of an additional 900 full and part-time jobs in Hinton, Edson, and other smaller communities in the area. If Phase II of the Project and the Underground Test Mine receive necessary regulatory approvals and commence operations, Coalspur estimates

that an additional approximately 1,100 full and part-time jobs will be indirectly created in surrounding communities – 290 from economic activity generated by the Underground Test Mine, and 810 from economic activity generated by Phase II of the Project.

40. Coalspur also has:

- (a) executed private IBAs with 8 First Nation and Métis groups: one agreement relates to Phase I of the Project and seven agreements relate both to Phase I and Phase II of the Project. The IBAs operate under a policy based on mutual respect, active partnership and long-term commitment. The IBAs provide mine-related training, employment, business development and capacity-building opportunities to members of the Indigenous groups and, in many cases, extend over the life-of-mine of the Vista Coal Mine Project;
- (b) completed mutual aid and service agreements with local fire departments, emergency medical service (EMS) departments, various medical facilities, and STARS air ambulance; and
- (c) made significant financial donations and in-kind donations of masks and other personal protective equipment, school supplies, food, gas and drinking water to local schools, aid to emergency and women's shelters, churches, food banks, sports organizations, and other organizations in the communities surrounding the Vista Coal Mine Project to assist in maintaining community projects and local health initiatives both before and during the COVID-19 pandemic.

41. To date, total investment in the Vista Coal Mine Projects exceeds \$700 million CAD. More than 67% of this amount – or approximately \$470 million CAD – has been spent on goods,

materials and services provided by Canadian vendors. Annual expenditures in 2020 on goods, materials and services provided by Albertans and Alberta-based companies totalled approximately \$200 million CAD. Taxes, royalties and other government payments exceeded \$16 million CAD in 2020 and are expected to exceed \$21 million CAD in 2021. Phase II of the Project is expected to approximately double annual expenditures, taxes, royalties, and other government payments.

**(c) Transportation and Customer Sales**

42. Coalspur is party to CN Confidential Transportation Master Agreement No. 551105-AA 0000 (the “**CN Master Agreement**”) with CN pursuant to which Coalspur exclusively utilizes CN to transport Coalspur’s clean coal production by unit trains from the Vista Coal Mine Project to two marine terminals - one located in Prince Rupert, British Columbia (“**Ridley Terminal**”), and one located in Port Metro Vancouver, British Columbia (“**Westshore Terminal**”). Both Ridley Terminal and Westshore Terminal are deep-water ports that accommodate the largest bulk carriers in the world, and which are strategically located for exporting Canadian and American products to markets in the Pacific Basin.

43. Coalspur currently sells 100% of export coal production from the Vista Coal Mine Project to Trafigura pursuant to an Amended and Restated Purchase Contract 1812957, dated May 11, 2020 (the “**Trafigura Purchase Contract**”). Under the Trafigura Purchase Contract:

- (a) Coalspur is required to deliver to Ridley Terminal or, in circumstances where the Ridley Terminal is not available or otherwise with Trafigura’s consent, Westshore Terminal, coal production meeting relevant specifications in a volume and at a date which complies with a delivery schedule established by agreement at least 6 months prior to each calendar year between Trafigura and Coalspur, subject to variations

around shipping tolerances, rail and load port constraints, events of force majeure, and other mutually agreed changes; and

- (b) Trafigura is required to pay Coalspur a per metric tonne price based upon the global Coal Newcastle Index settlement price for the relevant quotational period, unless the parties agree to fix the price.

44. The primary market for thermal coal production from the Vista Coal Mine Project is Asia and, in particular, Japan, South Korea, and Taiwan. Trafigura resells Coalspur's coal to a number of large generation companies in these countries.

**(d) Commodity Price Risk Contracts**

45. On March 17, 2020, VE Resources entered into an International Swaps and Derivatives Association, Inc. 2002 Master Agreement with The Huntington National Bank (the "**ISDA Master Agreement**") for the purpose of executing fuel hedging agreements for the benefit of Coalspur to reduce Coalspur's exposure to volatile changes in the cost of fuel required by Coalspur to operate the Vista Coal Mine Project. As at February 26, 2021, VE Resources had entered into the following transactions pursuant to the ISDA Master Agreement:

- (a) Transaction No. 78927104, having a trade date of March 19, 2020, an effective date of January 1, 2021, and a termination date of December 31, 2021;
- (b) Transaction No. 78927106, having a trade date of March 19, 2020, an effective date of January 1, 2021, and a termination date of December 31, 2021;
- (c) Transaction No. 78948253, having a trade date of March 23, 2020, an effective date of January 1, 2021, and a termination date of December 31, 2021; and

- (d) Transaction No. 78948255, having a trade date of March 23, 2020, an effective date of January 1, 2021, and a termination date of December 31, 2021.

(collectively, the “**Transactions**”).

46. Coalspur agreed pursuant to a Fuel Hedge Payment Agreement between VE Resources and Coalspur, dated July 1, 2020, to, among other things, indemnify VE Resources against, and reimburse VE Resources for, all costs, expenses and liabilities incurred or paid by VE Resources under the ISDA Master Agreement and each of the Transactions entered thereunder.

47. As at February 26, 2021, the mark to market value of the Transactions was approximately \$1.07 million USD.

**(e) Cash Management System**

48. Coalspur maintains 12 bank accounts at Canadian financial institutions, as follows:

(a) *Depository Accounts*: Coalspur maintains six (6) depository accounts at Toronto-Dominion Bank (“**TD**”) and Royal Bank of Canada (“**RBC**”) which are the central accounts for Coalspur and operate as the primary receipt and disbursement point for funds in connection with all Coalspur’s operations.

(b) *Cash Collateral - Letter of Credit Accounts*: As of December 31, 2020, Coalspur has letters of credit totalling \$7,221,645 CAD and \$650,000 USD issued by RBC for the benefit of various creditors and vendors. These letters of credit are fully secured by cash deposits held in four (4) bank accounts at RBC.

(c) *Asset Retirement Collateral Account*: Coalspur maintains one (1) bank account with RBC in which it maintains deposits in accordance with applicable provincial

reclamation laws and regulations as defined by each mining permit to fund required surface land reclamation and support facility retirement obligations at the Vista Coal Mine Project.

- (d) *Cash Collateral - Credit Card Account*: Coalspur maintains one (1) bank account at TD for deposits of cash collateral required to maintain certain limits on Coalspur's company credit cards.

### **PART III - PREPETITION CAPITAL STRUCTURE AND INDEBTEDNESS**

#### **A. Assets**

49. As at December 31, 2020, Coalspur had total assets with a book value of approximately \$716 million CAD. This amount includes (all amounts approximate): cash and cash equivalents of \$24 million CAD, accounts receivable of \$18.2 million CAD, inventories of \$50.2 million CAD, property, plant and equipment of \$592.5 million CAD, and deposits and other assets of \$16.9 million CAD.

#### **B. Liabilities**

50. As at December 31, 2020, Coalspur had total liabilities of approximately \$590.5 million CAD including:

- (a) secured obligations in an aggregate principal amount of \$9,126,403.16<sup>2</sup> USD (\$11,682,709 CAD) (as at December 31, 2020) pursuant to terms of the Trafigura Purchase Contract, a Coal Purchase Prepayment Agreement between Trafigura and

---

<sup>2</sup> While Coalspur recorded its liability to Trafigura in its 2020 annual financial statement at \$9,126,403.16 USD (representing the remaining sum outstanding under the Prepayment Agreement) in accordance with accounting standards, as discussed further below, Trafigura crystallized an in-the-money position under the Trafigura Security Agreement in December 2020 of approximately \$57.5 million USD. In accordance with accounting standards, this crystallized sum will be included as a liability for 2021.

Coalspur, dated May 11, 2020 (the “**Prepayment Agreement**”), and an Amended and Restated Security Agreement between Trafigura and Coalspur, dated May 11, 2020 (the “**Trafigura Security Agreement**”);

- (b) secured obligations in the aggregate principal amount of \$297,505,000 USD (\$380,836,000 CAD) (as at December 31, 2020) pursuant to: (i) a Promissory Note dated March 31, 2019 issued by Coalspur in favour of VE Resources, a Delaware limited liability company (formerly known as Cutlass Collieries LLC) in the principal face amount of \$185,510,740.80 USD, as assigned by VE Resources to Cline Trust Company LLC (“**CTC**”) pursuant to an Assignment of Note dated March 31, 2019 (as modified by the Note Modification Agreement and Allonge effective as of July 5, 2019, the Note Modification Agreement and Allonge effective as of September 30, 2019, and the Note Modification Agreement and Allonge effective as of May 1, 2020, the “**Secured Promissory Note**”); and (ii) a Promissory Note issued by Coalspur in favour of CTC dated June 19, 2019 (as amended, restated and modified by the First Amended and Restated Secured Promissory Note dated October 16, 2019 in the principal face amount of \$106,000,000 USD and the Note Modification Agreement and Allonge effective as of May 1, 2020, the “**Secured Working Capital Note**” and, together with the Secured Promissory Note, the “**Notes**”);
- (c) capital lease obligations of \$108.4 million CAD and long-term debt equipment financing obligations of \$12.6 million CAD (each as of December 31, 2020)<sup>3</sup>

---

<sup>3</sup> A portion of the capital lease obligations owing by Coalspur are payable in USD, while the remainder are payable in CAD. For purposes of reporting such obligations, Coalspur converted the sum of USD obligations to CAD as at December 31, 2020.

which, as discussed further below, were recently restructured on March 30, 2021 (with respect to Komatsu International (Canada) Inc., dba Komatsu Financial (“**Komatsu**”)) and March 31, 2021 (with respect to Caterpillar Financial Services Limited (“**Caterpillar Financial**”)) to provide certain payment relief; and

- (d) unsecured obligations of approximately \$77 million<sup>4</sup> CAD (as at December 31, 2020), comprised of accounts payable and accrued liabilities to, among others, trade creditors, Ridley Terminals Inc. (“**Ridley**”), Westshore Terminals Limited Partnership (“**Westshore**”), CN, Tourmaline Oil Corp. (“**Tourmaline**”), and Consolidated Tanager Limited (“**Tanager**”).

### ***Trafigura***

51. Pursuant to the Trafigura Purchase Contract, Coalspur is obligated to sell and deliver coal to Trafigura and Trafigura is obligated to purchase and accept the coal from Coalspur. The purchase price under the contract is an index price based on an average of the price per tonne of coal published in the global Coal Newcastle index for the relevant quotational period. Coalspur and Trafigura may also agree to a fixed price per tonne at agreed-to volumes. When Coalspur and Trafigura agree to a fixed price for certain shipments of coal, security must be posted whenever the contract value of the coal exceeds or falls below the market value by certain calculated thresholds.

52. In accordance with the Trafigura Purchase Contract, in or about July 2018, Coalspur and Trafigura agreed to a series of sales between April 2019 and June 2021 for certain fixed volumes

---

<sup>4</sup> Coalspur’s unsecured obligations are payable in both USD and CAD. For consistency, all USD obligations were converted to CAD as at December 31, 2020 for reporting purposes.

of coal at agreed fixed prices (as amended in May 2020 pursuant to the Prepurchase Agreement and Trafigura Security Agreement ). Under the Trafigura Security Agreement:

- (a) if the market value of the purchased coal exceeded the contract value by a defined threshold amount, Coalspur was required to post collateral in form of cash or a standby letter of credit; or
- (b) if the contract value of the purchased coal exceeded the market value by a defined threshold amount, Trafigura was required to post collateral in the form of cash or a standby letter of credit.

53. As security for Coalspur's obligations under the Trafigura Security Agreement, Coalspur granted to Trafigura a present and continuing first-priority security in, and lien on, all collateral posted pursuant to the Trafigura Security Agreement (other than letters of credit).

54. As discussed further below, between August 2020 and late December 2020, the market price of coal spiked, from approximately \$49.78 USD/tonne in August to more than \$85.31 USD/tonne during the last week of December 2020, thereby triggering a contractual obligation under the Trafigura Security Agreement for Coalspur to post collateral in favour of Trafigura in excess of \$59 million USD. Throughout this period, Trafigura provided Coalspur with weekly calculations detailing closing curve values and resulting collateral requirements.

55. Throughout December 2020, Coalspur attempted to negotiate with Trafigura an arrangement to permit it to post an alternate form of security as collateral for its obligations under the Trafigura Security Agreement. However, no agreement was reached between the parties. By notice dated December 16, 2020, Trafigura declared Coalspur to be in default of the Trafigura Security Agreement for failing to post required collateral, and, on December 24, 2020, Trafigura

liquidated its position under the Trafigura Security Agreement and crystallized an approximately \$59.9 million USD obligation to the account of Coalspur.

56. In addition to the foregoing, Coalspur and Trafigura are parties to the Prepayment Agreement pursuant to which Trafigura agreed to advance to Coalspur \$30 million USD against the purchase price of future coal shipments to be delivered by Coalspur to Trafigura between May 2020 and June 2021. The Prepayment Agreement provides that Trafigura would discount the monthly payment(s) made to Coalspur by \$2,142,857.14 USD or more subject to the calculation of hedge values to account for and repay the \$30 million USD prepayment. The Prepayment Agreement also provides, among other things, that a default by Coalspur in the observance or performance of any agreement, condition, obligation or covenant contained in any other agreement between the parties constituted a cross-default under the Prepayment Agreement.

57. All obligations of Coalspur under the Prepayment Agreement are secured by a mortgage and charge in all present and after-acquired bituminous coal inventory of Coalspur pursuant to the terms of an Inventory Pledge Agreement between Coalspur and Trafigura, dated May 11, 2020 (the “**Inventory Pledge Agreement**”).

58. On or about December 17, 2020, because Coalspur was unable to post required collateral under the Trafigura Security Agreement, Trafigura advised Coalspur that this default constituted a cross-default under the Prepayment Agreement, thereby entitling Trafigura to exercise all rights and remedies thereunder including, but not limited to, accelerating repayment of all amounts prepaid by Trafigura. As at December 17, 2020, Coalspur had repaid approximately \$15 million USD of the \$30 million USD prepayment advanced by Trafigura under the Prepayment Agreement.

59. Accordingly, as of January 11, 2021 Coalspur was indebted to Trafigura in the approximate amount of \$72.5 million USD (the “**Trafigura Indebtedness**”).

60. As discussed further below, pursuant to the terms of a Term Sheet, finalized January 11, 2021 (the “**Term Sheet**”), Trafigura and Coalspur agreed, among other things, (a) to terminate the Prepayment Agreement and replace it with a new Prepayment Agreement incorporating the terms defined in the Term Sheet (the “**New Prepayment Agreement**”); (b) that Coalspur would pay \$7.5 million USD of the \$15 million USD outstanding under the Prepayment Agreement upon execution of the New Prepayment Agreement, with remaining \$7.5 million USD incorporated as an obligation in the New Prepayment Agreement, payable in accordance with its terms; and (c) to settle the approximately \$59.9 million USD obligation payable by Coalspur under the Trafigura Security Agreement for \$57.5 million USD, inclusive of all costs incurred by Trafigura in the cancelling, unwinding or rolling of its fixed price position.

61. Pursuant to letter agreements, dated January 27, 2021 and February 17, 2021 (the “**Letter Agreements**”), Trafigura and Coalspur agreed that:

- (a) title to all coal inventory held by Coalspur as at that date (approximately 780,000 tonnes) would pass to Trafigura;
- (b) Trafigura would pay the actual documented costs incurred by Coalspur to deliver the coal inventory to Trafigura, including all handling and loading costs at the Vista Coal Mine Project, rail costs to the Ridley Terminal, and handling and loading costs at Ridley Terminal (collectively, “**Logistics Costs**”);
- (c) Trafigura would deduct the Logistics Costs from the price of the coal inventory;  
and

- (d) The remaining sum otherwise payable to Coalspur for purchase of the coal inventory would be set-off by Trafigura against, and in satisfaction of, the Trafigura Indebtedness.

62. As at April 14, 2021, Trafigura has set-off approximately \$51.1 million USD of the Trafigura Indebtedness against revenues realized from the sale of Coalspur's coal inventory pursuant to the Letter Agreements. \$13,907,852 USD remains due and owing by Coalspur with respect to the Trafigura Indebtedness. One vessel of Coalspur's coal inventory remains in the preliminary stages of shipping, the proceeds of which will eventually be set-off against the remaining portion of the Trafigura Indebtedness.

***Cline Trust Company LLC***

63. In accordance with a Credit Agreement between Coalspur, as borrower, CTC, as lender, VE Resources, as guarantor, and KC Euroholdings S.A.R.L. (now known as KC Euroholdings LLC, "**KC Euroholdings**"), a wholly owned subsidiary of VE Holdings and parent of the companies that own the Donkin coal mine (the "**Donkin Mine**") in Cape Breton, Nova Scotia), dated March 31, 2019 (the "**Credit Agreement**"), CTC agreed to make term loans available to Coalspur in the principal amounts set forth in one or more promissory notes made by Coalspur in favour of CTC, whether directly or by assignment. Attached as **Exhibit "E"** is a copy of the Credit Agreement.

64. In accordance with the Credit Agreement, on March 31, 2019, Coalspur issued the Secured Promissory Note in favour of VE Resources in the face amount of \$185,510,740.80 USD, and having a maturity date of May 1, 2020 and an interest rate of 13.65% (payable in arrears on each of March 31, June 30, September 30 and December 31 or, in lieu of paying cash, capitalized and added as of such payment date to the principal amount of the Secured Promissory Note), which

memorialized Coalspur's then outstanding obligation to VE Resources. Immediately after Coalspur's issuance of the Secured Promissory Note, VE Resources assigned the Secured Promissory Note to CTC pursuant to an Assignment of Note, dated March 31, 2019 (the "**Assignment Agreement**"). Attached as **Exhibits "F"** and "**G"** respectively are copies of the Secured Promissory Note and Assignment Agreement.

65. Pursuant to the terms of Note Modification and Allonge Agreements, dated July 5, 2019, September 30, 2019, and May 1, 2020 (collectively, the "**Note Modification Agreements**"), Coalspur and CTC, among other things: (a) reduced the interest rate under the Secured Promissory Note from 13.65% to 2.08% (effective July 5, 2019) and from 2.08% to 0.25% (effective May 1, 2020); and (b) extended the maturity date of the Secured Promissory Note from May 1, 2020 to December 31, 2021. Attached as **Exhibit "H"** are copies of the Note Modification Agreements.

66. On June 19, 2019, in order to provide Coalspur with additional capital to fund its early stage operations following start-up and initial production at the Vista Coal Mine Project, CTC made available a term loan of \$20 million USD to Coalspur and, in accordance with the Credit Agreement, Coalspur issued the Secured Working Capital Note in favour of CTC. The Secured Working Capital Note was subsequently:

- (a) amended and restated on August 16, 2019 to increase the amount of the term loan to \$46 million USD;
- (b) amended and restated on October 16, 2019 to, among other things, increase the amount of the term loan to \$106 million USD, extend the maturity date of the loan from October 19, 2019 to December 31, 2021, and reduce the interest rate payable thereunder from 9.0% to 2.05%, effective July 5, 2019; and

- (c) amended on May 1, 2020 to further reduce the interest rate from 2.08% to 0.25%, effective May 1, 2020.

Copies of the Secured Working Capital Note, including all amendments, restatements, and modifications thereto, are attached hereto as **Exhibit “I”**.

67. Subject to the terms of the Subordination Agreement and the Intercreditor Agreement (each as defined below), all obligations of Coalspur under the Notes are secured by first lien security interests in all of the present and after acquired property of Coalspur pursuant to: (a) the Notes; (b) a Security Agreement made between Coalspur and CTC, dated June 19, 2019 (the “**CTC Security Agreement**”); (c) a Floating Charge Demand Debenture in the principal sum of \$300 million USD granted by Coalspur in favour of CTC, dated June 19, 2019, as amended by a First Supplemental Debenture, dated March 10, 2021 pursuant to which the principal sum was increased to \$500 million USD (together, the “**Demand Debenture**”); and (d) a Debenture Pledge Agreement, dated June 19, 2019 (the “**Debenture Pledge Agreement**”). Copies of the CTC Security Agreement, Demand Debenture and Debenture Pledge Agreement are attached hereto as **Exhibits “J” to “L”**, respectively.

68. In addition, pursuant to a Floating Charge Demand Debenture, dated March 10, 2021 (the “**Trustee Debenture**”), Coalspur mortgaged: (a) by way of a fixed and specific mortgage and charge to and in favour of 2330362 Alberta ULC (the “**Trustee**”) for the benefit of CTC, all fee simple estate, right, title and interest of Coalspur in a number of residential properties owned by Coalspur in Hinton, Alberta; and (b) by way of a floating charge, all present and future real property of Coalspur of any nature or kind. The Trustee holds the Trustee Debenture and the security granted thereunder for and on behalf of CTC pursuant to the terms of a Trust Agreement, dated March 10, 2021 (the “**Trust Agreement**”) and a Debenture Pledge Agreement, dated March

10, 2021 (the “**Trustee Debenture Pledge Agreement**”). Copies of the Trustee Debenture, Trust Agreement and Trustee Debenture Pledge Agreement are attached hereto as Exhibits “**M**” to “**O**”, respectively.

69. In addition to the foregoing security, all obligations of Coalspur under the Notes are secured by: (a) a Pledge Agreement, dated June 19, 2019, pursuant to which VE Resources granted CTC a security interest in a portion of the equity interests of Coalspur (the “**Vista Pledge Agreement**”)<sup>5</sup>; (b) a Pledge Agreement, dated June 19, 2019, pursuant to which KC Euroholdings granted CTC a security interest in a portion of the equity interests of a related company, Kameron Collieries Limited (the “**KC Pledge Agreement**”); (c) Guarantee Agreements, dated March 31, 2019 (together, the “**Guarantees**”) pursuant to which KC Euroholdings and Cutlass Collieries LLC (now VE Resources) guaranteed the prompt and punctual payment, performance and satisfaction of all present and future obligations of Coalspur to CTC. Copies of the Vista Pledge Agreement, the KC Pledge Agreement and the Guarantees are attached hereto as **Exhibits “P”** to “**R**”, respectively.

70. Pursuant to the Credit Agreement, commencement of insolvency or debtor relief proceedings constitutes an event of default, entitling CTC to exercise all rights and remedies available to it against Coalspur, and to enforce the KC Pledge Agreement and the Guarantees. Neither KC Euroholdings nor VE Resources have sought protection under the CCAA because: (a) in respect of KC Euroholdings, the Donkin Mine was permanently closed in March 2020, leaving very little or no value in the subsidiaries of KC Euroholdings; (b) VE Resources is largely a shell

---

<sup>5</sup> As discussed above, on December 31, 2020, VE Holdings took an assignment of substantially all of the assets of VE Resources, including 100% of the shares of Coalspur. VE Holdings received ownership of all of the shares of Coalspur subject to the Vista Pledge Agreement.

company; and (c) CTC has agreed to support Coalspur's restructuring efforts and to forbear from enforcing against the KC Pledge Agreement and the Guarantees.

71. Pursuant to a Subordination Agreement between Coalspur, CTC and Trafigura, dated May 11, 2020 (the "**Subordination Agreement**"), CTC agreed, among other things, to subordinate and postpone the Subordinated Indebtedness and the Subordinated Security (each as defined in the Subordination Agreement) to all debts, liabilities and obligations due and owing, or otherwise payable by Coalspur to Trafigura, and to all security granted by Coalspur to Trafigura pursuant to the Trafigura Security Agreement, the Inventory Pledge Agreement, or otherwise. Attached as **Exhibit "S"** is a copy of the Subordination Agreement.

72. Similarly, pursuant to an Intercreditor Agreement between Caterpillar, Coalspur, The Cline Group LLC ("**CGL**"), CTC, and VE Holdings dated as of July 1, 2018 (as amended by a First Amendment to Intercreditor Agreement dated as of April 1, 2019, a Second Amendment to Intercreditor Agreement dated as of September 6, 2019, and a Third Amendment to Intercreditor Agreement dated as of March 31, 2021, the "**Intercreditor Agreement**"), the parties agreed, among other things, that:

- (a) all equipment under the MLAs (as defined below), all maintenance and repair contracts and service agreement with respect to such equipment, and all proceeds of the foregoing constituted "CFSL Priority Collateral" and any security interest of CTC, VE Holdings or CGL in such collateral was subordinated to Caterpillar;
- (b) all proceeds from the CFSL Collateral would be paid first to Caterpillar in satisfaction of all indebtedness owing by Coalspur under the MLAs;

- (c) prior to the “Post Modification Release Date”<sup>6</sup> no proceeds of any collateral would be paid to CTC, VE Holdings or CGL until all obligations of Coalspur to Caterpillar under the MLAs were paid in full; and
- (d) following the “Post Modification Release Date” all proceeds of the CFSL Priority Collateral would be paid to Caterpillar, and all proceeds of other collateral would be paid to CTC, CGL or VE Holdings, as applicable, until each respective claim was repaid in full.

73. As at December 31, 2020, approximately \$380,836,000 CAD (or \$297,505,000 USD) was outstanding under the Notes.

#### ***Capital Leases and Equipment Financing***

74. Coalspur is party to:

- (a) a Master Lease Agreement with Caterpillar, dated June 26, 2017 (as amended by a First Amending Agreement, dated March 31, 2021, the “**2017 MLA**”);
- (b) a Master Lease Agreement with Caterpillar, dated July 1, 2018 (as amended by a First Amending Agreement dated as of November 16, 2018, a Second Amending Agreement dated as of August 16, 2019, and a Third Amending Agreement dated March 31, 2021, the “**2018 MLA**”);

---

<sup>6</sup> “Post Modification Release Date” is defined in the Intercreditor Agreement as the date on which: (a) Caterpillar has received four (4) prompt quarterly lease payments under each MLA; and (b) Coalspur certifies in writing that it has produced not less than 1,300,000 metric tonnes of saleable coal in 90 consecutive days (as determined on a rolling 90 day basis by Coalspur in good faith).

- (c) a Master Lease Agreement with Caterpillar, dated May 13, 2019 (as amended by a First Amending Agreement dated May 13, 2019, and a Second Amending Agreement dated March 31, 2021, the “2019 MLA” and together with the 2017 MLA and the 2018 MLA, the “**MLAs**”).

75. Pursuant to the MLAs, Coalspur has entered into various leases of equipment, highwall mining equipment and highwall mining ancillary equipment for use at the Vista Mine Project through capital lease transaction.

76. All obligations of Coalspur under the 2017 MLA and the 2019 MLA are guaranteed by VE Holdings (the “**Caterpillar Guarantees**”) pursuant to the terms of an Amended and Restated Guarantee, dated March 31, 2021 (all guarantees relating to the 2018 MLA were released by Caterpillar pursuant to a release, dated July 6, 2020). In addition to the Caterpillar Guarantees, the outstanding balance owing to Caterpillar under the MLAs is secured by a security interest in all equipment subject to the MLAs pursuant to the terms of a General Security Agreement, dated July 1, 2018 (as amended by a First Amendment to the 2018 General Security Agreement dated as of March 31, 2021) and a General Security Agreement, dated April 1, 2019 (as amended by a First Amendment to 2019 General Security Agreement dated as of March 31, 2021).

77. As discussed further below, prior to March 31, 2021, Caterpillar also held a security interest in a debt service reserve account maintained by Coalspur at United Bank (the “**Debt Service Reserve Account**”) in which Coalspur was required to deposit monies equal to 10% of the purchase price for each schedule of equipment prior to drawdown. By letter dated March 31, 2021, Coalspur and Caterpillar directed United Bank to close the Debt Service Reserve Account and disburse the approximately \$6.2 million USD held therein to Coalspur. Upon receipt, Coalspur

was required to remit the full \$6.2 million USD to Caterpillar in payment of certain lease obligations under the MLAs.

78. In addition to Caterpillar, Coalspur:

- (a) is also party to a Master Lease Agreement with Komatsu, dated February 15, 2018 (as amended, the “**Komatsu Master Lease**”), pursuant to which Coalspur has entered into various leases of equipment for the Vista Coal Mine Project through capital lease transactions; and
- (b) has also entered into various miscellaneous leases of equipment for the Vista Coal Mine Project through capital lease transactions with SMS Equipment and Finning.

79. The outstanding balance owing to Komatsu under the Komatsu Master Lease is secured by a security interest in all equipment subject to the Komatsu Master Lease.

80. As at December 31, 2020, capital lease obligations of \$108.4 million CAD (or \$84.9 million USD) remained outstanding.

81. Coalspur is also party to a Commercial Refinance and Consolidation Agreement with Komatsu, dated September 1, 2020 (as amended by an Extension Agreement dated March 30, 2021, the “**Komatsu Financing Agreement**”) pursuant to which Komatsu advanced long-term financing to Coalspur to acquire certain equipment for the Vista Coal Mine Project. As at December 31, 2020, financing advanced to Coalspur under the Komatsu Financing Agreement totalled \$12.6 million CAD (or \$9.8 million USD).

***Unsecured Obligations***

**(a) Ridley**

82. Ridley and Coalspur are parties to a Terminal Services Agreement, dated January 1, 2018 (as amended by further letter agreement, dated February 13, 2021, the “**Ridley Terminal Agreement**”) pursuant to which Ridley agreed to provide Coalspur with terminal services at the Ridley Terminal between January 1, 2019 and December 31, 2028. Among other costs and charges payable by Coalspur, the Ridley Terminal Agreement requires that Coalspur deliver a minimum throughput of 90% of the declared contract volume or pay a shortfall payment of \$6 CAD per tonne, adjusted annually for inflation. The Ridley Terminal Agreement further requires Coalspur to maintain a letter of credit in favour of Ridley in the amount of \$10 million CAD, which Coalspur is required to replenish if and when any amounts are drawn by Ridley thereunder.

83. As discussed further below, as a result of various issues at the Vista Mine Project in 2019, Coalspur did not deliver the minimum throughput requirements under the Ridley Terminal Agreement in 2019 and, as a result, was required to pay a shortfall amount to Ridley. A dispute arose between Coalspur and Ridley regarding the quantum of such shortfall payment in light of certain “Relief Events” (as defined under the Ridley Terminal Agreement) which Coalspur was of the view relieved it of various payment obligations. By Settlement Agreement, dated July 1, 2020 (the “**Ridley Settlement Agreement**”), Coalspur and Ridley agreed, among other things, that: (a) Coalspur would pay Ridley a shortfall payment for 2019 in the amount of \$9,413,648 CAD (the “**Shortfall Payment**”); (b) Ridley would draw down \$4,738,355 CAD from the letters of credit which Coalspur would replenish in full by no later than December 31, 2021; and (c) Coalspur would pay the remaining portion of the Shortfall Payment by means of a throughput rate surcharge

or, failing that, by consenting to Ridley drawing down such sum on the letters of credit which Coalspur was again required to replenish in full by no later than December 31, 2021.

84. As at April 14, 2021, Coalspur owes Ridley the sum of \$11,287,950.08 CAD under the Ridley Terminal Agreement, comprised of shortfall payments due and owing by Coalspur for 2019 and 2020, and various throughput rate surcharges. In addition to the foregoing, Coalspur is required under the terms of the Ridley Terminal Agreement and the Ridley Settlement Agreement to replenish all drawn letters of credit posted by Coalspur in the sum of \$10 million CAD by no later than December 30, 2021. Coalspur expects that the entirety of the letters of credit will be drawn by Ridley in respect of the Shortfall Payment and other miscellaneous amounts.

**(b) Westshore**

85. Coalspur and Westshore are parties to an Amended and Restated Shipping Agreement, dated June 15, 2020 (the “**Westshore Agreement**”) pursuant to which Westshore agreed to provide Coalspur with terminal services at the Westshore Terminal during the Shipping Term (defined in the Westshore Agreement as June 15, 2020 to June 30, 2022). The Westshore Agreement requires, among other things, that Coalspur deliver a base quarterly tonnage of 375,000 MT during each contract year in 2021 and 2022, and pay Westshore on the first business day of each calendar quarter an amount equal to the base quarterly tonnage multiplied by \$5.375 CAD (subject to various “Relief Events” which relive Coalspur of certain payment obligations).

86. As at February 28, 2021, Coalspur owes Westshore the sum of \$277,586.67 CAD under the Westshore Agreement, comprised of terminal charges for Q1 2021.

**(c) CN**

87. Coalspur is party to the CN Master Agreement with CN pursuant to which Coalspur exclusively utilizes CN to transport Coalspur's clean coal production by unit trains from the Vista Coal Mine Project to the Ridley Terminal and the Westshore Terminal during the Contract Period (defined in the CN Master Agreement as January 1, 2019 to December 31, 2028). The CN Master Agreement requires, among other things, that during each 12-month period, Coalspur transports not less than 3 million metric tonnes of coal with CN. Subject to various events of force majeure, plant rationalizations, and other circumstances, Coalspur is required to pay CN a penalty of \$1 CAD per metric tonne for each metric short of the volume commitment of coal for the relevant 12-month period.

88. As at April 14, 2021, Coalspur owes CN the sum of \$5,416,504.78 CAD under the CN Master Agreement, comprised of fuel surcharges, carbon taxes, and rail transportation costs.

**(d) Tourmaline**

89. Tourmaline and Coalspur are party to a Multiple Mineral Exploration and Development Agreement, dated December 9, 2013 (as amended by a First Amending Agreement dated June 2, 2016, a Second Amending Agreement dated December 6, 2019 and a Third Amending Agreement dated December 31, 2020, the "**Development Agreement**") pursuant to which Coalspur agreed, among other things, to pay Tourmaline \$6.9 million CAD plus interest in numerous installments to compensate it for the loss of exploration and development lands as a result of the Vista Coal Mine Project.

90. As at April 14, 2021, Coalspur owes Tourmaline the remaining principal sum of \$1,712,523.33 CAD plus accrued and accruing interest under the Development Agreement, which,

until recently, was payable on June 30 and September 30, 2021. By a Fourth Amending Agreement between Coalspur and Tourmaline, dated March 25, 2021, the parties agreed to further defer upcoming installment payments contingent on Coalspur submitting an application to the AER to amend one of its surface leases in order to facilitate certain intended drilling activity by Tourmaline.

**(e) Tanager**

91. Tanager and Coalspur are party to an Amended and Restated Transfer of Leases Agreement, effective February 19, 2016 (as amended by a First Amendment to Amended and Restated Transfer of Leases Agreement effective November 9, 2019, a Second Amendment to Amended and Restated Transfer of Leases Agreement effective as of December 15, 2020, and a Third Amendment to Amended and Restated Transfer of Leases Agreement effective as of April 6, 2021, the “**Transfer Agreement**”) pursuant to which Coalspur agreed, among other things, to pay Tanager \$10 million CAD once the Vista Coal Mine Project reached development and sold a defined quantity of coal. The payment relates to certain mineral leases held by Tanager which the parties agreed would be transferred to Coalspur upon payment of the \$10 million CAD by Coalspur.

92. As at April 14, 2021, Coalspur owes Tanager the remaining sum of \$1,875,000 CAD plus all accrued and accruing interest under the Transfer Agreement, payable in three installments of \$625,000 CAD on June 30, September 30 and December 31, 2021, with all accrued interest payable on March 31, 2022.

**(f) Trade Creditors**

93. Coalspur has ongoing supply and/or service arrangements with numerous vendors and services providers, including for operation and maintenance of the Vista Coal Mine Project.

94. As at April 14, 2021, Coalspur owed outstanding amounts to certain trade creditors in the aggregate amount of \$53,542,605.55 CAD,<sup>7</sup> before taking into account any disputed amounts or claims to set-off which Coalspur may have or assert.

***Royalties***

95. Coalspur is required to make certain royalty payments on its coal production. Coalspur's royalty obligations are determined by provincial regulation for production from Crown-owned bituminous (mountain/foothills) coal, which is based on a revenue minus costs royalty regime, calculated before mine payout at 1% of mine mouth revenue and after mine payout at 1% of mine mouth revenue plus 13% of net revenue.

96. In addition to royalties payable by Coalspur to the Alberta Crown, Coalspur:

- (a) is party to a Mineral Royalty Agreement with KC Euroholdings and Borrowdale Park S.A. ("**Borrowdale**"), dated April 28, 2015, pursuant to which Coalspur is a joint and several obligor with KC Euroholdings for payment of a mineral royalty to Borrowdale on each tonne of coal sold by Coalspur over certain defined pricing minimums (the "**Borrowdale Royalty**"). The Borrowdale Royalty is payable by Coalspur and KC Euroholdings until the balance of a credit facility provided by

---

<sup>7</sup> Coalspur's unsecured obligations are payable in both USD and CAD. For consistency, all USD obligations were converted to CAD as at April 14, 2021 for reporting purposes.

Borrowdale to a predecessor of Coalspur for development of the Vista Coal Mine Project is repaid;

- (b) is party to an Amended and Restated Coal Royalty Agreement dated as February 19, 2016 with Tanager (as amended by a First Amendment to Amended and Restated Coal Royalty Agreement, dated November 2019, the “**Tanager Royalty Agreement**”) pursuant to which Coalspur agreed to pay Tanager a 1.0% royalty on tonnes of coal mined from various leases owned by Tanager based on the free on board price of clean coal sold by Coalspur; and
- (c) is party to a Surface Sublease and Throughput Agreement with 3318287 Nova Scotia Limited (“**3318287**”) dated July 12, 2018 (as amended by a First Amendment to Surface Sublease and Throughput Agreement dated January 1, 2020 (the “**3318287 First Amendment**”), and a Second Amendment to Surface Sublease and Throughput Agreement, dated January 1, 2021 (the “**331827 Second Amendment**”, and collectively, the “**3318287 Royalty Agreement**”) pursuant to which Coalspur agreed to pay 3318287 for use of the rail loadout facility owned by 3318287 on the CN main line: (i) an annual minimum rental payment of \$3 million USD on or before January 15<sup>th</sup> of each calendar year of the term (the “**Minimum Rental Payment**”); and (ii) a royalty of \$0.94 USD per tonne of clean coal produced from the Project and loaded onto unit trains through the rail loadout facility, escalating at a rate of 2% per year commencing on January 1, 2020, the total sum of which is credited each year as against the Minimum Rental Payment. Pursuant to the 3318287 First Amendment and the 3318287 Second Amendment, 3318287 agreed to waive the Minimum Rental Payment for 2020 and 2021 in

exchange for Coalspur paying: (i) all required royalty payments as and when such amounts became due; and (ii) a monthly finance charge at a rate equal to the CIBC Prime Rate in effect on the first business day of each respective quarter, payable on July 15, 2020, October 15, 2020 and July 15, 2021 (under the 3318287 First Amendment) and on April 15, 2021, July 15, 2021, October 15, 2021 and January 15, 2022 (under the 3318287 Second Amendment).

97. Apart from 3318287, Coalspur is current on all required royalty payments. As at April 14, 2021, Coalspur is indebted to 3318287 in the amount of \$711,756.85 USD under the 3318287 Royalty Agreement for royalties payable on coal produced at the Vista Coal Mine Project in January and February 2021.

### ***Environmental Obligations***

98. Coalspur is subject to environmental regulation under a variety of Canadian and Alberta laws and regulations. These laws and regulations provide for, among other things, stringent standards on the use, handling, spill, release or emission of various substances produced in association with Coalspur's mining operation. Coalspur continues to satisfy such obligations in the ordinary course. As at the date of this Affidavit, Coalspur does not have any outstanding environmental, clean-up or other orders issued against it.

### ***Litigation Claims***

99. Coalspur is involved in certain claims and litigation arising in the course of its business, including: (a) an ongoing claim in the Alberta Court of Queen's Bench by a subcontractor against Coalspur related to termination of a services agreement in early 2020 because of performance

issues; and (b) an ongoing claim by Coalspur against a vendor related to the supply of faulty material to the Vista Coal Mine Project.

***PPSA Registrations***

100. I am advised by Emily Paplawski of Osler, Hoskin & Harcourt LLP, counsel to Coalspur, that as of March 26, 2021, there are:

- (a) 102 registrations against Coalspur in the Alberta Personal Property Security Registry comprised of:
  - (i) One registration by Trafigura of a security interest in all present and after-acquired personal property of Coalspur secured by the Inventory Pledge Agreement and the Trafigura Security Agreement;
  - (ii) One land charge and one registration by CTC of a security interest in all present and after acquired personal property of Coalspur;
  - (iii) The Cline Group LLC filed a land charge and security agreement against Coalspur on July 3, 2013 which appears to relate to a security arrangement which was in place at the time Coalspur was acquired in 2015, but which was satisfied and should likely have been discharged on January 3, 2019;
  - (iv) One land charge and one registration of a security interest by Borrowdale and KC Euroholdings relating to the Borrowdale Royalty;
  - (v) Three registrations by Trinityrail Canada Inc. of a security interest in certain railroad rolling stock and railcars supplied to Coalspur pursuant to one or more railcar leases;

- (vi) 83 registrations by one of Komatsu, Caterpillar Financial, Finning or SMS Equipment relating to serial numbered goods in respect of equipment leases or purchase financing arrangements entered by Coalspur for equipment used at the Vista Coal Mine Project;
- (vii) Three registrations by Black Diamond Limited Partnership, Boxx Division, of a security interest in various serial numbered trailers leased to Coalspur;
- (viii) Two registrations by TD and RBC in respect of the accounts payable bank accounts held by Coalspur at each applicable financial institution; and
- (ix) Four Garage Keepers' Liens in the sums of \$6,047.35 CAD, \$6,078.38 CAD, \$1,969.46 CAD and \$7,432.59 CAD.

#### **PART IV - RECENT EVENTS LEADING TO CCAA FILING**

101. Coalspur's need to restructure is primarily driven by the acute liquidity shortage facing the company resulting from Coalspur's obligation to pay Trafigura \$57.5 million USD under the Trafigura Purchase Contract following the rapid escalation in global coal prices in late 2020, coupled with the simultaneous shut down of the mine in February 2021 as a result of the Permit Issue, and associated loss of all revenues since that date. While the Permit Issue has now been resolved, Coalspur lacks sufficient funding to restart the Project and begin producing coal and generating revenue for the benefit of all stakeholders. Coalspur urgently requires the protection of the CCAA.

##### **A. The AER Permit Issue**

102. As discussed above, Coalspur owns and operates the Vista Coal Mine Project about 10 kilometres east of Hinton, Alberta. Coalspur operates the Project pursuant to, and in accordance

with, numerous licenses, permits, and approvals granted by the AER under the *Public Lands Act* (Alberta), *Coal Conservation Act* (Alberta) (“CCA”), the *Environmental Protection and Enhancement Act* (Alberta) (“EPEA”), and the *Water Act* (Alberta) (“WA”). Phase I of the Project commenced operation in 2019 and has capacity to produce roughly 6.5 million tonnes of clean coal per year.

103. Coal is mined at the Project using open-pit surface mining and highwall mining methods. Raw coal is then processed through the coal preparation plant (the “**Plant**”) to remove impurities (e.g. rock, clay) from the raw coal to make it a clean marketable product. The cleaning process at the Plant produces two waste streams – coarse coal refuse and fine coal refuse. Fine coal refuse consists of a combination of fines and water, commonly known in the mining industry as “slurry”.

104. The Project was initially designed to use a filter press plant was intended to mechanically dewater all slurry produced at the Vista Coal Mine Project. However, after initial production commenced in 2019, Coalspur discovered that the raw coal feed contained significantly higher levels of clay and fine material than the filter press plant could process. While originally the volume was designed to be 10-15% of the overall volume of material being processed, actual volumes being generated approximated 20-30%. Accordingly, by June 2019, it became apparent to Coalspur that the increase in slurry would cause the Project to exceed the capabilities of the filter press plant.

105. Coalspur accordingly filed an application with the AER on November 5, 2019 (the “**Initial Tailings Cell Application**”) seeking amendments to various licenses and approvals to allow a mined out pit (the “**Tailings Cell #1**”) located within the Phase I Project boundary to be repurposed for the storage, settling and dewatering of fine refuse from the Plant. The Initial Tailings Cell Application proposed, among other things, that: (a) slurry from the Plant would be pumped

into the Tailings Cell #1 through a high-density pipeline for storage, settling and dewatering; and (b) as Tailings Cell #1 filled and the solids within the slurry settled, reusable water would be pumped back from the Tailings Cell #1 into the Plant for reuse in Plant operations in order to optimize water recovery.

106. On December 13, 2019, Coalspur filed an additional request with the AER as part of the Initial Tailings Cell Application seeking conditional authorization from the AER to commence depositing slurry in Tailings Cell #1 on January 1, 2020 for a period of 6 months while the Initial Tailings Cell Application was being considered by the AER. On February 6, 2020, the AER approved Coalspur's request ("**Tailings Cell #1 Approval**"). Immediately upon receipt of the Tailings Cell #1 Approval, Coalspur began depositing slurry into Tailings Cell #1. Coalspur estimated that the capacity of Tailings Cell #1 would last for approximately 9 or 10 months.

107. Recognizing the limited window provided by the approval of Tailings Cell #1, Coalspur met with the AER on February 11, 2020 to canvass whether the AER required any additional information as a condition for approval of the remaining eight Tailings Cells ("**Tailings Cells #2 to #9**"). The AER requested that Coalspur submit monitoring data, plans and reports related to the performance of Tailings Cell #1 in the application for future tailings cells. In compliance with the AER's request, Coalspur: (a) submitted all monitoring and performance information to the AER; (b) attended a pre-application meeting with the AER to review and discuss such information on or about June 3, 2020; and (c) formally submitted an application for Tailings Cells #2 to #9 (the "**Tailings Cells Application**") on July 16, 2020 responding to, and incorporating, information learned from early operation of Tailings Cell #1.

108. In response to various technical deficiencies noted by the AER with respect to the Tailings Cell Application, on August 10, 2020, Coalspur submitted a further amended Tailings Cell

Application to the AER and advised the AER that approval of the application was required by no later than October 2020 for Phase I to remain operational. The AER indicated that such timeline would not be an issue and formally registered the Tailings Cell Application as Application No. 1929395.

109. In accordance with provincial requirements, upon registration by the AER, Coalspur submitted the Tailings Cell Application to Alberta's Aboriginal Consultation Office ("ACO"). On September 8, 2020, ACO confirmed that no consultation was required with the respect to the Tailings Cell Application.

110. Notwithstanding ACO's determination, on September 17, 2020, two Indigenous groups, the Louis Bull Tribe ("LBT") and the Gunn Métis Local #55, Lac Ste. Anne Métis ("GML/LSAM"), each submitted statements of concern to the AER (the "**Statements of Concern**") with respect to the Tailings Cell Application.

111. Throughout the fall and early winter of 2020, Coalspur submitted significant documentation to the AER addressing the Statements of Concern and responded to two supplemental information requests issued by the AER in September and October 2020. Coalspur informed the AER on multiple occasions during this period that Tailings Cell #1 would reach its maximum operating capacity in October or November 2020 and that unless the Tailings Cell Application was approved prior to this time, Coalspur would be forced to suspend operations at the Project (the "**Permit Issue**").

112. By early December, the Permit Issue was not resolved and, in order to avoid closure of the Vista Coal Mine Project, Coalspur applied urgently to the AER on December 16, 2020 for an amendment to Tailings Cell #1 Approval requesting a temporary one-metre reduction in the required freeboard in Tailings Cell #1 to permit the continued flow of slurry from the Plant (the

“**Emergency Amendment Application**”). The AER approved the Emergency Amendment Application on December 29, 2020.

113. On January 19, 2021, notwithstanding the dire circumstances facing Coalspur, and notwithstanding ACO’s determination that no consultation was required with respect to the Tailings Cells Application, due to the outstanding Statements of Concern from LBT and GML/LSAM, the AER directed that the Tailings Cells Application would be submitted to a public hearing to be scheduled later.

114. On February 1, 2021, the tailings in Tailings Cell #1 reached its maximum permitted level and, as a result, Coalspur was forced to immediately suspend further processing operations at the Plant. On February 5, 2020, all mining operations at the Vista Coal Mine Project were suspended as a result of the Permit Issue and Coalspur was required to temporarily layoff 274 full time employees of Bighorn (4 employees), Chinook (221 employees) and Yellowhead (49 employees).

115. On March 23, 2021, the AER released decision no. 2021 ABAER 006 cancelling the public hearing in response to GML/LSAM withdrawing its Statement of Concern on January 25, 2021, and LBT withdrawing its Statement of Concern on March 19, 2021. The AER panel presiding over the public hearing remitted the Tailing Cell Application back to the AER’s regulatory application branch for consideration and processing “since there were no participants”.

116. On April 8, 2021, the AER issued the required approvals of the Tailings Cell Application permitting “the construction and operation of McPherson Tailings Cells 2 and 3 only, and the modifications to the associated surface water and groundwater management infrastructure.”

117. On April 12, 2021, AER issued the licences to resume operations at the Vista Coal Mine since a temporary suspension of operations had previously been issued. As at the date of this

Affidavit, the Vista Coal Mine remains on care and maintenance and all 274 employees remained furloughed until such time as Coalspur is able to recommence operations at the Project.

**B. Trafigura Hedges**

118. As discussed above, the Trafigura Purchase Contract obligates Coalspur to sell and deliver coal to Trafigura at either an index price based on the average of the price per tonne of coal published in the globalCoal Newcastle index, or at a per tonnage fixed price as agreed between Trafigura and Coalspur. The fixed price option under the Trafigura Purchase Contract is designed to provide Coalspur with a mechanism to minimize its exposure to volatile market fluctuations in the global price of coal by fixing the price of supply for a given period of time, regardless of market trends.

119. Since the Project commenced production in early 2019, the fixed price mechanism under the Trafigura Purchase Contract has served a significant part of Coalspur's price-risk mitigation strategy. In July 2018, in anticipation of Project start-up, Coalspur and Trafigura agreed to a series of sales between April 2019 and June 2021 for certain defined volumes of coal at agreed fixed prices. Until late 2020, these forward sales have facilitated a stable and consistent revenue stream for Coalspur protected from the vagaries of the commodity market.

120. However, commencing in August 2020, in response to various global demand, market, and other factors impacting the price of coal worldwide, the market price of coal began to spike, and continued its upward trajectory into the latter part of December 2020. In August 2020, the market price of coal was approximately \$49.78 USD/tonne. By the last week of December 2020, the market price had climbed by almost 60% to more than \$85.31 USD/tonne, as shown in the attached table:



121. The rapid escalation of coal prices in late 2020 triggered a contractual obligation under the Trafigura Security Agreement for Coalspur to post collateral of approximately \$59.9 million USD in favour of Trafigura – an unprecedented obligation which crystallized at the very same time that Coalspur was facing a potential shutdown of the Project because of the Permit Issue.

122. Faced with crystallization of a substantial payable to Trafigura and the prospect of mine shut down, Coalspur attempted to negotiate during the latter part of November and into mid-December an arrangement with Trafigura to permit it to post an alternate form of security as collateral for its obligations under the Trafigura Security Agreement as it did not have access to cash or a letter of credit to post as security. The parties were not able to reach agreement. As a result:

- (a) on December 16, 2020, Trafigura served Coalspur with notice that Coalspur was in default of the Trafigura Security Agreement for failing to post required collateral;

- (b) on December 17, 2020, Trafigura served Coalspur with notice that its failure to post collateral under the Trafigura Security Agreement constituted a cross-default under the Prepayment Agreement, thereby entitling Trafigura to exercise all rights and remedies thereunder; and
- (c) on December 24, 2020, Trafigura liquidated its position under the Trafigura Security Agreement and crystallized an approximately \$59.9 million USD obligation to the account of Coalspur.

123. Notwithstanding the foregoing, with the approval by the AER of the Emergency Amendment Application on December 29, 2020 and the continuance of mine operation, discussions regarding a potential solution to the Trafigura Indebtedness resumed between Trafigura and Coalspur in late December. On January 11, 2021, the parties reached agreement on a Term Sheet which provided, among other things, that subject to negotiation and finalization of definitive agreements:

- (a) Coalspur would pay Trafigura \$7.5 million USD upon execution of definitive agreements in partial satisfaction of the \$15 million USD due and owing under the Prepayment Agreement;
- (b) the \$59.9 million USD obligation under the Trafigura Security Agreement would be crystallized by agreement at \$57.5 million USD;
- (c) Trafigura and Coalspur would negotiate a New Prepayment Agreement pursuant to which: (i) Trafigura would tender the amount of \$65 million USD (comprised of \$57.5 million USD of the crystallized obligations owing under the Trafigura Security Agreement plus the remaining \$7.5 million USD owing under the

Prepayment Agreement) as a prepayment to Coalspur for future coal shipments to be made by Coalspur pursuant to the Trafigura Purchase Contract; (ii) Coalspur would repay the prepayment by deduction of \$1.5 million USD plus applicable interest from amounts otherwise payable by Trafigura for coal purchases each month from January 2021 through December 2022; and (iii) Trafigura would be paid a cash sweep amount every quarter in accordance with a defined calculation until the prepayment amount was repaid in full;

- (d) all fixed pricing for coal delivered and received after December 16, 2020 was cancelled; and
- (e) in order to maintain an available mechanism for Coalspur to manage price risk by means of forward sales, Coalspur was permitted upon receipt of AER approval of the Tailing Cell Application to request a price floor and ceiling under the Trafigura Purchase Contract, with terms to be mutually agreed between the parties.

124. The Term Sheet was viewed by Coalspur as greatly beneficial to the financial and operational well-being of the company as it provided a two year term for repayment of the Trafigura Indebtedness, thereby ensuring that Coalspur could continue to produce coal and maintain the necessary revenue stream to operate the Project for the benefit of Coalspur and its stakeholders.

125. However, as discussed above, by end of January, the AER had still not approved the Tailings Cell Application. The additional capacity in McPherson Tailings Cell #1 provided by approval of the Emergency Amendment Application was nearing exhaustion, and Coalspur was again faced with the impending shut down of the Project because of the Permit Issue.

126. In late January when no approval of the Tailings Cell Application had been received, Trafigura advised Coalspur that in light of the imminent shut down of the Project and because ongoing coal shipments were necessary to ensure repayment of prepayment amounts under the Term Sheet, Trafigura was no longer prepared to proceed in accordance with the Term Sheet. Instead, simultaneous with the shut down of the Project, Trafigura exercised its right to take title to, and sell, the entirety of Coalspur's coal inventory.

127. Left with little option and no means of satisfying the Trafigura Indebtedness, on January 27, 2021, Trafigura and Coalspur executed a letter agreement pursuant to which:

- (a) Coalspur agreed to transfer title to all coal inventory held by it as at January 21, 2021 (approximately 593,000 tonnes) to Trafigura;
- (b) Trafigura agreed to pay the Logistics Costs and deduct such costs from the price of the coal inventory; and
- (c) the parties agreed that the remaining sum otherwise payable to Coalspur for purchase of the coal inventory would be set-off by Trafigura against, and in satisfaction of, the Trafigura Indebtedness.

128. On February 1, 2021, the tailings in Tailings Cell #1 reached its maximum permitted level and, as a result, Coalspur was forced to immediately suspend further processing operations at the Plant. Without a means to process coal to generate revenue, on February 5, 2021, all mining operations at the Vista Coal Mine Project were suspended as a result of the Permit Issue.

129. By supplemental letter agreement dated February 17, 2021, Coalspur transferred title to all incremental coal inventory produced at the Project between January 21<sup>st</sup> and Project shut down on

February 5<sup>th</sup> (approximately 187,000 tonnes) to Trafigura to be sold and set-off in accordance with the terms of the prior letter agreement.

**C. Coalspur's Urgent Need for Protection under the CCAA**

130. Coalspur is in urgent need of protection under the CCAA to preserve value for all stakeholders. The unprecedented financial strains placed on Coalspur's business as a result of the spike in coal prices in late 2020 and resulting crystallization of an almost \$60 million USD obligation to Trafigura, coupled with the simultaneous shut down of the Project as a result of the Permit Issue, has been sudden and devastating in their reach and effect. At the very same that Trafigura depleted the entirety of Coalspur's inventory and, in turn, its ability to generate revenue to fund its operations, Coalspur was faced with shut down of the Project as a result of the Permit Issue.

131. Accordingly, while Coalspur has significant business operations and assets, the capital and constant liquidity required to conduct its operations, together with a combination of factors outside of its control, has placed it in a liquidity crisis. Notwithstanding that Coalspur has now received all necessary approvals from the AER to restart operations at the Vista Coal Mine Project, any potential revenue source available to it through the sale of its inventory is not available because of Trafigura's prior sale of such inventory. Coalspur is accordingly unable to restart operations at the Vista Coal Mine Project without a significant injection of capital to fund it through mine start-up and initial production. Coalspur expects that the Project will again become self-funding<sup>8</sup> through sales of coal production approximately 2 months after mine start-up.

---

<sup>8</sup> Meaning that the Project will generate sufficient revenues to fund operating costs, excluding Coalspur's obligations to CTC and, in particular, its obligation to repay CTC approximately \$300 million on December 31, 2021.

132. While Coalspur has in the past canvassed numerous third party sources for financing necessary to fund mine start-up and initial operating costs at the Project, Coalspur has been unsuccessful at securing additional capital, most significantly because the Project was in the early stages of development (with all associated risks of a start-up project) and the general reticence within the financial industry to fund thermal coal development projects due to environmental, social and governance concerns.

133. Prior to July 2019, Coalspur's most significant source of funding was Mr. Cline and CTC which, as discussed above, is beneficially owned by various irrevocable trusts established for the benefit of the descendants of Mr. Cline. Prior to Mr. Cline's tragic death in a helicopter accident in July 2019, Mr. Cline, through an affiliate, sold a majority ownership interest in Foresight Energy, a publicly listed coal company with assets in the Illinois Basin, for more than \$1.4 billion. Mr. Cline and his family trusts (through CTC) used a portion of their share of the proceeds to fund the acquisition and development of the Vista Coal Mine Project and the Donkin Mine.

134. Following Mr. Cline's passing in July 2019, CTC limited additional funding for the Project to \$100 million USD and required that the Project fund itself from internally generated cash flow or access alternative financing arrangements. Because of the factors outlined above, Coalspur has been unable to secure meaningful financing beyond the working capital line from Trafigura under the Prepayment Agreement.

135. In response to the liquidity crisis caused by the lack of inventory and the simultaneous shut down of the Project, Coalspur has implemented drastic cost mitigation measures to protect the minimum capital required to continue basic care and maintenance operations at the Project to protect the health and safety of all employees, safeguard the environment, and preserve the Project's assets and infrastructure. Since January, Coalspur has, among other things,

- (a) temporarily laid off 274 of the approximately 330 employees of Bighorn, Chinook and Yellowhead typically employed full time at the Project;
- (b) negotiated deferrals of upcoming payments to Tourmaline and Tanager to later dates in 2021;
- (c) restructured its security arrangements with Caterpillar so that, among other things:
  - (i) all funds previously held as security in the Debt Service Reserve Account were released to Coalspur and remitted to Caterpillar in satisfaction of obligations owing by Coalspur under the MLAs; and (ii) obtained Caterpillar's agreement to forbear from noting Coalspur in default if the installment payment due and owing by Coalspur on April 10, 2021 was made on or before May 21, 2021; and
- (d) negotiated the 331827 Second Amendment with 331827 pursuant to which 331827 agreed to waive Coalspur's obligation to make the 2021 Minimum Rental Payment on the terms outlined therein.

136. Notwithstanding these cost mitigation efforts, Coalspur's lack of any meaningful revenue since January has resulted in a significant amount of ageing trade payables and declining liquidity to maintain care and maintenance operations at the Vista Coal Mine Project. Coalspur only has sufficient liquidity to allow it to maintain the Project on care and maintenance until the week of June 4, 2021. It is imperative that Coalspur obtain interim financing to address its operating needs and allow the Project to restart so that Coalspur can undertake a restructuring for the benefit of all stakeholders including, importantly, the more than 300 employees in northern Alberta which depend on the Project for their livelihood, and the First Nation and Métis communities that have executed IBAs with Coalspur.

137. To protect against the negative effects of Project closure, and to address the highly-leveraged nature of Coalspur's capital structure and associated liquidity challenges, Coalspur's current plan while under CCAA protection involves, among other things, efforts to:

- (a) provide comfort to Coalspur's stakeholders of Coalspur's ability to continue operating as a going concern as it continues with its restructuring efforts;
- (b) manage Coalspur's liquidity challenges and obtain interim financing to address its operating needs pending the implementation of Coalspur's restructuring efforts;
- (c) explore potential cost-cutting measures; and
- (d) undertake a sale and investment solicitation process, or other process, to maximize the value of Coalspur's business and property for the benefit of its stakeholders.

138. While Coalspur is currently in a challenging financial position, it continues to benefit from a strong market reputation, an excellent track record of performance operating the Vista Coal Mine Project, and an asset base with significant value. Given a reasonable period to advance its restructuring efforts, with the protections afforded by the CCAA, Coalspur's management is optimistic that the overall value of Coalspur's business will likely be enhanced to the benefit of its stakeholders.

139. Preserving the going concern value of Coalspur's business will likely achieve a better long-term result for Coalspur's stakeholders than a forced liquidation of Coalspur's assets.

## **PART V - STATUTORY REQUIREMENTS UNDER THE CCAA**

### **A. The Applicability of the CCAA**

140. Coalspur is a company to which the CCAA applies. The Board of Directors of Coalspur have resolved to authorize the within CCAA proceedings.

141. Coalspur has claims against it in excess of \$5,000,000 CAD. As at April 14, 2021, Coalspur is indebted to CTC in the amount of \$373,899,383.64 CAD (or \$297,690,592.07 USD) and to Trafigura in the amount of \$13,907,852 USD. All obligations of Coalspur to CTC and Trafigura are secured by security interests in some or all of Coalspur's present and after acquired property. As at April 14, 2021, Coalspur also owes outstanding amounts to certain trade creditors in the aggregate amount of \$53,542,605.55 CAD.

142. Coalspur is insolvent and is, or will be, unable to meet its obligations generally as they become due by virtue of having been deprived of any revenue since January 2021 as a result of the shut down of the Project because of the Permit Issue, and the liquidation by Trafigura of all coal inventory in Coalspur's possession, and subsequent set-off of the proceeds of such inventory against the Trafigura Indebtedness.

### **B. Cash Flow Projections**

143. Coalspur, with the assistance of FTI, has prepared cash flow statements, on a go forward basis up to and including May 21, 2021 (the "**Cash-Flow Projections**"). The Cash-Flow Projections are attached as **Exhibit "T"** hereto.

144. As set out in the Cash-Flow Projections, from the date hereof until May 21, 2021, Coalspur's principal use of cash will consist of operating disbursements required for continuing care and maintenance of the mine, general and administrative costs, and regulatorily required

expenses. The Cash-Flow Projections evidence that, subject to obtaining the limited relief sought as part of the Originating Application, Coalspur will have sufficient liquidity to fund its ongoing operations without the need for additional funding during the initial ten (10) day stay period.

145. While the Cash-Flow Projections currently reflect Phase I remaining on care and maintenance during the initial ten (10) day stay period, Coalspur is diligently working to finalize interim financing and expects to apply shortly for approval of such financing. As discussed above, it is imperative that Coalspur restart the Project as soon as possible to start producing coal and, in turn, generating revenue necessary for Coalspur to attempt to restructure for the benefit of its stakeholders.

**C. Consent to Act by FTI**

146. Coalspur seeks appointment of FTI as monitor in these proceedings (in such capacity, the “**Monitor**”). FTI has consented to act as Monitor of Coalspur, subject to Court approval. Attached as **Exhibit “U”** is FTI’s Consent to Act as Monitor.

**D. Administration Charge**

147. As noted above, FTI has consented to act as Monitor in these proceedings to provide supervision, monitoring and to generally assist Coalspur with its restructuring efforts, including the potential preparation of a CCAA plan to be put to Coalspur’s creditors pursuant to the terms of the proposed Initial Order and the statutory provisions of the CCAA.

148. The Monitor, counsel for the Monitor, counsel for CTC, and Coalspur’s counsel will be essential to Coalspur’s restructuring efforts. They are prepared to provide or continue to provide professional services to Coalspur if they are protected by a first-ranking priority charge (the “**Administration Charge**”) over Coalspur’s assets.

149. Coalspur believes that an Administration Charge in the amount of \$250,000 CAD is fair and reasonable given the size and complexity of Coalspur's business and will provide the level of appropriate protection for the payment of Coalspur's and CTC's essential professional services during the initial ten (10) day stay period. Coalspur intends to apply for an increase of the Administration Charge to \$500,000 CAD at the comeback application.

150. In addition to the Administration Charge, Coalspur expects to apply for a D&O charge at the hearing of the comeback application. Coalspur also expects to apply for an Interim Financing Charge as soon as such financing is secured and finalized.

**PART VI -RELIEF SOUGHT**

151. I make this Affidavit in support of an Order pursuant to the CCAA, including a stay of proceedings, for the purposes of allowing Coalspur an opportunity to restructure its affairs and develop a plan of arrangement for the benefit of its creditors.

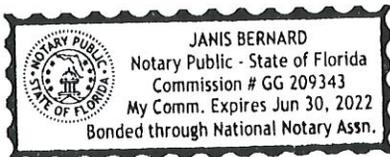
SWORN BEFORE ME at the City of  
Palm Beach Gardens in the State of  
Florida, this 19<sup>th</sup> day of April, 2021.



Notary Public in and for the State of  
Florida



Michael Beyer



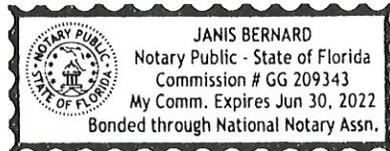
This is **Exhibit "A"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.

*Janis Bernard*

---

Notary Public in and for the State of Florida



# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/03/26  
Time of Search: 11:08 AM  
Search provided by: OSLER, HOSKIN & HARCOURT LLP  
Service Request Number: 35129337  
Customer Reference Number: 1217428

**Corporate Access Number:** 2015276153  
**Business Number:** 838433423  
**Legal Entity Name:** COALSPUR MINES (OPERATIONS) LTD.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Method of Registration:** Continuance  
**Date of Continuance into Alberta:** 2010/03/31 YYYY/MM/DD  
**Date Of Formation in Home Jurisdiction:** 2008/10/02 YYYY/MM/DD

## Registered Office:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Records Address:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Mailing Address:

**Post Office Box:** PO BOX 6146  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

**Email Address:** NHARLAND@BIGHORNMINING.COM

## Directors:

**Last Name:** GRIFFITH  
**First Name:** EDWARD

**Street/Box Number:** 101 BERRY PLACE

**City:** HINTON

**Province:** ALBERTA

**Postal Code:** T7V0C1

**Last Name:** VARNEY

**First Name:** KEITH

**Street/Box Number:** 3801 PGA BOULEVARD, SUITE 903

**City:** PALM BEACH GARDENS

**Province:** FLORIDA

**Postal Code:** 33410

**Voting Shareholders:**

**Last Name:** VISTA ENERGY RESOURCES LLC

**Street:** 3825 PGA BLVD, SUITE 1101

**City:** PALM BEACH GARDENS

**Province:** FLORIDA

**Postal Code:** 33410

**Percent Of Voting Shares:** 100

**Details From Current Articles:**

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** THE ANNEXED SCHEDULE "A" IS INCORPORATED INTO AND FORMS PART OF THIS FORM.

**Share Transfers Restrictions:** THE ATTACHED SCHEDULE OF RESTRICTIONS ON SHARE TRANSFERS IS INCORPORATED INTO AND FORMS PART OF THIS FORM.

**Min Number Of Directors:** 1

**Max Number Of Directors:** 7

**Business Restricted To:** NONE.

**Business Restricted From:** NONE.

**Other Provisions:** THE ATTACHED SCHEDULE OF OTHER PROVISIONS IS INCORPORATED INTO AND FORMS PART OF THIS FORM.

**Other Information:**

**Last Annual Return Filed:**

File Year	Date Filed (YYYY/MM/DD)
2020	2021/02/24

**Filing History:**

List Date (YYYY/MM/DD)	Type of Filing
2010/03/31	Continuance Into Alberta
2012/04/27	Service Provider Correct Legal Entity
2018/12/17	Name/Structure Change Alberta Corporation
2019/09/13	Change Address
2019/09/13	Change Director / Shareholder
2020/02/20	Update BN
2021/02/24	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<a href="#">Restrictions on Share Transfers</a>	ELECTRONIC	2010/03/31
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2010/03/31
Letter of Approval	10000201000210586	2010/03/31
<a href="#">Share Structure</a>	ELECTRONIC	2012/06/29
<a href="#">Share Structure</a>	ELECTRONIC	2018/12/17

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.





# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/03/26  
Time of Search: 11:10 AM  
Search provided by: OSLER, HOSKIN & HARCOURT LLP  
Service Request Number: 35129367  
Customer Reference Number: 1217428-3168

**Corporate Access Number:** 2020377145  
**Business Number:** 717650725  
**Legal Entity Name:** BIGHORN MINING LTD.  
  
**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Registration Date:** 2017/04/18 YYYY/MM/DD

## Registered Office:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Records Address:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Mailing Address:

**Post Office Box:** PO BOX 6146  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

**Email Address:** NHARLAND@BIGHORNMINING.COM

## Directors:

**Last Name:** GRIFFITH  
**First Name:** ED  
**Street/Box Number:** 101 BERRY PLACE  
**City:** HINTON

**Province:** ALBERTA  
**Postal Code:** T7V0C1

**Last Name:** VARNEY  
**First Name:** KEITH  
**Street/Box Number:** FORESIGHT MANAGEMENT LLC 3801 PGA BLVD STE 903  
**City:** PALM BEACH GARDENS  
**Province:** FLORIDA  
**Postal Code:** 33410

### Details From Current Articles:

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** THE CORPORATION IS AUTHORIZED TO ISSUE AN UNLIMITED NUMBER OF COMMON SHARES.

**Share Transfers Restrictions:** NO SHARES OF THE CORPORATION SHALL BE TRANSFERRED TO ANY PERSON WITHOUT THE APPROVAL OF THE BOARD OF DIRECTORS BY RESOLUTION.

**Min Number Of Directors:** 1

**Max Number Of Directors:** 9

**Business Restricted To:** NONE

**Business Restricted From:** NONE

**Other Provisions:** THE ATTACHED SCHEDULE IS INCORPORATED INTO AND FORMS PART OF THE ARTICLES OF THE CORPORATION.

### Other Information:

**Last Annual Return Filed:**

File Year	Date Filed (YYYY/MM/DD)
2020	2020/05/21

---

**The corporation representative has confirmed that there are no shareholders.**

---

### Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2017/04/18	Incorporate Alberta Corporation
2020/02/22	Update BN
2020/05/21	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2017/04/18

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.





# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/03/26  
Time of Search: 11:13 AM  
Search provided by: OSLER, HOSKIN & HARCOURT LLP  
Service Request Number: 35129406  
Customer Reference Number: 1217428-3168

**Corporate Access Number:** 2020472102  
**Business Number:** 711296897  
**Legal Entity Name:** CHINOOK MINE CONSTRUCTION COMPANY LTD.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Registration Date:** 2017/05/31 YYYY/MM/DD

## Registered Office:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Records Address:

**Street:** 24301 HWY 16E  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

## Mailing Address:

**Post Office Box:** PO BOX 6146  
**City:** HINTON  
**Province:** ALBERTA  
**Postal Code:** T7V1X5

**Email Address:** NHARLAND@BIGHORNMINING.COM

## Directors:

**Last Name:** GRIFFITH  
**First Name:** ED  
**Street/Box Number:** 101 BERRY PLACE  
**City:** HINTON

**Province:** ALBERTA  
**Postal Code:** T7V0C1  
  
**Last Name:** VARNEY  
**First Name:** KEITH  
**Street/Box Number:** 3801 PGA BOULEVARD, SUITE 903  
**City:** PALM BEACH GARDENS  
**Province:** FLORIDA  
**Postal Code:** 33410

### Details From Current Articles:

#### The information in this legal entity table supersedes equivalent electronic attachments

**Share Structure:** THE CORPORATION IS AUTHORIZED TO ISSUE AN UNLIMITED NUMBER OF COMMON SHARES.  
**Share Transfers Restrictions:** NO SHARES OF THE CORPORATION SHALL BE TRANSFERRED TO ANY PERSON WITHOUT THE APPROVAL OF THE BOARD OF DIRECTORS BY RESOLUTION.  
**Min Number Of Directors:** 1  
**Max Number Of Directors:** 9  
**Business Restricted To:** NONE  
**Business Restricted From:** NONE  
**Other Provisions:** THE ATTACHED SCHEDULE IS INCORPORATED INTO AND FORMS PART OF THE ARTICLES OF THE CORPORATION.

### Other Information:

#### Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2020	2020/05/21

---

The corporation representative has confirmed that there are no shareholders.

---

### Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2017/05/31	Incorporate Alberta Corporation
2020/02/22	Update BN
2020/05/21	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2017/05/31

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.





# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2021/04/06  
Time of Search: 01:39 PM  
Search provided by: OSLER, HOSKIN & HARCOURT LLP  
Service Request Number: 35217199  
Customer Reference Number: 1217428-3168

**Corporate Access Number:** 2020471096

**Business Number:**

**Legal Entity Name:** 2047109 ALBERTA LTD.

**Legal Entity Status:** Active

**Alberta Corporation Type:** Numbered Alberta Corporation

**Registration Date:** 2017/05/31 YYYY/MM/DD

## Registered Office:

**Street:** 1700, 10175 - 101 STREET NW

**City:** EDMONTON

**Province:** ALBERTA

**Postal Code:** T5J0H3

## Records Address:

**Street:** 1700, 10175 - 101 STREET NW

**City:** EDMONTON

**Province:** ALBERTA

**Postal Code:** T5J0H3

**Email Address:** EDMONTONCORPORATESERVICES@PARLEE.COM

## Directors:

**Last Name:** GRIFFITH

**First Name:** MELISSA

**Middle Name:** C.

**Street/Box Number:** 101 BERRY PLACE

**City:** HINTON

**Province:** ALBERTA

**Postal Code:** T7V0C1

**Last Name:** GRIFFITH

**First Name:** EDWARD

**Street/Box Number:** 101 BERRY PLACE

**City:** HINTON

**Province:** ALBERTA

**Postal Code:** T7V0C1

### Voting Shareholders:

**Last Name:** COALSPUR MINES (OPERATIONS) LTD.

**Street:** 110 MACLEOD AVENUE

**City:** HINTON

**Province:** ALBERTA

**Postal Code:** T7V2G9

**Percent Of Voting Shares:** 100

### Details From Current Articles:

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** SEE ATTACHED SCHEDULE

**Share Transfers Restrictions:** SEE ATTACHED SCHEDULE

**Min Number Of Directors:** 1

**Max Number Of Directors:** 15

**Business Restricted To:** NO RESTRICTIONS

**Business Restricted From:** NO RESTRICTIONS

**Other Provisions:** SEE ATTACHED SCHEDULE

### Other Information:

#### Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2020	2020/06/29

#### Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2017/05/31	Incorporate Alberta Corporation
2018/03/15	Change Director / Shareholder
2020/06/29	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

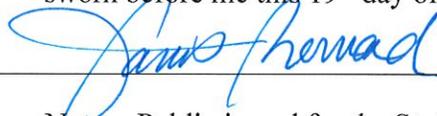
<b>Attachment Type</b>	<b>Microfilm Bar Code</b>	<b>Date Recorded (YYYY/MM/DD)</b>
<a href="#">Share Structure</a>	ELECTRONIC	2017/05/31
<a href="#">Restrictions on Share Transfers</a>	ELECTRONIC	2017/05/31
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2017/05/31

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



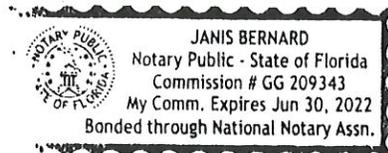
This is **Exhibit "B"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.

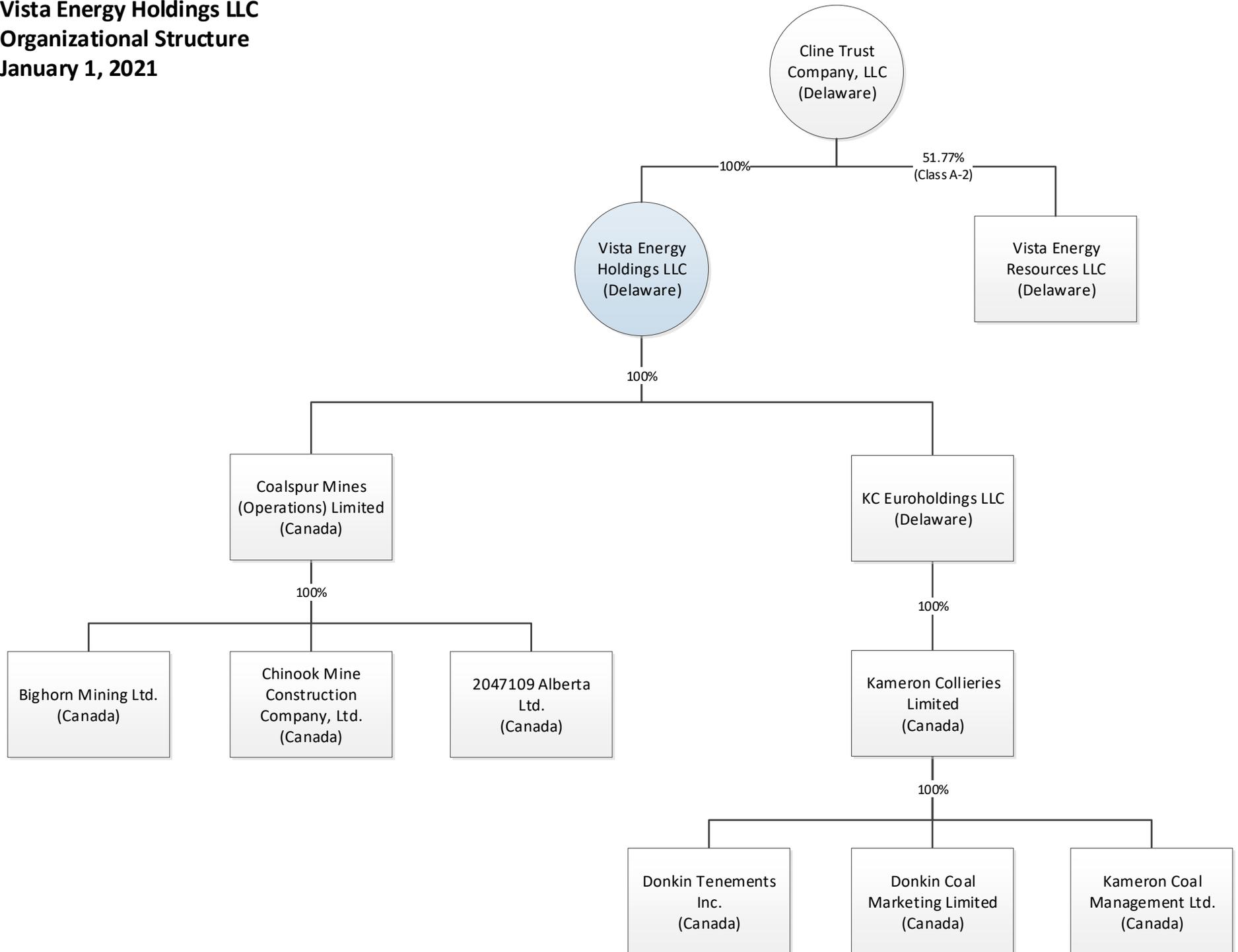


---

Notary Public in and for the State of Florida

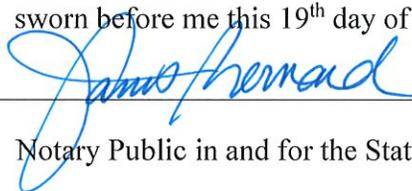


**Vista Energy Holdings LLC  
Organizational Structure  
January 1, 2021**



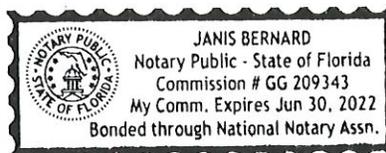
This is **Exhibit "C"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



CONSOLIDATED FINANCIAL STATEMENTS

Coalspur Mines (Operations) Ltd.  
Years Ended December 31, 2019 and 2018  
With Report of Independent Auditors

Ernst & Young LLP



Coalspur Mines (Operations) Ltd.

Consolidated Financial Statements

Years Ended December 31, 2019 and 2018

## Contents

Report of Independent Auditors.....	1
Consolidated Financial Statements	
Consolidated Balance Sheets .....	3
Consolidated Statements of Operations and Comprehensive Loss.....	4
Consolidated Statements of Shareholder Equity.....	5
Consolidated Statements of Cash Flows.....	6
Notes to Consolidated Financial Statements.....	7



Ernst & Young LLP  
900 United Center  
500 Virginia Street East  
Charleston, WV 25301

Tel: +1 304 343 8971  
Fax: +1 304 357 5994  
ey.com

## Report of Independent Auditors

Shareholder of Coalspur Mines (Operations) Ltd.

We have audited the accompanying consolidated financial statements of Coalspur Mines (Operations) Ltd. (the Company), which comprise the consolidated balance sheets as of December 31, 2019 and 2018, and the related consolidated statements of operations and comprehensive loss, shareholders equity and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in conformity with U.S. generally accepted accounting principles; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



## **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Coalspur Mines (Operations) Ltd., at December 31, 2019 and 2018, and the consolidated results of its operations and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

### **Coalspur Mines (Operations) Ltd.'s Ability to Continue as a Going Concern**

The accompanying consolidated financial statements have been prepared assuming that Coalspur Mines (Operations) Ltd. will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has concluded that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

*Ernst + Young LLP*

June 1, 2020

## Coalspur Mines (Operations) Ltd.

### Consolidated Balance Sheets (In Thousands, except share amounts)

	December 31,	
	2019	2018
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 15,015	\$ 8,044
Restricted cash	3,780	2,690
Accounts receivable	18,300	4,810
Inventories	31,462	125
Prepaid expenses and other current assets	1,352	1,075
Total current assets	69,909	16,744
Property, plant, equipment, and mine development, net	663,390	467,103
Restricted cash	8,047	–
Deposits and other assets	19,240	15,140
Due from affiliates	2,554	5,640
Total assets	\$ 763,140	\$ 504,627
<b>Liabilities and shareholder equity</b>		
Current liabilities:		
Accounts payable	\$ 28,701	\$ 42,254
Accrued expenses and other current liabilities	11,843	530
Short-term borrowings	16,470	–
Current portion of long-term payables related party - noncontrolling interest	2,890	–
Current portion of capital lease obligations	36,328	14,199
Total current liabilities	96,232	56,983
Long-term capital lease obligations	116,140	70,617
Long-term debt - related party	385,522	–
Due to affiliates	–	168,160
Long-term payables related party – noncontrolling interest	12,316	7,970
Accrued interest - related party	22	–
Asset retirement obligation	6,428	2,154
Total liabilities	616,660	305,884
Shareholder equity:		
Common Shares, no par value, unlimited number of shares authorized and 100 shares issued and outstanding as of December 31, 2019 and 2018	–	–
Class A Preferred Shares, no par value, unlimited number of shares authorized and 195,189,229 shares issued and outstanding as of December 31, 2019 and 2018	–	–
Class B Preferred Shares, no par value, unlimited number of shares authorized and 37,752,173 shares issued and outstanding as of December 31, 2019 and 2018	51,469	51,469
Class C Preferred Shares, no par value, unlimited number of shares authorized and 100,000,000 shares issued and outstanding as of December 31, 2019 and 2018	136,310	136,310
Additional paid-in capital	108,038	52,148
Retained deficit	(160,192)	(46,497)
Total shareholder equity	135,625	193,430
Noncontrolling interest	10,855	5,313
Total equity	146,480	198,743
Total liabilities and shareholder equity	\$ 763,140	\$ 504,627

See accompanying notes.

Coalspur Mines (Operations) Ltd.

Consolidated Statements of Operations and Comprehensive Loss  
(In Thousands)

	<b>Year Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
Revenues:		
Coal sales	\$ 112,967	\$ —
Costs and expenses:		
Cost of coal sales	100,094	—
Transportation	59,150	—
General and administrative	9,113	5,302
Depreciation, depletion, and amortization	51,836	—
Accretion on asset retirement obligation	209	—
Operating loss	<u>(107,435)</u>	(5,302)
Other income (expense):		
Interest expense, net	(15,478)	(1,191)
Gain (loss) on foreign currency transactions	9,513	(18,143)
Other, net	434	13
Loss before income taxes	<u>(112,966)</u>	(24,623)
Income tax provision	—	—
Net loss	<u>(112,966)</u>	(24,623)
Less: net income attributable to noncontrolling interests	729	—
Net loss attributable to common shares	<u>(113,695)</u>	(24,623)
Other comprehensive income (loss):		
Foreign currency translation adjustment	(323)	189
Comprehensive loss	<u>(114,018)</u>	(24,434)
Less comprehensive income attributable to noncontrolling interest	406	189
Total comprehensive loss attributable to common shares	<u><u>\$ (114,424)</u></u>	<u><u>\$ (24,623)</u></u>

See accompanying notes.

Coalspur Mines (Operations) Ltd.

Consolidated Statements of Shareholder Equity  
(In Thousands, except share amounts)

	Common Shares		Class A Preferred Shares		Class B Preferred Shares		Class C Preferred Shares		Additional	Retained	Noncontrolling	Total
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Paid in Capital	Deficit	Interest	
Balance at January 1, 2018	100	\$ –	195,189,229	\$ –	–	\$ –	–	\$ –	\$ 21,769	\$ (20,982)	\$ –	\$ 787
Net (loss)	–	–	–	–	–	–	–	–	–	(24,623)	–	(24,623)
Foreign currency translation adjustment	–	–	–	–	–	–	–	–	–	–	189	189
Issuance of Class B Preferred Shares	–	–	–	–	37,752,173	51,469	–	–	25,077	–	–	76,546
Issuance of Class C Preferred Shares	–	–	–	–	–	–	100,000,000	136,310	–	–	–	136,310
Dividend	–	–	–	–	–	–	–	–	–	(892)	–	(892)
Shareholder contributions	–	–	–	–	–	–	–	–	5,302	–	–	5,302
Contributions from noncontrolling interest	–	–	–	–	–	–	–	–	–	–	5,124	5,124
Balance at December 31, 2018	100	–	195,189,229	–	37,752,173	51,469	100,000,000	136,310	52,148	(46,497)	5,313	198,743
Net (loss) income	–	–	–	–	–	–	–	–	–	(113,695)	729	(112,966)
Foreign currency translation adjustment	–	–	–	–	–	–	–	–	–	–	(323)	(323)
Shareholder contributions	–	–	–	–	–	–	–	–	55,890	–	–	55,890
Contributions from noncontrolling interest holder	–	–	–	–	–	–	–	–	–	–	6,701	6,701
Distributions to noncontrolling interest holder	–	–	–	–	–	–	–	–	–	–	(1,565)	(1,565)
Balance at December 31, 2019	100	\$ –	195,189,229	\$ –	37,752,173	\$ 51,469	100,000,000	\$ 136,310	\$ 108,038	\$ (160,192)	\$ 10,855	\$ 146,480

See accompanying notes.

# Coalspur Mines (Operations) Ltd.

## Consolidated Statements of Cash Flows (In Thousands)

	Year Ended December 31,	
	2019	2018
<b>Operating activities</b>		
Net loss	\$ (112,966)	\$ (24,623)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation, depletion, and amortization	51,836	–
Accretion on asset retirement obligation	209	–
Expenses paid by parent	616	7,870
Foreign currency remeasurement	(9,528)	17,827
Current period interest expense converted to debt	12,100	–
Other	(12)	(19)
Increase (decrease) in cash attributable to:		
Accounts receivable	(14,142)	(3,661)
Inventories	(32,327)	(125)
Prepaid expenses and other current assets	(241)	(642)
Deposits and other assets	(4,111)	(14,956)
Due from affiliates, net	(979)	(1,521)
Accounts payable	23,672	(4,859)
Accrued expenses and other current liabilities	11,353	36
Accrued interest - related party	22	–
Accrued interest - affiliate	–	7,586
Asset retirement obligation	(38)	–
Net cash used in operating activities	(74,536)	(17,087)
<b>Investing activities</b>		
Investment in property, plant, equipment, and mine development	(191,588)	(221,601)
Net cash used in investing activities	(191,588)	(221,601)
<b>Financing activities</b>		
Shareholder contributions	54,022	–
Contributions from noncontrolling interest	6,701	5,124
Distributions by noncontrolling interest	(1,565)	–
Proceeds from equipment financings	26,109	–
Proceeds from short-term borrowings	192	–
Proceeds from long-term related-party debt	132,494	–
Proceeds from affiliate payables – noncontrolling interest	10,024	7,686
Proceeds from long-term payables - affiliate	86,272	237,620
Repayment of short-term borrowings	(111)	–
Repayment of related-party payable - noncontrolling interest	(2,367)	–
Repayment of capital leases	(28,431)	(6,464)
Net cash provided by financing activities	283,340	243,966
Effect of exchange rate changes on cash and cash equivalents	(1,108)	157
Net increase in cash, cash equivalents, and restricted cash	16,108	5,435
Cash, cash equivalents, and restricted cash at beginning of year	10,734	5,299
Cash, cash equivalents, and restricted cash at end of year	\$ 26,842	\$ 10,734

See accompanying notes.

# Coalspur Mines (Operations) Ltd.

## Notes to Consolidated Financial Statements

December 31, 2019

### 1. Description of Business

Coalspur Mines (Operations) Ltd. (“Coalspur”) operates a large-scale, thermal coal surface mine within the Hinton region of Alberta, Canada. The mine comprises approximately 55,000 hectares of coal leases. Coalspur has two wholly owned subsidiaries, Bighorn Mining Ltd. (“Bighorn”) and Chinook Mine Construction Ltd. (“Chinook”). Bighorn and Chinook are the labor companies for all mining-related activities at the mine.

These consolidated financial statements include an entity that is considered a variable interest entity (“VIE”) for which the Company is the primary beneficiary. This entity is 3318287 Nova Scotia Limited (“NSL”). See Note 14, Variable Interest Entities, for additional information related to NSL.

Coalspur, its subsidiaries, and the consolidated VIE are collectively referred to as the Company.

Unless otherwise stated, all dollar amounts in the consolidated financial statements and related notes are in Canadian Dollars (“CAD”). The consolidated financial statements also refer to the United States Dollar (“USD”) for certain transactions denominated in USD.

Coalspur is a wholly owned subsidiary of Vista Energy Resources, LLC (“Vista”). Vista’s ownership consists of 100 common shares, 195,189,229 Class A preferred shares, 37,752,173 Class B preferred shares (issued during 2018), and 100,000,000 Class C preferred shares (issued during 2018).

In December 2018, the Company and Vista entered into a Plan of Reorganization and a Subscription and Set-Off Agreement, pursuant to which Vista received 37,752,173 Class B preferred shares in exchange for the unpaid principal on the Company’s outstanding \$51.5 million promissory note. The Plan of Reorganization and the Subscription and Set-Off Agreement also provided for the Company’s issuance of 100,000,000 Class C preferred shares to Vista as repayment for \$136.3 million of advances made by Vista to the Company.

All reorganization transactions were between entities under common control, so the contributed assets and liabilities were recorded in the consolidated financial statements at historical cost.

The Company has four different classes of equity issued and outstanding as of December 31, 2019, and the following is a description of the rights of each class of equity.

Common shares are entitled to vote, receive dividends, and receive property in liquidation or dissolution.

# Coalspur Mines (Operations) Ltd.

## Notes to Consolidated Financial Statements (continued)

### **1. Description of Business (continued)**

Class A preferred shares are non-voting and do not receive dividends. Shares can be redeemed or retracted based on the option of the Company or the holder at the fair market value of the consideration received at the time of issuance plus or minus adjustments from the taxing authority (“redemption price”) and, upon liquidation, are entitled to receive an amount equal to the redemption price (\$195.2 million) of the Class A preferred shares prior to any distributions to the common shareholder, Class B preferred shareholder, or Class C preferred shareholder.

Class B preferred shares are non-voting and have the right to receive, if declared, an annual non-cumulative dividend equal to 11% of the Class B redemption price (\$51.5 million). Shares can be redeemed or retracted based on the option of the Company or the holder at the fair market value of the consideration received at the time of issuance plus or minus adjustments from the taxing authority (“redemption price”) and, upon liquidation, are entitled to receive, pari-passu with the holder of the Class C preferred shares but subject to the Class A preferred shares, and before any distribution to the common shareholders, an amount equal to the redemption price of the Class B shares.

Class C preferred shares are non-voting and do not receive dividends. Shares can be redeemed or retracted based on the option of the Company or the holder at the fair market value of the consideration received at the time of issuance plus or minus adjustments from the taxing authority (“redemption price”) and, upon liquidation, are entitled to receive, pari-passu with the holders of the Class B preferred shares but subject to the Class A preferred shares, and before any distribution to the common shareholders, an amount equal to the redemption price (\$136.3 million) of the Class C shares.

Prior to June 1, 2019, the principal activities of the Company have involved obtaining capital, business development, site and facility development, and installation of mine site infrastructure. On June 1, 2019, the Company was considered to no longer be in the development phase, as a majority of the development activities were completed and substantial commercial production commenced.

Although the production phase of the business started on June 1, 2019, the Company has incurred significant losses, and is subject to the risks and challenges similar to other start-up companies. These risks include, but are not limited to, dependence on key individuals, successful execution of the business plan, and the ability of management to obtain additional financing to support working capital needs.

# Coalspur Mines (Operations) Ltd.

## Notes to Consolidated Financial Statements (continued)

### **1. Description of Business (continued)**

The accompanying consolidated financial statements are prepared on a going concern basis and do not include any adjustments that might result from uncertainty about the Company's ability to continue as a going concern. Because of the start-up nature, the Company has only recently commenced production activities. Since inception, the Company has had recurring losses and investments of approximately \$737.4 million in property, plant, equipment, and mine development. The operating losses and capital investments have been funded primarily by Cline Trust Company ("CTC"), a related party, by way of loans to Vista, which then advanced funds to the Company, and by direct loans to the Company. Furthermore, at December 31, 2019, the Company's current assets and current liabilities were \$69.9 million and \$96.2 million, respectively. The Company's ability to continue as a going concern is dependent upon, among other things, its ability to become profitable and maintain profitability and to successfully manage production levels and operating costs.

Given the risks associated with a company recently commencing production activities and the Company's consolidated financial position, results of operations, and cash flows, substantial doubt exists about the Company's ability to pay its current obligations as they come due. Subsequent to December 31, 2019, the Company entered into a USD \$30.0 million (CAD \$42.2 million) financing agreement (entitled the "Prepayment Agreement") from a third party. The Prepayment Agreement is secured by the coal inventory of the Company and will be used to fund working capital needs. This Prepayment Agreement must be repaid by June 30, 2021 and has an interest rate based on the London Interbank Offered Rate ("LIBOR") plus 13.00%.

### **2. Summary of Significant Accounting Policies**

#### **Use of Estimates**

The preparation of financial statements in conformity with United States generally accepted accounting principles ("U.S. GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of income and loss during the reporting period. Actual results could differ from those estimates.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

##### **Basis of Consolidation**

The consolidated financial statements include the accounts of Coalspur, its wholly owned subsidiaries, and NSL, a consolidated VIE. All significant intercompany transactions have been eliminated in consolidation. The interest of the equity holder of NSL is reflected in the accompanying consolidated financial statements as noncontrolling interest.

##### **Functional and Reporting Currency**

The functional and reporting currency of the Company and its wholly owned subsidiaries is the Canadian dollar. NSL utilizes the United States dollar as its functional currency. The assets and liabilities of NSL are translated at end-of-period exchange rates, while expenses are translated using the average exchange rate in effect during the period. Equity is translated using historical rates, and the resulting cumulative translation adjustments are included as a component of accumulated other comprehensive income (loss).

##### **Variable Interest Entities**

VIEs are primarily entities that lack sufficient equity to finance their activities without additional financial support from other parties or whose equity holders, as a group, lack one or more of the following characteristics: (a) the direct or indirect ability to make decisions, (b) the obligation to absorb expected losses, or (c) the right to receive expected residual returns. VIEs must be evaluated quantitatively and qualitatively to determine the primary beneficiary, which is the reporting entity that has (a) the power to direct activities of a VIE that most significantly impact the VIE's economic performance and (b) the obligation to absorb losses of the VIE that could potentially be significant to the VIE. The primary beneficiary is required to consolidate the VIE for financial reporting purposes.

To determine a VIE's primary beneficiary, the Company performs a qualitative assessment to determine which party, if any, has the power to direct the activities of the VIE and the obligation to absorb losses and/or receive its benefits. This assessment involves identifying the activities that most significantly impact the VIE's economic performance and determine whether it, or another party, has the power to direct those activities. When evaluating whether the Company is the primary beneficiary of a VIE, and must, therefore, consolidate the entity, the Company performs a qualitative analysis that considers the design of the VIE, the nature of the Company's involvement, and the variable interest held by other parties. If that evaluation is inconclusive as to which party absorbs a majority of the entity's expected losses or residual returns, a quantitative analysis is performed to determine the primary beneficiary.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 2. Summary of Significant Accounting Policies (continued)

##### Cash, Cash Equivalents, and Restricted Cash

The Company considers cash deposits and highly liquid investments with original maturities of less than three months to be cash and cash equivalents.

Restricted cash consists of cash and cash equivalents held in accounts that are subject to contractual restrictions on the Company's ability to withdrawal funds. As of December 31, 2019 and 2018, the Company has \$11.8 million and \$2.7 million of cash held in financial institutions that is restricted from use in operations. This amount relates to a Master Lease Agreement with a third party, under which the agreement requires the Company to deposit a percentage of the acquisition cost of the equipment under lease into a debt service reserve account ("DSRA") until the Company meets certain milestones as defined in the Master Lease Agreement. See Note 7, Capital Lease Obligations, for additional information.

##### Accounts Receivable

Accounts receivable consist of trade receivables, harmonized sales tax/goods and services tax ("HST/GST") receivables, and other receivables at December 31, 2019 and 2018. The Company evaluates the need for an allowance for uncollectible receivables based on a review of account balances that are likely to be uncollectible, as determined by such variables as customer creditworthiness, the age of the receivables, and disputed amounts. As of December 31, 2019 and 2018, no allowance was recorded for uncollectible accounts receivable, as all amounts were deemed collectible. As of December 31, 2019, a single customer accounted for all the outstanding trade receivables.

Accounts receivable consisted of the following at:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Trade receivables	\$ 16,272	\$ –
HST/GST receivables	1,786	4,160
Other receivables	242	650
Accounts receivable	<u>\$ 18,300</u>	<u>\$ 4,810</u>

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 2. Summary of Significant Accounting Policies (continued)

##### Inventories

Inventories are composed of raw and clean coal and parts and supplies. Coal inventories are valued at the lower of average cost or net realizable value. Coal inventory costs include labor, equipment costs, supplies, transportation costs prior to satisfying the performance obligation of the contract with the customers, depreciation, depletion, amortization, and direct mining overhead. Coal inventory is recorded at net realizable value at December 31, 2019. Parts and supplies inventory consists of spare parts for equipment and supplies used in the mining process and are valued at average cost. A reserve is established for items determined to be obsolete or in excess of quantities needed. As of December 31, 2019 and 2018, no reserve was needed. Inventories consisted of the following at:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Coal inventory	\$ 21,927	\$ –
Parts and supplies inventory	9,535	125
Inventories	<u>\$ 31,462</u>	<u>\$ 125</u>

##### Property, Plant, Equipment, and Mine Development, Net

Property, plant, and equipment are recorded at cost. Costs that extend the useful lives or increase the productivity of the assets are capitalized, while normal repairs and maintenance that do not extend the useful life or increase the productivity of the asset are expensed as incurred. Property, plant, and equipment are depreciated using the straight-line method over the estimated useful lives of the assets. Machinery and equipment under capital lease agreements are amortized using the straight-line method over the useful life of the asset given that, in each case, ownership transfers at the end of the lease term. The amortization expense for the assets under capital lease is included in depreciation, depletion, and amortization in the consolidated statements of operations and comprehensive loss.

The cost of acquiring mineral rights is amortized using the units-of-production method over the mineral reserves benefited by the costs.

# Coalspur Mines (Operations) Ltd.

## Notes to Consolidated Financial Statements (continued)

### 2. Summary of Significant Accounting Policies (continued)

The estimated useful lives by category of assets are as follows:

Machinery and equipment	3–20 years
Buildings and structures	3–40 years

Costs of developing new mines or significantly expanding the capacity of existing mines are capitalized and amortized using the units-of-production method over the mineral reserves benefited by the development. Costs related to locating coal deposits and evaluating the economic viability of such deposits are expensed as incurred. During the development phase, the Company establishes access to the mineral reserves and makes other preparations for commercial production.

Development costs principally include clearing land, building roads, and developing mine infrastructure. Development costs also include the development of the Company's transportation infrastructure.

Interest costs applicable to major additions are capitalized during the construction period. Interest costs capitalized into property, plant, equipment, and mine development, net for the years ended December 31, 2019 and 2018, were \$3.4 million and \$7.4 million, respectively.

#### Impairment of Long-Lived Assets

The Company records impairment losses on long-lived assets used in operations when events and circumstances indicate that assets might be impaired and the undiscounted cash flows estimated to be generated by those assets are less than their carrying amounts. Impairment losses are measured by comparing the estimated fair value of the impaired assets to its carrying amount. There were no impairment losses during the years ended December 31, 2019 and 2018.

#### Fair Value

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at a given measurement date. Valuation techniques used must maximize the use of observable inputs and minimize the use of unobservable inputs. A fair value hierarchy has been established that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy, as defined below, gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

Level 1 – Is defined as observable inputs such as quoted prices in active markets for identical assets.

Level 2 – Is defined as observable inputs other than Level 1 prices. These include quoted prices for similar assets or liabilities in an active market, quoted prices for identical assets and liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 – Is defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

#### **Deposits and Other Assets**

Deposits and other assets consist of long-term cash deposits that are held by third-party entities as collateral for letters of credit and reclamation liabilities.

#### **Asset Retirement Obligation**

The Company's asset retirement obligation ("ARO") primarily consists of spending estimates for surface land reclamation and support facilities at the mine in accordance with applicable provincial reclamation laws and regulations as defined by each mining permit.

The Company estimates its ARO for final reclamation and mine closure based upon detailed engineering calculations of the amount and timing of the future cash spending for a third party to perform the required work. Spending estimates are escalated for inflation and a market risk premium and then discounted at a credit-adjusted, risk-free rate. The Company records an ARO asset associated with the discounted liability for final reclamation and mine closure. The obligation and corresponding asset are recognized in the period in which the liability is incurred. The ARO liability is accreted to the projected spending date, and the ARO asset is amortized using the units-of-production method over its expected life. As changes in estimates occur (such as mine plan revisions, changes in estimated costs, or changes in the timing of the performance of reclamation activities), the revisions to the obligation and asset are recognized at the appropriate credit-adjusted, risk-free interest rate.

# Coalspur Mines (Operations) Ltd.

## Notes to Consolidated Financial Statements (continued)

### **2. Summary of Significant Accounting Policies (continued)**

#### **Revenue Recognition**

Revenues are measured based on consideration specified in a contract with a customer. The Company recognizes revenue when it satisfies the performance obligation of the contract. Pricing is set forth on a per tonne basis, and revenue is generally recorded based on the product price and volume. For international coal sales, this will generally occur when coal is loaded onto an ocean vessel or when the vessel leaves port. Except for normal quality adjustments specified in coal sales agreements, none of the coal supply agreements allow for retroactive adjustments to pricing after title to the coal has passed. Coal supply agreements also contain force majeure provisions allowing temporary suspension of performance by the Company or the customer during the duration of specified events beyond the control of the affected party. The Company's coal supply agreement contains provisions requiring the Company to deliver coal meeting quality thresholds for certain characteristics such as calorific value, moisture, sulfur content, and ash content. Failure to meet these specifications could result in economic penalties, including price adjustments, the rejection of deliveries, or termination of the contract.

#### **Transportation Costs**

These costs relate to the handling and transporting of coal to the point of sale.

#### **Other Mining-Related Costs and Obligations**

Significant components of mining costs include wages and related benefit costs, which are paid to employees of the Company. The Company's current labor arrangements are not subject to organized labor contracts or other voluntary programs with nonunion employees that frequently provide for long-term benefits, including defined benefit pensions and health care coverage for retired employees and future retirees and their dependents. Black lung costs and workers' compensation costs are covered through the Canadian health care system.

#### **Income Taxes**

The Company is subject to income taxes under Canadian Revenue Agency ("CRA") rules and regulations. Provisions, when applicable, have been established for these entities using the applicable provisional rates.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

Deferred income taxes are provided for temporary differences arising from differences between the financial statement amount and tax basis of assets and liabilities existing at each balance sheet date using enacted tax rates anticipated to be in effect when the related taxes are expected to be paid or recovered. A valuation allowance is established if it is more likely than not that a deferred tax asset will not be realized. Net operating loss carryforwards were generated as part of their initial acquisition or as a result of taxable losses from the date of acquisition to December 31, 2019. Deferred tax liabilities and assets are classified as noncurrent in the consolidated balance sheets. For the periods ended December 31, 2019 and 2018, the Company has not been assessed any interest or penalties by the CRA.

In the event of an examination of the tax return, the tax liability of the Company could be changed if an adjustment in the Company's income is ultimately sustained by the taxing authorities. The tax periods from 2015 through 2019 are subject to examination by the taxing authorities.

U.S. GAAP requires management to evaluate tax positions taken by the Company and recognize a tax liability (or asset) if the Company has taken an uncertain position that more likely than not would not be sustained upon examination by the CRA. Management has analyzed the tax positions taken by the Company and has concluded that, as of December 31, 2019 and 2018, there are no uncertain positions taken or expected to be taken that would require recognition of a liability (or asset) or disclosure in the consolidated financial statements. The Company would recognize any interest and penalties associated with uncertain tax positions in income tax expense.

#### **Regulatory Matters**

The Company must follow the Canada Labour Code and the Coal Mining Occupational Health and Safety Regulations. The Company must also follow the Alberta Occupational Health and Safety Act. The Canada Labour Code regulates all workers in Canada. The Coal Mining Occupational Health and Safety Regulations cover mining records, reports, plans, and procedures, including the handling of explosives and detonators, safe occupancy of the workplace, ventilation, explosion and fire protection, and entering a closed mine. The Occupational Health and Safety Act of Alberta establishes safety policies and establishes an Occupational Health and Safety Council.

#### **Reclassifications**

Certain prior year amounts have been reclassified to conform with the current year presentation.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

##### **Newly Adopted Accounting Standards**

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2014-09, *Revenue from Contracts with Customers (Topic 606)*, an accounting standard on revenue recognition that outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. The FASB subsequently issued updates to the standard to provide additional clarification on specific topics. Collectively, the guidance is referred to as Accounting Standards Codification (“ASC”) 606. The standard prescribes a five-step approach to revenue recognition: (1) identify the contracts with the customer; (2) identify the separate performance obligations in the contracts; (3) determine the transaction price; (4) allocate the transaction price to separate performance obligations; and (5) recognize revenue when, or as, each performance obligation is satisfied. The ASU also requires additional disclosure about the nature, amount, timing, and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in judgments and assets recognized from costs incurred to obtain or fulfill a contract. ASU 2014-09 is effective for fiscal years beginning after December 15, 2018. The Company’s primary source of revenue is from the sale of coal through a long-term contract with a commodity broker. Prior to 2019, as the Company was in the development stage, the Company did not report any revenues and, therefore, did not recognize revenues under the previous standard. The Company adopted ASU 2014-09 effective January 1, 2019. The Company also reviewed the disclosure requirements under the new standard and has compiled information needed for the expanded disclosures which are included within Note 11, Revenues from Contracts with Customers, in the consolidated financial statements.

In January 2016, the FASB issued ASU 2016-01, *Financial Instrument—Overall (Subtopic 825-10), Recognition and Measurement of Financial Assets and Financial Liabilities*, which provides accounting guidance related to the recognition and measurement of certain financial instruments. This ASU affects the accounting for equity investments, financial liabilities under the fair value option, and the presentation and disclosure requirements for financial instruments. The FASB subsequently issued an update to the standard to provide additional clarification on certain aspects of the accounting guidance. The Company adopted all the provisions of this ASU effective January 1, 2019. The disclosure requirements under the new guidance eliminated the disclosure of fair value for financial assets and financial liabilities accounted for at amortized cost. The other provisions of this ASU did not have a material impact on the Company’s consolidated financial statements.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Payments*, which provides guidance on eight specific cash flow issues with the objective of reducing diversity in practice. The Company retrospectively adopted all the provisions of this ASU effective January 1, 2019. The classification requirements under the new guidance are either consistent with the Company's current practices or are not applicable to its activities and, as such, did not have a material impact on the classification of cash receipts and cash payments in the Company's consolidated statements of cash flows.

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows (Topic 230), Restricted Cash*, which clarifies the presentation requirements of restricted cash and restricted cash equivalents in the statement of cash flows. The Company retrospectively adopted all the provisions of this ASU effective January 1, 2019, and, as a result, the Company combines restricted cash with cash and cash equivalents when reconciling the beginning and end of period balances on the consolidated statement of cash flows. The ASU also requires a Company to disclose information about the nature of the restrictions and amounts described as restricted cash and restricted cash equivalents. Further, as cash, cash equivalents, and restricted cash are presented in more than one line item on the consolidated balance sheets, the Company reconciled these amounts to the total shown in the consolidated statement of cash flows in a tabular format. These additional disclosures are included within Note 3, Supplemental Cash Flow Information.

#### **New Accounting Standards**

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, to increase transparency and comparability among organizations by recognizing the recognition of right-of-use ("ROU") assets and lease liabilities on the balance sheet for leases with lease terms of more than 12 months. Most notable among the changes in the ASU is the recognition of ROU assets and lease liabilities by lessees for those leases classified as operating leases. The FASB continued to clarify this guidance through the issuance of additional updates to ASU 2016-02. This ASU is effective for fiscal years beginning after December 15, 2020, with earlier adoption permitted. This update will be applied using a modified retrospective transition approach. The modified retrospective transition approach includes a number of practical expedients that the entity can elect to apply. These practical expedients relate to the identification and classification of leases that commenced before the effective date, initial direct costs for leases that commenced before the effective date, and the ability to use hindsight in evaluating lessee options to extend or terminate a lease or to purchase the underlying asset. An entity that elects to apply the practical expedients will, in effect,

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

continue to account for leases that commence before the effective date in accordance with previous GAAP unless the lease is modified. The Company is currently evaluating the available practical expedients and the effect this ASU will have on the consolidated financial statements.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326)*, related to the measurement of credit losses on financial instruments. This ASU replaces the incurred loss methodology to record credit losses with a methodology that reflects the expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The Company will be required to use a forward-looking expected loss model for accounts receivable, loans, and other financial instruments to record allowance for the estimated contractual cash flows not expected to be collected. This ASU is effective for the Company on January 1, 2023. The Company is currently evaluating the effect of this update on the consolidated financial statements.

In July 2018, the FASB issued ASU 2018-09, *Codification Improvements*, an update that provides technical corrections, clarifications, and other improvements across a variety of accounting topics. The transition and effective date guidance is based on the facts and circumstances of each update; however, many of them will be effective for the Company on January 1, 2020. The Company does not expect the adoption of this ASU to have a material impact on the Company's consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820) Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*, an update that modifies the disclosure requirements for fair value measurements by removing, modifying, or adding certain disclosures. The ASU will be effective for the Company on January 1, 2020. The Company does not expect the adoption of this ASU to have a material impact on the Company's consolidated financial statements.

In October 2018, the FASB issued ASU 2018-17, *Consolidation (Topic 810): Targeted Improvements to Related Party Guidance for Variable Interest Entities*, which expands the private company alternative provided by ASU 2014-07 to all private company common control arrangements if the common control parent and the legal entity being evaluated for consideration are not public business entities. ASU 2018-17 also requires reporting entities to consider indirect interests held through related parties under common control on a proportional basis when determining whether a decision-making fee is a variable interest. This standard is effective for the Company on January 1, 2021. The Company is currently evaluating the effect of this update on the consolidated financial statements.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 2. Summary of Significant Accounting Policies (continued)

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740)*, as part of its effort to reduce the complexity of accounting standards. The ASU enhances and simplifies various aspects of the income tax accounting guidance in ASC 740, including requirements related to (1) hybrid tax regimes, (2) the tax basis step-up in goodwill obtained in a transaction that is not a business combination, (3) separate financial statements of entities not subject to tax, (4) the intraperiod tax allocation exception to the incremental approach, (5) recognition of a deferred tax liability after an investor in a foreign entity transitions to or from the equity method of accounting, (6) interim-period accounting for enacted changes in tax law, and (7) the year-to-date loss limitation in interim-period tax accounting. ASU 2019-12 is effective for fiscal years beginning after December 15, 2021, and early adoption is permitted. The Company is currently evaluating the impacts of this ASU on the consolidated financial statements of the Company.

No other new accounting pronouncements issued or effective during the fiscal year had, or is expected to have, a material impact on the consolidated financial statements or related disclosures.

#### 3. Supplemental Cash Flow Information

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the consolidated balance sheets that sum to the total of such amounts shown in the consolidated statements of cash flows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Cash and cash equivalents	\$ 15,015	\$ 8,044
Restricted cash – current	3,780	2,690
Restricted cash – long-term	8,047	–
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	<u>\$ 26,842</u>	<u>\$ 10,734</u>

Coalspur Mines (Operations) Ltd.

Notes to Consolidated Financial Statements (continued)

**3. Supplemental Cash Flow Information (continued)**

The following is supplemental information to the consolidated statements of cash flows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
<b>Supplemental disclosure of cash flow information</b>		
Cash interest paid (net of amount capitalized)	<b>\$ 3,355</b>	<b>\$ –</b>
<b>Noncash investing activities</b>		
Purchases of equipment under financing arrangements	<b>\$ 71,556</b>	<b>\$ 11,054</b>
Investments in mine development <sup>1</sup>	<b>\$ 16,388</b>	<b>\$ –</b>
<b>Noncash financing activities</b>		
Long-term affiliate payables converted to long-term debt – related party	<b>\$ 232,093</b>	<b>\$ –</b>
Shareholder contributions – conversion of amounts owed to shareholder	<b>\$ 1,333</b>	<b>\$ –</b>
Shareholder contributions – allocation of general and administrative costs <sup>2</sup>	<b>\$ 535</b>	<b>\$ 5,302</b>
Shareholder contributions related to issuance of Class B Preferred shares	<b>\$ –</b>	<b>\$ 76,546</b>
Shareholder contributions related to issuance of Class C Preferred shares	<b>\$ –</b>	<b>\$ 136,310</b>

<sup>1</sup>See Note 6, Short-Term Borrowings

<sup>2</sup>See Note 5, Related Party and Affiliate Transactions

Coalspur Mines (Operations) Ltd.

Notes to Consolidated Financial Statements (continued)

**4. Property, Plant, Equipment, and Mine Development, Net**

Property, plant, equipment, and mine development, net consist of the following at December 31:

	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Land	\$ 280	\$ 280
Assets under construction	32,144	187,743
Assets under construction – capital lease	–	31,093
Mineral and property rights	69,591	69,591
Machinery and equipment	265,523	19,065
Machinery and equipment – capital lease	144,363	60,294
Buildings and structures	73,245	4,570
Mine development costs	152,234	102,104
Total property, plant, equipment, and mine development	<u>737,380</u>	474,740
Less accumulated depreciation, depletion, and amortization	<u>(73,990)</u>	<u>(7,637)</u>
Property, plant, equipment, and mine development, net	<u>\$ 663,390</u>	<u>\$ 467,103</u>

Depreciation, depletion, and amortization expense for the years ended December 31, 2019 and 2018, was \$51.8 million and \$0, respectively, as the expense related to mine development of \$15.3 million and \$3.2 million, was capitalized in 2019 and 2018, respectively.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 5. Related-Party and Affiliate Transactions

The Company routinely engages in transactions in the normal course of business with related parties and affiliated entities under common control, including administrative services and other services and supplies incidental to the production of coal. The Company had the following related party and affiliate balances:

Related Party/Affiliate	Description of Service	Receivable/(Payable)	
		December 31,	
		2019	2018
<i>(In Thousands)</i>			
Kameron Collieries, Limited	Affiliate advance	\$ –	\$ 3,933
Vista Energy Resources, LLC <sup>2</sup>	Affiliate advance	2,554	1,707
<b>Total – Due from affiliates</b>		<b>\$ 2,554</b>	<b>\$ 5,640</b>
Coal Train, LLC <sup>1,2</sup>	Advance to VIE	\$ (2,890)	\$ –
<b>Total – Current portion of long-term payables related party – noncontrolling interest</b>		<b>\$ (2,890)</b>	<b>\$ –</b>
Coal Train, LLC <sup>1,2</sup>	Advance to VIE	\$ (12,316)	\$ (7,970)
<b>Total – Long-term payables related party – noncontrolling interest</b>		<b>\$ (12,316)</b>	<b>\$ (7,970)</b>
Kameron Collieries, Limited	Affiliate advance	\$ –	\$ (3,993)
Vista Energy Resources, LLC <sup>2</sup>	Affiliate advance	–	(164,167)
<b>Total – Due to affiliates</b>		<b>\$ –</b>	<b>\$ (168,160)</b>
Cline Trust Company, LLC <sup>2</sup>	Accrued interest	\$ (22)	\$ –
<b>Total – Accrued interest – related party</b>		<b>\$ (22)</b>	<b>\$ –</b>
Cline Trust Company, LLC <sup>2</sup>	Secured promissory note	\$ (253,674)	\$ –
Cline Trust Company, LLC <sup>2</sup>	Secured working capital note	(131,848)	–
<b>Total – Long-term debt – related party</b>		<b>\$ (385,522)</b>	<b>\$ –</b>

<sup>1</sup>Advance to NSL consolidated VIE

<sup>2</sup>To be settled in USD

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **5. Related-Party and Affiliate Transactions (continued)**

##### **NSL Payable to Coal Train, LLC**

During the years ended December 31, 2019 and 2018, Coal Train, LLC (“Coal Train”) made cash advances to NSL for the purchase of the rail loadout from Coalspur. The amounts owed to Coal Train by NSL are not subject to a contractual arrangement. The amount classified as current in the consolidated balance sheets represents the amount to be repaid to Coal Train within one year from December 31, 2019.

##### **Secured Promissory Note**

On March 31, 2019, the Company entered into an agreement with Vista to convert \$232.1 million of its long-term payables – affiliate balance to a promissory note (“Secured Promissory Note”) with a maturity date of May 1, 2020, and an interest rate of 13.65%. Simultaneously with this transaction, Vista assigned the Secured Promissory Note to CTC. The Secured Promissory Note requires quarterly interest payments beginning with the quarter ended June 30, 2019. In lieu of paying the quarterly interest payments in cash, the Company may make in-kind payments by adding the accrued interest to the principal balance for the quarterly interest payment due June 30, 2019. The Company elected to pay in-kind the quarterly interest payment due June 30, 2019.

Effective July 5, 2019, the Secured Promissory Note was modified to reduce the interest rate from 13.65% to 2.08% and effective September 30, 2019, the quarterly interest payments were modified to allow for the quarterly interest payments to be made in-kind by adding the accrued interest to the principal balance of the note each quarter. The Company elected to pay in-kind the quarterly interest payment due September 30, 2019 and December 31, 2019.

The reduction of the interest rate on July 5, 2019, and the modification of the quarterly interest payments on September 30, 2019, were accounted for as troubled debt restructurings. As the future cash flows of the modified debt were greater than the carrying amounts of the debt prior to the modification, no gain was recognized. The effective interest rate of the Secured Promissory Note after the 2019 modifications is not significantly different than the stated rate of 2.08%.

As of December 31, 2019, the outstanding balance was \$253.7 million.

On May 1, 2020, the Secured Promissory Note was modified to change the interest rate from 2.08% to 0.25% and the maturity date was extended from May 1, 2020 to December 31, 2021.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **5. Related-Party and Affiliate Transactions (continued)**

##### **Secured Working Capital Note**

On June 19, 2019, the Company entered into a USD \$20.0 million Secured Working Capital Note (“Secured Working Capital Note”) with CTC. The Secured Working Capital Note had an interest rate of 9.0% and a maturity date of October 19, 2019. The accrued interest and principal were due at maturity.

On August 16, 2019, the Secured Working Capital Note was modified to increase the amount of the loan to USD \$46.0 million, and on October 16, 2019, the Secured Working Capital Note was modified again to increase the amount of the loan to USD \$106.0 million. The maturity date was extended to December 31, 2021 and the interest rate was changed from 9.00% to 2.08% on outstanding principal balances effective from July 5, 2019 to December 31, 2021. In addition, the Company is required to make quarterly interest payments commencing on December 31, 2019. The quarterly interest payments may be paid-in-kind by adding the quarterly interest payment to the principal balance of the Secured Working Capital Note. The Company elected to pay in-kind the quarterly interest payment due December 31, 2019.

As of December 31, 2019, the outstanding principal balance was \$131.9 million, and \$7.5 million remained available under the Secured Working Capital Note.

On March 18, 2020, the Company made a draw of \$7.0 million from the Secured Working Capital Note and approximately \$1.0 million remains available. On May 1, 2020, the Secured Working Capital Note was modified to reduce the interest rate from 2.08% to 0.25%.

The Secured Promissory Note and Secured Working Capital Note are secured by all the assets of the Company that are not subject to other collateral arrangements.

Coalspur Mines (Operations) Ltd.

Notes to Consolidated Financial Statements (continued)

**5. Related-Party and Affiliate Transactions (continued)**

The following summarizes the outstanding contractual principal maturities of the long-term debt related party:

	<b>December 31, 2019</b>
	<i>(In Thousands)</i>
2020	\$ —
2021	<b>385,522</b>
2022	—
2023	—
2024	—
Total	<b><u>\$ 385,522</u></b>

A summary of transactions with related parties is as follows:

<b>Related Party/Affiliate</b>	<b>Description</b>	<b>Income Statement Classification</b>	<b>December 31,</b>	
			<b>2019</b>	<b>2018</b>
			<b>Expense</b>	
			<i>(In Thousands)</i>	
KC Euroholdings, LLC	Interest	Interest expense, net	\$ —	\$ 7,586
Cline Trust Company, LLC	Interest	Interest expense, net	\$ <b>12,122</b>	\$ —
Vista Energy Resources, LLC	Payroll costs	General and administrative	\$ <b>6,136</b>	\$ 3,562
Vista Energy Resources, LLC	Legal, professional services, and other costs	General and administrative	\$ <b>2,977</b>	\$ 4,308

In 2018, a promissory note with KC Euroholdings, LLC (“KC Euro”) was assigned by KC Euro to Vista. On December 17, 2018, the Company issued 37,752,173 Class B preferred shares to Vista for the \$51.5 million of unpaid principal, extinguishing the note. Vista forgave the remaining \$25.1 million of interest on this note. The forgiven interest and the \$51.5 million of principal converted to Class B preferred shares were considered a noncash contribution to the Company.

The payroll, legal fees, and professional services, and other costs above, were based on actual costs incurred and an allocation of costs incurred by Vista. The allocation is based on an analysis by

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **5. Related-Party and Affiliate Transactions (continued)**

management, whereby costs clearly applicable to Coalspur were pushed down and other overhead costs were allocated based on the proportion of management's time spent on Coalspur's mining activities. Management believes that this is a reasonable method for allocating the costs. The expenses allocated to Coalspur may not necessarily reflect the actual expenses the Company would incur on a stand-alone basis. The Company is unable to reasonably estimate the amount of expenses the Company would incur on a stand-alone basis.

The Company paid Vista \$8.6 million for the year ended December 31, 2019, as a reimbursement for general and administrative costs incurred on behalf of the Company, and \$0.5 million was accounted for as a shareholder contribution from Vista for general and administrative costs incurred on behalf of the Company. For the year ended December 31, 2018, \$5.3 million was accounted for as a shareholder contribution from Vista for general and administrative costs incurred on behalf of the Company, and \$2.6 million of Coalspur costs were paid by Vista and transferred to the Company through the account due to affiliates. The Company did not make any payments to Vista for general and administrative costs incurred on behalf of the Company for the year ended December 31, 2018.

#### **6. Short-Term Borrowings**

##### **Consolidated Tanager Limited**

The Company has an agreement to pay Consolidated Tanager Limited ("Tanager") \$10.0 million once the mine sold a specified amount of coal. The payment is related to specific mineral leases at the mine and upon payment to Tanager, the mineral leases will be transferred to the Company. On October 25, 2019, the Company reached this milestone thereby triggering the \$10.0 million payment due to Tanager. The Company and Tanager amended their agreement allowing the \$10.0 million milestone payment to be made in four equal quarterly installments beginning on March 31, 2020. The \$10.0 million accrues interest and compounds quarterly at the CIBC Prime Rate plus 2.00%. All accrued and compounded interest is due and payable with the final quarterly installment payment.

##### **Tourmaline Oil Corp**

The Company and Tourmaline Oil Corp ("Tourmaline") entered into an amendment to an exploration and development agreement (the "Exploration Amendment") to compensate Tourmaline for land that cannot be explored due to the Company's mining activities. The Company

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 6. Short-term Borrowings (continued)

and Tourmaline agreed to payments in the amount of \$6.9 million to be paid in four installments, with the final payment due on December 31, 2020. The outstanding balance accrues interest at the CIBC Prime Rate, and the interest is payable with each installment payment. As of December 31, 2019, the outstanding balance is \$6.4 million.

#### 7. Capital Lease Obligations

The Company has a Master Lease Agreement (“MLA”) with a third party for an aggregate principal amount up to USD \$65 million. Each lease has a term of five years, and each lease have varying interest rates. Additionally, Vista is a guarantor of the Master Equipment Lease. The outstanding balance under the Master Equipment Lease is secured by the leased equipment and the DSRA.

The Company also enters into leases of equipment through capital lease transactions that are not subject to the MLA.

The net book value of the assets subject to capital leases was \$110.9 million and \$81.6 million at December 31, 2019 and 2018, respectively.

The following summarizes the outstanding contractual principal maturities of capital lease obligations:

	<b>December 31, 2019</b>
	<i>(In Thousands)</i>
2020	\$ 43,100
2021	41,434
2022	39,024
2023	37,200
2024	8,324
Total minimum lease payments	<u>169,082</u>
Less interest	<u>16,614</u>
Present value of minimum capital lease payments	<u><u>\$ 152,468</u></u>

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 8. Leases

The Company leases certain mineral reserves under various lease agreements with the provincial government. The mineral reserve leases are subject to certain terms and conditions and can generally be renewed, as long as the mineral reserves are being developed and mined until all economically recoverable reserves are depleted or until mining operations cease. The leases generally require a production royalty at a percent of the gross selling price of the coal less certain deductions, such as transportation costs, as outlined in the royalty agreements. The Company also has short-term equipment leases with varying expiration dates.

The following presents future minimum mineral lease payments, by year, required under agreements with initial terms greater than one year:

	<b>December 31, 2019</b>
	<i>(In Thousands)</i>
2020	\$ 191
2021	191
2022	191
2023	191
2024	191
Thereafter	1,146
Total minimum mineral lease payments	<u>\$ 2,101</u>

Total rental expense from operating leases for the years ended December 31, 2019 and 2018, was approximately \$5.1 million (\$2.8 million included in the accompanying consolidated statements of operations and comprehensive loss and \$2.3 million capitalized in mine development) and \$1.7 million (\$ 1.7 million capitalized in mine development), respectively.

The Company has mineral lease agreements that require royalty payments only when coal is sold. Royalty expense related to these agreements for the years ended December 31, 2019 and 2018, was \$ 1.3 million and \$0, respectively.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 9. Asset Retirement Obligations

Changes in the carrying amount of the Company's AROs were as follows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Balance at January 1 (including current portion)	\$ 2,154	\$ 88
Accretion expense	209	10
Changes in estimate and liabilities incurred	4,103	2,056
Expenditures for reclamation activities	(38)	—
Balance at December 31 (including current portion)	6,428	2,154
Less current portion of ARO	—	—
Noncurrent portion of ARO	\$ 6,428	\$ 2,154

The Company has a deposit with the Alberta Energy Regulator for reclamation of the mine. At December 31, 2019 and 2018, the deposit amounts are \$7.1 million and \$3.9 million, respectively. These amounts are recorded in long-term deposits and other assets in the consolidated balance sheets.

#### 10. Contractual Obligations

The Company depends on rail and export terminal systems to deliver coal to customers. Disruption of these services due to weather-related problems, mechanical difficulties, strikes, lockouts, bottlenecks, and other events could temporarily impair the Company's ability to supply coal to customers, resulting in decreased shipments.

#### Terminal Agreements

The Company has a Terminal Services Agreement ("TSA") with Ridley Terminals Inc. ("RTI"). RTI will provide coal storage and vessel loading for the Company. The TSA is effective from January 1, 2019 to December 31, 2028. RTI and the Company may renew the TSA or extend the term if mutually agreed upon.

The TSA contains declared contract volumes and throughput rates that are based on the number of tones delivered to RTI and vessels loaded by RTI. The minimum throughput commitment is 90% of the declared contract volume. If the Company delivers less than the minimum throughput for a

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 10. Contractual Obligations (continued)

contract year, a shortfall payment of \$6 per tonne, adjusted annually for inflation, will be payable. If the Company delivers additional tonnes over the minimum throughput commitment, the Company is entitled to a credit of \$3 per make-up tonne and adjusted annually for inflation up to the balance of any shortfall payments. As of December 31, 2019 and 2018, the Company incurred penalties in the amount of \$9.0 million and \$0, respectively, for not meeting the minimum throughput commitment and shortfall tonnage.

The following schedule summarizes the contractual obligations for the TSA with RTI:

	<b>December 31, 2019</b>
	<i>(In Thousands)</i>
2020	\$ 30,799
2021	38,555
2022	39,326
2023	40,112
2024	40,914
2025 – 2028	172,006
Total contractual obligations	<u>\$ 361,712</u>

The Company also has a TSA with Westshore Terminals Limited Partnership (“Westshore”) for the period July 23, 2019 to December 31, 2021. The TSA has a minimum volume commitment and a minimum quarterly payment in relation to the minimum volume commitment. The minimum quarterly payment is a prepayment and is recoupable against coal delivered to and vessels loaded by Westshore. The minimum quarterly payments in the amount of \$2.0 million begin April 1, 2020, and run through the remainder of the TSA.

#### Rail Agreement

The Company has an exclusive transportation agreement (the “Transportation Agreement”) with a railway company to provide coal transportation from the mine to the terminal. The Transportation Agreement is effective from January 1, 2019 to December 31, 2028. The Transportation Agreement has a minimum volume commitment for each January 1 to December 31 (the “Contract Year”) and a penalty per tonne for each tonne shipped less than the minimum volume commitment. Additionally, the Company can reduce transportation costs per railcar based on the amount of

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **10. Contractual Obligations (continued)**

tonnes the Company commits to ship during each Contract Year. Prior to the beginning of each Contract Year, the Company must nominate the amount of tonnes to be shipped during the Contract Year. The Company did not incur any penalties related to the minimum volume commitment for the year ended December 31, 2019. The Company has a contractual obligation of \$3.0 million annually for each contract year of the Transportation Agreement.

#### **11. Revenues From Contracts With Customers**

##### **Coal Sales Contracts**

The Company has a coal sales contract with Trafigura Pte. Ltd (“Trafigura”), whereby the Company is obligated to sell and deliver coal and Trafigura is obligated to purchase and accept the coal. The purchase price under the contract is an index price based on an average of the price per tonne of coal published in the global Coal Newcastle index. The ultimate end customers are located in the Asia-Pacific region. The payment terms with Trafigura is approximately five business days after the final quality of the coal is determined. Coalspur and Trafigura may also agree to a fixed price per tonne at agreed-to volumes.

When the Company and Trafigura agree to a fixed price for certain shipments of coal, a security must be posted whenever the contract value of the coal exceeds or falls below the market value by an amount greater than USD \$25.0 million (“Threshold Amount”). If the Trafigura Security Amount (market value exceeds the contract value) is greater than the applicable threshold (USD \$25.0 million), the Company will pledge collateral. If a Company Security Amount (contract value exceeds market value) is greater than the applicable threshold (USD \$25.0 million), Trafigura shall pledge collateral to the Company.

As of December 31, 2019, Trafigura has pledged a Standby Letter of Credit (“SBLC”) for the benefit of the Company in the amount of USD \$55.0 million. As of December 31, 2018, no coal has been shipped or sold under the terms of the agreement and the Threshold Amount had not been reached; therefore, no collateral had been pledged by Coalspur or Trafigura.

For the year ended December 31, 2019, all of the Company’s coal sales were to Trafigura, and the revenue from these coal sales were recognized upon the coal being loaded into the vessel, which is consistent with the terms of the contract. For the year ended December 31, 2018, the Company did not have coal sales, as the mine was in development.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 12. Income Taxes

The Company recognizes deferred income taxes to reflect the impact of temporary differences between the recorded amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws and regulations. Based on the earnings history and the uncertainty of the projected coal market, a full valuation allowance was placed on the deferred tax asset, because it is more likely than not that the Company will not recognize the benefit of these deferred tax items. The provision for income taxes (benefits) consists of the following for the years ended:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Deferred:		
Canadian	<b>\$ (8,706)</b>	\$ (4,715)
Total deferred benefit	<b>(8,706)</b>	(4,715)
Change in valuation allowance	<b>8,706</b>	4,715
Net (benefit) expense for income tax	<b>\$ –</b>	\$ –

The domestic and foreign components of the provision (benefit) for income taxes reflected on the accompanying consolidated statements of operations and comprehensive loss are as follows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Domestic	<b>\$ (8,706)</b>	\$ (4,715)
Foreign	–	–
Benefit for income taxes	<b>(8,706)</b>	(4,715)
Less valuation allowance	<b>8,706</b>	4,715
Net (benefit) expense benefit for income taxes	<b>\$ –</b>	\$ –

The Company's effective tax rate of 0% differs from the Canadian statutory rate of 26.5% due to the assessment of a full valuation allowance.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 12. Income Taxes (continued)

The temporary differences and the related deferred tax asset/liability were as follows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Cumulative Canadian exploration expenses	\$ 1,689	\$ 1,983
Cumulative Canadian development expenses	17,602	26,293
Depreciable assets	38,169	5,396
Canadian non-capital loss carryover	40,423	34,080
Other	1,110	–
Valuation allowance	(57,668)	(48,963)
Total deferred tax assets, net	41,325	18,789
Reserves	–	(18,789)
Depreciable assets	(41,325)	–
Total deferred tax liabilities	(41,325)	(18,789)
Net deferred taxes	\$ –	\$ –

As of December 31, 2019 and 2018, the Company had net operating loss carryovers for Canadian federal income tax purposes of \$175.7 million and \$126.2 million, respectively, which begin to expire in the year 2034 if not utilized. As of December 31, 2019 and 2018, the Company had charitable contribution carryovers for Canadian federal income tax purposes of \$0.1 million and \$0, respectively, which begin to expire in the year 2021 if not utilized.

#### 13. Employee Benefit Plans

The Company offers a Registered Pension Plan (the “Plan”) for all Canadian employees who are eligible to participate. All full-time and part-time employees are eligible to participate; however, all full-time employees are required to join. The Plan requires an employee contribution of 4% of a participant’s compensation. The employee can make an additional 2% contribution. The Company matches 100% of the 4% required contribution and will match 50% of the additional 2% contribution. The Company’s contributions under the Plan for the years ended December 31, 2019 and 2018, were \$0.7 million and \$0.3 million, respectively.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### **14. Variable Interest Entities**

The consolidated financial statements include a VIE (NSL) as described in Note 1. NSL was formed on June 10, 2018, by Coal Train LLC, a related party. NSL subleases a mineral surface lease from the Company, where the rail loadout is located. As of December 31, 2019, NSL owns the rail loadout as of December 31, 2018, NSL owned the partially constructed rail loadout that was purchased from the Company, as certain construction milestones were achieved. NSL reimbursed the Company for all costs associated with the construction of the rail loadout. The Company utilizes the rail loadout as the exclusive means to load railcars and transport coal from the mine. The Company pays a minimum annual fee each year that is recoupable against future tonnes of loaded coal. After the annual minimum is recouped, a per tonne fee is paid for each tonne of coal loaded.

The Company is the primary beneficiary of NSL; Coalspur has the power to direct the most significant activities that impact NSL's economic performance, and it has the right to the economic benefits and the absorption of losses of NSL.

The liabilities recognized as a result of consolidating a VIE do not necessarily represent additional claims on the general assets; rather, they represent claims against the specific assets of the consolidated VIE. Conversely, assets recognized as a result of consolidating NSL does not necessarily represent additional assets that could be used to satisfy claims against the Company's general assets. There are no restrictions on the VIE assets that are reported in the Company's general assets.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 14. Variable Interest Entities (continued)

The total consolidated VIE assets and liabilities reflected in the Company's consolidated balance sheets are as follows:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Assets:		
Cash and cash equivalents	\$ 112	\$ –
Property, plant, equipment, and mine development, net	28,227	13,284
Total assets	\$ 28,339	\$ 13,284
Liabilities:		
Current portion of long-term payables related party – noncontrolling interest	\$ 2,890	\$ –
Long-term related-party payables – noncontrolling interest	12,316	7,970
Total liabilities	\$ 15,206	\$ 7,970

#### 15. Commitments and Contingencies

The Company is subject to various market, operational, financial, regulatory, provincial, and legislative risks. Numerous federal, provincial, and local governmental permits and approvals are required for mining operations. Federal and provincial regulations require regular monitoring of mines and other facilities to document compliance. The Company has obtained all permits currently required to conduct present mining operations. From time to time in the normal course of business, the Company may be required to prepare and present to federal, provincial, or local authorities data about the effect or impact that a proposed exploration for, or production of, coal may have on the environment. These requirements could prove costly and time consuming and could delay commencing or continuing exploration, development, or production operations. Future legislation and administrative regulations may emphasize the protection of the environment and, as a consequence, the Company's mining activities may be more closely regulated. Such legislation and regulations, as well as future interpretations and more rigorous enforcement of existing laws, may require substantial increases in equipment and operating costs and cause delays, interruptions, or a termination of operations, the extent of which cannot be predicted.

## Coalspur Mines (Operations) Ltd.

### Notes to Consolidated Financial Statements (continued)

#### 15. Commitments and Contingencies (continued)

The Company endeavors to conduct its mining operations in compliance with all applicable federal, provincial, and local laws and regulations. However, because of extensive and comprehensive regulatory requirements, violations during mining operations occur from time to time in the industry. To date, none of the violations or the monetary penalties assessed upon the Company have been material.

#### Litigation Matters

The Company accrues for costs related to contingencies when a loss is probable and the amount is reasonably determinable. Disclosure of contingencies is included in the financial statements when it is at least reasonably possible that a material loss may be incurred.

The Company is party to various litigation matters, in most cases involving ordinary and routine claims incidental to the business. The resolution of any particular litigation matter is not currently expected to have a material adverse impact on the Company's consolidated balance sheets, statement of operations and comprehensive loss, and statements of cash flows.

#### Letters of Credit

As of December 31, 2019 and 2018, the Company has \$12.4 million and \$11.6 million of letters of credit issued by a Canadian Bank for the benefit of creditors and vendors. These letters of credit are fully secured by cash deposits with the same Canadian bank.

The table below summarizes the balance sheet classification of the cash secured letters of credit:

	<b>December 31,</b>	
	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>	
Prepaid expenses and other current assets	\$ 550	\$ —
Deposits and other assets	11,860	11,560
Total cash secured letters of credit	<u>\$ 12,410</u>	<u>\$ 11,560</u>

Coalspur Mines (Operations) Ltd.

Notes to Consolidated Financial Statements (continued)

**16. Subsequent Events**

In preparing these consolidated financial statements, the Company has evaluated events and transactions for potential recognition or disclosure through June 1, 2020, the date the accompanying consolidated financial statements were available for issue.

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

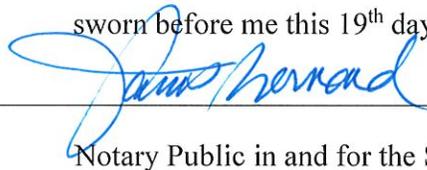
EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via [ey.com/privacy](https://ey.com/privacy). For more information about our organization, please visit [ey.com](https://ey.com).

© 2020 Ernst & Young LLP.  
All Rights Reserved.

**[ey.com](https://ey.com)**

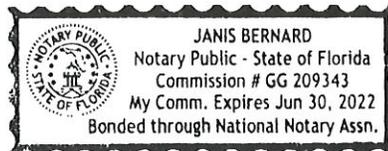
This is **Exhibit "D"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida





**COALSPUR MINES (OPERATIONS) LTD.  
CONSOLIDATED FINANCIAL STATEMENTS  
UNAUDITED**

**December 31, 2020**

rs

**Coalspur Mines (Operations) Ltd.**  
**Consolidated Balance Sheets**

(In Thousands)

\$ USD

	<b>December 31, 2020</b>	<b>December 31, 2019</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 22,660	\$ 15,595
Restricted cash	–	2,892
Accounts receivable	14,348	14,147
Inventories	37,529	23,130
Prepaid expenses and other current assets	2,808	1,016
Total current assets	77,345	56,780
Property, plant, equipment, and mine development, net	455,298	508,796
Restricted cash	6,160	6,156
Deposits and other assets	12,918	14,545
Due from related party	1	–
Due from affiliates	2,161	1,955
Total assets	\$ 553,883	\$ 588,232
<b>Liabilities and shareholder equity</b>		
Current liabilities:		
Accounts payable	\$ 34,273	\$ 21,922
Accrued expenses and other current liabilities	6,963	9,001
Short-term borrowings	13,735	12,599
Current portion of long-term payables related party - noncontrolling interest	3,426	2,211
Current portion of capital lease obligations	21,843	27,554
Current portion of long-term debt - related party	297,505	–
Total current liabilities	377,745	73,287
Long-term debt - equipment financing	8,266	15,423
Long-term capital lease obligations	63,064	73,277
Long-term debt - related party	–	294,944
Long-term payables related party - noncontrolling interest	7,051	9,422
Accrued interest-related party	2	17
Asset retirement obligation	5,005	4,852
Due to affiliates	155	5
Total liabilities	461,288	471,227
Shareholders' equity:		
Common shares	–	–
Class A preferred shares	–	–
Class B preferred shares	37,752	37,752
Class C preferred shares	100,000	100,000
Additional-paid-in capital	74,197	82,243
Currency translation adjustment	(577)	(577)
Retained deficit	(129,644)	(110,718)
Total shareholder equity	81,728	108,700
Noncontrolling interest	10,867	8,305
Total equity	92,595	117,005
Total liabilities and equity	\$ 553,883	\$ 588,232

**Coalspur Mines (Operations) Ltd.**  
**Consolidated Statements of Operations**

(In Thousands)

\$ USD

	Monthly		Quarter-to-date		Year-to-date	
	December 31, 2020	December 31, 2019	December 31, 2020	December 31, 2019	December 31, 2020	December 31, 2019
<b>Revenues:</b>						
Coal sales	\$ 17,993	\$ 24,733	\$ 89,023	\$ 51,132	\$ 304,760	\$ 85,636
<b>Costs and expenses:</b>						
Cost of coal sales	7,772	17,797	36,200	36,440	127,539	75,931
Transportation	6,113	10,836	29,917	22,156	103,002	44,803
General and administrative	(5,746)	6,903	(4,744)	6,903	4,456	6,905
Depreciation, depletion, and amortization	4,114	13,361	20,305	21,802	74,886	39,396
Accretion on asset retirement obligation	43	13	128	40	497	158
Operating income (loss)	<u>5,697</u>	<u>(24,177)</u>	<u>7,217</u>	<u>(36,209)</u>	<u>(5,620)</u>	<u>(81,557)</u>
<b>Other income (expense):</b>						
Interest expense, net	(1,561)	(2,881)	(2,066)	1,648	(10,005)	(11,693)
Gain (loss) on foreign currency	(151)	(26)	(351)	(87)	(439)	(279)
Other income	80	48	206	102	470	336
Net income (loss) before tax	\$ 4,065	\$ (27,036)	\$ 5,006	\$ (34,546)	\$ (15,594)	\$ (93,193)
Less: net income attributable to noncontrolling interest	291	(521)	1,004	(76)	3,332	549
Net income (loss) attributable to shareholder	<u>\$ 3,774</u>	<u>\$ (26,515)</u>	<u>\$ 4,002</u>	<u>\$ (34,470)</u>	<u>\$ (18,926)</u>	<u>\$ (93,742)</u>

**Coalspur Mines (Operations) Ltd.**  
**Consolidated Statements of Shareholder Equity**

*(In Thousands, except share amounts)*

\$ USD

	Common Shares		Class A Preferred Shares		Class B Preferred Shares		Class C Preferred Shares		Additional Paid in Capital	Currency Translation Adjustment	Retained Deficit	Noncontrolling Interest	Total
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount					
Balance at January 1, 2019	100	\$ –	195,189,229	\$ –	37,752,173	\$ 37,752	100,000,000	\$ 100,000	\$ 39,882	\$ (577)	\$ (16,976)	\$ 3,901	\$ 163,982
Net (loss) income	–	–	–	–	–	–	–	–	–	–	(93,742)	550	(93,192)
Contributions from noncontrolling interest holder	–	–	–	–	–	–	–	–	–	–	–	5,046	5,046
Distributions to noncontrolling interest holder	–	–	–	–	–	–	–	–	–	–	–	(1,192)	(1,192)
Shareholder contributions	–	–	–	–	–	–	–	–	42,361	–	–	–	42,361
Balance at December 31, 2019	100	–	195,189,229	–	37,752,173	37,752	100,000,000	100,000	82,243	(577)	(110,718)	8,305	117,005
Net (loss) income	–	–	–	–	–	–	–	–	–	–	(18,926)	3,332	(15,594)
Return of capital to shareholder	–	–	–	–	–	–	–	–	(8,046)	–	–	–	(8,046)
Distributions to noncontrolling interest holder	–	–	–	–	–	–	–	–	–	–	–	(770)	(770)
Balance at November 30, 2020	100	\$ –	195,189,229	\$ –	37,752,173	\$ 37,752	100,000,000	\$ 100,000	\$ 74,197	\$ (577)	\$ (129,644)	\$ 10,867	\$ 92,595

**Coalspur Mines (Operations) Ltd.**  
**Consolidated Statements of Cash Flows**

*(In Thousands)*

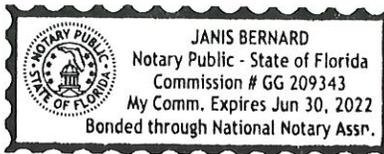
\$ USD

	<b>Year-to-date</b> <b>December 31, 2020</b> <i>(In Thousands)</i>
<b>Operating activities</b>	
Net income (loss)	\$ (15,594)
Adjustments to reconcile net income to net cash (used in) provided by operating activities:	
Depreciation, depletion and amortization	74,886
Accretion on asset retirement obligation	497
Current period interest expense converted to debt	2,561
Other	839
Increase (decrease) in cash attributable to:	
Accounts receivable	(201)
Inventories	(11,334)
Prepaid Expenses and other current assets	(1,792)
Deposits and other assets	1,627
Due from/to affiliates, net	(56)
Accounts payable	14,509
Accrued expenses and other current liabilities	(2,038)
Accrued interest - related party	(15)
Net cash provided by (used in) operating activities	63,889
<b>Investing activities</b>	
Investment in property, plant, equipment and mine development	(24,001)
Proceeds from sale of assets	363
Net cash used in investing activities	(23,638)
<b>Financing activities</b>	
Distributions to noncontrolling interest	(770)
Return of capital to shareholder	(8,046)
Proceeds from short-term borrowings	30,000
Repayments of short-term borrowings	(30,409)
Repayment of long-term payables related party - noncontrolling interest	(1,156)
Repayment of capital leases and long-term debt - equipment financing	(25,693)
Net cash provided by (used in) financing activities	(36,074)
Net increase (decrease) in cash, cash equivalents and restricted cash	4,177
Cash, cash equivalents and restricted cash beginning of period	24,643
Cash, cash equivalents and restricted cash at end of period	\$ 28,820

This is **Exhibit "E"** to the Affidavit of Michael Beyer  
sworn before me this 19<sup>th</sup> day of April 2021.

*Janis Bernard*

Notary Public in and for the State of Florida



## CREDIT AGREEMENT

This CREDIT AGREEMENT (this “Agreement”), dated as of March 31, 2019 (“Effective Date”), is entered into by and among COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada (“Borrower”), CLINE TRUST COMPANY LLC, a limited liability company organized under the laws of Delaware (“Lender”), CUTLASS COLLIERIES LLC, a limited liability company organized under the laws of Delaware (“Guarantor”), and KC EUROHOLDINGS S.A.R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (“KCE”).

### PRELIMINARY STATEMENTS

WHEREAS, Borrower has requested Lender to extend credit and other financial accommodations on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

### ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Lender’s office is located.

“Change of Control” means: (a) the sale of all or substantially all of the assets of the Borrower or the Guarantor to an independent third party; (b) a sale resulting in more than 50% of the Equity Interests of the Borrower or the Guarantor being held by an independent third party; (c) a merger, consolidation, recapitalization or reorganization of the Borrower or the Guarantor with or into an independent third party that results in the inability of current members or shareholders (or their equivalents) of the Borrower or the Guarantor to designate or elect a majority of the managers or the board of directors (or its equivalent) of the resulting entity or its parent company; or (d) Christopher Cline no longer owns, directly or indirectly, more than 50% of the voting power of the Guarantor. For the sake of clarity, an “independent third party” referenced in this paragraph includes a Person who is not an Affiliate of the Borrower, the Guarantor, or Christopher Cline.

“CMO” means the Borrower.

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

“Collateral” means all of the “Collateral” and “Mortgaged Property” referred to in the Collateral Documents and all of the other property that is under the terms of the Collateral Documents, subject to Liens in favor of the Secured Party as security for the Obligations.

“Collateral Documents” means, collectively, the Security Agreement, the Stock Pledge Agreements, the Mortgages, each of the mortgages, collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Secured Party pursuant to Section 4.16, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Secured Party as security for the Obligations.

“Commitment” means a Term Loan Commitment.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Disclosed Litigation” has the meaning specified in Section 3.06.

“Dollar” and “\$” mean lawful money of the United States.

“Employee Benefit Plan” means any employee benefit, pension, retirement or other equivalent or analogous plan or program established, maintained or contributed to by the Borrower and/or the Guarantor in each case covering employees or former employees of the Borrower and/or the Guarantor or any Affiliate thereof.

“Environmental Laws” means any and all current and future federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, and concessions and grants issued by a Governmental Authority or common law causes of action applicable to the properties of any of the Borrower and its Subsidiaries or the Borrower’s or any of its Subsidiaries’ operations relating to pollution or protection of the Environment and of human health (to the extent related to exposure to Hazardous Materials) including SMCRA and MSHA, and those relating to the generation, treatment, storage, transportation, handling, Release and threat of Release of Hazardous Materials, acid mine drainage and Reclamation; provided that “Environmental Laws”

do not include any laws relating to worker or retiree benefits, including benefits arising out of occupational diseases.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, clean-up, corrective or remedial or response action, fines, penalties or indemnities), of the Borrower, any Subsidiary or any of their respective Subsidiaries resulting from or based upon or arising under any applicable Environmental Law, including (a) a violation of any Environmental Law, (b) the Release or threatened Release of any Hazardous Materials into the Environment, (c) Reclamation or (d) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permits” means any and all permits, licenses, registrations, certifications, notifications, approvals and any other authorization required under any applicable Environmental Law (including those necessary under any applicable Environmental Laws for the construction, maintenance and operation of any coal mine or related processing facilities or Reclamation).

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination but excluding debt securities convertible or exchangeable into such equity.

“Event of Default” has the meaning specified in Section 6.01.

“Excess Cash Flow” means, for any Excess Cash Flow Period, the amount of available funds after allocations and/or payments of all amounts required to be allocated or paid, including reasonable cash reserves, pursuant to the Borrower’s budget then in effect or the applicable financial statements delivered pursuant to Section 4.01, in each case as determined by the Borrower in good faith.

“Excess Cash Flow Period” means each quarter commencing with the quarter ending September 30, 2019.

“Financing Lease” means any lease of property, real or personal, the obligations of the lessee in respect of which are required in accordance with GAAP to be capitalized on a balance sheet of the lessee.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, that are applicable to the circumstances as of the date of determination.

“Governmental Authority” means the government of the United States or any other nation, or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra national bodies such as the European Union or the European Central Bank).

“Guarantee” means the Guarantee made by the Guarantor in favor of the Lender in respect of the Obligations of the Borrower under this Agreement and all other Loan Documents.

“Hazardous Materials” means (i) any explosive or radioactive substances or wastes and (ii) any hazardous or toxic substances, materials or wastes, regulated as such or as a pollutant or contaminant under any applicable Environmental Law, including asbestos-containing materials, polychlorinated biphenyls, toxic mold, greenhouse gases, urea-formaldehyde insulation, gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or by-products of breakdown products of petroleum or any coal ash, coal combustion by-products or waste, boiler slag, scrubber residue or flue desulphurization residue.

“Indemnified Party” has the meaning specified in Section 7.04.

“Intercreditor Agreement” means that certain Amended and Restated Intercreditor Agreement dated of even date herewith by and among the Borrower, the Lender, the Guarantor and Christopher Cline, as may be amended from time to time.

“IP Rights” has the meaning specified in Section 3.18.

“KCE” means KC Euroholdings S.A.R.L, a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg.

“KCL” means Kameron Collieries Limited, a Nova Scotia limited company.

“Laws” means, as to any Person, collectively, all international, foreign, federal, state and local laws, statutes, treaties, rules, regulations, ordinances, codes, and determinations of arbitrators or courts or other Governmental Authorities, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including Mining Laws.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or

preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Financing Lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by the Lender to the Borrower under Article II in the form of a Term Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Note, (c) the Guarantee, (d) the Collateral Documents, and (e) each other document that is deemed in writing by the Borrower and the Lender to constitute a Loan Document.

“Loan Party” means each of the Borrower, the Guarantor and KCE.

“Material Adverse Effect” means a material adverse effect upon (a) the business, property, condition (financial or otherwise) or results of operations of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower or the Subsidiaries to perform their respective obligations under the Loan Documents or (c) the validity or enforceability as to the Borrower or any Subsidiary party thereto of this or any of the other Loan Documents or the rights or remedies of the Lender hereunder or thereunder.

“Material Leased Real Property” means real property leased by the Borrower having a fair market value reasonably estimated by an officer of the Borrower to be in excess of \$1,000,000.

“Material Owned Real Property” means real property owned by the Borrower having a fair market value reasonably estimated by an officer of the Borrower to be in excess of \$1,000,000.

“Maturity Date” has the meaning specified in the Note.

“Mines” means the mining complexes that are owned, leased or operated by the Borrower and its Subsidiaries, and each additional parcel or tract of real property acquired by the Borrower or any Subsidiary.

“Mining Facilities” means the Mines and the related facilities and assets.

“Mining Financial Assurances” has the meaning specified in Section 3.10.

“Mining Laws” means any and all applicable current or future domestic or foreign, federal, state or local (or any subdivision) statutes, ordinances, orders, rules, regulations, judgments, governmental authorizations, or any other requirements of Governmental Authorities relating to surface or subsurface mining operations and activities.

“Mining Leases” means each contract, agreement or lease to which the Borrower or any Subsidiary is a party granting such Person an interest in coal from the property that is the subject

of such contract, lease or agreement.

“Mining Title” means an undivided fee simple title to the real property interest (including interests in surface and/or coal mining rights) or a leasehold interest in an undivided interest in the real property interest (including interests in surface and/or coal mining rights) together with no less than those real properties, easements, licenses, privileges, rights and appurtenances as are necessary to mine, remove, process and transport coal in the manner operated at such time.

“Mortgages” means any deeds of trust, trust deeds, deeds to secure debt, mortgages, leasehold mortgages and leasehold deeds of trust covering the properties listed on Schedule 3.08(b), in each case as amended, restated, supplemented or otherwise modified from time to time.

“Mortgaged Property” has the meaning set forth in the definition of “Collateral.”

“MSHA” means the Mining Safety and Health Act of 1977, 30 U.S.C. §§ 801 et seq., as amended.

“Note” means the promissory note dated the date of, and made pursuant to, this Agreement by the Borrower payable to the Lender by that certain Assignment of Note dated the date of this Agreement.

“Obligations” means, with respect to any Person, any payment, performance or other obligation of such Person of any kind, including any liability of such Person on any claim, whether or not the right of any creditor to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding under Debtor Relief Laws. Without limiting the generality of the foregoing, the Obligations of the Borrower or any Subsidiary of the Borrower under the Loan Documents include (a) the obligation to pay principal, interest, fees, charges, expenses, fees, attorneys’ fees and disbursements, indemnities and other amounts payable by such Person under any Loan Document, and (b) the obligation of such Person to reimburse any amount in respect of any of the foregoing that the Lender, in its sole discretion, may elect to pay or advance on behalf of such Person.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Permitted Liens” means such of the following as to which no enforcement, collection,

execution, levy or foreclosure proceeding shall have been commenced: (a) Liens for taxes, assessments and governmental charges or levies which are not yet due and payable or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP; (b) materialmen's, mechanics', carriers', workmen's, construction and repairmen's Liens and other similar Liens arising in the ordinary course of business securing obligations and that are not overdue for a period of more than 60 days which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained in the books of the Person; (c) pledges or deposits in the ordinary course of business to secure obligations under Mining Laws or similar legislation or to secure public or statutory obligations; (d) deposits to secure the performance of bids, trade contracts and leases (other than leases that may be considered indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business and Liens on assets to secure obligations under surety bonds obtained as required in connection with the entering into of new federal coal leases; (e) Liens securing judgments (or the payment of money not constituting a Default under this Agreement or securing appeal or other surety bonds related to such judgments; (f) easements, covenants, conditions, rights of way, zoning restrictions and other similar encumbrances; and (g) Liens that are in existence on the Effective Date which, in the aggregate, in any case do not materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person and do not render title to the property encumbered thereby unmarketable or materially adversely affect the use of such property for its present purposes.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Properties” means any facilities and properties currently or formerly owned, leased or operated by the Borrower or any of its Subsidiaries.

“Reclamation” means the reclamation and restoration of land, water and any future, current, abandoned or former mines, and of any other environment affected by such mines, as required pursuant to SMCRA, any other Environmental Law or any Environmental Permit.

“Related Parties” means, with respect to any Person, such Person's Affiliates and the partners, members, directors, officers, employees, agents, attorneys, advisors or controlling persons of such Person and of such Person's Affiliates.

“Release” means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, leaching or migration of any Hazardous Material in or into the Environment (including the abandonment or disposal of any barrels, tanks, containers or receptacles containing any Hazardous Material), or in, into or out of any vessel or facility, including the movement of any Hazardous Material through the air, soil, subsoil, surface, water, ground water, rock formation or otherwise.

“Requirement of Law” means as to any Person, the Organization Documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of the Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to the Borrower’s stockholders, partners or members (or the equivalent Person thereof).

“Secured Party” means the Lender.

“Security Agreement” means that certain Pledge and Security Agreement, dated as of the Effective Date, by and between the Secured Party and the Lender, as amended, restated, supplemented or otherwise modified from time to time.

“Stock Pledge Agreement” means each of (a) that certain Pledge Agreement dated as of the Effective Date by and among the Guarantor (as grantor), the Borrower, and the Lender (as secured party) regarding the pledge of 65% of the voting stock and 100% of the preferred non-voting stock of the Borrower, and (b) that certain Pledge Agreement dated as of the Effective Date by and among KCE (as grantor), KCL, and the Lender (as secured party) regarding the pledge of 65% of the voting stock of KCL.

“SMCRA” means the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§ 1201 et seq., as amended.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loan” has the meaning assigned to such term in Section 2.01(a).

“Term Loan Commitment” means the principal amount set forth in a Term Loan Note.

“Term Loan Note” means a promissory note made by the Borrower in favor of the Lender, whether directly or by assignment, evidencing Term Loans made by the Lender to the Borrower.

“Transaction” means, collectively, (a) the entering into by the Borrower of the Loan Documents to which it is a party, and (b) the payment of the fees and expenses incurred in connection with the consummation of the foregoing.

## **ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS**

2.01 The Term Loans. Subject to the terms and conditions set forth herein, the Lender agrees to make term loans in Dollars to the Borrower (“Term Loans”) on the Effective Date in amounts not to exceed the amount of the Term Loan Commitment pursuant to the terms of the Note.

2.02 Conditions to Credit Extensions. The obligation of the Lender to honor any request for credit extension is subject to the following conditions precedent:

(a) The representations and warranties of (i) the Borrower contained in Article III and (ii) each of the Borrower and its Subsidiaries contained in each other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such credit extension.

(b) No Default or Event of Default shall have occurred and be continuing, or would result from such proposed credit extension or from the application of the proceeds thereof.

(c) The Lender shall have received a request for credit extension in accordance with the requirements hereof.

(d) The Lender shall have received the consolidated financial statements of the Borrower and its Subsidiaries for each quarter pursuant to Section 4.01(b).

Each request for credit extension submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 2.02(a) and (b) have been satisfied (unless waived by the Lender in writing) on and as of the date of the applicable request.

2.03 Prepayments.

(a) Optional. The Borrower may, at any time or from time to time, voluntarily prepay the Note in whole or in part without premium or penalty.

(b) Mandatory. No later than 10 Business Days after the delivery of the consolidated financial statements of the Borrower and its Subsidiaries for each quarter pursuant to Section 4.01(b), the Borrower shall make prepayments in an aggregate amount equal to Excess Cash Flow

in the order set forth in Section 3 of the Intercreditor Agreement.

(c) Application of Optional Prepayments. In the event that the Borrower desires to make any optional prepayment hereunder, the Borrower shall make prepayments in the order set forth in Section 3 of the Intercreditor Agreement.

2.04 Repayment. The Borrower shall repay to the Lender the outstanding principal balance of the Note, plus interest, on or before the Maturity Date pursuant to the terms of the Note.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES**

Each of the Borrower and the Guarantor, on behalf of itself and, as applicable, any and all of its Subsidiaries, represents and warrants to the Lender that:

3.01 Existence, Qualification and Power. Each of the Borrower and its Subsidiary (a) (i) is duly organized or formed and, validly existing and (ii) in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transaction, and (c) is duly qualified and is licensed and, as applicable, in good standing, under the Laws of each jurisdiction where its ownership, lease or operation of the Properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) and (c), to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

3.02 Authorization; No Contravention. The execution, delivery and performance by each of the Borrower and its Subsidiary of each Loan Document to which such Person is a party, (a) have been duly authorized by all necessary corporate or other organizational action, and (b) do not and will not (i) contravene the terms of any of such Person's Organization Documents; (ii) conflict with or result in any breach or contravention of, or the creation of any Lien (except for any Liens that may arise under the Loan Documents) under, or require any payment to be made under (A) any Contractual Obligation to which such Person is a party or affecting such Person or the Properties of such Person or any of its Subsidiaries or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its Property is subject; or (c) violate any Law, except in each case referred to in clause (b)(ii) or (c) to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

3.03 Governmental Authorization; Other Consents. (a) No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority and (b) no material approval, consent, exemption, authorization, or other action by, or notice to, or filing with any other Person, in each case, is necessary or required in connection with the execution, delivery or performance by any of the Borrower and its Subsidiaries of this Agreement or any other Loan Document or for the consummation of the Transaction, except for

those approvals, consents, exemptions, authorizations or other actions which have already been obtained, taken, given or made, as listed on Schedule 3.03 hereto, and are in full force and effect. All applicable waiting periods in connection with the Transaction have expired without any action having been taken by any Governmental Authority restraining, preventing or imposing materially adverse conditions upon the Transaction or the rights of the Borrower or its Subsidiaries freely to transfer or otherwise dispose of, or to create any Lien on, any properties now owned or hereafter acquired by any of them.

3.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been duly executed and delivered by each of the Borrower and its Subsidiary that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Person, enforceable against each of the Borrower and its Subsidiary that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other Laws relating to or affecting creditors' rights generally, general principles of equity, regardless of whether considered in a proceeding in equity or at law and an implied covenant of good faith and fair dealing.

3.05 Financial Statements; No Material Adverse Effect.

(a) The audited consolidated financial statements of the Borrower and its Subsidiaries (i) will be prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including material liabilities for Taxes, material commitments and material indebtedness.

(b) The audited consolidated balance sheet of the Borrower and its Subsidiaries dated December 31, 2017, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since December 31, 2017, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(d) The consolidated forecasted balance sheet and statements of income and cash flows

of the Borrower and its Subsidiaries delivered pursuant to Section 4.01 were prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable in light of the conditions existing at the time of delivery of such forecasts, it being recognized by the Lender that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

3.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their Properties or revenues that (a) purport to affect or pertain to this Agreement, any other Loan Document or the consummation of the Transaction or (b) except as specifically disclosed in Schedule 3.06 (the “Disclosed Litigation”), as to which there is a reasonable possibility of an adverse determination and that would reasonably be expected to result in a Material Adverse Effect.

3.07 No Default. Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

3.08 Ownership of Property; Liens.

(a) As of the Effective Date, each of the Borrower and its Subsidiaries has good and marketable title (subject only to Permitted Liens) to the Properties of the Borrower and its Subsidiaries except when failure to have such title to the Property would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of the Borrower and its Subsidiaries owns and has on the Effective Date good and marketable title or subsisting leasehold, easement or other real property interest (subject only to Permitted Liens and such other Liens as permitted by the Loan Documents) to, and enjoys on the Effective Date peaceful and undisturbed possession of, all such properties that are necessary for the present operation and conduct of its business, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There are no Liens of any nature whatsoever on any assets of any of the Borrower and its Subsidiaries other than: (i) Liens granted pursuant to this Agreement, (ii) other Liens in existence on the Effective Date as reflected on Schedule 3.08(a) and (iii) Permitted Liens and such other Liens as permitted by the Loan Documents. Each of the Borrower and its Subsidiary has Mining Title (subject only to Permitted Liens and such other Liens as permitted by the Loan Documents) to all Mining Facilities issued to such Person to the extent necessary to conduct its business as currently conducted and to utilize such properties for their intended purpose.

(b) Schedule 3.08(b) sets forth a complete and accurate list, as of the Effective Date, of the locations of all Material Owned Real Property or Material Leased Real Property held by the

Borrower or any of its Restricted Subsidiaries, and in the case of any leases or subleases for the Mining Facilities, whether such lease, sublease or other instrument requires the consent of the landlord or counterparty thereunder or other parties thereto in order to grant the Liens on the Collateral to the Lender under the Security Agreement.

3.09 Environmental Compliance. Except as disclosed on Schedule 3.09 or as otherwise would not individually or in the aggregate reasonably be expected to have a Material Adverse Effect:

(a) None of the Borrower nor any of its Subsidiaries has received any written notice of violation, alleged violation, non-compliance, liability or potential liability under any Environmental Laws with regard to any of the Properties or the business operated by the Borrower or any of its Subsidiaries, or any prior business for which the Borrower has retained an Environmental Liability.

(b) Hazardous Materials have not been generated, stored, handled, transported or disposed of at, under, on or from the Properties by the Borrower or any of its Subsidiaries in violation of any applicable Environmental Law, or in a manner or to a location which could reasonably be expected to give rise to an Environmental Liability and, to the knowledge of the Borrower, Hazardous Materials have not been generated, stored, handled, transported or disposed of at, under, on or from the Properties by any Person other than the Borrower or any of its Subsidiaries in violation of any applicable Environmental Law, or in a manner or to a location which would reasonably be expected to give rise to an Environmental Liability.

(c) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Borrower, threatened under any Environmental Law, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders under any Environmental Law with respect to the properties or the Business to which the Borrower or any of its Subsidiaries is or, to the knowledge of the Borrower, will be named as a party or with respect to the properties or the Business, and to the knowledge of the Borrower, no circumstances exist that would reasonably be expected to form the basis for such a proceeding or action against the Borrower or any of its Subsidiaries or the Business under any applicable Environmental Law.

(d) To the knowledge of the Borrower, there has been no Release or threat of Release of Hazardous Materials at, on, under or from the Properties, or arising from or related to the operations of the Borrower or any of its Subsidiaries in connection with the Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that would reasonably be expected to give rise to an Environmental Liability.

(e) The Borrower, each of its Subsidiaries, and the Business are in compliance with all applicable Environmental Laws, including all Environmental Permits, and all past non-compliances by the Borrower or its Subsidiaries have been resolved without ongoing obligations or costs.

(f) The Borrower and each of its Subsidiaries (i) hold all Environmental Permits (each of which is in full force and effect and is not subject to appeal, except in such instances where the requirement to hold an Environmental Permit is being contested in good faith by the Borrower or any of its Subsidiaries by appropriate proceedings diligently conducted) required for any of their current operations or for the current ownership, operation or use of the Business, including all Environmental Permits required for the coal mining-related operations of the Borrower or any of its Subsidiaries or, to the extent currently required, any pending construction or expansion related thereto; and (ii) have not received written notification or otherwise have knowledge that any Environmental Permit is about to be revoked, withdrawn or terminated.

(g) None of the Properties has any acid mine drainage which (i) constitutes a violation by the Borrower or any of its Subsidiaries of any applicable Environmental Law, or (ii) could reasonably be expected to give rise to an Environmental Liability.

3.10 Mining. The Borrower and each of its Subsidiaries has, in the amounts and forms required pursuant to Environmental Law, obtained all performance bonds and surety bonds, or otherwise provided any financial assurance required under any Environmental Law or Environmental Permit for Reclamation or otherwise (collectively, “Mining Financial Assurances”), except as would not reasonably be expected to result in a Material Adverse Effect.

3.11 Insurance. The Properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies which may be Affiliates of the Borrower, in such amounts (after giving effect to any self-insurance compatible with the following standards), with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

3.12 Taxes. The Borrower and its Subsidiaries have timely filed all tax returns and reports required to be filed, and have paid all Taxes, assessments, fees and other governmental charges levied or imposed (whether or not shown on such tax returns or reports) upon them or their properties, income or assets otherwise due and payable (other than those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP), except where the failure to do any of the foregoing could not reasonably be expected to result in a Material Adverse Effect; no tax Lien has been filed and no claim is being asserted or audit being conducted, with respect to any Tax, fee or other charge of the Borrower or any of its Subsidiaries, except for any of the foregoing that would not reasonably be expected to result in a Material Adverse Effect. There is no proposed tax assessment against the Borrower or any Subsidiary that would reasonably be expected to result in a Material Adverse Effect.

3.13 Employee Benefit Plans. Each of the Borrower and the Guarantor has complied in all material respects with all applicable laws regarding each Employee Benefit Plan; and each Employee Benefit Plan is, and has been, maintained and administered in compliance with its terms, applicable collective bargaining agreements and all applicable laws. All contributions and

premiums required to be made or paid by the Borrower or the Guarantor to Employee Benefit Plans have been made on a timely basis. There have been no improper withdrawals or applications of the assets of any Employee Benefit Plans. Each Employee Benefit Plan to which the Borrower or the Guarantor has an obligation to contribute is fully funded on a solvency basis and going concern basis (using actuarial methods and assumptions which are consistent with the valuations last filed with the applicable Governmental Authorities). There exists no outstanding liability of the Borrower or the Guarantor with respect to any Employee Benefit Plan that has been terminated.

3.14 Subsidiaries; Equity Interests. As of the Effective Date, the Borrower has no Subsidiaries other than those specifically disclosed in Schedule 3.14, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by each of the Borrower and its Subsidiary in the percentages specified on Schedule 3.14 free and clear of all Liens except those permitted by this Agreement and the other Loan Documents. Schedule 3.14 shows, with respect to each of the Borrower and its Subsidiaries, the jurisdiction of its incorporation or formation, the address of its principal place of business and its U.S. taxpayer identification number or, in the case of any non-U.S. entity that does not have a U.S. taxpayer identification number, its unique identification number issued to it by the jurisdiction of its incorporation or formation.

3.15 Margin Regulations; Investment Company Act.

(a) None of the Borrower nor any of its Subsidiaries is engaged and none will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person controlling the Borrower, or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

3.16 Disclosure. No statement or information contained in this Agreement or any other Loan Document or any other document, certificate or statement furnished to the Lender by or on behalf of any of the Borrower and its Subsidiaries for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, taken as a whole, contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lender that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. As of the Effective Date, there is no fact known to any of the Borrower and its Subsidiaries that would reasonably be expected to have

a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Lender for use in connection with the transactions contemplated hereby and by the other Loan Documents.

3.17 Compliance with Laws. The Borrower and each of its Subsidiaries are in compliance with the requirements of all Laws (including any zoning, building, ordinance, code or approval or any building or mining permits) and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such Requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

3.18 Intellectual Property; Licenses, Etc.. The Borrower and each of its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses, except where the failure to own or possess the right to use such IP Rights would not reasonably be expected to have a Material Adverse Effect. The use of such IP Rights by the Borrower or any Subsidiary does not infringe upon any rights held by any other Person, except for any infringement that would not reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 3.18(a), no claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, which, either individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

3.19 Solvency. On the Effective Date, the Borrower and its Subsidiaries on a consolidated basis are, and after giving effect to the transactions contemplated by the Loan Documents and the incurrence of the indebtedness and obligations being incurred in connection herewith and therewith, will be solvent.

3.20 Casualty, Etc.. As of the Effective Date, neither the businesses nor the Properties of the Borrower or any of its Subsidiaries have been affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty whether or not covered by insurance) that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

3.21 Labor Matters. Except as specifically disclosed on Schedule 3.21, there are no collective bargaining agreements covering the employees of the Borrower or any of its Subsidiaries as of the Effective Date. As of the Effective Date, neither the Borrower nor any Subsidiary has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years that would reasonably be expected to result in a Material Adverse Effect.

3.22 Use of Proceeds. The Borrower shall use the proceeds of the Loans for working capital, capital expenditures, other general corporate purposes, and to pay fees, costs and expenses

in connection with the Transaction provided that the proceeds are used for the Vista coal mining project in Alberta, Canada.

#### **ARTICLE IV AFFIRMATIVE COVENANTS**

So long as the Lender shall have any Commitment hereunder, or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, each of the Borrower and the Guarantor shall, and shall, as applicable, cause each Subsidiary to:

4.01 Financial Statements. Deliver to the Lender, in form and detail reasonably satisfactory to the Lender:

(a) as soon as available, but in any event no later than April 30<sup>th</sup> of each year, a consolidated balance sheet for both the Borrower and the Guarantor as at the end of the prior year, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such year, setting forth in each case in comparative form the figures for the previous year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit, and which statements shall include accompanying notes; provided, however, that such report and opinion may be subject to "going concern" or similar qualification on or before December 31, 2019.

(b) as soon as available, but in any event within 45 days after the end of each of the first three quarters of each year, a consolidated balance sheet for both the Borrower and the Guarantor as at the end of such quarter, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such quarter and for the year-to-date, setting forth in each case in comparative form the figures for the corresponding quarter of the previous year and the corresponding portion of the previous year, all in reasonable detail, such consolidated statements to be certified by an officer of the Borrower or the Guarantor as fairly presenting in all material respects the financial condition, results of operations, changes in shareholders' equity and cash flows of the Borrower, the Guarantor and their Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

(c) [Reserved.]

(d) At the time the Borrower must deliver its annual financials under Section 4.01(a), the Borrower shall deliver to the Lender, in form and detail reasonably satisfactory to the Lender, a report supplementing Schedule 3.08(b), identifying all Material Owned Real Property and Material Leased Real Property acquired or disposed of by the Borrower during such fiscal year.

4.02 Notices. Notify the Lender:

- (a) promptly, of the occurrence of any Default or Event of Default; and
- (b) promptly after the commencement thereof, notice of all actions, suits, investigations, litigation and proceedings before any Governmental Authority affecting any of the Borrower, the Guarantor and their Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 4.02 shall be accompanied by a statement of an officer of the Borrower or the Guarantor setting forth details of the occurrence referred to therein and stating what action the Borrower or the Guarantor has taken and proposes to take with respect thereto.

4.03 Payment of Obligations. Pay and discharge as the same shall become due and payable (a) all Tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower, the Guarantor or such Subsidiary, except where failure to do so would not reasonably be expected to result in a Material Adverse Effect; (b) all lawful claims which, if unpaid, would by law become a Lien upon any material portion of the Properties; and (c) all indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such indebtedness, except where failure to do so would not reasonably be expected to result in a Material Adverse Effect.

4.04 Preservation of Existence. With respect to the Borrower, the Guarantor and each of their Subsidiaries, (i) preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; (ii) take all reasonable action to maintain in rights, privileges, permits, licenses and franchises necessary for the normal conduct of its business; and (iii) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have a Material Adverse Effect.

4.05 Maintenance of Properties. With respect to the Borrower, the Guarantor and each of its Subsidiaries, maintain, operate, preserve and protect all of its properties and equipment necessary in the operation of the Mining Facilities in good working order and condition (ordinary wear and tear and damage by fire or other casualty or taking by condemnation excepted) in conformance in all material respects with Mining Laws, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

4.06 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies which may be Affiliates of the Borrower and the Guarantor, insurance with respect to its properties and business against loss or damage of the kinds customarily insured

against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance compatible with the following standards) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower, the Guarantor or the applicable Subsidiary operates, except to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, the Borrower, the Guarantor and their Subsidiaries will maintain or cause to be maintained (a) liability insurance, (b) business interruption insurance (except that no such insurance is required until the Borrower is actively mining coal), and (c) replacement value casualty insurance on the Properties under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as would be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses. Each such policy of insurance shall (i) name the Lender as an additional insured thereunder as its interests may appear, (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to the Lender, that names the Lender as the loss payee thereunder and provide for at least thirty days' prior written notice to the Lender of any modification or cancellation of such policy.

4.07 Compliance with Laws. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such Requirement of Law or order, writ, injunction or decree is being contested in good faith by the Borrower, the Guarantor or any of their Subsidiaries by appropriate proceedings diligently conducted or (b) the failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

4.08 Books and Records. (a) Maintain proper books of record and account, in which in all material respects full, true and correct entries in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Borrower, the Guarantor or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower, the Guarantor or such Subsidiary, as the case may be.

4.09 Inspection Rights. Permit representatives and independent contractors of the Lender (a) to visit and inspect any of its properties, (b) to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom (except to the extent (i) any such access is restricted by a Requirement of Law or (ii) any such agreements, contracts or the like are subject to a written confidentiality agreement with a non-Affiliate that prohibits the Borrower, the Guarantor or any of their Subsidiaries from granting such access to the Lender; provided that with respect to such confidentiality restrictions affecting the Borrower, the Guarantor or any of their Subsidiaries, an officer is made available to the Lender to discuss such confidential information to the extent permitted), and (c) to discuss the business, finances and accounts with its officers and independent public accountants at such reasonable times during normal business hours and as often as may be reasonably desired; provided that in the case of discussion with independent public

accountants, the Lender shall, prior to any contact with such accountants, (i) give the Borrower or the Guarantor reasonable advance notice, (ii) provide a specific reason for the need of such discussion, (iii) receive the Borrower's or the Guarantor's consent to such discussion, which consent may be given or denied at the Borrower's or the Guarantor's reasonable discretion. If a discussion with independent public accountants is scheduled, an officer of the Borrower or the Guarantor or their designees must be present during the discussion.

4.10 Compliance with Environmental Laws. Comply, and use commercially reasonable efforts to cause all lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws, Environmental Permits and maintain all material Mining Financial Assurances and obtain, to the extent necessary based on its current operations, and renew all Environmental Permits for its operations and properties, except in such instances in which (i) the requirement of an Environmental Permit is being contested in good faith by the Borrower, the Guarantor or any of their Subsidiaries by appropriate proceedings diligently conducted or (ii) the failure to so comply, obtain or renew would not reasonably be expected to have a Material Adverse Effect, and (b) undertake and perform any investigation, study, sampling, testing, response action, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties as required under, and in accordance with the requirements of all applicable Environmental Laws, except in such instances in which (i) the requirement to undertake or perform is being contested in good faith by the Borrower, the Guarantor or any of their Subsidiaries by appropriate proceedings diligently conducted or (ii) the failure to so undertake or perform would not reasonably be expected to have a Material Adverse Effect.

4.11 Further Assurances. Promptly upon reasonable request by the Lender, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and reregister any and all such further acts, deeds, certificates, assurances and other instruments as the Lender may reasonably require from time to time in order to carry out more effectively the purposes of the Loan Documents.

4.12 Compliance with Terms of Mining Leaseholds. Make all payments and otherwise perform all obligations in respect of the Mining Leases to which the Borrower, the Guarantor or any of their Subsidiaries is a party, keep such leases in full force and effect and not allow such leases to lapse or be terminated or any rights to renew such leases to be forfeited or cancelled, except, in any case, where the failure to do so, either individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

4.13 Certain Long-Term Liabilities and Environmental Reserves. To the extent required by GAAP, maintain adequate reserves for (a) future costs associated with any lung disease claim alleging pneumoconiosis or silicosis or arising out of exposure or alleged exposure to coal dust or the coal mining environment, (b) future costs associated with retiree and health care benefits, (c) future costs associated with Reclamation of disturbed acreage, removal of facilities and other closing costs in connection with its mining operations and (d) future costs associated with other potential Environmental Liabilities.

4.14 Lender Calls. After the date of delivery of the financial statements referred to in Section 4.01(a) or (b) and if requested by the Lender, hold a conference call or teleconference, at a time selected by the Borrower and the Guarantor and reasonably acceptable to the Lender, to review the financial results of the previous quarter and the financial condition of the Borrower and the Guarantor.

4.15 Subsidiaries. Cause any and all of Subsidiaries to comply with the terms of this Agreement.

4.16 Covenant to Guarantee Obligations and Give Security.

(a) Perfection of CMO and KCL Stock Pledge. Within 45 days of the Effective Date, the Guarantor and KCE, as the case may be, shall deliver or cause to be delivered such documents and instruments, and take or cause to be taken such other actions as may be reasonably necessary to provide the perfected security interests granted pursuant to the Stock Pledge Agreements. The Guarantor and KCE, as the case may be, shall obtain or cause to be obtained and delivered to the Lender favorable opinions of local counsel in Alberta, Nova Scotia and Luxembourg with respect to the enforceability of the Stock Pledge Agreements and perfection of all the security interests granted therein in form and substance reasonably satisfactory to the Lender.

(b) CMO Mortgage. With respect to any Material Owned Real Property and Material Leased Real Property, within 90 days of the Effective Date, the Borrower shall take or cause to be taken whatever action (including the recording of mortgages, assignments, the filing of PPSA registrations, the giving of notices and the endorsement of notices on title documents) as may be necessary or advisable in the reasonable opinion of the Lender to vest in the Lender valid and subsisting Liens on the Material Owned Real Property and Material Leased Real Property, including delivery of each item set forth below:

(i) Evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered on or before the date set forth in this Section 4.16(c) in form suitable for filing or recording, in all filing or recording offices that the Lender may in its reasonable determination deem necessary or desirable in order to create a valid first and subsisting Lien (subject to Permitted Liens) on the property described therein in favor of the Lender and that all filing and recording taxes and fees have been paid;

(ii) Favorable opinions of local counsel for the Borrower in Alberta, Canada with respect to the enforceability and perfection of all Mortgages covering the Mortgaged Properties and any related fixture filings in form and substance reasonably satisfactory to the Lender; and

(iii) Use commercially reasonable efforts to obtain such third party (including government offices if applicable) consents and agreements and other confirmations as the Lender may deem reasonably necessary or desirable and evidence that all other actions that

the Lender may deem reasonably necessary or desirable in order to create valid first and subsisting Liens (subject to Permitted Liens) on the property described in the Mortgages covering the Mortgaged Properties has been taken.

4.17 Post-Closing Delivery of Schedules. The Borrower shall deliver all schedules referenced in this Agreement within fifteen (15) days of the date of this Agreement.

## **ARTICLE V NEGATIVE COVENANTS**

So long as the Lender shall have any Commitment hereunder, or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, each of the Borrower and the Guarantor shall not, nor shall it permit any Subsidiary to, directly or indirectly:

5.01 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment.

5.02 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, or issue any Equity Interests, except that, so long as no Event of Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Borrower or the Guarantor, provided that the Borrower or the Guarantor shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries;

(b) any Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower, the Guarantor or to another Subsidiary;

(c) the Borrower, the Guarantor and any Subsidiary may merge or consolidate with any other Person in a transaction in which the Borrower or the Guarantor is the surviving or continuing Person;

(d) Any Subsidiary may issue Equity Interests so long as immediately after such issuance the Borrower or the Guarantor directly or indirectly owns all of the Equity Interests in such Subsidiary; and

(e) The Guarantor may issue Equity Interests in the Guarantor to its employees in connection with the performance of services in the ordinary course of business of the Guarantor.

5.03 Reorganization; Division. Consummate (a) a reorganization in accordance with Section 18-217 of Chapter 18, Title 6 of the Delaware Code or any similar applicable law of another State which permits divisions of limited liability companies, or (b) a division into two or more limited liability companies, without the prior written consent of the Lender, which consent

may be granted or refused in the Lender's sole discretion.

5.04 Amendments of Organization Documents. Amend any of the Organization Documents of the Borrower or the Guarantor or violate any terms of such Organization Documents in any respect materially adverse to the Lender without the prior consent of the Lender.

## **ARTICLE VI EVENTS OF DEFAULT AND REMEDIES**

6.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any Subsidiary fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or (ii) within three Business Days after the same becomes due, any interest on any Loan, any fee due hereunder, or any other amount payable hereunder or under any other Loan Document;

(b) Covenants. Any of the Borrower, the Guarantor and their Subsidiaries fails to perform or observe any other covenant or agreement contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (i) any officer of the Borrower, the Guarantor or a Subsidiary becoming aware thereof, and (ii) notice thereof is given by any of the Borrower, the Guarantor and their Subsidiaries to the Lender;

(c) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Subsidiary herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made;

(d) Cross-Default. The Borrower or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any indebtedness or guaranty (other than the indebtedness hereunder or any guaranty of the Obligations) (i) involving any debt owed to the Lender or Christopher Cline regardless of amount, or (ii) in each case having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit agreement) of more than \$10,000,000, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness or guaranty was created or (B) fails to observe or perform any other agreement or condition relating to any such indebtedness or guaranty or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to permit the holder or holders of such indebtedness or the beneficiary or beneficiaries of such guaranty (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity, or such guaranty to become due or payable;

(e) Insolvency Proceedings, Etc. The Borrower, the Guarantor or any of their

Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any substantial part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any substantial part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding;

(f) Inability to Pay Debts; Attachment. (i) The Borrower, the Guarantor or any of their Subsidiaries becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any substantial part of the property of any such Person and is not released, vacated or fully bonded within 60 days after its issue or levy; or

(g) Judgments. There is entered against the Borrower, the Guarantor or any of their Subsidiaries one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding \$10,000,000.00 (to the extent not covered by independent third-party insurance), and, such judgments or orders shall not have been vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

(h) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any of the Borrower, the Guarantor and their Subsidiaries or any other Person contests in any manner in writing the validity or enforceability of any Loan Document except by reason of payment in full of all Obligations; or any of the Borrower, the Guarantor and their Subsidiaries denies that it has any or further liability or obligation under any Loan Document or purports to revoke, terminate or rescind any Loan Document except pursuant to the express terms thereof; or

(j) Change of Control. There occurs any Change of Control.

6.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Lender may take any or all of the following actions:

(a) declare the Commitment of the Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; and

(c) exercise all rights and remedies available to the Lender under the Loan Documents or applicable law;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Debtor Relief Laws of the United States or any other applicable jurisdictions, the obligation of the Lender to make Loans shall automatically terminate, and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Lender.

6.03 Application of Funds. After the exercise of remedies provided for in Section 6.02 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations owed under this Agreement shall be applied by the Lender in the following order:

FIRST, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lender (including fees, charges and disbursements of counsel to the Lender);

SECOND, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and other Obligations payable to the Lender;

THIRD, to payment of that portion of the Obligations constituting unpaid principal of the Loans and Obligations then owing payable to the Lender; and

LAST, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

## **ARTICLE VII MISCELLANEOUS**

7.01 Amendments. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any Subsidiary therefrom, shall be effective unless in writing signed by the Lender and the Borrower or the applicable Subsidiary, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

7.02 Notices. Unless otherwise specifically provided herein, all notices, consents, requests, demands and other communications required or permitted hereunder shall be (a) in writing, (b) sent by messenger, certified or registered U.S. mail, a reliable express delivery service or facsimile (with a copy sent by one of the foregoing means), charges prepaid as applicable, to the appropriate address(es) or number(s) set forth below; and (c) shall be deemed to have been given on the date of receipt by the addressee (or, if the date of receipt is not a Business Day, on the first Business Day after the date of receipt), as evidenced by (i) a receipt executed by the

addressee (or a responsible person in his or her office) or a notice to the effect that such addressee refused to accept such communication, if sent by messenger, U.S. mail or express delivery service, or (ii) a receipt generated by the sender's facsimile showing that such communication was sent to the appropriate number on a specified date, if sent by facsimile.

All such communications shall be sent to the following addresses or numbers, or to such other addresses or numbers as any party may inform the others by giving five Business Days prior notice:

If to the Borrower:

Coalspur Mines (Operations) LTD.  
3801 PGA Boulevard, Suite 903  
Palm Beach Gardens, FL 33410  
Attn: Michael J. Beyer

With a copy not constituting notice to:

3801 PGA Boulevard, Suite 903  
Palm Beach Gardens, FL 33410  
Attn: [●]

If to the Lender:

Cline Trust Company LLC  
3801 PGA Boulevard, Suite 901  
Palm Beach Gardens, FL 33410  
Attn: Lesslie Ray

With a copy not constituting notice to:

Bailey & Glasser, LLP  
209 Capitol Street  
Charleston, WV 25301  
Attn: Brian A. Glasser

If to the Guarantor and KCE:

3801 PGA Boulevard, Suite 903  
Palm Beach Gardens, FL 33410  
Attn: Michael J. Beyer

With a copy not constituting notice to:

3801 PGA Boulevard, Suite 903  
Palm Beach Gardens, FL 33410  
Attn: [●]

7.03 No Waiver; Cumulative Remedies. No failure by the Lender to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

7.04 Expenses; Indemnity; Damage Waiver.

(a) Reimbursement by the Borrower. The Borrower shall pay, or reimburse the Lender (and any sub agent thereof) for, all of the Lender's reasonable external audit, legal, appraisal, valuation, filing, document duplication and reproduction and investigation expenses and for all

other reasonable and documented out of pocket costs and expenses (including the reasonable and documented fees, expenses and disbursements of the Lender's counsel and one local legal counsel in each relevant jurisdiction, auditors, accountants, appraisers, printers and other advisors, consultants and agents) incurred by the Lender in connection with any of the following: (i) the creation, perfection or protection of the Liens under any Loan Document (including any reasonable and documented fees, disbursements and expenses for one local counsel in each relevant jurisdiction), (ii) all costs and expenses incurred by the Lender (including the fees, charges and disbursements of any counsel), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, or (B) in connection with the Loans made, including all such reasonable and documented out of pocket costs and expenses incurred during any workout, restructuring or negotiations in respect of such Loans, in each case, whether in any action, suit or litigation, or any bankruptcy, insolvency or other similar proceeding affecting creditors' rights generally. The Borrower further agrees to pay or reimburse the Lender for all reasonable and documented out of pocket costs and expenses, including reasonable attorneys' fees (including costs of settlement), incurred by the Lender in connection with any of the following: (i) in enforcing any Loan Document or Obligation or any security therefor or exercising or enforcing any other right or remedy available by reason of an Event of Default, (ii) in defending or intervening in any litigation or in filing a petition, complaint, answer, motion or other pleadings in any legal proceeding relating to the Obligations, any of the Borrower and its Subsidiaries and related to or arising out of the transactions contemplated hereby or by any other Loan Document or (iii) in taking any other action in or with respect to any suit or proceeding (bankruptcy or otherwise) described in any of the foregoing clauses (i), (ii) and (iii).

(b) Indemnification by the Borrower. The Borrower shall indemnify the Lender and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnified Party") against, and hold each Indemnified Party harmless from, any and all losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, reasonable out of pocket costs, disbursements and expenses, joint or several, of any kind or nature (including the reasonable fees, charges and disbursements of any advisor or counsel for any Indemnified Party), incurred by any Indemnified Party, asserted against any Indemnified Party by the Borrower, any Subsidiary or any other Person or awarded against any Indemnified Party, in each case, arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or Release or threatened Release of Hazardous Materials on or from any property currently or formerly owned or operated by any of the Borrower and its Subsidiaries, or any other Environmental Liability related in any way to any of the Borrower and its Subsidiaries or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by an Indemnified Party, a third party or by the Borrower or any Subsidiary or any of the Borrower's or such Subsidiary's directors, shareholders or creditors, and regardless of whether any Indemnified Party is a party thereto and whether or not any of the transactions contemplated hereby are consummated.

(c) Waiver of Consequential Damages, Etc. The Borrower agrees that no Indemnified Party shall have any liability (whether in contract, tort or otherwise) to the Borrower or any Subsidiary or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted primarily from such Indemnified Party's gross negligence or willful misconduct. In no event, however, shall any Indemnified Party be liable to any Person on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business and/or each such Person's respective anticipated savings). The Borrower hereby waives, releases and agrees (each for itself and on behalf of each Subsidiary and on behalf of its Subsidiaries) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(d) Payments. All amounts due under this Section 7.04 shall be payable promptly upon demand therefor.

(e) Survival. The agreements in this Section 7.04 shall survive the replacement of any lender party, the termination of the Commitments and the repayment, and the satisfaction or discharge of all the other Obligations.

7.05 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, or electronic transmission of a .pdf, shall be effective as delivery of a manually executed counterpart of this Agreement.

7.06 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Lender, regardless of any investigation made by the Lender or on its behalf and notwithstanding that the Lender may have had notice or knowledge of any Default at the time of any credit extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7.07 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as

close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.08 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF DELAWARE.

(b) SUBMISSION TO JURISDICTION. THE BORROWER AND EACH SUBSIDIARY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF DELAWARE SITTING IN NEW CASTLE COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF DELAWARE, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH DELAWARE STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY SUBSIDIARY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER AND EACH SUBSIDIARY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION 7.08. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 7.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY

PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

7.09 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.09.

7.10 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender.

7.11 Time of the Essence. Time is of the essence of the Loan Documents.

7.12 Execution and Delivery. This Agreement shall be executed and delivered in Charleston, West Virginia.

*[Remainder of Page Intentionally Left Blank]*

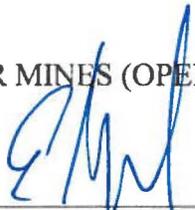
[Signature Page to Credit Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CLINE TRUST COMPANY LLC

By:   
Name: Lesslie Ray  
Title: Manager

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: Edward Griffith  
Title: Director

CUTLASS COLLIERIES LLC

By:   
Name: Michael Deyer  
Title: CEO

KC EUROHOLDINGS S.A.R.L.

By:   
Name: Keith Varney  
Title: Authorized Signatory

**Schedule 3.03**  
**Approvals, Consents, and Authorizations**

None.

**Schedule 3.06  
Disclosed Litigation**

None.

**Schedule 3.08(a)**  
**Existing Liens**

1. Liens in equipment leased to the Borrower under one or more master lease agreements. A list of such equipment is provided below.

**EQUIPMENT COLLATERAL PLEDGED**

2017 CAT CS74B Compactor	CATCS74BCE7E00219	Compactor
KOMATSU/ Joy Global 7730030806	Joy Global Conveyors #1	Conveyors
KOMATSU/ Joy Global	Joy Global Conveyors #2	Conveyors
KOMATSU/ Joy Global	Joy Global Conveyors #3	Conveyors
KOMATSU/ Joy Global	Joy Global Conveyors #4	Conveyors
KOMATSU/ Joy Global	Joy Global Conveyors #5	Conveyors
Cat - Grove Crane	130-S-844	Crane
Cat - 2016 D8T Track Type Tractor	D8TFMC00533	Dozer
Cat - 2018 D10T DZ04	W00297	Dozer
Cat - 2018 D10T DZ05	W00303	Dozer
Cat - 2018 D10T DZ06	W00323	Dozer
Cat - 2018 D10T DZ07	W00326	Dozer
Cat - 2018 D11T DZ08	W00493	Dozer
Cat - 2019 D11T DZ09	L00495	Dozer
Cat - 2018 D8T	MC01349	Dozer
Cat - 2018 D8T	MC01919	Dozer
Cat - 2019 D11T	JEL00501	Dozer
Cat - 2019 D11T DZ10	JEL00499	Dozer
Cat - 2019 D11T	JEL00506	Dozer
2017 CAT D6T	CAT00D6THMH700352	Dozer
2014 CAT D10T2	CAT0D10TJJW00115	Dozer
2015 CAT D10T2	CAT0D10TEJW00172	Dozer
2014 CAT D7E	CAT00D7EVTJA01244	Dozer
2015 CAT D10T	CAT0D10TLJW00167	Dozer
Cat - 2018 MD6250 Drill DR02	800105	Drill
Cat - 2019 MD6250 DR01	800104	Drill
Komatsu PC1250	50012	Excavator
Komatsu PC2000	20556	Excavator
Komatsu PC2000	20593	Excavator
Cat - 2016 323F Hydraulic Excavator	323FPXCF01466	Excavator
Cat - 2016 352F Hydraulic Excavator	352FEYEG00244	Excavator
2018 Pierce Pacific Longreach Exc Attachment	18626	Excavator
2017 CAT 349F	CAT0349FHHPD10038	Excavator
2017 CAT 349F	CAT0349FJHPD10081	Excavator
Cat - 2018 18M3 Motor Grader	18MCN9A00238	Grader

Cat - 2018 18M3 Motor Grader	18MTN9A00239	Grader
2016 CAT 16M3 Motor Grader	CAT0016MAN9Y00208	Grader
	WA320PZ-6 K75148	
KOMATSU/SMS Wheel Loader	72620	Loader
Komastu WA1200	60064	Loader
Cat - 2018 988K	WX01515	Loader
Cat - 2019 993K	D00105	Loader
Komastu PC5500	15166	Shovel
Komatsu PC5500	15161	Shovel
Komatsu 730E-8	A40035	Truck
Komatsu 730E-8	A40038	Truck
Komatsu 730E-8	A40039	Truck
Komatsu 730E-8	A40040	Truck
Komatsu 730E-8	A40036	Truck
Komatsu 730E-8	A40037	Truck
Komastu 830E	A41034	Truck
Komatsu 830E	A41036	Truck
Komatsu 830E	A41038	Truck
Komatsu 830E	A41037	Truck
Komatsu 830E	A41039	Truck
Komatsu 830E	A41040	Truck
Komatsu 830E - Tier 4	A50022	Truck
Komatsu 830E - Tier 4	A50024	Truck
Komatsu 830E - Tier 4	A50016	Truck
Komatsu HD785 - 2	30955	Truck
Komatsu HD785 -1	30956	Truck
2018 Groundforce Fuel & Lube Tank attached to 745 s/n626	165D09	Truck
2016 CAT 745c	CAT0745CPTFK01192	Truck
2015 CAT 745c	CAT0745CCTFK00637	Truck
2015 CAT 745c	CAT0745CPTFK00690	Truck
2015 CAT 745c	CAT074500TFK00492	Truck
2015 CAT 745c	CAT0745CKTFK00626	Truck
Cat - Telehandler	DHW00957	Utility
Cat - Forklift	AT29D90373	Utility
Cat - 2015 Telehandler	TDD01521	Utility

2. Cash Collateral Posted.

CASH COLLATERAL POSTED

<u>Form</u>	<u>Beneficiary</u>	<u>Amount (\$USD)</u>
RBC SLOC	AESO Electrical Services	774,771.00
RBC SLOC	Ridley Terminals	7,502,000.00
RBC SLOC	Immersive Technologies	650,000.00
United Bank DSRA Held by beneficiary	Cat Financial	2,892,310.36
	Alberta Energy Regulator- Reclamation	<u>2,984,653.74</u>
		<u>14,803,735.10</u>

**Schedule 3.08(b)**  
**Material Owned Real Property or Material Leased Real Property**

1. Material Owned Real Property:

**Coalspur Mining (Operations) Ltd**

<b>Housing type</b>	<b>Date purchased</b>	<b>Residential address</b>	<b>Purchase Price (USD\$)</b>
Own	6/5/2017	101 Berry Place Hinton, AB	500,000.00
Own	6/5/2017	105 Berry Place Hinton, AB	476,564.09
Own	5/17/2017	125 Muldoon Crescent Hinton, AB	465,645.25
Own	9/8/2017	221 Collinge Ave Hinton, AB	427,500.00
Own	11/17/2017	107 Lupin Way, Hinton AB	456,623.08
Own	1/13/2018	118 Muldoon Cres Hinton, AB	451,031.08
Own	5/22/2018	162 Muldoon Cres Hinton, AB	623,616.64
Own	5/6/2018	102 Wolf Willow Hinton, AB	460,632.76
Own	9/12/2018	127 Lupin Way Hinton, AB	525,487.88
Own	1/17/2019	145 Huisman Cres Hinton, AB	480,475.92

**Total Coalspur Real Estate**

**\$ 4,867,576.70**

3. Material Leased Real Property:

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
Vista Project	1308020345	Hinton East	Consolidated Tanager Ltd.	Coal Lease	384	\$ 1,344	22-Feb-23		3.8	948.9	Consolidated Tanager Ltd.	\$ 3.50			
Vista Project	1308020346	Hinton East	Consolidated Tanager Ltd.	Coal Lease	256	\$ 896	22-Feb-23		2.6	632.6	Consolidated Tanager Ltd.	\$ 3.50			
Vista Project	1308020348	Hinton East	Consolidated Tanager Ltd.	Coal Lease	256	\$ 896	22-Feb-23		2.6	632.6	Consolidated Tanager Ltd.	\$ 3.50			
Vista Project	1308020347	Hinton West	Consolidated Tanager Ltd.	Coal Lease	176	\$ 616	22-Feb-23		1.8	434.9	Consolidated Tanager Ltd.	\$ 3.50			
Vista Project	1308020349	Hinton West	Consolidated Tanager Ltd.	Coal Lease	464	\$ 1,624	22-Feb-23		4.6	1,146.6	Consolidated Tanager Ltd.	\$ 3.50			
Vista Project	1307060429	Z Block	Alberta Energy (Crown Lease)	Coal Lease	768	\$ 2,688	16-Jun-22		7.7	1,897.8	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1308060419	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	128	\$ 448	22-Jun-23		1.3	316.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1308060420	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	64	\$ 224	22-Jun-23		0.6	158.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1307070587	McLeod River North	Alberta Energy (Crown Lease)	Coal Lease	768	\$ 2,688	20-Jul-22		7.7	1,897.8	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1307070588	McLeod River North	Alberta Energy (Crown Lease)	Coal Lease	992	\$ 3,472	20-Jul-22		9.9	2,451.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1314080363	McLeod River North	Alberta Energy (Crown Lease)	Coal Lease	1,104	\$ 3,864	28-Aug-29		11.0	2,728.0	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1310090997	Sep 10 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,280	\$ 4,480	02-Sep-25		12.8	3,162.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1310090998	Sep 10 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	256	\$ 896	02-Sep-25		2.6	632.6	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1310090999	Sep 10 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,792	\$ 6,272	02-Sep-25		17.9	4,428.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
Vista South	1310091000	Sep 10 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	256	\$ 896	02-Sep-25		2.6	632.6	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1310091001	Sep 10 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	32	\$ 112	02-Sep-25		0.3	79.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Athabasca River	1311120568	Nov 11 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	01-Dec-26		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Athabasca River	1311120570	Nov 11 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	01-Dec-26		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Athabasca River	1311120572	Nov 11 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,280	\$ 4,480	01-Dec-26		12.8	3,162.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Athabasca River	1311120573	Nov 11 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,408	\$ 4,928	01-Dec-26		14.1	3,479.2	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Athabasca River	1311120574	Nov 11 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	01-Dec-26		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120451	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	03-Dec-24		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120452	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	03-Dec-24		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120453	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,792	\$ 6,272	03-Dec-24		17.9	4,428.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120454	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,280	\$ 4,480	03-Dec-24		12.8	3,162.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120455	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	03-Dec-24		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120456	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,280	\$ 4,480	03-Dec-24		12.8	3,162.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120457	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,255	\$ 4,392	03-Dec-24		12.5	3,100.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
Vista South	1309120458	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	03-Dec-24		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120459	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	03-Dec-24		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120460	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,152	\$ 4,032	03-Dec-24		11.5	2,846.6	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120461	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	03-Dec-24		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120462	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	96	\$ 336	03-Dec-24		1.0	237.2	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120463	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	1,040	\$ 3,640	03-Dec-24		10.4	2,569.9	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1309120464	Dec 09 Public Bid	Alberta Energy (Crown Lease)	Coal Lease	160	\$ 560	03-Dec-24		1.6	395.4	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1308120621	Coalspur	Alberta Energy (Crown Lease)	Coal Lease	1,888	\$ 6,608	04-Dec-23		18.9	4,665.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista South	1308120623	Coalspur	Alberta Energy (Crown Lease)	Coal Lease	1,536	\$ 5,376	04-Dec-23		15.4	3,795.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1308120620	Hinton East	Alberta Energy (Crown Lease)	Coal Lease	896	\$ 3,136	04-Dec-23		9.0	2,214.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1308120622	Hinton East	Alberta Energy (Crown Lease)	Coal Lease	1,072	\$ 3,752	04-Dec-23		10.7	2,649.0	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1308120624	Hinton East	Alberta Energy (Crown Lease)	Coal Lease	1,120	\$ 3,920	04-Dec-23		11.2	2,767.6	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1311040471	Other Vista Project	Alberta Energy (Crown Lease)	Coal Lease	320	\$ 1,120	07-Apr-26		3.2	790.7	Coalspur Mines (Operations) Ltd.	\$ 3.50	0004658363	April 15/19	CHQ 1123
Vista Project	1311040472	Other Vista Project	Alberta Energy (Crown Lease)	Coal Lease	592	\$ 2,072	07-Apr-26		5.9	1,462.9	Coalspur Mines (Operations) Ltd.	\$ 3.50	0004658363	April 15/19	CHQ 1123

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
Vista Extension	1307050787	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050788	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050789	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050790	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050791	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050792	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050793	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050794	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050795	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	688	\$ 2,408	26-May-22		6.9	1,700.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050796	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	1,024	\$ 3,584	26-May-22		10.2	2,530.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050797	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	880	\$ 3,080	26-May-22		8.8	2,174.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050798	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	736	\$ 2,576	26-May-22		7.4	1,818.7	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050799	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	736	\$ 2,576	26-May-22		7.4	1,818.7	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050800	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	576	\$ 2,016	26-May-22		5.8	1,423.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
Vista Extension	1307050801	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	768	\$ 2,688	26-May-22		7.7	1,897.8	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Extension	1307050802	Corral Creek	Alberta Energy (Crown Lease)	Coal Lease	640	\$ 2,240	26-May-22		6.4	1,581.5	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1308050904	McLeod River North	Alberta Energy (Crown Lease)	Coal Lease	64	\$ 224	07-May-33		0.6	158.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1308050905	McLeod River North	Alberta Energy (Crown Lease)	Coal Lease	112	\$ 392	07-May-33		1.1	276.8	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1311050576	Other Vista Project	Alberta Energy (Crown Lease)	Coal Lease	128	\$ 448	31-May-33		1.3	316.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1311050581	Other Vista Project	Alberta Energy (Crown Lease)	Coal Lease	128	\$ 448	31-May-33		1.3	316.3	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	1311050582	Other Vista Project	Alberta Energy (Crown Lease)	Coal Lease	32	\$ 112	31-May-33		0.3	79.1	Coalspur Mines (Operations) Ltd.	\$ 3.50			
Vista Project	80368501	Hinton West		Application	144	NA	NA	Note 2	1.4	355.8	Application				Category #2 Coal Land - require mine permit to get lease issued
Vista Project	80368502	Hinton West		Application	96	NA	NA	Note 2	1.0	237.2	Application				Category #2 Coal Land - require mine permit to get lease issued
Vista Project	80368503	Hinton West		Application	112	NA	NA	Note 2	1.1	276.8	Application				Category #2 Coal Land - require mine permit to get lease issued

Project	Lease Number	Lease Area	Grantor	Status	Hectares (ha)	Annual Rent	Expiry Date	Notes	Square Kms (km <sup>2</sup> )	Acres (ac)	Registered Holder	Rental rate	Statement Number	Due Date	Comment
					54,999	\$191,264									PAID

308699 - Dept Energy/Enviro & Parks

Mineral Agreements - 0004464309-S - \$6160.00 -CHQ 1006 (NO Lease number on statement)

**Schedule 3.09**  
**Environmental Matters**

None.

**Schedule 3.14**  
**Subsidiaries and Other Equity Investments**

Entity	Jurisdiction of Organization / Formation	Address of Principal Place of Business	Percentage of Interest
Bighorn Mining Ltd.	Alberta	P.O. Box 6146, Hinton, Alberta, T7V 1X5	100%
Chinook Mine Construction Company, Ltd.	Alberta	P.O. Box 6146, Hinton, Alberta, T7V 1X5	100%

**Schedule 3.18(a)**

**Intellectual Property Matters**

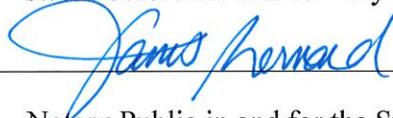
None.

**Schedule 3.21**  
**Labor Matters**

None.

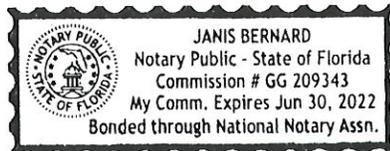
This is **Exhibit "F"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## PROMISSORY NOTE

USD\$185,510,740.80

Charleston, West Virginia  
March 31, 2019

FOR VALUE RECEIVED, COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower"), promises to pay to the order of CUTLASS COLLIERIES LLC, a Delaware limited liability company ("Lender"), on May 1, 2020 (the "Maturity Date"), the principal sum of \$185,510,740.80, plus interest, the rate and amount of which are set forth as provided in this Promissory Note (this "Note").

1. Interest. Interest shall accrue on any principal balance outstanding hereunder from and including the date of this Note through the Maturity Date at a rate per annum equal to 13.65%. Interest will be payable in arrears on each March 31, June 30, September 30 and December 31, commencing on March 31, 2019 (each such date, an "Interest Payment Date"). All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed. Notwithstanding any provision in this Note to the contrary, from the date hereof through June 30, 2019 (the "PIK Period"), in lieu of paying in cash the interest accrued to any Interest Payment Date, any accrued but unpaid interest shall be capitalized and added as of such Interest Payment Date to the principal amount of this Note (the "PIK Amount"). Such PIK Amount shall bear interest from the applicable Interest Payment Date at the same rate per annum and be payable in the same manner as in the case of the original principal amount of this Note and shall otherwise be treated as principal of this Note for all purposes. From and after each Interest Payment Date during the PIK Period, the principal amount of this Note shall, without further action on the part of Lender, be deemed to be increased by the PIK Amount so capitalized and added to principal in accordance with the provisions hereof. The first interest payment in cash shall be due and payable on September 30, 2019.

2. Payments. Except for payments of PIK Amount that are to be paid in kind as provided in Section 1 above, all other payments of principal or interest on this Note shall be made in immediately available funds to such account of Lender as Lender may designate in writing. On the Maturity Date, all outstanding principal and interest shall immediately become due and owing.

3. Prepayments; No Reborrowing. This Note may be prepaid in part or in whole without penalty. No repaid or prepaid amount may be reborrowed.

4. Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, acceleration, or otherwise, the overdue amount shall bear interest at a rate per annum equal to the then-applicable interest rate plus two percent (2%) from the date of such non-payment until such amount is paid in full.

5. Acceleration. Upon the occurrence of any non-payment of any due and payable interest or principal and at any time thereafter, Lender may at its option: (a) declare the entire principal amount of this Note, together with all accrued interest thereon, immediately due and

payable, and (b) exercise any or all of its rights, powers or remedies under this Note or applicable laws.

6. Waivers. No delay or omission of Lender in exercising any right hereunder or otherwise shall operate as a waiver of such right or any other right. A waiver of any one occasion shall not be construed as a bar to or a waiver of any right or remedy, whether of the same or a different nature, or any future occasion. No renewal or extension of this Note, no release or surrender of any collateral or other security for this Note or any guaranty of this Note, no release of any person primarily or secondarily liable on this Note, including any maker, endorser or guarantor, no delay in the enforcement of payment of this Note or any guaranty of this Note, and no delay or omission in exercising any right or power under this Note or any guaranty of this Note shall affect the liability of any maker, endorser, or guarantor of this Note.

7. Applicable Law, Binding Effect. This Note and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of laws rules and shall be binding upon and inure to the benefit of the personal representatives, heirs, successors, and assigns of the parties hereto.

8. Collection Costs. If there is any default under this Note, and this Note is placed in the hands of an attorney for collection, or is collected through any court, including any bankruptcy court, Borrower promises to pay Lender's reasonable attorneys' fees and court costs incurred in collecting or attempting to collect or securing or attempting to secure this Note or enforcing Lender's rights with respect to any collateral securing this Note, to the extent allowed by the laws of the State of Delaware or any state in which any collateral for this Note is situated.

9. Execution and Delivery. This Note shall be executed, delivered and accepted in Charleston, West Virginia.

[Signature Page to Follow]

Executed as of the date first above written.

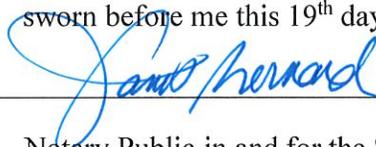
BORROWER:

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: C. Duane Blankenship  
Title: Director/CFO

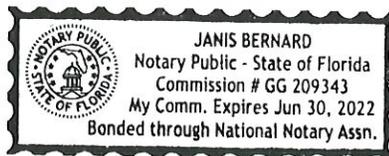
This is **Exhibit "G"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## ASSIGNMENT OF NOTE

THIS ASSIGNMENT OF NOTE ("*Assignment*"), dated as of March 31, 2019 (the "*Closing Date*"), is made by and among Cutlass Collieries LLC, a Delaware limited liability company ("*Assignor*"), Cline Trust Company LLC, a Delaware limited liability company ("*Assignee*") and Coalspur Mines (Operations) Ltd., an Alberta corporation ("*Borrower*").

### RECITALS

WHEREAS, Assignor is the owner of that certain promissory note by Borrower dated as of the Closing Date (the "*Note*"), which has an outstanding principal amount of \$185,510,740.80 (the "*Outstanding Principal Amount*"); and

WHEREAS, the Note is attached to this Assignment as Exhibit A.

NOW THEREFORE, in consideration of the mutual promises made herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignment of Note. As of the Closing Date, Assignor hereby assigns, transfers and conveys to Assignee any and all of Assignor's right, title and interest in and to the Note, and the right to collect all sums due thereunder. Assignee hereby accepts the foregoing assignment and transfer.

2. Consideration. In consideration of this Assignment, Assignor and Assignee agree that Assignor shall be deemed to have made a payment to Assignee as of the Closing Date in the same amount as the Outstanding Principal Amount towards that certain Promissory Note (Vista Non-Revolving Credit Facility) by Assignor in favor of Assignee dated as of July 31, 2018.

3. Credit Agreement.

(a) Once assigned, the Note shall be the "*Term Loan Note*" as defined in that certain Credit Agreement between Borrower and Lender of even date herewith (the "*Credit Agreement*"). Pursuant to the Credit Agreement, (i) the Note is secured by the Collateral (defined in the Credit Agreement), and (ii) the Guarantor (defined in the Credit Agreement) guarantees payments under the Note pursuant to the Guarantee (defined in the Credit Agreement).

(b) Borrower shall make payments of principal on this Note out of the Excess Cash Flow (as defined in the Credit Agreement) in accordance with the terms of the Credit Agreement.

(c) Upon the occurrence of an Event of Default (as defined in the Credit Agreement) and at any time thereafter, Lender may at its option: (a) declare the entire principal amount of the

Note, together with all accrued interest thereon, immediately due and payable, and (b) exercise any or all of its rights, powers or remedies under the Credit Agreement or applicable laws.

4. Further Assurances. Hereafter, Assignor disclaims any further interest in the Note. Assignor shall cause the Borrower and its subsidiaries to execute documents reasonably required by Assignee to effectuate the transactions contemplated in this Assignment, including without limitation new promissory notes, credit agreements and other loan documents.

5. Representations and Warranties. In conjunction with this Assignment, Assignor represents and warrants that: (i) Assignor is the owner and holder of the Note; (ii) Assignor has the right, power and authority to execute this Assignment; (iii) the Note has not been amended or modified; and (iv) no act or omission on the part of the Borrower which would constitute a default under the Note has occurred. To the extent that a waiver by a party to this Assignment is required for this Assignment to take effect, such waiver shall be deemed to be given by such party.

6. Effectiveness. This Assignment shall become effective as of the Closing Date.

7. Binding Effect. This Assignment shall be binding upon the parties hereto and their successors and assigns.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first above written.

Cutlass Collieries LLC

By:   
Name: Michael Beyer  
Title: CEO

Cline Trust Company LLC

By:   
Name: Leslie Ray  
Title: Manager

Coalspur Mines (Operations) Ltd.

By:   
Name: C. Duane Blankenship  
Title: Director / CFO

**EXHIBIT A**  
**PROMISSORY NOTE**  
**ATTACHED.**

---

## PROMISSORY NOTE

USD\$185,510,740.80

Charleston, West Virginia  
March 31, 2019

FOR VALUE RECEIVED, COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower"), promises to pay to the order of CUTLASS COLLIERIES LLC, a Delaware limited liability company ("Lender"), on May 1, 2020 (the "Maturity Date"), the principal sum of \$185,510,740.80, plus interest, the rate and amount of which are set forth as provided in this Promissory Note (this "Note").

1. Interest. Interest shall accrue on any principal balance outstanding hereunder from and including the date of this Note through the Maturity Date at a rate per annum equal to 13.65%. Interest will be payable in arrears on each March 31, June 30, September 30 and December 31, commencing on March 31, 2019 (each such date, an "Interest Payment Date"). All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed. Notwithstanding any provision in this Note to the contrary, from the date hereof through June 30, 2019 (the "PIK Period"), in lieu of paying in cash the interest accrued to any Interest Payment Date, any accrued but unpaid interest shall be capitalized and added as of such Interest Payment Date to the principal amount of this Note (the "PIK Amount"). Such PIK Amount shall bear interest from the applicable Interest Payment Date at the same rate per annum and be payable in the same manner as in the case of the original principal amount of this Note and shall otherwise be treated as principal of this Note for all purposes. From and after each Interest Payment Date during the PIK Period, the principal amount of this Note shall, without further action on the part of Lender, be deemed to be increased by the PIK Amount so capitalized and added to principal in accordance with the provisions hereof. The first interest payment in cash shall be due and payable on September 30, 2019.

2. Payments. Except for payments of PIK Amount that are to be paid in kind as provided in Section 1 above, all other payments of principal or interest on this Note shall be made in immediately available funds to such account of Lender as Lender may designate in writing. On the Maturity Date, all outstanding principal and interest shall immediately become due and owing.

3. Prepayments; No Reborrowing. This Note may be prepaid in part or in whole without penalty. No repaid or prepaid amount may be reborrowed.

4. Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, acceleration, or otherwise, the overdue amount shall bear interest at a rate per annum equal to the then-applicable interest rate plus two percent (2%) from the date of such non-payment until such amount is paid in full.

5. Acceleration. Upon the occurrence of any non-payment of any due and payable interest or principal and at any time thereafter, Lender may at its option: (a) declare the entire principal amount of this Note, together with all accrued interest thereon, immediately due and

payable, and (b) exercise any or all of its rights, powers or remedies under this Note or applicable laws.

6. Waivers. No delay or omission of Lender in exercising any right hereunder or otherwise shall operate as a waiver of such right or any other right. A waiver of any one occasion shall not be construed as a bar to or a waiver of any right or remedy, whether of the same or a different nature, or any future occasion. No renewal or extension of this Note, no release or surrender of any collateral or other security for this Note or any guaranty of this Note, no release of any person primarily or secondarily liable on this Note, including any maker, endorser or guarantor, no delay in the enforcement of payment of this Note or any guaranty of this Note, and no delay or omission in exercising any right or power under this Note or any guaranty of this Note shall affect the liability of any maker, endorser, or guarantor of this Note.

7. Applicable Law, Binding Effect. This Note and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of laws rules and shall be binding upon and inure to the benefit of the personal representatives, heirs, successors, and assigns of the parties hereto.

8. Collection Costs. If there is any default under this Note, and this Note is placed in the hands of an attorney for collection, or is collected through any court, including any bankruptcy court, Borrower promises to pay Lender's reasonable attorneys' fees and court costs incurred in collecting or attempting to collect or securing or attempting to secure this Note or enforcing Lender's rights with respect to any collateral securing this Note, to the extent allowed by the laws of the State of Delaware or any state in which any collateral for this Note is situated.

9. Execution and Delivery. This Note shall be executed, delivered and accepted in Charleston, West Virginia.

[Signature Page to Follow]

Executed as of the date first above written.

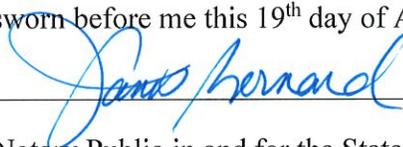
BORROWER:

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: C. Duane Blankenship  
Title: Director/CFO

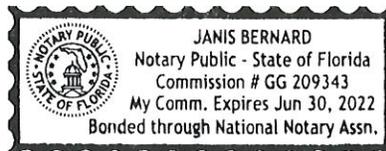
This is **Exhibit "H"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## NOTE MODIFICATION AGREEMENT AND ALLONGE

THIS NOTE MODIFICATION AGREEMENT AND ALLONGE (this "Modification") is entered into as of the 5th day of July, 2019 (the "Effective Date"), by and between Cline Trust Company LLC, a Delaware limited liability company ("Lender") and Coalspur Mines (Operations) Ltd., an Alberta corporation ("Borrower").

### RECITALS

1. Borrower executed that certain Promissory Note dated March 31, 2019 payable to Vista Energy Resources LLC, a Delaware limited liability company (formerly known as Cutlass Collieries LLC) in the principal amount of One Hundred Eighty-Five Million Five Hundred Ten Thousand Seven Hundred Forty and 80/100 United States Dollars (\$185,510,740.80) (the "Note").
2. By Assignment of Note dated as of March 31, 2019, the Note was assigned by Vista Energy Resources LLC (formerly known as Cutlass Collieries LLC) to Lender.
3. Borrower and Lender desire to modify the Note as provided herein.

### MODIFICATION

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree and amend and modify the Note as follows:

1. Attachment to Note. An original of this Modification shall be attached to the original Note as an allonge to the Note and made a part of the Note, provided, however that failure to attach an original of this Modification as an allonge to the Note shall not impact the effectiveness of this Modification and this Modification shall nonetheless be valid, binding and enforceable.
2. Modification of Note. The Note is hereby modified as of the Effective Date as follows:

The first sentence of Section 1 of the Note, titled "Interest" is modified to read, in its entirety, as follows:

*1. Interest. Interest shall accrue on any principal balance outstanding hereunder through the Maturity Date at a rate per annum equal to 2.08%.*

3. Note Remains in Full Force and Effect. Except as expressly modified by this Modification, the Note and all associated agreements remain in full force and effect. All collateral securing the Note shall continue to secure the Note as modified, unless expressly released by instrument executed by Lender. This Modification and the Note shall be interpreted and enforced by the parties according to the terms of the Note, unless the terms of the Note are specifically modified herein.

4. Integrated Agreement. This Modification constitutes the entire agreement between Borrower and Lender concerning modification of the Note and may not be altered or amended

except by written agreement signed by Borrower and Lender. This Modification and the Note shall be read and interpreted together as one instrument.

5. Counterparts. This Modification may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Confirmation of execution by electronic transmission of a signature page by facsimile, .pdf, .tif, .gif, .jpeg or similar attachment to an electronic mail message shall be binding upon any party so confirming.

**[SIGNATURE PAGE FOLLOWS]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, Lender and Borrower have executed this Modification as of the Effective Date.

**LENDER:**

CLINE TRUST COMPANY LLC

By: \_\_\_\_\_

Name: Lesslie Ray

Title: Manager

**BORROWER:**

COALSPUR MINES (OPERATIONS) LTD.

By: \_\_\_\_\_

Name: Edward G. Hill

Title: VP



**NOTE MODIFICATION AGREEMENT AND ALLONGE  
(SECURED PROMISSORY NOTE)**

**THIS NOTE MODIFICATION AGREEMENT AND ALLONGE** (this "Modification") is made and entered into as of the 1st day of May, 2020 to be effective as of the 30th day of September, 2019 (the "Effective Date"), by and between **CLINE TRUST COMPANY LLC**, a Delaware limited liability company ("Lender") and **COALSPUR MINES (OPERATIONS) LTD.**, an Alberta corporation ("Borrower").

**RECITALS**

1. Borrower executed that certain Promissory Note dated March 31, 2019 payable to Vista Energy Resources LLC, a Delaware limited liability company (f/k/a Cutlass Collieries LLC) ("Vista Energy") in the principal amount of One Hundred Eighty Five Million Five Hundred Ten Thousand Seven Hundred Forty and 80/100 United States Dollars (\$185,510,740.80), as assigned by Vista Energy to Lender pursuant to that certain Assignment of Note dated March 31, 2019, as modified by that certain Note Modification Agreement and Allonge effective as of July 5, 2019 (the "Note").

2. Borrower and Lender desire to modify the Note as provided herein.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree and amend and modify the Note as follows:

1. Recitals. The parties hereby agree, represent, and warrant that the foregoing Recitals are true and correct, and hereby incorporate the same as part of this Modification.

2. Attachment to Note. An original of this Modification shall be attached to the Note as an allonge to the Note and made a part of the Note, provided, however that failure to attach an original of this Modification as an allonge to the Note shall not impact the effectiveness of this Modification and this Modification shall nonetheless be valid, binding and enforceable.

3. Modification of Note. The Note is hereby modified as of the Effective Date as follows:

Section 1 of the Note, titled "Interest" is stricken and replaced, in its entirety, as follows:

*1. Interest. Interest shall accrue on any principal balance outstanding hereunder through the Maturity Date at a rate per annum equal to 2.08%. Interest will be payable in arrears on each March 31, June 30, September 30 and December 31 (each such date, an "Interest Payment Date"). All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed. Notwithstanding any provision in this Note to the contrary, from September 30, 2019 through the Maturity Date (the "PIK Period"), in lieu of paying in cash the interest accrued to any Interest Payment Date, any accrued but unpaid interest shall be capitalized and added as of such Interest Payment Date to the principal amount of this Note (the "PIK Amount"). Such PIK Amount shall bear interest from*

*the applicable Interest Payment Date at the same rate per annum and be payable in the same manner as in the case of the original principal amount of this Note and shall otherwise be treated as principal of this Note for all purposes. From and after each Interest Payment Date during the PIK Period, the principal amount of this Note shall, without further action on the part of Lender, be deemed to be increased by the PIK Amount so capitalized and added to principal in accordance with the provisions hereof. After the Maturity Date and until this Note is paid in full, interest shall accrue on any principal balance outstanding hereunder at the default interest rate pursuant to Section 4 of this Note, payable in cash (not capitalized).*

4. Capitalization of Interest / Principal Balance. As of the Effective Date, the principal balance of the Note (inclusive of all previously capitalized PIK Amount (as defined above) through September 30, 2019) is \$193,072,856.15.

5. Note Remains in Full Force and Effect. Except as expressly modified by this Modification, the Note and all associated agreements remain in full force and effect. All collateral securing the Note shall continue to secure the Note as modified, unless expressly released by instrument executed by Lender. This Modification and the Note shall be interpreted and enforced by the parties according to the terms of the Note, unless the terms of the Note are specifically modified herein.

6. Integrated Agreement. This Modification constitutes the entire agreement between Borrower and Lender concerning modification of the Note and may not be altered or amended except by written agreement signed by Borrower and Lender. This Modification and the Note shall be read and interpreted together as one instrument.

7. Binding Effect. This Modification shall be binding upon the parties hereto and their successors and assigns.

8. Headings. The headings of the sections of this Modification are inserted for convenience only and shall not be deemed to constitute a part hereof.

9. Counterparts. This Modification may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Confirmation and/or delivery of execution by electronic transmission of a signature page by facsimile, .pdf, .tif, .gif, .jpeg or similar attachment to an electronic message shall be effective as delivery of an original executed counterpart of this Agreement and binding upon any party so confirming.

10. Severability. Any provision contained in this Modification, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Upon the determination that any term or other provision of this Modification is invalid, illegal or unenforceable, Borrower and Lender shall negotiate in good faith to modify this Modification so as to effect the original intent of the parties as closely as

possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**[SIGNATURE PAGE FOLLOWS]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, Lender and Borrower have executed this Modification as of the Effective Date.

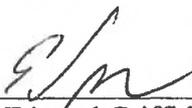
**LENDER:**

CLINE TRUST COMPANY LLC

By:   
Name: Lesslie Ray  
Title: Manager

**BORROWER:**

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: Edward Griffith  
Title: Director



**NOTE MODIFICATION AGREEMENT AND ALLONGE  
(SECURED PROMISSORY NOTE)**

**THIS NOTE MODIFICATION AGREEMENT AND ALLONGE** (this "Modification") is entered into as of the 1st day of May, 2020 (the "Effective Date"), by and between **CLINE TRUST COMPANY LLC**, a Delaware limited liability company ("Lender") and **COALSPUR MINES (OPERATIONS) LTD.**, an Alberta corporation ("Borrower").

**RECITALS**

1. Borrower executed that certain Promissory Note dated March 31, 2019 payable to Vista Energy Resources LLC, a Delaware limited liability company (f/k/a Cutlass Collieries LLC) ("Vista Energy") in the principal amount of One Hundred Eighty Five Million Five Hundred Ten Thousand Seven Hundred Forty and 80/100 United States Dollars (\$185,510,740.80), as assigned by Vista Energy to Lender pursuant to that certain Assignment of Note dated March 31, 2019, as modified by that certain Note Modification Agreement and Allonge effective as of July 5, 2019, as modified by that certain Note Modification Agreement and Allonge effective as of September 30, 2019 (the "Note").

2. Borrower and Lender desire to modify the Note as provided herein.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree and amend and modify the Note as follows:

1. Recitals. The parties hereby agree, represent, and warrant that the foregoing Recitals are true and correct, and hereby incorporate the same as part of this Modification.

2. Attachment to Note. An original of this Modification shall be attached to the Note as an allonge to the Note and made a part of the Note, provided, however that failure to attach an original of this Modification as an allonge to the Note shall not impact the effectiveness of this Modification and this Modification shall nonetheless be valid, binding and enforceable.

3. Modification of Note. The Note is hereby modified as of the Effective Date as follows:

(a) Interest. The first sentence of Section 1 of the Note, titled "Interest" is stricken and replaced, in its entirety, as follows:

1. Interest. *Interest shall accrue on any principal balance outstanding hereunder through the Maturity Date at a rate per annum equal to twenty five hundredths percent (0.25%), representing the short-term applicable federal rate as of the date hereof.*

(b) Term. The Maturity Date under the Note of May 1, 2020 is hereby amended and changed to December 31, 2021.

4. Capitalization of Interest / Principal Balance. As of the Effective Date, the principal balance of the Note (inclusive of all previously capitalized PIK Amount (as defined in the Note) through March 31, 2020) is \$195,080,504.73, and the total accrued and unpaid interest on the Note (from April 1, 2020 through April 30, 2020) is \$344,624.41. The total accrued and unpaid interest is hereby capitalized into the principal balance of the Note as part of this Modification. Accordingly, the principal balance of the Note as of the Effective Date as modified by this Modification is \$195,425,129.14.

5. Note Remains in Full Force and Effect. Except as expressly modified by this Modification, the Note and all associated agreements remain in full force and effect. All collateral securing the Note shall continue to secure the Note as modified, unless expressly released by instrument executed by Lender. This Modification and the Note shall be interpreted and enforced by the parties according to the terms of the Note, unless the terms of the Note are specifically modified herein.

6. Integrated Agreement. This Modification constitutes the entire agreement between Borrower and Lender concerning modification of the Note and may not be altered or amended except by written agreement signed by Borrower and Lender. This Modification and the Note shall be read and interpreted together as one instrument.

7. Binding Effect. This Modification shall be binding upon the parties hereto and their successors and assigns.

8. Headings. The headings of the sections of this Modification are inserted for convenience only and shall not be deemed to constitute a part hereof.

9. Counterparts. This Modification may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Confirmation and/or delivery of execution by electronic transmission of a signature page by facsimile, .pdf, .tif, .gif, .jpeg or similar attachment to an electronic message shall be effective as delivery of an original executed counterpart of this Agreement and binding upon any party so confirming.

10. Severability. Any provision contained in this Modification, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Upon the determination that any term or other provision of this Modification is invalid, illegal or unenforceable, Borrower and Lender shall negotiate in good faith to modify this Modification so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**[SIGNATURE PAGE FOLLOWS]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, Lender and Borrower have executed this Modification as of the Effective Date.

**LENDER:**

CLINE TRUST COMPANY LLC

By:   
Name: Lesslie Ray  
Title: Manager

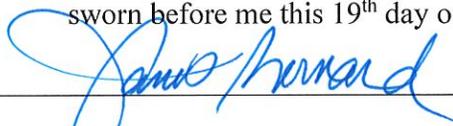
**BORROWER:**

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: Edward Griffith  
Title: Director

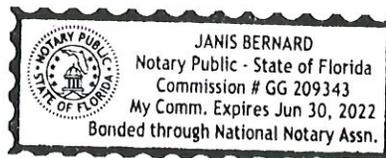
This is **Exhibit "I"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## SECURED PROMISSORY NOTE

USD\$20,000,000.00

Charleston, West Virginia  
June 19, 2019

For value received, COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower"), promises to pay to the order of CLINE TRUST COMPANY LLC, a Delaware limited liability company ("Lender"), on October 19, 2019 (the "Maturity Date"), the principal sum of \$20,000,000.00 plus interest pursuant to the terms of this promissory note (this "Note").

1. Credit Agreement. This Note is subject to the terms of that certain credit agreement dated March 31, 2019 ("Credit Agreement") by and among Borrower, Lender, CUTLASS COLLIERIES LLC, a limited liability company organized under the laws of Delaware, as guarantor ("Guarantor"), and KC EUROHOLDINGS S.A.R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg ("KCE"). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

2. Loan Document. This Note is a Loan Document as such term is defined in the Credit Agreement.

3. Interest. Interest shall accrue on any principal balance outstanding hereunder from and including the date of this Note through the Maturity Date at a rate per annum equal to 9%. All accrued and unpaid Interest shall be due and payable on the Maturity Date. All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed.

4. Payments. All payments of principal or interest on this Note shall be made in immediately available funds to such account of Lender as Lender may designate in writing. On the Maturity Date, all outstanding principal and interest shall immediately become due and owing.

5. Prepayments; No Reborrowing. This Note may be prepaid in part or in whole without penalty. No repaid or prepaid amount may be reborrowed.

6. Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, acceleration, or otherwise, the entire principal amount shall bear interest at a rate per annum equal to 13.65% (the "Default Rate"), applied retroactively to the date of this Note until such amount is paid in full.

7. Acceleration. Upon the occurrence of any non-payment of any due and payable interest or principal and at any time thereafter, Lender may at its option: (a) declare the entire principal amount of this Note, together with all accrued interest thereon, immediately due and payable, and (b) exercise any or all of its rights, powers or remedies under this Note, any Loan Document or applicable laws.

8. Waivers. No delay or omission of Lender in exercising any right hereunder or otherwise shall operate as a waiver of such right or any other right. A waiver of any one occasion shall not be construed as a bar to or a waiver of any right or remedy, whether of the same or a different nature, or any future occasion. No renewal or extension of this Note, no release or surrender of any collateral or other security for this Note or any guaranty of this Note, no release of any person primarily or secondarily liable on this Note, including any maker, endorser or guarantor, no delay in the enforcement of payment of this Note or any guaranty of this Note, and no delay or omission in exercising any right or power under this Note or any guaranty of this Note shall affect the liability of any maker, endorser, or guarantor of this Note.

9. Applicable Law, Binding Effect. This Note and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of laws rules and shall be binding upon and inure to the benefit of the personal representatives, heirs, successors, and assigns of the parties hereto.

10. Collection Costs. If there is any default under this Note, and this Note is placed in the hands of an attorney for collection, or is collected through any court, including any bankruptcy court, Borrower promises to pay Lender's reasonable attorneys' fees and court costs incurred in collecting or attempting to collect or securing or attempting to secure this Note or enforcing Lender's rights with respect to any collateral securing this Note, to the extent allowed by the laws of the State of Delaware or any state in which any collateral for this Note is situated.

11. Execution and Delivery. This Note shall be executed, delivered and accepted in Charleston, West Virginia.

[Signature Page to Follow]

Executed as of the date first above written.

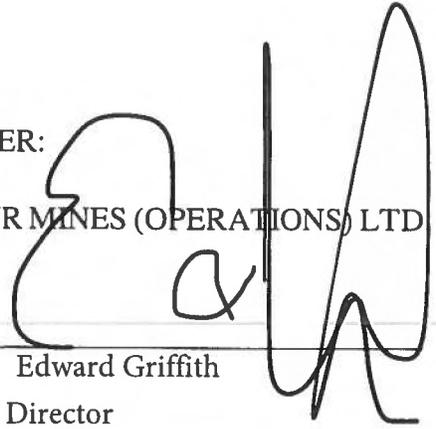
BORROWER:

COALSPUR MINES (OPERATIONS) LTD

By: \_\_\_\_\_

Name: Edward Griffith

Title: Director

A large, stylized handwritten signature in black ink, appearing to be 'E. Griffith', is written over the signature line and extends upwards into the 'BORROWER' and 'COALSPUR MINES' text.



## AMENDED AND RESATED SECURED PROMISSORY NOTE

This instrument amends and restates in its entirety that certain Secured Promissory Note by Coalspur Mines (Operations) Ltd. in favor of Cline Trust Company LLC dated as of June 19, 2019 in the face amount of \$20,000,000.

USD\$46,000,000.00

Charleston, West Virginia  
August 16, 2019

For value received, COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower"), promises to pay to the order of CLINE TRUST COMPANY LLC, a Delaware limited liability company ("Lender"), on October 19, 2019 (the "Maturity Date"), the principal sum of \$46,000,000.00 plus interest pursuant to the terms of this promissory note (this "Note").

1. Credit Agreement. This Note is subject to the terms of that certain credit agreement dated March 31, 2019 ("Credit Agreement") by and among Borrower, Lender, CUTLASS COLLIERIES LLC, a limited liability company organized under the laws of Delaware, as guarantor ("Guarantor"), and KC EUROHOLDINGS S.A.R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg ("KCE"). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

2. Loan Document. This Note is a Loan Document as such term is defined in the Credit Agreement.

3. Interest. Interest shall accrue on any principal balance outstanding hereunder from and including the date of this Note through the Maturity Date at a rate per annum equal to 9%. All accrued and unpaid Interest shall be due and payable on the Maturity Date. All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed.

4. Payments. All payments of principal or interest on this Note shall be made in immediately available funds to such account of Lender as Lender may designate in writing. On the Maturity Date, all outstanding principal and interest shall immediately become due and owing.

5. Prepayments; No Reborrowing. This Note may be prepaid in part or in whole without penalty. No repaid or prepaid amount may be reborrowed.

6. Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, acceleration, or otherwise, the entire principal amount shall bear interest at a rate per annum equal to 13.65% (the "Default Rate"), applied retroactively to the date of this Note until such amount is paid in full.

7. Acceleration. Upon the occurrence of any non-payment of any due and payable interest or principal and at any time thereafter, Lender may at its option: (a) declare the entire

principal amount of this Note, together with all accrued interest thereon, immediately due and payable, and (b) exercise any or all of its rights, powers or remedies under this Note, any Loan Document or applicable laws.

8. Waivers. No delay or omission of Lender in exercising any right hereunder or otherwise shall operate as a waiver of such right or any other right. A waiver of any one occasion shall not be construed as a bar to or a waiver of any right or remedy, whether of the same or a different nature, or any future occasion. No renewal or extension of this Note, no release or surrender of any collateral or other security for this Note or any guaranty of this Note, no release of any person primarily or secondarily liable on this Note, including any maker, endorser or guarantor, no delay in the enforcement of payment of this Note or any guaranty of this Note, and no delay or omission in exercising any right or power under this Note or any guaranty of this Note shall affect the liability of any maker, endorser, or guarantor of this Note.

9. Applicable Law, Binding Effect. This Note and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of laws rules and shall be binding upon and inure to the benefit of the personal representatives, heirs, successors, and assigns of the parties hereto.

10. Collection Costs. If there is any default under this Note, and this Note is placed in the hands of an attorney for collection, or is collected through any court, including any bankruptcy court, Borrower promises to pay Lender's reasonable attorneys' fees and court costs incurred in collecting or attempting to collect or securing or attempting to secure this Note or enforcing Lender's rights with respect to any collateral securing this Note, to the extent allowed by the laws of the State of Delaware or any state in which any collateral for this Note is situated.

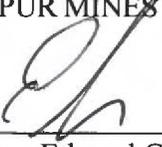
11. Execution and Delivery. This Note shall be executed, delivered and accepted in Charleston, West Virginia.

[Signature Page to Follow]

Executed as of the date first above written.

**BORROWER:**

**COALSPUR MINES (OPERATIONS) LTD.**

By:  \_\_\_\_\_

**Name: Edward Griffith**

**Title: Director**



## FIRST AMENDED AND RESATED SECURED PROMISSORY NOTE

This instrument amends and restates in its entirety that certain Secured Promissory Note by Coalspur Mines (Operations) Ltd. in favor of Cline Trust Company LLC dated as of August 16, 2019 in the face amount of \$46,000,000.

USD\$106,000,000.00

Charleston, West Virginia  
October 16, 2019

For value received, COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower"), promises to pay to the order of CLINE TRUST COMPANY LLC, a Delaware limited liability company ("Lender"), on December 31, 2021 (the "Maturity Date"), the principal sum of \$106,000,000.00 plus interest pursuant to the terms of this promissory note (this "Note").

1. Credit Agreement. This Note is subject to the terms of that certain credit agreement dated March 31, 2019 ("Credit Agreement") by and among Borrower, Lender, VISTA ENERGY RESOURCES LLC (FKA Cutlass Collieries LLC) a limited liability company organized under the laws of Delaware, as guarantor ("Guarantor"), and KC EUROHOLDINGS S.A.R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg ("KCE"). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

2. Loan Document. This Note is a Loan Document as such term is defined in the Credit Agreement.

3. Interest. From July 5, 2019 until further revised, interest shall accrue on any principal balance outstanding hereunder from and including the date of this Note through the Maturity Date at a rate per annum equal to 2.08%. Interest will be payable in arrears on each March 31, June 30, September 30 and December 31, commencing on December 31, 2019 (each such date, an "**Interest Payment Date**"). All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed. Prior to the Maturity Date, in lieu of paying in cash the interest accrued to any Interest Payment Date, any accrued but unpaid interest shall be capitalized and added as of such Interest Payment Date to the principal amount of this Note (the "**PIK Amount**"). Such PIK Amount shall bear interest from the applicable Interest Payment Date at the same rate per annum and be payable in the same manner as in the case of the original principal amount of this Note and shall otherwise be treated as principal of this Note for all purposes. The principal amount of this Note shall, without further action on the part of Lender, be deemed to be increased by the PIK Amount so capitalized and added to principal in accordance with the provisions hereof. After the Maturity Date and until this Note is paid in full, interest shall accrue on any principal balance outstanding hereunder at the default interest rate pursuant to Section 6 of this Note, payable in cash (not capitalized).

4. Payments. Except for payments of PIK Amount that are to be paid in kind as provided in Section 3 above, all other payments of principal or interest on this Note shall be made in immediately available funds to such account of Lender as Lender may designate in writing. On the Maturity Date, all outstanding principal and interest shall immediately become due and owing.

5. Prepayments; No Reborrowing. This Note may be prepaid in part or in whole without penalty. No repaid or prepaid amount may be reborrowed.

6. Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, acceleration, or otherwise, the entire principal amount shall bear interest at a rate per annum equal to 13.65% (the "Default Rate"), applied retroactively to the date of this Note until such amount is paid in full.

7. Acceleration. Upon the occurrence of any non-payment of any due and payable interest or principal and at any time thereafter, Lender may at its option: (a) declare the entire principal amount of this Note, together with all accrued interest thereon, immediately due and payable, and (b) exercise any or all of its rights, powers or remedies under this Note, any Loan Document or applicable laws.

8. Waivers. No delay or omission of Lender in exercising any right hereunder or otherwise shall operate as a waiver of such right or any other right. A waiver of any one occasion shall not be construed as a bar to or a waiver of any right or remedy, whether of the same or a different nature, or any future occasion. No renewal or extension of this Note, no release or surrender of any collateral or other security for this Note or any guaranty of this Note, no release of any person primarily or secondarily liable on this Note, including any maker, endorser or guarantor, no delay in the enforcement of payment of this Note or any guaranty of this Note, and no delay or omission in exercising any right or power under this Note or any guaranty of this Note shall affect the liability of any maker, endorser, or guarantor of this Note.

9. Applicable Law, Binding Effect. This Note and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of laws rules and shall be binding upon and inure to the benefit of the personal representatives, heirs, successors, and assigns of the parties hereto.

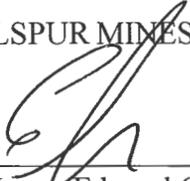
10. Collection Costs. If there is any default under this Note, and this Note is placed in the hands of an attorney for collection, or is collected through any court, including any bankruptcy court, Borrower promises to pay Lender's reasonable attorneys' fees and court costs incurred in collecting or attempting to collect or securing or attempting to secure this Note or enforcing Lender's rights with respect to any collateral securing this Note, to the extent allowed by the laws of the State of Delaware or any state in which any collateral for this Note is situated.

11. Execution and Delivery. This Note shall be executed, delivered and accepted in Charleston, West Virginia.

Executed as of the date first above written.

BORROWER:

COALSPUR MINES (OPERATIONS) LTD.

By: 

\_\_\_\_\_  
Name: Edward Griffith

Title: Director



**NOTE MODIFICATION AGREEMENT AND ALLONGE  
(SECURED WORKING CAPITAL NOTE)**

THIS NOTE MODIFICATION AGREEMENT AND ALLONGE (this "Modification") is entered into as of the 1st day of May, 2020 (the "Effective Date"), by and between CLINE TRUST COMPANY LLC, a Delaware limited liability company ("Lender") and COALSPUR MINES (OPERATIONS) LTD., a corporation incorporated under the laws of Alberta, Canada ("Borrower").

**RECITALS**

1. Borrower executed that certain First Amended and Restated Secured Promissory Note dated October 16, 2019, payable to Lender in the principal amount of One Hundred Six Million and 00/100 United States Dollars (\$106,000,000.00) (the "Note").

2. Borrower and Lender desire to modify the Note as provided herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree and amend and modify the Note as follows:

1. Recitals. The parties hereby agree, represent, and warrant that the foregoing Recitals are true and correct, and hereby incorporate the same as part of this Modification.

2. Attachment to Note. An original of this Modification shall be attached to the Note as an allonge to the Note and made a part of the Note, provided, however that failure to attach an original of this Modification as an allonge to the Note shall not impact the effectiveness of this Modification and this Modification shall nonetheless be valid, binding and enforceable.

3. Modification of Note. The Note is hereby modified as of the Effective Date as follows:

(a) Interest. Section 3 of the Note, titled "Interest" is stricken and replaced, in its entirety, as follows:

*3. Interest. Interest shall accrue on any principal balance outstanding hereunder through the Maturity Date at a rate per annum equal to twenty five hundredths percent (0.25%), representing the short-term applicable federal rate as of the date hereof. Interest will be payable in arrears on each March 31, June 30, September 30 and December 31 (each such date, an "Interest Payment Date"). All interest shall be computed on the basis of a 365-day year and paid for the actual number of days elapsed. Notwithstanding any provision in this Note to the contrary, from May 1, 2020 through the Maturity Date (the "PIK Period"), in lieu of paying in cash the interest accrued to any Interest Payment Date, any accrued but unpaid interest shall be capitalized and added as of such Interest Payment Date to the principal amount of this Note (the "PIK Amount"). Such PIK Amount shall bear interest from the applicable Interest Payment Date at the same rate per annum and be payable in the same manner as in the case of the original principal amount*

*of this Note and shall otherwise be treated as principal of this Note for all purposes. From and after each Interest Payment Date during the PIK Period, the principal amount of this Note shall, without further action on the part of Lender, be deemed to be increased by the PIK Amount so capitalized and added to principal in accordance with the provisions hereof. After the Maturity Date and until this Note is paid in full, interest shall accrue on any principal balance outstanding hereunder at the default interest rate pursuant to Section 6 of this Note, payable in cash (not capitalized).*

4. Capitalization of Interest / Principal Balance. As of the Effective Date, the principal balance of the Note (inclusive of all previously capitalized PIK Amount (as defined above) through March 31, 2020) is \$106,394,340.77, and the total accrued and unpaid interest on the Note (from April 1, 2020 through April 30, 2020) is \$187,953.62. The total accrued and unpaid interest is hereby capitalized into the principal balance of the Note as part of this Modification. Accordingly, the principal balance of the Note as of the Effective Date as modified by this Modification is \$106,582,294.39.

5. Note Remains in Full Force and Effect. Except as expressly modified by this Modification, the Note and all associated agreements remain in full force and effect. All collateral securing the Note shall continue to secure the Note as modified, unless expressly released by instrument executed by Lender. This Modification and the Note shall be interpreted and enforced by the parties according to the terms of the Note, unless the terms of the Note are specifically modified herein.

6. Integrated Agreement. This Modification constitutes the entire agreement between Borrower and Lender concerning modification of the Note and may not be altered or amended except by written agreement signed by Borrower and Lender. This Modification and the Note shall be read and interpreted together as one instrument.

7. Binding Effect. This Modification shall be binding upon the parties hereto and their successors and assigns.

8. Headings. The headings of the sections of this Modification are inserted for convenience only and shall not be deemed to constitute a part hereof.

9. Counterparts. This Modification may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Confirmation and/or delivery of execution by electronic transmission of a signature page by facsimile, .pdf, .tif, .gif, .jpeg or similar attachment to an electronic message shall be effective as delivery of an original executed counterpart of this Agreement and binding upon any party so confirming.

10. Severability. Any provision contained in this Modification, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Upon the determination that any term or other provision of

this Modification is invalid, illegal or unenforceable, Borrower and Lender shall negotiate in good faith to modify this Modification so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

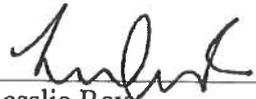
**[SIGNATURE PAGE FOLLOWS]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, Lender and Borrower have executed this Modification as of the Effective Date.

**LENDER:**

CLINE TRUST COMPANY LLC

By:   
Name: Lesslie Ray  
Title: Manager

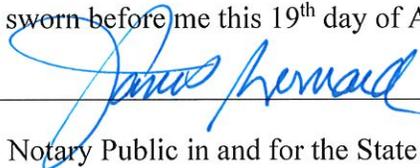
**BORROWER:**

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: Edward Griffith  
Title: Director

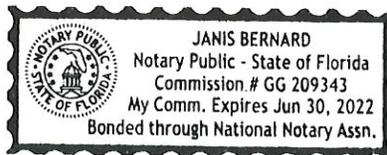
This is **Exhibit "J"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



**THIS SECURITY AGREEMENT** is dated June 19, 2019 and made between:

- (1) **Coalspur Mines (Operations) Ltd.**, a corporation formed under the laws of the Province of Alberta (the **Borrower**); and
- (2) **Cline Trust Company LLC**, a limited liability company formed under the laws of the State of Delaware (the **Lender**).

**RECITALS:**

- (A) The Lender has agreed to make certain credit facilities available to the Borrower upon the terms and conditions contained in a credit agreement between the Borrower and the Lender dated as of **March 31, 2019** (such credit agreement as it may at any time or from time to time be amended, supplemented, restated or replaced, the **Credit Agreement**).
- (B) The Borrower has agreed to execute and deliver this security agreement to and in favour of the Lender as security for the payment and performance of the Borrower's obligations to the Lender under the Credit Agreement and the security and other documents (collectively with the Credit Agreement and this security agreement, the **Credit Documents**) executed and delivered or to be executed and delivered to the Lender by the Borrower (whether alone or together with another or others) under, pursuant to, as security for, or otherwise in connection with, the Credit Agreement and the credit facilities thereby granted.

**NOW THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Borrower and the Lender agree as follows:

**Article 1  
Security**

**1.1 Statutory and Other References**

Terms defined in the *Personal Property Security Act (Alberta)* (as amended from time to time, the **PPSA**) and used in this security agreement have the same meanings. Any reference to the **STA** in this security agreement is a reference to the *Securities Transfer Act, 2006* (Alberta) or, to the extent applicable, similar legislation of any other jurisdiction, as amended from time to time. Where a reference is made to the Lender, it shall be deemed to include, as applicable, any nominee appointed by the Lender to hold or otherwise take possession of the Collateral.

**1.2 Grant of Security**

Subject to Section 1.6, the Borrower hereby grants to the Lender a security interest in, and assigns, mortgages, charges, hypothecates and pledges to the Lender, all of the personal property and undertaking of the Borrower now owned or hereafter acquired and all of the personal property in which the Borrower now has or hereafter acquires any interest (collectively, the Collateral) including, without limitation, any and all of the:

- (a) inventory of the Borrower including goods held for sale, lease or resale, goods provided or to be provided to third parties under contracts of lease, consignment or service, goods which are raw materials or work in process, goods used in or procured for packing and materials used or consumed in the business of the Borrower;
- (b) equipment, machinery, furniture, fixtures, vehicles and other tangible personal property of every kind and description of the Borrower and all licences and other rights and all

records, files, charts, plans, drawings, specifications, manuals and documents relating thereto;

- (c) accounts due, owing or accruing due to the Borrower, including deposit accounts (whether chequing, savings or other similar account, and whether or not evidenced by a certificate of deposit, account agreement or other document) maintained for the benefit of the Borrower by a bank or other financial institution, and all other monetary obligations due, owing or accruing due to the Borrower;
- (d) money, documents of title, chattel paper, instruments, securities and all other financial assets of the Borrower including the property described in Schedule B;
- (e) securities accounts of the Borrower and all of the credit balances, security entitlements, other financial assets and items or property standing to the credit of the Borrower from time to time in such securities accounts;
- (f) intangibles of the Borrower including all security interests, goodwill, claims, choses in action, contracts and contractual rights, licences and benefits;
- (g) trademarks, trademark registrations and pending trademark applications, patents and pending patent applications, copyrights, proprietary and non-public business information, trade and business names, web names and worldwide web addresses and other intellectual property and industrial property of the Borrower (collectively, the **Intellectual Property**);
- (h) authorizations, permits, approvals, grants, licenses, consents, rights, franchises, privileges, orders, decrees and similar entitlements issued or granted to the Borrower by law or by rule or regulation of any public body;
- (i) books, records, files, correspondence, invoices, documents, papers, computer programs, disks and other repositories of data recording or storage in any form or medium, evidencing or relating to the property described in Sections 1.2(a)-(h) inclusive;
- (j) substitutions and replacements of, and increases, additions and, where applicable, accessions to, the property described in Sections 1.2(a)-(i) inclusive; and
- (k) proceeds in any form derived directly or indirectly from any dealing with all or any part of the property described in Sections 1.2(a)-(j) inclusive or the proceeds of such proceeds.

### 1.3 Obligations Secured

- (a) The security interests, assignments, mortgages, charges, hypothecations and pledges granted hereby (collectively, the **Security Interest**) secure the payment and performance of all debts, liabilities and obligations (including interest that but for the filing of a petition in bankruptcy, would accrue on such debts, liabilities and obligations), present or future, direct or indirect, absolute or contingent, matured or unmatured, at any time or from time to time due or accruing due and owing by, or otherwise payable by, the Borrower to the Lender, however or wherever incurred, and in any currency, and whether incurred by the Borrower alone or with another or others and whether as principal, guarantor or surety under, in connection with, or pursuant to, the Credit Agreement and each of the other Credit Documents (collectively, and together with the expenses, costs and charges described in Section 1.3(b), the **Obligations**).

- (b) All expenses, costs and charges incurred by or on behalf of the Lender in connection with this security agreement or the Collateral, including all legal fees, court costs, receiver's or agent's remuneration and other costs incurred in taking possession or control of, repairing, protecting, insuring, preparing for disposition, selling, delivering or obtaining payment for, the Collateral, as well as expenses, costs and charges incurred in any other lawful exercises of the powers conferred by the Credit Agreement and the other Credit Documents, are payable on demand and shall be added to, and form a part of, the Obligations.

#### **1.4 Attachment, Perfection, Possession and Control**

- (a) The Borrower and the Lender acknowledge that (i) value has been given, (ii) the Borrower has rights in the Collateral (other than after-acquired Collateral) or the power to transfer rights in the Collateral, and (iii) the parties have not agreed to postpone the time for attachment of the Security Interest.
- (b) The Borrower shall promptly notify the Lender of the acquisition by the Borrower of any personal property which is not adequately described in this security agreement, and the Borrower shall execute and deliver from time to time, at its own expense, amendments to this security agreement and its schedules or additional security agreements or schedules as may be required by the Lender in order to identify the property and preserve, protect and perfect the Security Interest in such property.
- (c) If the Borrower hereafter acquires Collateral consisting of certificated securities (collectively, **Pledged Certificated Securities**), it shall within 15 Business Days of such acquisition notify the Lender of such acquisition and, upon requested by the Lender, shall deliver to the Lender any and all certificates representing such Collateral and other materials (including effective endorsements) as may be required from time to time in the opinion of the Lender, to provide the Lender with control over all such Pledged Certificated Securities in the manner provided in Section 23 of the STA.
- (d) If the Borrower hereafter acquires Collateral consisting of uncertificated securities (collectively, **Pledged Uncertificated Securities**), it shall within 15 Business Days of such acquisition notify the Lender of such acquisition and, upon request by the Lender, shall deliver to the Lender any and all such documents, agreements (including control agreements) and other materials (including effective endorsements) as may be required from time to time in the opinion of the Lender, to provide the Lender with control over all such Pledged Uncertificated Securities in the manner provided under Section 24 of the STA.
- (e) If the Borrower hereafter acquires Collateral consisting of one or more securities accounts (collectively, the **Pledged Securities Accounts**), it shall promptly notify the Lender and, upon request by the Lender, shall deliver to the Lender any and all such documents, agreements (including control agreements) and other materials as may be required from time to time in the opinion of the Lender, to provide the Lender with control over all such Pledged Securities Accounts and all security entitlements credited to those accounts in the manner provided under Section 25 of the STA and in Section 1(2)(e) of the PPSA.

#### **1.5 Special Provisions Relating to Pledged Investment Property**

- (a) Until the Security Interest has become enforceable, the Borrower may exercise all voting, consensual and other powers of ownership pertaining to Collateral which is investment property (the **Pledged Investment Property**) for all purposes not inconsistent with the terms of this security agreement, the Credit Agreement or any of the other Credit

Documents. Upon the Security Interest becoming enforceable, all rights of the Borrower to vote, make entitlement orders or give instructions, consents, notices or waivers shall cease and all such rights shall become, at the option of the Lender, vested solely and absolutely in the Lender.

- (b) Subject to the restrictions, if any, set out in the Credit Agreement, until the Security Interest has become enforceable, the Borrower may receive and retain any cash dividends or distributions on the Pledged Investment Property (whether paid or distributed in cash, securities or other property). Upon the Security Interest becoming enforceable, all rights of the Borrower to receive dividends or other distributions shall cease and all such rights shall be vested solely and absolutely in the Lender.
- (c) Any dividends or distributions received by the Borrower contrary to Section 1.5(b) or any other moneys or property received by the Borrower after the Security Interest has become enforceable shall be received as trustee for the Lender and shall be immediately paid over to the Lender.

## 1.6 Scope of Security Interest

- (a) To the extent that an assignment of amounts payable and other proceeds arising under, or the grant of a security interest in, any agreement, licence, permit or quota of the Borrower would result in the termination of such agreement, licence, permit or quota (each, a **Restricted Asset**), the Security Interest with respect to such Restricted Asset will constitute a trust created in favour of the Lender pursuant to which the Borrower holds as trustee all proceeds arising under or in connection with the Restricted Asset in trust for the Lender on the following basis:
  - (i) until the Security Interest has become enforceable and subject to the Credit Agreement, the Borrower may receive all such proceeds; and
  - (ii) whenever the Security Interest has become enforceable, (A) all rights of the Borrower to receive proceeds shall cease and all proceeds shall be immediately paid over to the Lender, and (B) the Borrower shall take all actions reasonably requested by the Lender to collect and enforce payment and other rights arising under the Restricted Asset.
- (b) The Security Interest with respect to Collateral consisting of trademarks shall constitute a security interest in, and a charge, hypothecation and pledge of, such Collateral in favour of the Lender, but shall not constitute an assignment or mortgage of such Collateral to the Lender. Until the Security Interest has become enforceable, the grant of the Security Interest in the Intellectual Property will not affect in any way the Borrower's rights to commercially exploit it or defend or enforce the Borrower's rights in it or with respect to it.
- (c) The Security Interest shall not extend to consumer goods.
- (d) The Security Interest shall not extend or apply to the last day of the term of any lease or sublease or any agreement for a lease or sublease, now held or hereafter acquired by the Borrower in respect of real property, but the Borrower shall stand possessed of any such last day upon trust to assign and dispose of it as the Lender may direct.

## 1.7 Care and Custody of Collateral

- (a) The Lender shall have no obligation to keep Collateral in its possession identifiable.

- (b) The Lender shall exercise in the physical keeping of any Pledged Certificated Securities, only the same degree of care as it would exercise in respect of its own such property kept at the same place.
- (c) The Lender is not required to see to the collection of dividends, distributions or interest payable on, or exercise any option or right in connection with, the Collateral. In addition, it shall have no obligation to protect or preserve the Collateral from depreciating in value or becoming worthless and is hereby released from all responsibility for any loss or diminution of value of the Collateral.
- (d) The Lender may, both before and after the Security Interest has become enforceable, (i) notify any Person obligated on an account, chattel paper or instrument to make payments to the Lender whether or not the Borrower was previously making collections on such accounts, chattel paper or instruments, and (ii) assume control of any proceeds arising from the Collateral.

## **1.8 Absence of Fiduciary Relationship**

No implied agreements, covenants or obligations on the part of the Lender with respect to the Borrower, a securities intermediary or an issuer of any Pledged Investment Property are to be read into this security agreement against the Lender. The Lender does not owe any fiduciary duty to the Borrower, any issuer of Pledged Investment Property, any securities intermediary or any other Person in connection with this security agreement or the Collateral.

## **1.9 ULC Shares**

Notwithstanding anything else contained in this security agreement or any other agreement among all or some of the parties, the Borrower is and shall remain the sole registered and beneficial owner of all Collateral that consists of shares of an unlimited company, an unlimited liability company or an unlimited liability corporation incorporated pursuant to, or otherwise governed by, the laws of any province of Canada (a ULC) until such time as the shares of the ULC (the **ULC Shares**) are transferred to the Lender or its nominee on the books and records of the ULC. Until then, the Borrower shall receive, for its own account, any dividends or other distributions in respect of ULC Shares that are Collateral and may vote such ULC Shares and control the direction, management and policies of any ULC to the same extent as it would if such ULC Shares were not pledged to the Lender. Nothing in this security agreement or any other agreement among all or some of the parties is intended to, or shall, constitute the Lender, a member or shareholder of a ULC for the purposes of the *Companies Act* (Nova Scotia), the *Business Corporations Act* (British Columbia), the *Business Corporations Act* (Alberta) or any other applicable legislation until such time as notice is given by the Lender to the Borrower and further steps are taken, at the request and direction of the Lender, to register the Lender or its nominee as the holder of such ULC Shares. If any provision of this security agreement would have the effect of constituting the Lender a member or shareholder of a ULC prior to such time, that provision shall be severed from this security agreement and ineffective with respect to shares of such ULC without otherwise invalidating or rendering unenforceable this security agreement as it relates to all other Collateral.

## **Article 2 Enforcement**

### **2.1 Enforcement**

The Security Interest shall be and become enforceable against the Borrower upon the occurrence and during the continuance of an Event of Default.

## **2.2 Remedies**

Whenever the Security Interest has become enforceable, the Lender may realize upon the Collateral and enforce its rights, by:

- (a) entering onto any premises where Collateral consisting of tangible personal property may be located;
- (b) entering into possession of the Collateral by any method permitted by law;
- (c) selling, granting an option to purchase or leasing all or any part of the Collateral;
- (d) holding, storing, keeping idle or operating all or any part of the Collateral;
- (e) collecting any proceeds arising in respect of the Collateral;
- (f) collecting, realizing, selling, or otherwise dealing with, the accounts;
- (g) exercising and enforcing all rights and remedies of a holder of the Collateral as if the Lender were the absolute owner thereof (including, if necessary, causing the Collateral to be registered in the name of the Lender or its nominee);
- (h) issuing any instructions or entitlement orders to an issuer or securities intermediary;
- (i) instructing a financial institution to transfer funds held by it to an account maintained with or by the Lender;
- (j) appointing a receiver (which term as used in this security agreement includes an interim receiver and a receiver and manager) or agent of all or any part of the Collateral and removing or replacing from time to time any receiver or agent;
- (k) instituting proceedings in any court of competent jurisdiction for the appointment of a receiver of all or any part of the Collateral;
- (l) instituting proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Collateral;
- (m) filing proofs of claim and other documents to establish claims to the Collateral in any proceeding relating to the Borrower; and
- (n) exercising any other remedy or commencing any other proceeding authorized or permitted under the PPSA or otherwise by law or equity.

## **2.3 Additional Rights**

In addition to the rights and remedies set out in Section 2.2, whenever the Security Interest has become enforceable, the Lender may:

- (a) require the Borrower, at the Borrower's expense, to assemble the Collateral to the extent reasonably practicable at a place or places designated by the Lender, and the Borrower agrees to so assemble the Collateral;
- (b) require the Borrower to disclose to the Lender the location or locations of the Collateral, and the Borrower agrees to make such disclosure in writing when so requested;

- (c) repair, process, modify, complete or otherwise deal with the Collateral and prepare the Collateral for disposition, whether on the premises of the Borrower or otherwise;
- (d) carry on all or any part of the business of the Borrower and, to the exclusion of all others including the Borrower, enter upon, occupy and use all or any of the premises, buildings and other property of, or used or occupied by, the Borrower, free of charge, and the Lender shall not be liable to the Borrower for any act or omission in so doing or for any rent, charges, depreciation or damages incurred in connection with, or resulting from, such action;
- (e) borrow for the purpose of carrying on the business of the Borrower or for the maintenance, preservation or protection of the Collateral and grant security interests in the Collateral, whether or not in priority to the Security Interest, to secure repayment;
- (f) redeem any prior security interest against any Collateral, procure the transfer of such security interest to itself, or settle and pass the accounts of any prior mortgagee, chargee or lienholder;
- (g) pay any liability secured by a lien against any of the Collateral;
- (h) commence, continue or defend any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of the Collateral, and give good and valid receipts and discharges in respect of the Collateral;
- (i) compromise or give time for the payment or performance of all or any part of the accounts or any other obligation of any Person to the Borrower; and
- (j) at any public or private sale, bid for and purchase any or all of the Collateral offered for sale and upon compliance with the terms of such sale, hold, retain and dispose of such Collateral without any further accountability to the Borrower or any other Person with respect to such holding, retention or disposition, except as required by law.

## **2.4 Concerning a Receiver**

- (a) Any receiver appointed by the Lender shall be vested with all rights of the Lender and all of the remedies which could have been exercised by the Lender in respect of the Borrower or the Collateral and such other powers and discretions as are granted in the instrument of appointment and any supplemental instruments. The choice of receiver and its remuneration shall be within the sole discretion of the Lender.
- (b) Any receiver appointed by the Lender shall act as agent for the Lender for the purposes of taking possession of the Collateral, but otherwise and for all other purposes (except as provided below), as agent for the Borrower. The receiver may sell, lease, or otherwise dispose of Collateral as agent for the Borrower or as agent for the Lender as the Lender may determine in its sole discretion. The Borrower agrees to ratify and confirm all actions of the receiver acting as agent for the Borrower, and to release and indemnify the receiver in respect of all such actions.
- (c) The Lender, in appointing or refraining from appointing any receiver, shall not incur any liability to the receiver, the Borrower or any other Person and shall not be responsible for any misconduct or negligence of such Person.

## **2.5 Exercise of Remedies**

Any remedy may be exercised separately or in combination and is in addition to, and not in substitution for, any other rights or remedies the Lender may have, however created. The Lender is not bound to exercise any right or remedy, and the exercise of rights and remedies is without prejudice to any other rights of the Lender in respect of the Obligations including the right to claim for any deficiency.

## **2.6 Dealings with Security, etc.**

- (a) The Lender is not obligated to exhaust its recourse against the Borrower or any other Person or against any other security it may hold in respect of the Obligations before realizing upon or otherwise dealing with the Collateral.
- (b) The Lender may grant extensions or other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Borrower and with guarantors, sureties or security as it may see fit without prejudice to the Obligations, the liabilities of the Borrower or any other Person or the rights of the Lender in respect of the Collateral.

## **2.7 Dealings with Collateral**

- (a) The Lender is not (i) liable or accountable for any failure to collect, realize or obtain payment in respect of the Collateral, (ii) bound to institute proceedings for the purpose of collecting, enforcing, realizing or obtaining payment of the Collateral or for the purpose of preserving any rights of any Persons in respect of the Collateral, or (iii) responsible for any loss occasioned by any sale or other dealing with the Collateral or by the retention of, or failure to sell or otherwise deal with, the Collateral.
- (b) The Borrower acknowledges and agrees that it is commercially reasonable for the Lender to, and the Lender may, in its sole discretion, (i) incur expenses to prepare the Collateral for disposition, (ii) exercise collection remedies directly or through the use of collection agencies, (iii) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (iv) dispose of Collateral to the Lender or to a customer or client of the Lender, (v) contact other Persons, whether or not in the same business as the Borrower, for expressions of interest in acquiring all or any portion of the Collateral, (vi) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature, (vii) establish an upset or reserve bid or price in respect of the Collateral, and (viii) establish such terms as to credit or otherwise as the Lender may determine advantageous.

## **2.8 Appointment of Attorney**

The Borrower irrevocably constitutes and appoints the Lender (and each of its officers and directors) its true and lawful attorney (with full power of substitution) to do, make and execute, in the name of and on behalf of the Borrower, upon the occurrence and during the continuance of an Event of Default, all such acts, documents, matters and things which the Lender may deem necessary or advisable to accomplish the purposes of this security agreement including the execution, endorsement and delivery of documents and any notices, receipts, assignments or verifications of accounts. This power of attorney is in addition to, and not in substitution for, any stock transfer powers of attorney delivered by the Borrower and any powers of attorney may be relied upon by the Lender severally or in combination. All acts of the attorney are hereby ratified and approved, and the attorney shall not be liable for any act, failure to act or any other matter or thing, except to the extent caused by its own gross negligence or wilful misconduct. This power of attorney is irrevocable, is coupled with an interest, has been given for valuable consideration (the receipt and adequacy of which are acknowledged) and will survive, and will not terminate

upon, the bankruptcy, dissolution, winding up or insolvency of the Borrower. This power of attorney extends to and is binding upon the Borrower's successors and assigns.

## **2.9 Dealings With Third Parties**

- (a) No Person dealing with the Lender or an agent or receiver of the Lender is required to determine (i) whether the Security Interest has become enforceable, (ii) whether the powers which the Lender, receiver or agent is purporting to exercise have become exercisable, (iii) whether any money remains due to the Lender by the Borrower, (iv) the necessity or expediency of the stipulations and conditions subject to which any sale, lease or other disposition is made, (v) the propriety or regularity of any sale or other dealing by the Lender or any agent or receiver of the Lender with the Collateral, or (vi) how any money paid to the Lender has been applied.
- (b) Any purchaser of Collateral shall hold the Collateral absolutely and free from any claim or right of any kind whatsoever, including any equity of redemption, of the Borrower. The Borrower waives (to the fullest extent permitted by law) as against any such purchaser, all rights of redemption, stay or appraisal which the Borrower may have under any rule of law or statute now existing or hereafter adopted.

## **2.10 Application of Proceeds**

Any and all moneys and other proceeds realized by the Lender pursuant to this security agreement may be applied by the Lender to such part of the Obligations as the Lender in its sole discretion determines appropriate from time to time subject only to such limitations as may be set out in the Credit Agreement.

## **2.11 Borrower Liable for Deficiency**

The Borrower shall be and remain liable to the Lender for any deficiency after the proceeds of any sale or other disposition of Collateral are received by the Lender.

# **Article 3 General**

## **3.1 Certain References**

- (a) Capitalized terms used in this security agreement and not otherwise defined have the respective meanings given to them in the Credit Agreement.
- (b) Except as otherwise provided in this security agreement, any reference to this security agreement, the Credit Agreement or any other Credit Document refers to this security agreement, the Credit Agreement or such other Credit Document as it may have been, or may from time to time be, amended, modified, extended, renewed, restated, replaced or supplemented.

## **3.2 Notices**

Any notice, consent, demand, waiver or other communication given under this security agreement must be in writing and delivered in accordance with the provisions of the Credit Agreement.

### **3.3 Discharge**

The Security Interest may not be discharged except pursuant to a written release signed by the Lender. The Borrower may request a discharge of the Security Interest by notice to the Lender if, but only if, (a) there has been full and indefeasible payment and performance of the Obligations, and (b) the Lender has no commitments under any Credit Document. Upon satisfaction of these conditions, the Lender shall execute and deliver to the Borrower such financing statements and other documents or instruments as the Borrower may reasonably require and the Lender shall redeliver to the Borrower, or as the Borrower may otherwise direct, any Collateral in its possession.

### **3.4 Amendment**

This security agreement may only be amended, supplemented or otherwise modified by written agreement of the Lender and the Borrower.

### **3.5 Waivers, etc.**

- (a) No consent or waiver by the Lender in connection with this security agreement is binding unless made in writing and signed by an authorized officer of the Lender. Any consent or waiver given under this security agreement is effective only in the specific instance and for the specific purpose for which it was given.
- (b) A failure or delay on the part of the Lender in exercising a right or remedy under this security agreement does not operate as a waiver of, or impair, any rights or remedies of the Lender however arising. A single or partial exercise of a right or remedy on the part of the Lender does not preclude any other or further exercise of that right or remedy or the exercise of any other rights or remedies by the Lender.
- (c) Any delay or omission by the Lender in requiring strict performance by the Borrower of any provision of this security agreement will not affect or diminish the Lender's right thereafter to demand strict compliance and performance therewith.

### **3.6 No Merger**

This security agreement does not operate by way of merger of any of the Obligations and no judgment recovered by the Lender will operate by way of merger of, or in any way affect, the Security Interest, this security agreement or the other Credit Documents.

### **3.7 Further Assurances**

The Borrower shall from time to time, whether before or after the Security Interest has become enforceable, do all acts and things and execute and deliver all transfers, assignments and agreements as the Lender may reasonably require for (a) protecting the Collateral, (b) perfecting the Security Interest, (c) obtaining control of the Collateral, (d) exercising all powers, authorities and discretions conferred upon the Lender, and (e) otherwise enabling the Lender to obtain the full benefits of this security agreement and the rights and powers herein granted. The Borrower shall, from time to time after the Security Interest has become enforceable, do all acts and things and execute and deliver all transfers, assignments and agreements as the Lender may require for facilitating the sale or other disposition of the Collateral in connection with its realization.

### **3.8 Supplemental Security**

This security agreement is in addition and without prejudice to, and not in substitution for, all other security now held or which may hereafter be held by the Lender in respect of the Obligations.

### **3.9 Successors and Assigns**

This security agreement is binding upon the Borrower and its successors and assigns, and enures to the benefit of the Lender and its successors and assigns. This security agreement and all rights of the Lender are assignable without the consent of the Borrower, and in any action brought by an assignee to enforce this security agreement or any right or remedy of the Lender herein, the Borrower shall not assert against the assignee any claim or defence which the Borrower now has or hereafter may have against the Lender. The Borrower may not assign, transfer or delegate any of its rights, duties or obligations under this security agreement.

### **3.10 Headings, etc.**

The provision of a table of contents, the division of this security agreement into articles and sections and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation of this security agreement.

### **3.11 Gender and Number**

Any reference in this security agreement to gender includes all genders and words importing the singular include the plural and *vice versa*.

### **3.12 Severability**

If any provision of this security agreement is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this security agreement and the remaining provisions will continue in full force and effect, without amendment or limitation.

### **3.13 Conflict**

In the event of any conflict or inconsistency between the provisions of this security agreement and the provisions of the Credit Agreement which cannot be resolved by both provisions being complied with, the provisions contained in the Credit Agreement will prevail to the extent of such conflict or inconsistency.

### **3.14 Governing Law and Submission to Jurisdiction**

- (a) This security agreement is governed by and is to be interpreted and enforced in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.
- (b) The Borrower irrevocably and unconditionally (i) submits to the non-exclusive jurisdiction of the courts of Alberta, (ii) agrees that all claims in respect of any suit, action or proceeding may be heard and determined in such court and (iii) waives, to the fullest extent permitted by law, any objection which it may have based upon doctrines of venue or *forum inconveniens*.

### **3.15 Acknowledgement and Waiver**

The Borrower:

- (a) acknowledges receiving a copy of this security agreement; and

- (b) to the fullest extent permitted by law, waives all rights to receive from the Lender a copy of any financing statement, financing change statement or verification statement filed or issued, as the case may be, at any time in respect of this security agreement or any amendments to it.

### **3.16 Counterparts and Electronic Delivery**

This security agreement may be executed in any number of separate counterparts and all such signed counterparts will together constitute one and the same instrument. To evidence its execution of an original counterpart of this security agreement, a party may send a copy of its signature on the execution page hereof to the other party by facsimile or other means of recorded electronic transmission (including in PDF form) and such transmission shall constitute valid delivery of an executed copy of this security agreement to the receiving party.

*[Remainder of page intentionally left blank]*

[Signature Page to Security Agreement (Coalspur Mines (Operations) Ltd.)]

**IN WITNESS WHEREOF** the Borrower and the Lender have executed and delivered this security agreement.

**COALSPUR MINES (OPERATIONS) LTD.**

By: 

Name: Edward Griffith

Title: Director

**CLINE TRUST COMPANY LLC**

By: 

Name: Lesslie Ray

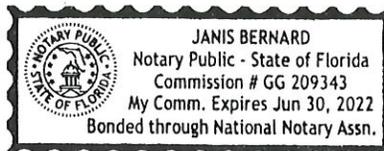
Title: Manager

This is **Exhibit "K"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



Notary Public in and for the State of Florida



**FLOATING CHARGE DEMAND DEBENTURE**  
**(Coalspur Mines (Operations) Ltd.)**

Principal Sum: \$300,000,000 U.S. Dollars

Interest Rate: 20.0% per annum

Date: June 19, 2019

**ARTICLE 1- PROMISE TO PAY**

**Promise to Pay**

1.1 For value received, the undersigned (the "**Debtor**") hereby acknowledges itself indebted and promises to pay ON DEMAND to or to the order of Cline Trust Company LLC ("**CTC**"), the principal sum herein stipulated on presentation and surrender of this debenture at CTC's offices at 3801 PGA Boulevard, Suite 901 Palm Beach Gardens, FL 33410, or at such other place as CTC may designate by notice in writing to the Debtor, and to pay interest thereon from the date hereof at the rate per annum herein stipulated in like money at the same place monthly on the last day of each month; and, if the Debtor should at any time make default in the payment of any principal or interest to pay interest on the amount in default both before and after demand, default and judgment at the same rate in lawful money of Canada at the same place.

CTC is the person entitled to receive the principal of and interest on this debenture and all other amounts payable hereunder.

**ARTICLE 2- CHARGE**

**Charge**

2.1 As security for the due payment of all money payable hereunder and all other obligations hereunder, the Debtor hereby:

- (a) mortgages as and by way of a fixed and specific mortgage and charge to and in favour of CTC and its successors and permitted assigns, all of the fee simple estate, right, title and interest of the Debtor in and to the real property described in Schedule A hereto;
- (b) assigns, grants, transfers and sets over to and in favour of CTC and its successors and permitted assigns, all of the Debtor's interests in the mineral leases described in Schedule B hereto and the Debtor's interests in the surface leases described in Schedule C hereto;
- (c) charges as and by way of a first floating charge to and in favour of CTC and its successors and permitted assigns, all present and future real property of the Debtor of any nature or kind, including (i) all real property at any time owned, leased or licensed by the Debtor or in which the Debtor at any time has any right or interest or to which the Debtor now has, may be possessed of, entitled to, or acquire, whether in fee simple or of a lesser estate and all benefits, easements, licences, rights of way and servitudes as pertaining thereto or connected therewith by way of amalgamation or otherwise, now or hereafter;
- (d) any and all existing or future leases, subleases, agreements to lease or sublease or other tenancy or occupancy agreements relating to the whole or any part or parts of the Lands and Improvements and all existing or future licenses or concessions whereby any Person is given the right to use or occupy the whole or any part or parts of the Lands and

Improvements and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into (collectively the "**Landlord Leases**"), and all benefits, powers and advantages of the Debtor to be derived therefrom and all covenants, obligations and agreements of the tenants thereunder;

- (e) all rents and other moneys now due and payable or accruing due or hereafter to become due and payable to the Mortgagor (collectively, the "**Rents**") under the Landlord Leases, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder, with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Debtor thereto in the name of the Debtor; and
- (f) any and all proceeds of the foregoing.

2.2 In this debenture, the mortgages, assignments and charges created and provided for are collectively called the "**Charge**" and the subject matter of the Charge is called the "**Charged Premises**".

#### **Registration Against After-acquired Real Property**

2.3 The Charge shall attach to the Charged Premises acquired by the Debtor after the date hereof at the same time as such Charge Premises is acquired by the Debtor, and, without limiting the generality of the foregoing, the Debtor shall from time to time, at the request of CTC, execute and deliver all such agreements, supplemental debentures, mortgages and other documents and instruments as may reasonably requested by CTC to confirm or perfect the Charge insofar as they related to any such after-acquired Charged Premises.

#### **Dealings in the Ordinary Course**

2.4 Subject to Section 3.1 hereof and until the Charge becomes enforceable, the Debtor may dispose of or deal with the property and assets subjected to the Charge in the ordinary course of business and for the purpose of carrying on the same, so that purchasers thereof or parties dealing with the Debtor take title thereto free and clear of the Charge.

#### **Last Day**

2.5 The Charge shall not extend or apply to the last day of the term of any lease or agreement to lease but upon the enforcement of the Charge the Debtor shall stand possessed of such last day in trust for CTC to assign the same to any person acquiring such term in the course of enforcement of the Charge.

#### **Exception for Certain Contractual Rights**

2.6 The Charge does not and shall not extend to, and the Charged Premises shall not include, any agreement, right, franchise, licence or permit (the "**Contractual Rights**") to which the Debtor is a party or of which the Debtor has the benefit, to the extent that the creation of the Charge herein would constitute a breach of the terms of or permit any person to terminate the Contractual Rights, but the Debtor shall hold its interest therein in trust for CTC and shall assign such Contractual Rights to CTC forthwith upon obtaining the consent of all other parties thereto. The Debtor agrees that it shall, upon the request of CTC, use all commercially reasonable efforts to obtain any consent required to permit any Contractual Rights to be subjected to the Charge herein.

#### **Crystallization of Floating Charge**

2.7 The floating charge created by Section 2.1(c) against the Charged Premises shall become a fixed charge against such property and interests upon the earlier of (a) CTC giving written notice to the

Debtor that the floating charge has become a fixed charge on the real property and interests therein charged thereby, and (b) the occurrence of any other event which by operation of law would result in the floating charge becoming a fixed charge on the real property and interests therein of the Debtor charged thereby.

### ARTICLE 3 - NEGATIVE PLEDGE

#### Negative Pledge

3.1 Except as has otherwise been agreed in writing with CTC, the Debtor shall not create, assume, have outstanding or permit to exist, except in favour of CTC, any mortgage, charge, pledge, lien, assignment by way of security, security interest or other encumbrance on any part of the Charged Premises.

### ARTICLE 4 - DEFAULT AND REMEDIES

#### Default

4.1 If the Debtor makes default in the payment of principal, interest or any other amount payable hereunder or in the due performance of the terms and conditions of Section 3.1 hereof, in each case, which is continuing, the Charge shall immediately become enforceable.

#### Remedies

4.2 (1) Whenever the Charge has become enforceable, CTC may realize upon the Charged Premises and shall have the following rights and remedies, which rights and remedies may be exercised from time to time separately or in combination and are in addition to and not in substitution for any other rights or remedies CTC may have:

- (a) CTC may by appointment in writing appoint a receiver or receiver and manager (each herein referred to as the "**Receiver**") of the Charged Premises and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Charged Premises or any part thereof; and the term "CTC" when used in this Section 4.2 shall include any Receiver so appointed and the agents, officers and employees of such Receiver;
- (b) CTC may take possession of the Charged Premises and require the Debtor to make the Charged Premises available to CTC;
- (c) CTC may take such steps as it considers desirable to maintain, preserve or protect the Charged Premises;
- (d) CTC may carry on or concur in the carrying on of all or any part of the business of the Debtor relating to the Charged Premises;
- (e) CTC may enforce any rights of the Debtor in respect of the Charged Premises by any manner permitted by law;
- (f) CTC may sell, lease or otherwise dispose of the Charged Premises by judicial sale, by foreclosure, by public auction, by private tender or by private sale either for cash or upon credit upon such terms and conditions as CTC may determine and without notice to the Debtor unless required by law and may execute and deliver to the purchaser or purchasers of the Charged Premises or any part thereof a good and sufficient deed or conveyance or deeds or conveyances for the same, any authorized officer of CTC being

hereby constituted the irrevocable attorney of the Debtor for the purpose of making such sale and executing such deeds or conveyances, and any such sale made as aforesaid shall be a perpetual bar both in law and in equity against the Debtor and all other persons claiming all or any part of the Charged Premises by, from, through or under the Debtor;

- (g) CTC may accept the Charged Premises in satisfaction or partial satisfaction of the Charge upon notice to the Debtor of its intention to do so in the manner required by law;
  - (h) CTC may borrow money on the security of the Charged Premises for the purpose of the carrying on of the business of the Debtor or for the maintenance, preservation, protection or realization of the Charged Premises in priority to the Charge;
  - (i) CTC may perform any of the Obligations (as such term is defined in the Debenture Pledge Agreement issued by the Debtor to CTC and dated the date hereof) and the entire costs thereof are a charge on the Charged Premises and shall be added to the amounts due hereunder and shall be secured by the Charge; and
  - (j) CTC may exercise any other right or remedy permitted by applicable law or equity, including, without limitation, all rights and remedies of a secured party under the *Personal Property Security Act* (Alberta), or any similar personal property legislation of any jurisdiction in which any of the Charged Premises is located, or which, by operation of law, governs or is deemed to govern the Charged Premises.
- (2) The Debtor further agrees with CTC that:
- (a) CTC shall not be liable or responsible for any failure to seize, collect, realize, sell or obtain payment of the Charged Premises and shall not be bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment of the Charged Premises or for the purpose of preserving any rights of CTC, the Debtor or any other person, firm or corporation in respect of the Charged Premises;
  - (b) CTC may grant extensions of time, take, abstain from taking and perfecting and give up securities, accept compositions, grant releases and discharges, release any part of the Charged Premises and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Charged Premises and other securities as CTC may see fit without prejudice to the liability of the Debtor to CTC or CTC's rights hereunder;
  - (c) to facilitate the realization of the Charged Premises, CTC may enter upon, occupy and use all or any of the premises, buildings and plant comprising the Charged Premises and use all or any of the equipment and other personal property of the Debtor for such time as CTC requires to facilitate such realization, free of charge (as between the Debtor and CTC), and CTC shall not be liable to the Debtor for any neglect in so doing (other than gross negligence or wilful misconduct on the part thereof) or in respect of any rent, charges or depreciation in connection with such actions;
  - (d) CTC may charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered in connection with the exercise of the rights and remedies of CTC hereunder, including, without limiting the generality of the foregoing, reasonable legal, Receiver and accounting fees and expenses, and in every such case the amounts so paid together with all costs, charges and expenses incurred in connection therewith shall be added to the amounts due hereunder and shall be secured by the Charge;
  - (e) CTC may discharge any claim, lien, mortgage, charge, security interest, encumbrance or any rights of others that may exist or be threatened against the Charged Premises, and in

every such case the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the amounts due hereunder and shall be secured by the Charge; and

- (f) any proceeds of realization of the Charged Premises may be applied by CTC to the payment of expenses in connection with the preservation and realization of the Charged Premises as above described and any balance of such proceeds shall be applied by CTC to payment of any amount owing by the Debtor to CTC; if there is any surplus remaining, it may be paid to any person having a claim thereto in priority to the Debtor of whom CTC has knowledge and may be applied or retained as reserves against potential claims that CTC or the Receiver in good faith believes should be maintained and the balance remaining, if any, shall (subject to applicable law) be paid to the Debtor.

(3) Any Receiver shall be entitled to exercise all rights and powers of CTC hereunder. To the extent permitted by applicable law, any Receiver shall for all purposes be deemed to be CTC of the Debtor and not of CTC and the Debtor shall be solely responsible for the Receiver's acts or defaults and remuneration.

(4) The Debtor hereby irrevocably appoints CTC attorney on its behalf to sell or transfer the Charged Premises and to execute all instruments, and do all acts, matters and things that may be necessary for carrying out the powers hereby given and for the recovery of all rents and sums of money that may become or are now due or owing to the Debtor in respect of the Charged Premises and for the enforcement of all contracts, covenants or conditions binding on any lessee or occupier of the Charged Premises or on any person in respect of it and this appointment shall take effect if the Charge has become enforceable.

## **ARTICLE 5 – GENERAL**

### **Expenses**

5.1 The Debtor shall pay to CTC forthwith on demand all reasonable costs, charges and expenses, including all reasonable legal fees, incurred by CTC in connection with the recovery or enforcement of payment of any moneys owing hereunder whether by realization or otherwise. All such sums, together with interest thereon at the rate set forth in this debenture, shall be added to the amount payable hereunder and shall be secured by the Charge.

### **Pledge of Debenture**

5.2 This debenture may be pledged or assigned by the Debtor as security for its indebtedness, liabilities and obligations. While this debenture is so pledged, no payment by the Debtor of the whole or any part of any indebtedness, liabilities or obligations secured by this debenture shall reduce the amount owing under this debenture unless specifically appropriated to and noted on this debenture by CTC at the time of payment.

### **Not Negotiable**

5.3 This debenture is not a negotiable instrument and the rights created hereunder which are exercisable by any holder hereof other than CTC are no greater than the rights of CTC, and any holder hereof is subject to the same obligations, duties, liabilities and defences as CTC would have been subject to.

### **No Waiver, Remedies**

5.4 No failure on the part of CTC to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude the

other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

### **Notices**

5.5 Any demand, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery, by transmittal, by facsimile transmission or other electronic means of communication addressed to the Debtor as follows:

Coalspur Mines (Operations) LTD.  
3801 PGA Boulevard, Suite 903  
Palm Beach Gardens, FL 33410  
Attention: Michael J. Beyer

or to such other address or electronic communication number as the Debtor may from time to time notify CTC in writing. Any demand, notice or communication made or given by personal delivery or by facsimile transmission or other electronic means of communication shall be conclusively deemed to have been made or given on the day of actual delivery or transmittal thereof.

### **Additional Security**

5.6 This debenture and the Charge shall be and shall be deemed to have been given in addition to and not in place of any other security now or hereafter held or acquired by CTC.

### **Headings; References to Debenture**

5.7 The division of this debenture into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this debenture. The terms "this debenture", "hereof", "hereunder" and similar expressions refer to this debenture and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, reference herein to Articles and Sections are to Articles and Sections of this debenture.

### **Number; Gender; Persons**

5.8 In this debenture words importing the singular number only shall include the plural and vice versa, words importing any gender shall include all genders and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

### **Governing Law**

5.9 This debenture shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

### **Attornment**

5.10 The Debtor hereby attorns and submits to the non-exclusive jurisdiction of the courts of the Province of Alberta. For the purpose of all legal proceedings, this debenture shall be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta shall have jurisdiction to entertain any action arising under this debenture. Notwithstanding the foregoing, nothing herein shall be construed nor operate to limit the right of the Debtor or CTC to commence any action relating hereto in any other jurisdiction, nor to limit the right of the courts of any other jurisdiction to take jurisdiction over any action or matter relating hereto.

### **Benefit of the Debenture**

5.11 This debenture shall be binding upon the successors and permitted assigns of the Debtor (including, without limitation, any corporation resulting from an amalgamation with the Debtor) except that the Debtor may not assign its obligations under this debenture without the prior written consent of CTC (which consent may be withheld in its sole discretion). This debenture shall benefit the successors and permitted assigns of CTC.

### **Time of the Essence**

5.12 Time shall be of the essence with regard to this debenture.

### **Discharge**

5.13 Except as expressly agreed in writing by CTC, the Debtor shall not be discharged from the Charge, this debenture or any of its obligations hereunder except by a release or discharge in writing signed by CTC.

### **Waiver of Financing Statement, Etc.**

5.14 The Debtor hereby waives the right to receive from CTC a copy of any financing statement, financing change statement or other statement or document filed or registered at any time in respect of this debenture or any verification statement or other statement or document issued by any registry that confirms or evidences registration of or relates to this debenture.

### **No Merger**

5.15 No item or part of this debenture shall be merged or be deemed to have been merged in or by any documents, instruments or acknowledgements delivered in connection with this debenture or the credit agreement referred to herein, or any simple contract debt or any judgment, and any realization of or steps taken under or pursuant to any security, instrument or agreement shall be independent of and not create a merger with any other right available to CTC under any security, instruments or agreements held by it or at law or in equity. No obligation of the Debtor hereunder shall merge in any judgment relating to any such obligation.

### **Severability**

5.16 If any provision of this debenture is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect. To the extent permitted by applicable law the Debtor hereby waives any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

### **Further Assurances**

5.17 The Debtor shall from time to time promptly upon the request of CTC take such action, and execute and deliver such further documents, mortgages, charges, assignments, pledges, amendments and other deeds and instruments as may be reasonably necessary or appropriate to fully give effect to the provisions and intent of this debenture this and to take all other steps necessary to maintain the validity, perfection and intended priority of this debenture.

### **Paramountcy**

5.18 In the event of any conflict between the provisions hereunder and the provisions contained in the Debenture Pledge Agreement dated as of the date hereof between the Debtor and CTC (the "**Debenture Pledge**") the terms of the Debenture Pledge shall govern to the extent necessary to resolve such conflict.

**Statutory Charging Provision**

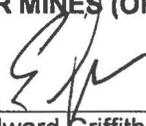
5.19 For the better securing to CTC the repayment in the manner aforesaid of the said principal and interest and all other monies payable hereunder and secured hereby, the Debtor hereby mortgages to CTC all of its estate and interest in the property described in Section 2.1 of this debenture.

*[Remainder of Page Intentionally Left Blank]*

[Signature Page to Debenture - CMO]

**IN WITNESS WHEREOF** the Debtor has executed this debenture.

**COALSPUR MINES (OPERATIONS) LTD.**

Per: 

Name: Edward Griffith

Title: Director

---

**Schedule A**

**Legal description of the Lands located in Alberta**

	<b>Municipal Address</b>	<b>Legal Land Description</b>
1	101 Berry Place Hinton, AB	Plan 1523074, Block 7, Lot 43 Excepting thereout all mines and minerals
2	105 Berry Place Hinton, AB	Plan 1722530, Block 7, Lot 44B Excepting thereout all mines and minerals
3	125 Muldoon Crescent Hinton, AB	Plan 0624527, Block 5, Lot 6 Excepting thereout all mines and minerals
4	221 Collinge Road Hinton, AB	Plan 8123005, Block 51, Lot 8 Excepting thereout all mines and minerals
5	107 Lupin Way, Hinton AB	Plan 0826212, Block 2, Lot 167 Excepting thereout all mines and minerals
6	118 Muldoon Cres Hinton, AB	Plan 0624527, Block 6, Lot 5 Excepting thereout all mines and minerals
7	162 Muldoon Cres Hinton, AB	Plan 0624527, Block 5, Lot 20 excepting thereout: 0.004 hectares (0.010 acres) more or less a) plan 1322548 – subdivision Excepting thereout all mines and minerals
8	102 Wolf Willow Cove Hinton, AB	Plan 0826212, Block 2, Lot 10 Excepting thereout all mines and minerals
9	127 Lupin Way Hinton, AB	Plan 0826212, Block 2, Lot 157 Excepting thereout all mines and minerals
10	145 Huisman Cres Hinton, AB	Plan 8922216, Block 10, Lot 183 Excepting thereout all mines and minerals

**Schedule B**  
**Mineral Leases**

Lease Number	Lands
1308020345	5-23-051: 7; 18S
1308020346	5-24-051: 12
1308020348	5-24-051:13S; 14S
1308020347	5-24-051: 8L16; 9N,L7,L8
1308020349	5-24-051: 16SW,L1,L2,L7,L11-L13; 17N,SE,L6; 20SW,L1,L2
1307060429	5-24-051: 10; 11; 15
1308060419	5-22-050: 33N
1308060420	5-22-051: 9SE
1307070587	5-23-050: 25L16; 35NE,L14; 36NL1,L5-8 5-23-051:1S,NW,L9,L10,L15; 2NE,L1,L6-L8; 11SE; 12L3,L4
1307070588	5-23-051:2NW; 3NE,L13,L14; 4L16; 8N,SE,L5,L6; 9
1314080363	5-23-050: 34N; 35S,L11-L13; 36L2-L4 5-23-051: 2L2-L5; 3S,L11,L12; 4S,NW,L9,L10,L15; 5; 8L3,L4
1310090997	5-23-049: 18 5-24-049: 13; 22-24
1310090998	5-24-049: 29
1310090999	5-24-050: 1; 2; 3N,4N; 9-12
1310091000	5-24-050: 7N; 8N
1310091001	5-25-050: 29L3,L4
1311120568	5-24-052: 17-19 5-25-052: 12; 13; 24
1311120570	5-25-052: 9-11; 14-16
1311120572	5-25-052: 21-23; 27; 28
1311120573	5-26-052:13; 14; 15E; 22-24
1311120574	5-26-052: 25-27; 34-36

Lease Number	Lands
1309120451	5-23-049: 19; 30; 31 5-23-050: 6 5-24-049: 35; 36
1309120452	5-23-049: 28; 29; 32; 33 5-23-050: 4; 5
1309120453	5-24-049: 25-28; 33; 34 5-24-050: 3S; 4S
1309120454	5-24-049: 31; 32 5-24-050: 5; 6; 7S; 8S
1309120455	5-23-050: 7-9; 18
1309120456	5-23-050: 16; 21; 22; 27; 28
1309120457	5-23-050: 17; 19L1,L3-L5,L8,L12,L13,L16; 20; 29; 30 5-23-050: 19L2P,L6P,L7P,L9P,L10P,L11P,L14P,L15P PORTION(S) LYING OUTSIDE FORESTRY RESEARCH INSTALLATION.
1309120458	5-24-050: 13; 14; 23-26
1309120459	5-24-050:15; 16; 21; 22; 27; 28
1309120460	5-24-050: 17; 18; 20; 29; 30N
1309120461	5-25-050: 2S; 3; 4; 9; 10S
1309120462	5-25-050: 15NE L1,L8
1309120463	5-25-050: 15L4,L5; 16S,NW,L9,L10,L15;17; 20S,NW,L9,L10,L15; 21L3-L5; 30W,L1,L2,L7,L10,L15,L16
1309120464	5-25-50: 21L9,L15,L16; 28SE,L3,L5,L6
1308120621	5-24-050: 19; 30S 5-25-050: 22N,SE,L3,L5,L6; 23-25; 26S,NW,L9,L10,L15; 27
1308120623	5-25-050: 1; 2N; 10N; 11-14
1308120620	5-23-050: 31-33; 34S
1308120622	5-23-051: 6W 5-24-050: 35; 36 5-24-051: 1; 2N,L6-L8
1308120624	5-23-051: 18NW,L15,L16; 19 5-24-051: 13N; 14N; 23; 24

Lease Number	Lands
1311040471	5-22-051: 5NW; 7SE; 8S; 9SW
1311040472	5-24-051: 25S; NW,L9,L10,L15; 26; 36SW,L2,L12
1307050787	5-22-051: 19N 5-23-051: 22N; 23N; 24N; 25; 26
1307050788	5-22-051: 28-31
1307050789	5-22-051: 32; 33 5-22-052: 4; 5
1307050790	5-22-052: 6; 7 5-23-052: 1; 12
1307050791	5-22-052: 8; 9; 16; 21
1307050792	5-22-051: 17-20
1307050793	5-23-051: 27; 34-36
1307050794	5-24-051: 16SW,L1,L2,L7,L11-L13; 17N,SE,L6; 20SW,L1,L2
1307050795	5-23-051: 30; 31 5-24-051: 25L16; 36NE,L1,L7,L8,L11,L13,L14
1307050796	5-23-052: 2; 3; 10; 11
1307050797	5-22-051: 6NW; 7N,SW 5-23-051: 1L16; 11NE,L13,L14; 12N,SE,L5,L6; 13SW,L1,L2; 14S, L9-L12
1307050798	5-23-051: 10L16; 15; 16N,SE,L3,L5,L6; 17N,L7,L8,20L1-L4
1307050799	5-22-051: 18 5-23-051: 13N,L7,L8; 14L13-L16; 23S; 24S
1307050800	5-23-051: 20N L5-L8; 21; 22S
1307050801	5-22-051: 8N; 9N; 16; 17
1307050802	5-22-051: 19S; 20; 21
1308050904	5-22-051: 6L2-L5
1308050905	5-23-051: 5-23-051: 16L4; 17SW,L1,L2
1311050576	5-22-051: 6NE,L1,L6-L8
1311050581	5-23-051: 6E

<b>Lease Number</b>	<b>Lands</b>
1311050582	5-23-051: 18L9,L10

**Schedule C**  
**Surface Leases**

Disposition Number	Lands
<b>MSL</b>	
130948	SW-07-051-22-W5
<b>MML (DML)</b>	
MLL-930039	NE-03-052-24-W5
DML-930039	NE-03-052-24-W5
DML-2946	NE-03-052-24-W6
DML-2945	NE-03-052-24-W5
MLL-2945	NE-03-052-24-W5
DML-2945	NE-03-052-24-W5
MLL-2945	NE-03-052-24-W5
DML-170057	W5-24-051-34-NW
<b>LOC</b>	
LOC-120285	SW-26-051-24-W5
LOC-120288	SE-09-051-23-W5
LOC-120289	SE-09-051-23-W6
LOC-120292	NW-01-051-23-W5
LOC-120293	NW-12-051-23-W5
LOC-120295	NW-36-050-23-W5
LOC-120296	NW-08-051-23-W5
LOC-120797	NW-01-051-23-W5
LOC-120804	SW-10-051-23-W5
LOC-120837	SW-10-051-23-W5
LOC-120838	NW-08-051-23-W5
LOC-120839	SE-17-051-23W5
LOC-120841	NE-02-051-23-W5
LOC-120855	NE-33-051-24-W5
LOC-120864	NW-34-051-24-W5
LOC-121218	SE-05-051-23-W5
LOC-121219	NW-06-051-23-W5
LOC-121220	NE-09-051-23-W5
LOC-121221	NE-10-051-24-W5
LOC-121222	NW-09-051-23-W5
LOC-121223	NW-13-051-23-W5
LOC-121369	NW-18-051-23-W5
LOC-121742	SE-12-051-23-W5
LOC-121747	NE-12-051-23-W5
LOC-121749	NW-12-051-23-W5
LOC-121751	SW-13-051-23-W5
LOC-121753	SE-13-051-23-W5
LOC-122160	NW-11-051-23-W5
LOC-122167	NW-05-051-23-W5
LOC-122170	NW-17-051-23W5
LOC-122175	Sw-04-051-23-W5
LOC-122327	NE-10-051-23-W5

Disposition Number	Lands
LOC-122521	SE-20-051-23-W5
LOC-122523	SE-30-051-23-W5
LOC-122524	NW-19-051-23-W5
LOC-122525	NW-18-051-23-W5
LOC-122526	SE-17-051-23-W5
LOC-122527	NW-20-051-23-W5
LOC-122528	SE-21-051-23-W5
LOC-122521	W5-23-051-20-SE
LOC-122523	W5-23-051-20-SE
LOC-122524	W5-23-051-20-SE
LOC-122527	W5-23-051-20-SE
LOC-122528	W5-23-051-20-SE



**FIRST SUPPLEMENT DEBENTURE  
(Coalspur Mines (Operations) Ltd.)**

**Dated March 10, 2021**

**WHEREAS** Cline Trust Company LLC (“**CTC**”) and Coalspur Mines (Operations) Ltd. (the “**Debtor**”), have entered into a credit agreement made as of March 31, 2019 (as may be further amended, modified, supplemented or restated from time to time, the “**Credit Agreement**”) pursuant to which CTC agreed to extend credit and other financial accommodations to the Debtor;

**AND WHEREAS** the Debtor granted to and in favour of CTC a floating charge demand debenture dated June 19, 2019 in the principal amount of \$300,000,000 U.S. Dollars (the “**Debenture**”);

**AND WHEREAS** CTC and the Debtor wish to amend the Debenture to increase the principal sum thereunder;

**AND WHEREAS** the Debtor has agreed that the Debenture shall constitute general and continuing collateral security for the payment or performance of all indebtedness, liabilities and obligations (present or future, absolute or contingent, matured or not) of the Debtor to CTC under, pursuant or relating to the Credit Agreement and the other Loan Documents;

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Debtor, the Debtor covenants and agrees with CTC as follows:

- 1 The recitals to this First Supplemental Debenture form a part of this First Supplemental Debenture.
- 2 Terms and expressions defined in the Debenture shall, when used herein and unless otherwise defined herein, have the same meanings as are ascribed to them therein.
- 3 The Debenture is hereby amended by replacing the principal sum of “\$300,000,000 U.S. Dollars” on the first page thereof with a principal sum of “\$500,000,000 U.S. Dollars”.
- 4 This First Supplemental Debenture is supplemental to the Debenture and is executed, acknowledged and delivered pursuant to the provisions thereof. The Debenture and this First Supplemental Debenture shall henceforth be read together and shall have effect, so far as practicable, as if all the provisions thereof and hereof were contained in one instrument and for such purpose and so far as may be necessary to effect this First Supplemental Debenture, the Debenture shall be regarded as being hereby amended, provided that the Debenture so amended, together with all the covenants and conditions thereof shall remain in full force and effect without in any way impairing or derogating from any of the security interests, mortgages, pledges, charges, covenants and assignments therein contained.
- 5 In the event that there is any conflict, ambiguity or inconsistency between the terms of this First Supplemental Debenture and the Debenture, the terms of this First Supplemental Debenture shall govern and prevail to the extent necessary to remove the conflict, ambiguity or inconsistency.
- 6 Except as amended by the terms of this First Supplemental Debenture, the Debenture is ratified and confirmed.
- 7 This First Supplemental Debenture will enure to the benefit of CTC and its successors and assigns and will be binding on the Debtor and its successors and assigns.

*[Signature page follows]*

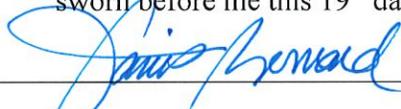
IN WITNESS WHEREOF the Debtor has executed this First Supplemental Debenture by its duly authorized officers, as of the date first written above.

**COALSPUR MINES (OPERATIONS) LTD.**

Per:   
Name: Edward Griffith  
Title: Director

This is **Exhibit "L"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.

A handwritten signature in blue ink, appearing to read "James Bernard", is written over a horizontal line.

Notary Public in and for the State of Florida

**THIS DEBENTURE PLEDGE AGREEMENT made as of June , 2019;**  
**(Coalspur Mines (Operations) Ltd.)**

**Description of Floating Charge Demand Debenture**

Principal Sum: \$300,000,000 U.S. Dollars

Interest Rate: 20.0% per annum

Date: June 19, 2019

**WHEREAS:**

A. Cline Trust Company LLC ("**CTC**") and Coalspur Mines (Operations) Ltd. (the "**Debtor**") have entered into a credit agreement made as of March 31, 2019 as may be further amended, modified, supplemented or restated from time to time, the "**Credit Agreement**";

B. In order to secure the payment and performance of all present and future Obligations (as hereinafter defined) of the Debtor to CTC, the Debtor has created and issued to CTC the floating charge demand debenture described above (as the same may hereafter be further amended, modified, supplemented and restated from time to time, the "**Debenture**");

C. The purpose of this Debenture Pledge Agreement is to set forth the terms and conditions upon which the Debenture is to be held by CTC;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged by the Debtor, the Debtor hereby agrees and covenants with CTC as follows:

1. The Debtor hereby grants a security interest in and deposits with and pledges to CTC the Debenture to be held by CTC as general and continuing collateral security for the payment or performance of all indebtedness, liabilities and obligations (present or future, absolute or contingent, matured or not) (collectively, the "**Obligations**") of the Debtor to CTC under, pursuant or relating to the Credit Agreement and the other Loan Documents (collectively, the "**Documents**").
2. CTC shall neither demand payment pursuant to the Debenture nor enforce the security constituted thereby unless an Event of Default has occurred and is continuing, but thereafter CTC may at any time exercise and enforce all of the rights and remedies of a holder of the Debenture as if CTC was the absolute owner thereof without notice to or control by the Debtor, and any such remedy may be exercised separately or in combination with, and shall be in addition to and not in substitution for, any other right or remedy of CTC however created, provided that CTC shall not be bound to exercise any such right or remedy.
3. Subject to the requirements of the laws of the Province of Alberta and the federal laws of Canada applicable therein (the "**Applicable Law**"), CTC shall not be bound under any circumstances to realize upon or under the Debenture and shall not be responsible to the Debtor for any loss occasioned by any sale or other dealing with the Debenture or the Charged Premises (as defined in the Debenture) or by the retention of or failure to sell or otherwise deal with the same.
4. The proceeds of or any other amount received pursuant to the Debenture shall be applied by CTC on account of the Obligations in such order as CTC sees fit without prejudice to CTC's claim upon the Debtor for any deficiency. Subject to the requirements of Applicable Law and the Documents, any surplus realized by CTC in excess of the Obligations shall be paid over to the Debtor.

5. Subject to paragraph 2 hereof, CTC shall not be obliged to exhaust its recourse against the Debtor, any other person or persons, or any other security it may hold with respect to the Obligations before realizing upon, under, or otherwise dealing with the Debenture in such manner as CTC sees fit. CTC may grant extensions of time or other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Debtor and with other parties, sureties or securities as CTC may see fit, without prejudice to the liability of the Debtor or CTC's rights in respect of the Debenture.
6. Notwithstanding the stated interest rate per annum in the Debenture, payment to CTC of the relevant interest due and payable under the Documents (other than the Debenture) for any period in respect of the Obligations at the rate provided for in the Term Loan Note (as defined in the Credit Agreement) for such period pursuant to the Documents (other than the Debenture) shall be deemed to be payment in satisfaction of the interest payment for the same period under the Debenture.
7. The Debenture shall not operate by way of merger of any of the Obligations and no judgment recovered by CTC shall operate by way of merger of or in any way affect the security of the Debenture which is in addition to and not in substitution for any other security now or hereafter held by CTC with respect to the Obligations.
8. Notwithstanding the form and terms of the Debenture and the provisions of this Debenture Pledge Agreement, CTC shall not claim or realize an amount under or in respect of the Debenture in excess of the aggregate Obligations (which shall exclude the stated nominal principal sum of the Debenture and interest payable thereon at the stated nominal rate under the Debenture), due and payable from time to time, of the Debtor to CTC.
9. Upon payment and satisfaction in full of the Obligations (which shall exclude the stated nominal principal sum of the Debenture and interest payable thereon at the stated nominal rate under the Debenture) or at such other time as may be provided by the Credit Agreement, CTC shall, at the request of the Debtor, as soon as reasonably practicable deliver up the Debenture to the Debtor and shall, at the request and expense of the Debtor, execute and deliver to the Debtor releases, discharges and such other instruments as shall be required to effectively discharge the Charge (as defined in the Debenture).
10. Time shall be of the essence with regard to this Debenture Pledge Agreement.
11. Capitalized terms used herein without express definition shall have the same meanings ascribed thereto as are set forth in the Debenture. For certainty, if the Debenture ceases to be in force for any reason whatsoever, then for all purposes hereof the aforementioned capitalized words and phrases shall continue to have the same defined meanings set forth in the Debenture as if such agreement remained in force in the form immediately prior to its ceasing to be in force.
12. This Debenture Pledge Agreement shall enure to the benefit of and be binding upon the Debtor, CTC and their respective successors and permitted assigns.
13. The parties hereto each hereby attorn and submit to the non-exclusive jurisdiction of the courts of the Province of Alberta. For the purpose of all legal proceedings, this Debenture Pledge Agreement shall be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta shall have jurisdiction to entertain any action arising under this Debenture Pledge Agreement. Notwithstanding the foregoing, nothing herein shall be construed nor operate to limit the right of either party hereto to commence any action relating hereto in any other jurisdiction, nor to limit the right of the courts of any other jurisdiction to take jurisdiction over any action or matter relating hereto.
14. This Debenture Pledge Agreement shall be governed by and construed in accordance with the laws in force in the Province of Alberta and the federal laws of Canada applicable therein.
15. The Debtor hereby waives the right to receive from CTC a copy of any financing statement, financing change statement or other statement or document filed or registered at any time in respect of this

Debenture Pledge Agreement or any verification statement or other statement or document issued by any registry that confirms or evidences registration of or relates to this Debenture Pledge Agreement.

16. The Debtor may not assign its obligations under this Debenture Pledge Agreement without the prior written consent of CTC (which consent may be withheld in its sole discretion).
17. The rights of CTC under this Debenture Pledge Agreement may only be assigned in accordance with the requirements of the Credit Agreement.
18. If any provision of this Debenture Pledge Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect. To the extent permitted by Applicable Law, the parties hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.
19. This Debenture Pledge Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Debenture Pledge Agreement to produce or account for more than one such counterpart.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF** the Debtor has executed this Debenture Pledge Agreement as of the date first above written.

**COALSPUR MINES (OPERATIONS) LTD.**

Per:   
Name: Edward Griffith  
Title: Director

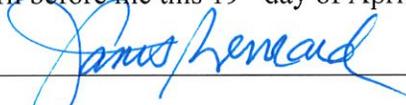
**ACCEPTED AS OF THE DATE FIRST ABOVE  
WRITTEN BY:**

**CLINE TRUST COMPANY LLC**

Per:   
Name: Leslie Ray  
Title: Manager

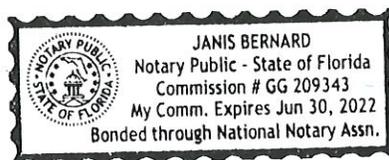
This is **Exhibit "M"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



**FLOATING CHARGE DEMAND DEBENTURE**  
**(Coalspur Mines (Operations) Ltd.)**

Principal Sum: \$500,000,000 U.S. Dollars

Interest Rate: 20.0% per annum

Date: March 10, 2021

**ARTICLE 1- PROMISE TO PAY**

**Promise to Pay**

1.1 For value received, the undersigned (the "**Debtor**") hereby acknowledges itself indebted and promises to pay ON DEMAND to or to the order of 2330362 Alberta ULC (the "**Trustee**"), for the benefit of Cline Trust Company LLC ("**CTC**" and together with the Trustee, the "**Beneficiaries**"), the principal sum herein stipulated on presentation and surrender of this debenture at the Trustee's offices at 400 3<sup>rd</sup> Avenue SW, Suite 3700, Calgary, Alberta, or at such other place as the Trustee may designate by notice in writing to the Debtor, and to pay interest thereon from the date hereof at the rate per annum herein stipulated in like money at the same place monthly on the last day of each month; and, if the Debtor should at any time make default in the payment of any principal or interest to pay interest on the amount in default both before and after demand, default and judgment at the same rate in lawful money of Canada at the same place.

The Trustee, on behalf of CTC, is the person entitled to receive the principal of and interest on this debenture and all other amounts payable hereunder.

**ARTICLE 2- CHARGE**

**Charge**

2.1 As security for the due payment of all money payable hereunder and all other obligations hereunder, the Debtor hereby:

- (a) mortgages as and by way of a fixed and specific mortgage and charge to and in favour of the Trustee and its successors and permitted assigns, for the benefit of CTC and its successors and permitted assigns, all of the fee simple estate, right, title and interest of the Debtor in and to the real property described in Schedule A hereto;
- (b) charges as and by way of a first floating charge to and in favour of the Trustee and its successors and permitted assigns, for the benefit of CTC and its successors and permitted assigns, all present and future real property of the Debtor of any nature or kind (the "**Property**"), including (i) all real property at any time owned, leased or licensed by the Debtor or in which the Debtor at any time has any right or interest or to which the Debtor now has, may be possessed of, entitled to, or acquire, whether in fee simple or of a lesser estate and all benefits, easements, licences, rights of way and servitudes as pertaining thereto or connected therewith by way of amalgamation or otherwise, now or hereafter;
- (c) creates a security interest in and assigns, grants, transfers and sets over to and in favour of the Trustee and its successors and permitted assigns, for the benefit of CTC and its successors and permitted assigns, as and by way of a general assignment of all of its right, title, estate and interest, present and future, in and to:

- (i) any and all existing or future leases, subleases, agreements to lease or sublease or other tenancy or occupancy agreements relating to the whole or any part or parts of the real property charged hereby and all existing or future licenses or concessions whereby any person is given the right to use or occupy the whole or any part or parts of such property and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into (collectively, the "**Landlord Leases**"), and all benefits, powers and advantages of the Debtor to be derived therefrom and all covenants, obligations and agreements of the tenants thereunder;
- (ii) all rents and other moneys now due and payable or accruing due or hereafter to become due and payable to the Debtor under the Landlord Leases, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder, with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Debtor thereto in the name of the Debtor; and
- (iii) any and all proceeds of the foregoing.

2.2 In this debenture, the mortgages, assignments and charges created and provided for are collectively called the "**Charge**" and the subject matter of the Charge is called the "**Charged Premises**".

#### **Registration Against After-acquired Real Property**

2.3 The Charge shall attach to the Charged Premises acquired by the Debtor after the date hereof at the same time as such Charge Premises is acquired by the Debtor, and, without limiting the generality of the foregoing, the Debtor shall from time to time, at the request of the Trustee execute and deliver all such agreements, supplemental debentures, mortgages and other documents and instruments as may reasonably requested by the Trustee to confirm or perfect the Charge insofar as they related to any such after-acquired Charged Premises.

#### **Dealings in the Ordinary Course**

2.4 Subject to Section 3.1 hereof and until the Charge becomes enforceable, the Debtor may dispose of or deal with the property and assets subjected to the Charge in the ordinary course of business and for the purpose of carrying on the same, so that purchasers thereof or parties dealing with the Debtor take title thereto free and clear of the Charge.

#### **Last Day**

2.5 The Charge shall not extend or apply to the last day of the term of any lease or agreement to lease but upon the enforcement of the Charge the Debtor shall stand possessed of such last day in trust for the Trustee to assign the same to any person acquiring such term in the course of enforcement of the Charge.

#### **Exception for Certain Contractual Rights**

2.6 For certainty, the Charge does not and shall not extend to, and the Charged Premises shall not include, any agreement, right, franchise, licence or permit (the "**Contractual Rights**") to which the Debtor is a party or of which the Debtor has the benefit, to the extent that the creation of the Charge herein would constitute a breach of the terms of or permit any person to terminate the Contractual Rights, but the Debtor shall hold its interest therein in trust for the Trustee and shall assign such Contractual Rights to the Trustee forthwith upon obtaining the consent of all other parties thereto. The Debtor agrees that it shall, upon the request of the Trustee, use all commercially reasonable efforts to obtain any consent required to permit any Contractual Rights to be subjected to the Charge herein.

### **Crystallization of Floating Charge**

2.7 The floating charge created by Section 2.1(b) against the Charged Premises shall become a fixed charge against such property and interests upon the earlier of (a) the Trustee giving written notice to the Debtor that the floating charge has become a fixed charge on the real property and interests therein charged thereby, and (b) the occurrence of any other event which by operation of law would result in the floating charge becoming a fixed charge on the real property and interests therein of the Debtor charged thereby.

## **ARTICLE 3 - NEGATIVE PLEDGE**

### **Negative Pledge**

3.1 Except as has otherwise been agreed in writing with any one or more of the Beneficiaries, the Debtor shall not create, assume, have outstanding or permit to exist, except in favour of the Trustee, any mortgage, charge, pledge, lien, assignment by way of security, security interest or other encumbrance on any part of the Charged Premises.

## **ARTICLE 4 - DEFAULT AND REMEDIES**

### **Default**

4.1 If the Debtor makes default in the payment of principal, interest or any other amount payable hereunder or in the due performance of the terms and conditions of Section 3.1 hereof, in each case, which is continuing, the Charge shall immediately become enforceable.

### **Remedies**

4.2 (1) Whenever the Charge has become enforceable, the Trustee may realize upon the Charged Premises and shall have the following rights and remedies, which rights and remedies may be exercised from time to time separately or in combination and are in addition to and not in substitution for any other rights or remedies the Beneficiaries may have:

- (a) the Trustee may by appointment in writing appoint a receiver or receiver and manager (each herein referred to as the "**Receiver**") of the Charged Premises and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Charged Premises or any part thereof; and the term "Trustee" when used in this Section 4.2 shall include any Receiver so appointed and the agents, officers and employees of such Receiver;
- (b) the Trustee may take possession of the Charged Premises and require the Debtor to make the Charged Premises available to the Trustee;
- (c) the Trustee may take such steps as it considers desirable to maintain, preserve or protect the Charged Premises;
- (d) the Trustee may carry on or concur in the carrying on of all or any part of the business of the Debtor relating to the Charged Premises;
- (e) the Trustee may enforce any rights of the Debtor in respect of the Charged Premises by any manner permitted by law;
- (f) the Trustee may sell, lease or otherwise dispose of the Charged Premises by judicial sale, by foreclosure, by public auction, by private tender or by private sale either for cash or upon credit upon such terms and conditions as the Trustee may determine and without notice to the Debtor unless required by law and may execute and deliver to the purchaser

or purchasers of the Charged Premises or any part thereof a good and sufficient deed or conveyance or deeds or conveyances for the same, any authorized officer of the Trustee being hereby constituted the irrevocable attorney of the Debtor for the purpose of making such sale and executing such deeds or conveyances, and any such sale made as aforesaid shall be a perpetual bar both in law and in equity against the Debtor and all other persons claiming all or any part of the Charged Premises by, from, through or under the Debtor;

- (g) the Trustee may accept the Charged Premises in satisfaction or partial satisfaction of the Charge upon notice to the Debtor of its intention to do so in the manner required by law;
  - (h) the Trustee may borrow money on the security of the Charged Premises for the purpose of the carrying on of the business of the Debtor or for the maintenance, preservation, protection or realization of the Charged Premises in priority to the Charge;
  - (i) the Trustee may perform any of the Obligations (as such term is defined in the Debenture Pledge Agreement issued by the Debtor to the Trustee and dated as of the date hereof) and the entire costs thereof are a charge on the Charged Premises and shall be added to the amounts due hereunder and shall be secured by the Charge; and
  - (j) the Trustee may exercise any other right or remedy permitted by applicable law or equity, including, without limitation, all rights and remedies of a secured party under the *Personal Property Security Act* (Alberta), or any similar personal property legislation of any jurisdiction in which any of the Charged Premises is located, or which, by operation of law, governs or is deemed to govern the Charged Premises.
- (2) The Debtor further agrees with the Trustee that:
- (a) the Beneficiaries shall not be liable or responsible for any failure to seize, collect, realize, sell or obtain payment of the Charged Premises and shall not be bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment of the Charged Premises or for the purpose of preserving any rights of the Beneficiaries, the Debtor or any other person, firm or corporation in respect of the Charged Premises;
  - (b) the Beneficiaries may grant extensions of time, take, abstain from taking and perfecting and give up securities, accept compositions, grant releases and discharges, release any part of the Charged Premises and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Charged Premises and other securities as the Beneficiaries may see fit without prejudice to the liability of the Debtor to the Beneficiaries or the Beneficiaries' rights hereunder;
  - (c) to facilitate the realization of the Charged Premises, the Trustee may enter upon, occupy and use all or any of the premises, buildings and plant comprising the Charged Premises and use all or any of the equipment and other personal property of the Debtor for such time as the Trustee requires to facilitate such realization, free of charge (as between the Debtor and the Trustee), and the Beneficiaries shall not be liable to the Debtor for any neglect in so doing (other than gross negligence or wilful misconduct on the part thereof) or in respect of any rent, charges or depreciation in connection with such actions;
  - (d) the Trustee may charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered in connection with the exercise of the rights and remedies of the Beneficiaries hereunder, including, without limiting the generality of the foregoing, reasonable legal, Receiver and accounting fees and expenses, and in every such case the amounts so paid together with all costs, charges and expenses

incurred in connection therewith shall be added to the amounts due hereunder and shall be secured by the Charge;

- (e) the Trustee may discharge any claim, lien, mortgage, charge, security interest, encumbrance or any rights of others that may exist or be threatened against the Charged Premises, and in every such case the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the amounts due hereunder and shall be secured by the Charge; and
- (f) any proceeds of realization of the Charged Premises may be applied by the Trustee to the payment of expenses in connection with the preservation and realization of the Charged Premises as above described and any balance of such proceeds shall be applied by the Trustee, at the direction of CTC, to payment of any amount owing by the Debtor to the Beneficiaries; if there is any surplus remaining, it may be paid to any person having a claim thereto in priority to the Debtor of whom the Trustee has knowledge and may be applied or retained as reserves against potential claims that the Beneficiaries or the Receiver in good faith believes should be maintained and the balance remaining, if any, shall (subject to applicable law) be paid to the Debtor.

(3) Any Receiver shall be entitled to exercise all rights and powers of the Trustee hereunder. To the extent permitted by applicable law, any Receiver shall for all purposes be deemed to be the agent of the Debtor and not of the Trustee, and the Debtor shall be solely responsible for the Receiver's acts or defaults and remuneration.

(4) The Debtor hereby irrevocably appoints the Trustee attorney on its behalf to sell or transfer the Charged Premises and to execute all instruments, and do all acts, matters and things that may be necessary for carrying out the powers hereby given and for the recovery of all rents and sums of money that may become or are now due or owing to the Debtor in respect of the Charged Premises and for the enforcement of all contracts, covenants or conditions binding on any lessee or occupier of the Charged Premises or on any person in respect of it and this appointment shall take effect if the Charge has become enforceable.

## **ARTICLE 5 – GENERAL**

### **Expenses**

5.1 The Debtor shall pay to the Trustee forthwith on demand all reasonable costs, charges and expenses, including all reasonable legal fees, incurred by the Trustee in connection with the recovery or enforcement of payment of any moneys owing hereunder whether by realization or otherwise. All such sums, together with interest thereon at the rate set forth in this debenture, shall be added to the amount payable hereunder and shall be secured by the Charge.

### **Pledge of Debenture**

5.2 This debenture may be pledged or assigned by the Debtor as security for its indebtedness, liabilities and obligations. While this debenture is so pledged, no payment by the Debtor of the whole or any part of any indebtedness, liabilities or obligations secured by this debenture shall reduce the amount owing under this debenture unless specifically appropriated to and noted on this debenture by the Trustee at the time of payment.

### **Not Negotiable**

5.3 This debenture is not a negotiable instrument and the rights created hereunder which are exercisable by any holder hereof other than the Trustee are no greater than the rights of the Trustee, and any holder hereof is subject to the same obligations, duties, liabilities and defences as the Trustee would have been subject to.

### **No Waiver, Remedies**

5.4 No failure on the part of the Beneficiaries or the Trustee to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude the other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

### **Notices**

5.5 Any demand, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery or by facsimile transmission or other electronic means of communication addressed to the Debtor as follows:

**COALSPUR MINES (OPERATIONS) LTD.**  
3825 PGA Boulevard, Suite 1101  
Palm Beach Gardens, FL 33410  
Attn: Michael J. Beyer

or to such other address or electronic communication number as the Debtor may from time to time notify the Trustee in writing. Any demand, notice or communication made or given by personal delivery or by facsimile transmission or other electronic means of communication shall be conclusively deemed to have been made or given on the day of actual delivery or transmittal thereof.

### **Additional Security**

5.6 This debenture and the Charge shall be and shall be deemed to have been given in addition to and not in place of any other security now or hereafter held or acquired by any Beneficiaries or for the benefit of any of the Beneficiaries.

### **Headings; References to Debenture**

5.7 The division of this debenture into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this debenture. The terms "this debenture", "hereof", "hereunder" and similar expressions refer to this debenture and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, reference herein to Articles and Sections are to Articles and Sections of this debenture.

### **Number; Gender; Persons**

5.8 In this debenture, words importing the singular number only shall include the plural and vice versa, words importing any gender shall include all genders and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

### **Governing Law**

5.9 This debenture shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

### **Attornment**

5.10 The Debtor hereby attorns and submits to the non-exclusive jurisdiction of the courts of the Province of Alberta. For the purpose of all legal proceedings, this debenture shall be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta shall have jurisdiction to entertain any action arising under this debenture. Notwithstanding the foregoing, nothing herein shall be construed nor operate to limit the right of the Debtor or the Beneficiaries to commence any action relating hereto in any other jurisdiction, nor to limit the right of the courts of any other jurisdiction to take jurisdiction over any action or matter relating hereto.

### **Benefit of the Debenture**

5.11 This debenture shall be binding upon the successors and permitted assigns of the Debtor (including, without limitation, any corporation resulting from an amalgamation with the Debtor) except that the Debtor may not assign its obligations under this debenture without the prior written consent of the Trustee (which consent may be withheld in its sole discretion). This debenture shall benefit the successors and permitted assigns of the Trustee and the Beneficiaries.

### **Time of the Essence**

5.12 Time shall be of the essence with regard to this debenture.

### **Discharge**

5.13 Except as expressly agreed in writing by the Beneficiaries, the Debtor shall not be discharged from the Charge, this debenture or any of its obligations hereunder except by a release or discharge in writing signed by the Trustee.

### **Waiver of Financing Statement, Etc.**

5.14 The Debtor hereby waives the right to receive from the Trustee or CTC a copy of any financing statement, financing change statement or other statement or document filed or registered at any time in respect of this debenture or any verification statement or other statement or document issued by any registry that confirms or evidences registration of or relates to this debenture.

### **No Merger**

5.15 No item or part of this debenture shall be merged or be deemed to have been merged in or by any documents, instruments or acknowledgements delivered in connection with this debenture or the credit agreement referred to herein, or any simple contract debt or any judgment, and any realization of or steps taken under or pursuant to any security, instrument or agreement shall be independent of and not create a merger with any other right available to the Beneficiaries under any security, instruments or agreements held by it or at law or in equity. No obligation of the Debtor hereunder shall merge in any judgment relating to any such obligation.

### **Severability**

5.16 If any provision of this debenture is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect. To the extent permitted by applicable law the Debtor hereby waives any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

### **Further Assurances**

5.17 The Debtor shall from time to time promptly upon the request of any Beneficiary, take such action, and execute and deliver such further documents, mortgages, charges, assignments, pledges,

amendments and other deeds and instruments as may be reasonably necessary or appropriate to fully give effect to the provisions and intent of this debenture this and to take all other steps necessary to maintain the validity, perfection and intended priority of this debenture.

**Paramountcy**

5.18 In the event of any conflict between the provisions hereunder and the provisions contained in the Debenture Pledge Agreement dated as of the date hereof between the Debtor and the Trustee (the "**Debenture Pledge**"), the terms of the Debenture Pledge shall govern to the extent necessary to resolve such conflict.

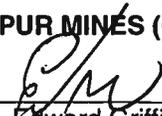
**Statutory Charging Provision**

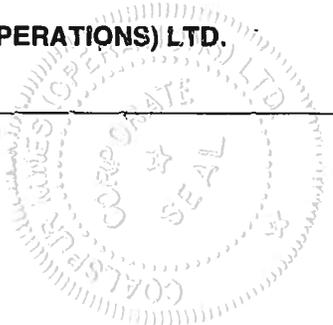
5.19 For the better securing to the Trustee the repayment in the manner aforesaid of the said principal and interest and all other monies payable hereunder and secured hereby, the Debtor hereby mortgages to the Trustee all of its estate and interest in the property described in Section 2.1 of this debenture.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF** the Debtor has executed this debenture.

**COALSPUR MINES (OPERATIONS) LTD.**

Per:   
Name: Edward Griffith  
Title: Director



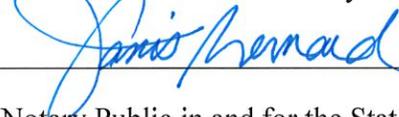
**Schedule A**

**Legal Description of the Lands Located in Alberta**

	<b>Municipal Address</b>	<b>Legal Land Description</b>
1	101 Berry Place Hinton, AB	Plan 1523074, Block 7, Lot 43 Excepting thereout all mines and minerals
2	105 Berry Place Hinton, AB	Plan 1722530, Block 7, Lot 44B Excepting thereout all mines and minerals
3	125 Muldoon Crescent Hinton, AB	Plan 0624527, Block 5, Lot 6 Excepting thereout all mines and minerals
4	221 Collinge Road Hinton, AB	Plan 8123005, Block 51, Lot 8 Excepting thereout all mines and minerals
5	107 Lupin Way, Hinton AB	Plan 0826212, Block 2, Lot 167 Excepting thereout all mines and minerals
6	118 Muldoon Cres Hinton, AB	Plan 0624527, Block 6, Lot 5 Excepting thereout all mines and minerals
7	162 Muldoon Cres Hinton, AB	Plan 0624527, Block 5, Lot 20 excepting thereout: a) plan 1322548 – subdivision 0.004 hectares (0.010 acres) more or less Excepting thereout all mines and minerals
8	102 Wolf Willow Cove Hinton, AB	Plan 0826212, Block 2, Lot 10 Excepting thereout all mines and minerals
10	145 Huisman Cres Hinton, AB	Plan 8922216, Block 10, Lot 183 Excepting thereout all mines and minerals

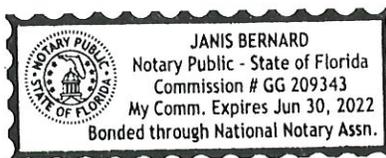
This is **Exhibit "N"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



**TRUST AGREEMENT**  
**(Alberta Debenture Documents)**

**THIS TRUST AGREEMENT** is made as of the 10<sup>th</sup> day of March, 2021,

**B E T W E E N:**

**Cline Trust Company LLC**  
(the "**CTC**")

- and -

**2330362 Alberta ULC**  
(the "**Trustee**" and collectively with CTC, the "**Beneficiaries**").

**RECITALS:**

(A) CTC is, pursuant to a floating charge demand debenture dated as of March 10, 2021, as amended, supplemented, restated or otherwise modified or replaced from time to time (as so amended, supplemented, restated or otherwise modified or replaced, the "**Debenture**") and a debenture pledge agreement dated as of March 10, 2021, as amended, supplemented, restated or otherwise modified or replaced from time to time (as so amended, supplemented, restated or otherwise modified or replaced, the "**Debenture Pledge Agreement**"), the beneficial owner of certain mortgages granted by Coalspur Mines (Operations) Ltd. (the "**Debtor**") in favour of the Trustee (the said Debenture, Debenture Pledge Agreement and related instruments as amended, supplemented, restated or otherwise modified or replaced from time to time, together with all benefits, powers and other advantages to be derived therefrom, all covenants and agreements in connection therewith and all money secured by and due and owing thereunder, hereinafter collectively the "**Security**").

(B) The Beneficiaries have agreed that the Trustee has and shall hold the Security, as trustee, for and on behalf of the Beneficiaries, on the terms set out herein.

**NOW THEREFORE** in consideration of the premises and the mutual covenants, conditions and agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto hereby agree as follows:

1. **Appointment.** CTC hereby appoints and empowers the Trustee to hold the Security and all right, title, interest, benefits and advantages in respect thereof or to be derived therefrom for and on behalf of the Beneficiaries. The Trustee hereby acknowledges and accepts the appointment contemplated in this Section 1.

2. **Trustee's Covenants.** The Trustee acknowledges, declares, covenants and agrees that:

- (a) the Trustee shall act continuously as trustee until it has retired or been removed in the manner provided for in this Agreement;
- (b) the Trustee shall hold the Security for and on behalf of CTC;
- (c) all attributes of the beneficial interest in the Security shall be and remain in CTC;
- (d) the Trustee will exercise all due diligence and vigilance in carrying out its functions and duties having regard to the extent of its obligations, powers and discretions;
- (e) the Trustee will attend to such matters related to the administration of the Security as requested to be done by CTC from time to time;
- (f) the Trustee will keep or cause to be kept proper accounts and records in relation to the Security if requested to do so by CTC;
- (g) upon the written direction of CTC, the Trustee shall forthwith execute and deliver to CTC or in accordance with CTC's written directions, all transfers, assignments, agreements, discharges, notices, consents, easements, priority agreements, non-disturbance agreements and other

instruments in such registrable or other form(s) as requested by CTC in respect of the Security;  
and

- (h) the Trustee agrees to faithfully carry out and perform its duties hereunder and, on termination hereof to deliver over to CTC any documents connected therewith.

3. **Scope and Authority.** The Trustee covenants and agrees, that it shall at all times and from time to time deal with the Security only in accordance with the written instructions and directions of CTC and not otherwise; and that it will do no act relating to the Security without the express written authorization and direction of CTC.

4. **Limitation of Trustee's Liability and Responsibility.** The Trustee shall not be liable for any act or omission in the course of or connected with rendering services hereunder or for any loss to or diminution of the value of the Security including any resulting from acts or omissions of CTC, except that the Trustee shall be liable for its own breach of covenant, negligence, wilful misconduct or lack of good faith. Recourse for any liability of the Trustee arising out of its breach of covenant, negligence, wilful misconduct or lack of good faith shall be unlimited.

5. **Execution of Instruments.** The Trustee shall enter into, execute and deliver, all such documents instruments as CTC may from time to time request in connection with the Security. In addition, the Trustee hereby irrevocably nominates, constitutes and appoints CTC as its true and lawful attorney for property and otherwise, coupled with an interest, to enter into, execute and deliver any and all such transfers, assignments, agreements, discharges, notices, consents, easements, priority agreements, non-disturbance agreements and other instruments as CTC may from time to time require in connection with the Security, and the Trustee hereby authorizes CTC to execute, deliver and perform on the Trustee's behalf any and all documents, instruments, acts and things as the Trustee could otherwise perform in connection with the foregoing.

6. **No Entitlement to Monies.** The Trustee acknowledges, declares, covenants and agrees to and with CTC that all monies secured by and due and owing under the Security shall belong legally and beneficially to CTC. The Trustee shall promptly deliver to CTC or as CTC may direct any monies which the Trustee may receive and which relate in any way to the Security.

7. **Legal Actions.** The Trustee shall promptly transmit to CTC or as CTC may otherwise direct, copies of all notices, claims, demands or other communications which the Trustee may receive and which relate in any way to the Security. The Trustee, upon the request of CTC, shall be a nominal party to any action in response to or as a consequence of any such matter. Any such action, proceeding, negotiation or other response shall be conducted by CTC or by persons whom it authorizes with counsel selected by CTC, and the Trustee shall not, nor shall it be obligated to, take any such action itself, its only obligation being that of a nominal party thereto subject to the indemnity hereinafter provided.

8. **Expenses.** The Beneficiaries acknowledge, declare, covenant and agree to and with the Trustee that: (a) CTC shall be, responsible for all encumbrances, charges, costs, expenses, losses, damages, claims, demands and liabilities in any way connected with or related to the Security (hereinafter collectively called the "**Expenses**") during the entire period of time that the Trustee holds the Security for CTC other than any that arise as a result of the Trustee's negligence, wilful misconduct or lack of good faith; and (b) that the Trustee has no active duties to perform in connection with the Security.

9. **Indemnity.** CTC hereby releases the Trustee from any and all liability that the Trustee may incur in respect of any action taken by the Trustee either pursuant to the terms of this Agreement or pursuant to the authorization or direction of CTC other than any that arise as a result of the Trustee's negligence, wilful misconduct or lack of good faith. CTC shall indemnify and hold the Trustee harmless from all claims, charges, encumbrances, obligations, responsibilities, acts, omissions or liabilities of whatsoever kind and character that may arise out of any act or omission by the Trustee pursuant to the terms of this Agreement or any such authorization or direction and from the Expenses, obligations and responsibilities during the entire period of time that the Trustee holds bare legal title to the Security for CTC other than any that arise as a result of the Trustee's negligence, wilful misconduct or lack of good faith. CTC hereby agrees that the indemnity contained in this Section 9 shall survive the release or discharge of the Security and the expiry or other termination of this Agreement.

10. **Replacement of Trustee.** CTC may replace or terminate the Trustee from its position set out herein and by giving to the Trustee notice in writing. Such replacement or termination of the Trustee hereunder will not limit CTC's obligation to pay the Trustee the Expenses due and owing to the Trustee up to and including the effective date of such termination. In the event that the Trustee retires pursuant to Section 2(a) above, CTC is hereby authorized to appoint a replacement trustee in the case of such retirement. Any replacement trustee so appointed shall have all the powers of the original Trustee. Upon the written request of the successor trustee or of CTC, the Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor trustee, upon the trusts herein expressed, all the rights, powers and trusts of the Trustee so ceasing to act, in its capacity as a Trustee and as a Beneficiary (including, without limitation, assignments of each of the Debenture and the Debenture Pledge Agreement and registrable assignments of the instruments and security that comprise the Security). Should any deed, conveyance or instrument in writing from CTC be required by any new Trustee for more fully and effectively vesting in and confirming to it such securities, estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new Trustee be made, executed, acknowledged and delivered by CTC.

11. **No Partnership.** The Beneficiaries and the Trustee acknowledge and agree that the relationship between them shall be that of principal and bare nominee and trustee only, that there is no intention to create a relationship of partnership between the Beneficiaries and the Trustee, and that this Agreement should not be construed to create any trust or any association or joint venture between the Beneficiaries and the Trustee.

12. **Notice.** Any notice required or permitted to be given hereunder to a party hereto shall be in writing and shall be given by personal delivery or by facsimile transmission or other electronic means of communication to the applicable address set forth below:

(a) If to the Trustee, to:

**2330362 ALBERTA ULC**  
400 3rd Avenue SW, Suite 3700  
Calgary, AB T2P 4H2  
Attention: Timothy Elliot

(b) If to CTC, to:

**CLINE TRUST COMPANY LLC**  
3825 PGA Boulevard, Suite 1101  
Palm Beach Gardens, FL 33410  
Attention: Lesslie Ray

Any notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the date of delivery. Any notice, if sent by facsimile transmission or other electronic communication, shall be deemed to have been validly and effectively given and received on the date of transmission. Any party may, at any time and from time to time, change its address for delivery or communication for the purposes of this Section 12 by giving the other parties notice of such change.

13. **Termination of Agreement.** CTC may terminate this Agreement immediately on notice to the Trustee, provided that, notwithstanding the foregoing, the Trustee shall not be relieved of its obligations and shall continue to perform its duties hereunder until a new trustee acceptable to CTC has been appointed.

14. **Enforcement of Security.** The Trustee, upon the request of CTC in connection with any enforcement of the Security by CTC, shall hold bare legal title to the lands and premises that are charged under the Security for and on behalf of CTC as trustee under the Debenture in accordance with the terms of this Agreement, *mutatis mutandis*. The Trustee hereby acknowledges and accepts such appointment.

15. **Discharge of Security.** Upon the release and discharge of any portion of the Security, the Trustee shall have no further obligations under this Agreement with respect to that portion of the Security so released and discharged.

16. **Severance of Illegal or Invalid Provision.** If any one or more of the provisions or parts thereof contained in this Agreement should be or become invalid, illegal or unenforceable in any respect in any jurisdiction, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and: (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed; and (b) the invalidity, illegality or unenforceability of any provision or any part thereof contained in this Agreement in any jurisdiction shall not affect or impair such provision or part thereof or any other provisions of this Agreement in any other jurisdiction.

17. **Fees.** CTC hereby agrees to pay to the Trustee and annual fee of Cdn. \$10,000, which fee shall be due and payable on the date hereof and on each anniversary of the date of this Agreement.

18. **Further Assurances.** The Trustee hereby covenants and agrees that it will at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, mortgages, transfers, assignments and assurances as CTC may reasonably require for the better accomplishing and effecting the of purpose of this Agreement.

19. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the province of Alberta and the laws of Canada applicable therein.

20. **Headings.** The headings contained herein are for convenience of reference only and shall in no way affect the interpretation of this Agreement.

21. **Amendment of Agreement.** No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Trustee and each Beneficiary.

22. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute a single agreement. Further, this Agreement may be signed or executed electronically and such signing or execution shall have the same effect as the signing or execution of the original.

23. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all other agreements, documents, writings and verbal understandings among the parties relating to the subject matter hereof.

24. **Successors and Assigns.** This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

**2330362 ALBERTA ULC, AS TRUSTEE**

Per: Timothy Elliot  
Name: Timothy Elliot  
Title: Director

*I Have Authority to Bind the Corporation.*

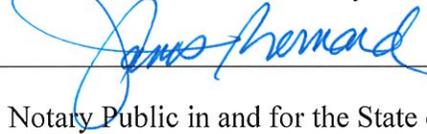
**CLINE TRUST COMPANY LLC**

Per: Timothy Elliot  
Name: Timothy Elliot  
Title:

*I Have Authority to Bind the Corporation.*

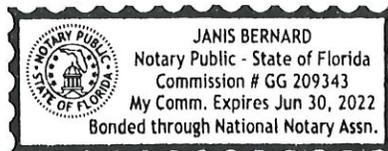
This is **Exhibit "O"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



**THIS DEBENTURE PLEDGE AGREEMENT made as of March 10, 2021;**  
**(Coalspur Mines (Operations) Ltd.)**

**Description of Floating Charge Demand Debenture**

Principal Sum: 500,000,000 U.S. Dollars

Interest Rate: 20.0% per annum

Date: March 10, 2021

**WHEREAS:**

A. Cline Trust Company LLC ("**CTC**") and Coalspur Mines (Operations) Ltd. (the "**Debtor**") have entered into a credit agreement made as of March 31, 2019 (as may be further amended, modified, supplemented or restated from time to time, the "**Credit Agreement**");

B. CTC and 2330362 Alberta ULC (the "**Trustee**") have entered into a trust agreement made as of March 10, 2021, as may be further amended, modified, supplemented or restated from time to time, the "**Trust Agreement**");

C. In order to secure the payment and performance of all present and future Obligations (as hereinafter defined) of the Debtor to the Trustee and CTC (together with the Trustee, the "**Beneficiaries**"), the Debtor has created and issued to the Trustee, for the benefit of CTC, a floating charge demand debenture as described above (as the same may hereafter be further amended, modified, supplemented and restated from time to time, the "**Debenture**");

D. The purpose of this Debenture Pledge Agreement is to set forth the terms and conditions upon which the Debenture is to be held by the Trustee;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged by the Debtor, the Debtor hereby agrees and covenants with the Trustee as follows:

1. The Debtor hereby grants a security interest in and deposits with and pledges to the Trustee the Debenture to be held by the Trustee, for the benefit of CTC, as general and continuing collateral security for the payment or performance of all indebtedness, liabilities and obligations (present or future, absolute or contingent, matured or not) (collectively, the "**Obligations**") of the Debtor to the CTC, pursuant or relating to the Credit Agreement and the other Loan Documents (collectively, the "**Documents**").
2. The Trustee shall neither demand payment pursuant to the Debenture nor enforce the security constituted thereby unless an Event of Default has occurred and is continuing, but thereafter the Trustee may at any time from time to time at the direction of CTC, exercise and enforce all of the rights and remedies of a holder of the Debenture as if the Trustee was the absolute owner thereof without notice to or control by the Debtor, and any such remedy may be exercised separately or in combination with, and shall be in addition to and not in substitution for, any other right or remedy of the Beneficiaries however created, provided that the Trustee shall not be bound to exercise any such right or remedy.
3. Subject to the requirements of the laws of the Province of Alberta and the federal laws of Canada applicable therein (the "**Applicable Law**"), the Trustee shall not be bound under any circumstances to realize upon or under the Debenture and shall not be responsible to the Debtor for any loss occasioned by any sale or other dealing with the Debenture or the Charged Premises (as defined in the Debenture) or by the retention of or failure to sell or otherwise deal with the same.

4. The proceeds of or any other amount received pursuant to the Debenture shall be applied by the Trustee, at the direction of CTC, on account of the Obligations in such order as the Trustee is directed by CTC without prejudice to the Beneficiaries' claim upon the Debtor for any deficiency. Subject to the requirements of Applicable Law and the Documents, any surplus realized by the Beneficiaries in excess of the Obligations shall be paid over to the Debtor.
5. Subject to paragraph 2 hereof, the Trustee shall not be obliged to exhaust its recourse against the Debtor, any other person or persons, or any other security it may hold with respect to the Obligations before realizing upon, under, or otherwise dealing with the Debenture in such manner as the Trustee sees fit. The Trustee and CTC may grant extensions of time or other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Debtor and with other parties, sureties or securities as they may see fit, without prejudice to the liability of the Debtor or the Trustee's rights in respect of the Debenture.
6. Notwithstanding the stated interest rate per annum in the Debenture, payment to CTC of the relevant interest due and payable under the Documents (other than the Debenture) for any period in respect of the Obligations at the rate provided for in the Term Loan Note (as defined in the Credit Agreement) for such period pursuant to the Documents (other than the Debenture) shall be deemed to be payment in satisfaction of the interest payment for the same period under the Debenture.
7. The Debenture shall not operate by way of merger of any of the Obligations and no judgment recovered by the Trustee or CTC shall operate by way of merger of or in any way affect the security of the Debenture which is in addition to and not in substitution for any other security now or hereafter held by the Trustee or CTC with respect to the Obligations.
8. Notwithstanding the form and terms of the Debenture and the provisions of this Debenture Pledge Agreement, the Trustee shall not claim or realize an amount under or in respect of the Debenture in excess of the aggregate Obligations (which shall exclude the stated nominal principal sum of the Debenture and interest payable thereon at the stated nominal rate under the Debenture), due and payable from time to time, of the Debtor to CTC.
9. Upon payment and satisfaction in full of the Obligations (which shall exclude the stated nominal principal sum of the Debenture and interest payable thereon at the stated nominal rate under the Debenture) or at such other time as may be provided by the Credit Agreement, the Trustee shall, at the request of the Debtor, as soon as reasonably practicable deliver up the Debenture to the Debtor and shall, at the request and expense of the Debtor, execute and deliver to the Debtor releases, discharges and such other instruments as shall be required to effectively discharge the Charge (as defined in the Debenture).
10. Time shall be of the essence with regard to this Debenture Pledge Agreement.
11. Capitalized terms used herein without express definition shall have the same meanings ascribed thereto as are set forth in the Debenture. For certainty, if the Debenture ceases to be in force for any reason whatsoever, then for all purposes hereof the aforementioned capitalized words and phrases shall continue to have the same defined meanings set forth in the Debenture as if such agreement remained in force in the form immediately prior to its ceasing to be in force.
12. This Debenture Pledge Agreement shall enure to the benefit of and be binding upon the Debtor and the Trustee and their respective successors and permitted assigns.
13. The parties hereto each hereby attorn and submit to the non-exclusive jurisdiction of the courts of the Province of Alberta. For the purpose of all legal proceedings, this Debenture Pledge Agreement shall be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta shall have jurisdiction to entertain any action arising under this Debenture Pledge Agreement. Notwithstanding the foregoing, nothing herein shall be construed nor operate to limit the right of either party hereto to commence any action relating hereto in any other jurisdiction, nor to limit the right of the courts of any other jurisdiction to take jurisdiction over any action or matter relating hereto.

14. This Debenture Pledge Agreement shall be governed by and construed in accordance with the laws in force in the Province of Alberta and the federal laws of Canada applicable therein.
15. The Debtor hereby waives the right to receive from the Trustee or CTC a copy of any financing statement, financing change statement or other statement or document filed or registered at any time in respect of this Debenture Pledge Agreement or any verification statement or other statement or document issued by any registry that confirms or evidences registration of or relates to this Debenture Pledge Agreement.
16. The Debtor may not assign its obligations under this Debenture Pledge Agreement without the prior written consent of the Beneficiaries (which consent may be withheld in their sole discretion).
17. The rights of the Trustee under this Debenture Pledge Agreement may be assigned with the consent of CTC.
18. If any provision of this Debenture Pledge Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect. To the extent permitted by Applicable Law, the parties hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.
19. This Debenture Pledge Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Debenture Pledge Agreement to produce or account for more than one such counterpart.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF** the Debtor has executed this Debenture Pledge Agreement as of the date first above written.

**COALSPUR MINES (OPERATIONS) LTD.**

Per:   
Name: Edward Griffith  
Title: Director

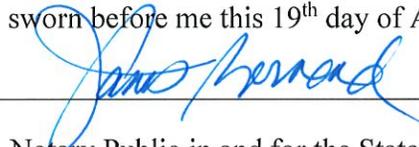
ACCEPTED AS OF THE DATE FIRST ABOVE  
WRITTEN BY:

2330362 ALBERTA ULC, AS TRUSTEE

Per: Timothy Elliot  
Name: Timothy Elliot  
Title: Director

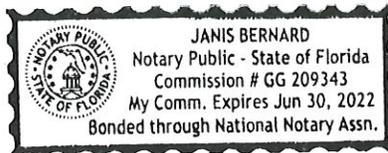
This is **Exhibit "P"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this “*Agreement*”) is entered into as of June 19, 2019 by and among Cutlass Collieries LLC, a Delaware limited liability company (“*Grantor*”), Coalspur Mines (Operations) Ltd., a corporation incorporated under the laws of Alberta, Canada (“*Borrower*”), and Cline Trust Company LLC, a Delaware limited liability company (“*Secured Party*”).

### PRELIMINARY STATEMENT

WHEREAS, Secured Party (as the Lender), Grantor (as the Guarantor) and Borrower have entered into a Credit Agreement dated March 31, 2019 (the “*Credit Agreement*”) under which the Lender will extend credit and other financial accommodations to the Borrower;

WHEREAS, it is a condition precedent to the obligation of the Lender to make extensions of credit to the Borrower under the Credit Agreement that the Grantor shall have executed and delivered this Agreement to the Secured Party and granted a security interest in the Collateral in favor of the Secured Party;

WHEREAS, the proceeds of the extensions of credit under the Credit Agreement will directly or indirectly benefit the Grantor in its capacity as the parent of the Borrower; and

NOW, THEREFORE, in consideration of the premises and to induce the Lender to enter into the Credit Agreement and to induce the Lender to make its respective extensions of credit to the Borrower thereunder and for other good and valuable consideration the receipt of which is hereby acknowledged, the Grantor hereby agrees, for the benefit of the Secured Party, as follows:

### ARTICLE I DEFINITIONS

#### 1.1 Definitions.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement, and the following terms defined in the PPSA which are not otherwise defined in this Agreement are used herein as defined in the PPSA, including, without limitation, “accounts”, “Chattel Paper”, “Consumer Goods”, “Documents of Title”, “financing statement”, “financing change statement”, “Instruments”, “Investment Property”, “Proceeds” and “Securities Account”. Terms defined in the STA which are not otherwise defined in this Agreement are used herein as defined in the STA, including, without limitation, “Certificated Security”, “Security” and “Uncertificated Security”.

(b) The following terms shall have the following meanings:

“*Agreement*” is defined in the Preamble.

“*Collateral*” is defined in Section 2.1.

“*Control*” means, with respect to a specified form of Investment Property, “control” as defined in Sections 23 through 26 of the STA, as applicable, to such form of Investment Property.

“*Excluded Payments*” is defined in Section 4.7(d)(iii).

“*Event of Default*” shall have the meaning as set forth in the Credit Agreement.

“*Intangibles*” means all “intangibles” as such term is defined in Section 1(1) of the PPSA relating thereto and, in any event, including, without limitation, with respect to the Grantor, all contracts, agreements, instruments and indentures in any form relating thereto, and portions thereof, to which the Grantor is a party or under which the Grantor has any right, title or interest or to which the Grantor or any property of the Grantor is subject, as the same may from time to time be amended, supplemented or otherwise modified, including, without limitation, (i) all rights of the Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (ii) all rights of the Grantor to damages arising thereunder and (iii) all rights of the Grantor to perform and to exercise all remedies thereunder.

“*Pledged Equity*” means the Equity Interests owned by the Grantor, whether or not evidenced by certificates physically delivered to the Secured Party pursuant to this Agreement, as set forth on Schedule C hereto.

“*PPSA*” means the Personal Property Security Act (Alberta), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation, provided that, if perfection or the effect of perfection or non-perfection or the priority of any Lien created in the Collateral is governed by the personal property security legislation or other applicable legislation with respect to personal property security as in effect in a jurisdiction other than Alberta, “PPSA” means the Personal Property Security Act or other such applicable legislation as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection effect of perfection or non-perfection or priority.

“*Proceeds*” means (i) all “proceeds” defined in the PPSA and (ii) shall include, without limitation, whatever is receivable or received when the Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

“*Secured Obligations*” means the Obligations (as defined in the Credit Agreement) of the Borrower or the Grantor to the Secured Party pursuant to or in connection with the Loan Documents.

“*Securities*” means (i) “securities” as defined in the STA, or if no STA is in force in the applicable jurisdiction, the PPSA of such jurisdiction: and (ii) any stock, shares, partnership

interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

“**Securities Account Control Agreement**” means an agreement, in form and substance reasonably satisfactory to the Grantor, among the Grantor, a securities intermediary holding the Grantor’s assets constituting Collateral, including funds and securities, and the Secured Party with respect to collection and control of all deposits, securities and other balances held in a Securities Account maintained by the Grantor with such securities intermediary.

“**Securities Rights**” means all dividends, instruments or other distributions and any other right or property which the Grantor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Equity Interest constituting Collateral, any right to receive any such Equity Interest and any right to receive earnings, in which the Grantor now has or hereafter acquires any right, issued by any other Loan Party.

“**STA**” means the Securities Transfer Act, 2006 (Alberta), such as legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation, provided that, to the extent that perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on Collateral is governed by the laws in effect in any province or territory of Canada other than Alberta in which there is in force legislation substantially the same as the Securities Transfer Act, 2006 (Alberta) (an “**Other STA Province**”), then “STA” shall mean such other legislation as in effect from time to time in such Other STA Province for purposes of the provisions hereof referring to or incorporating by reference provisions of the STA; and to the extent that such perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on the Collateral is governed by the laws of a jurisdiction that does not have in force legislation substantially the same as the Securities Transfer Act, 2006 (Alberta), then references herein to the STA shall be to the Securities Transfer Act, 2006 (Alberta).

“**ULC**” means an issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Issuer**” is defined in Section 4.8.

“**ULC Laws**” means the Companies Act (Nova Scotia), the Business Corporations Act (Alberta), the Business Corporations Act (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means Equity Interests consisting of shares in the capital stock of or other membership interests issued by a ULC.

1.2 Other Definitional Provisions. The words “hereof,” “herein”, “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section and Schedule references are to this Agreement unless otherwise specified. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## **ARTICLE II GRANT OF SECURITY INTEREST**

2.1 Grant of Security Interest. The Grantor hereby assigns and transfers to the Secured Party, and hereby grants to the Secured Party, a security interest in, all of the following property now owned or at any time hereafter acquired by the Grantor or in which the Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “*Collateral*”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations:

- (a) all Pledged Equity whether constituting Intangibles or Investment Property;
- (b) all books, records and documents pertaining to the Collateral;
- (c) to the extent not otherwise included, all Proceeds (including Securities Rights and Intangibles) of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing; and
- (d) to the extent not otherwise included, all accessions, additions or improvements to, all replacements, substitutions and parts for, and all proceeds of any of the foregoing.

2.2 Attachment; No Obligation to Advance. The Grantor confirms that value has been given by the Secured Party to the Grantor, that the Grantor has rights in the Collateral existing at the date of this Agreement (excluding such Collateral acquired after the date hereof) and that, except as set out in this Section 2.2, the Grantor and the Secured Party have not agreed to postpone the time for attachment of the security interests to any of the Collateral. The security interests shall have effect and be deemed to be effective whether or not the Secured Obligations or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Secured Party to the Grantor or any other Person shall oblige the Secured Party to make any financial accommodation or further financial accommodation available to the Grantor or any other Person.

## **ARTICLE III REPRESENTATIONS AND WARRANTIES**

To induce the Secured Party to enter into the Credit Agreement and to make additional extensions of credit to the Borrower under the Credit Agreement, the Grantor hereby represents and warrants to the Secured Party that:

3.1 Title; No Other Liens. Except for the security interest granted to the Secured Party, pursuant to this Agreement and the other Liens permitted to exist on the Collateral by the Credit Agreement, the Grantor owns each item of the Collateral free and clear of any and all Liens or claims of others. No financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as have been filed in favor of the Secured Party, pursuant to this Agreement or as are permitted by the Credit Agreement.

3.2 Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule A (which, in the case of all filings and other documents referred to on said Schedule, have been registered in accordance with the PPSA will constitute valid perfected security interests in all of the Collateral in which a security interest can be perfected by the filing of a financing statement and/or the other filings and actions specified on Schedule A in favor of the Secured Party as collateral security for the Secured Obligations, enforceable in accordance with the terms hereof against all creditors of the Grantor and any Persons purporting to purchase any Collateral from the Grantor and (b) are prior to all other Liens on the Collateral in existence on the date hereof.

3.3 Chief Executive Office; Locations of Collateral. On the date hereof, the Grantor's jurisdiction of organization, and the location of the Grantor's chief executive office or sole place of business are specified on Schedule B.

3.4 Pledged Equity.

(a) Schedule C sets forth a complete and accurate list of all Pledged Equity that constitute Collateral owned by the Grantor as of the date of this Agreement. The Grantor is the direct, sole beneficial owner and sole holder of record of the Pledged Equity listed on Schedule C as being owned by it, free and clear of any Liens except for Liens permitted under Section 3.1. The Grantor further represents and warrants that (i) all Pledged Equity owned by it is duly authorized and validly issued and, if such Pledged Equity is a share in a corporation, is fully paid and non-assessable, (ii) with respect to any certificates delivered to the Secured Party representing Pledged Equity, either such certificates are Securities as defined in the STA as a result of actions by the applicable issuer or otherwise, or, if such certificates are not Securities, the Grantor has so informed the Secured Party so that the Secured Party may take steps to perfect its security interest therein as an Intangible, and (iii) all such Pledged Equity held by a securities intermediary is covered by a Securities Account Control Agreement.

(b) In addition, (i) none of the Pledged Equity owned by the Grantor have been issued or transferred in violation of the securities registration, securities disclosure or similar laws of any jurisdiction to which such issuance or transfer may be subject, (ii) Except as previously disclosed in writing to the Secured Party, no options, warrants, calls or commitments of any character whatsoever (x) exist relating to such Pledged Equity Interests or (y) obligate the issuer of any Pledged Equity to issue additional Equity Interests, and (iii) except for any that have been obtained, as of the date hereof, no consent, approval, authorization, or other action by, and no giving of notice, filing with, any governmental authority or any other Person is required for the

pledge by the Grantor of such Pledged Equity pursuant to this Agreement or for the execution, delivery and performance of this Agreement by the Grantor, or for the exercise by the Secured Party of the voting or other rights provided for in this Agreement or for the remedies in respect of the Pledged Equity pursuant to this Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally.

#### **ARTICLE IV COVENANTS**

The Grantor covenants and agrees with the Secured Party that, from and after the date of this Agreement until the Secured Obligations shall have been paid in full in cash and the Commitments shall have terminated:

4.1 Delivery of Certificated Securities. The Grantor will (a) deliver to the Secured Party, immediately upon the date of this Agreement, the originals of all Certificated Securities of Pledged Equity constituting Collateral owned by it on the date of this Agreement (if any then exist) and (b) following the date of this Agreement, promptly upon receipt thereof, deliver to the Secured Party any Certificated Securities of Pledged Equity constituting Collateral. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Certificated Security, such Certificated Security shall be promptly delivered to the Secured Party, accompanied by a duly executed stock power of attorney and other materials as may be required from time to time to provide the Secured Party with control over all Certificated Securities in the manner provided under section 23 of the STA, to be held as Collateral pursuant to this Agreement.

4.2 Maintenance of Perfected Security Interest; Further Documentation.

(a) The Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in Section 3.2 and shall defend such security interest against the claims and demands of all Persons whomsoever.

(b) The Grantor will furnish to the Secured Party from time to time statements and schedules further identifying and describing the assets and property of the Grantor and such other reports in connection therewith relating to Collateral as the Secured Party may reasonably request, all in reasonable detail.

(c) At any time and from time to time, upon the written request of the Secured Party, and at the sole expense of the Grantor, the Grantor will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Secured Party may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) filing any financing or financing change statements under the PPSA (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and (ii) in the case of any other relevant Collateral, taking any actions necessary to enable the Secured Party to obtain “control” (within the meaning of the STA), if necessary for perfection, with respect thereto.

4.3 Changes in Locations, Name, etc. Grantor will not, except upon 30 days' prior written notice to the Secured Party and delivery to the Secured Party of (a) all additional financing statements and financing change statements and other documents reasonably requested by the Secured Party to maintain the validity, perfection and priority of the security interests provided for herein and (b) if applicable, a written supplement to Schedule B showing any additional location at which Collateral shall be kept: (i) change its jurisdiction of organization or the location of its chief executive office or sole place of business from that referred to in Section 3.3; or (ii) change its name, identity or corporate structure to such an extent that any financing statement and financing change statement filed by the Secured Party in connection with this Agreement would become misleading.

4.4 Notices. The Grantor will advise the Secured Party promptly, in reasonable detail, of any Lien (other than Liens created hereby or Liens permitted under the Credit Agreement) on any of the Collateral which would adversely affect the ability of the Secured Party to exercise any of its remedies hereunder; and of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the Liens created hereby.

4.5 Compliance with Credit Agreement. The Grantor shall comply with all of the covenants and other provisions of the Credit Agreement which apply to it by their terms.

4.6 Uncertificated Pledged Equity. The Grantor will permit the Secured Party from time to time to cause the applicable Loan Party as issuer (and, if held with a securities intermediary, such securities intermediary) of Uncertificated Securities or other types of Pledged Equity not represented by certificates owned by it to mark their books and records with respect thereto to reflect the Lien of the Secured Party granted pursuant to this Agreement. With respect to any Uncertificated Securities owned by it, the Grantor will, upon request by the Secured Party, cause (a) each applicable Loan Party, and (b) any securities intermediary which is the holder of any such Uncertificated Securities, to cause the Secured Party to have and retain Control over such Uncertificated Securities in the manner provided under section 24 of the STA. Without limiting the foregoing, the Grantor will, with respect to any such Pledged Equity held with a securities intermediary, cause such securities intermediary to enter into a Securities Account Control Agreement.

4.7 Pledged Equity.

(a) Changes in Capital Structure of Issuers. The Grantor will not, without prior written consent of the Secured Party (i) permit or suffer any issuer of an Equity Interest constituting Pledged Equity owned by it to dissolve, amalgamate, liquidate, retire any of its Equity Interests or other Securities evidencing ownership, reduce its capital, sell or encumber all or substantially all of its assets (except for Liens or sales of assets permitted under the Credit Agreement) or merge or consolidate with any other entity (except as permitted pursuant to the Credit Agreement), or (ii) vote any such Pledged Equity in favor of any of the foregoing.

(b) Issuance of Additional Securities. The Grantor will not, without prior written consent of the Secured Party, permit or suffer any issuer of an Equity Interest constituting Pledged Equity owned by it to issue additional Equity Interests, any right to receive the same or any right to receive earnings, except to the Grantor.

(c) Registration of Pledged Equity. After an Event of Default has occurred and is continuing, the Grantor will permit any registerable Pledged Equity owned by it to be registered in the name of the Secured Party or its nominee at any time at the option of the Secured Party.

(d) Exercise of Rights in Pledged Equity. (i) Subject to clause (ii) below, the Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Equity owned by it for all purposes not inconsistent with this Agreement, the Credit Agreement or any other Loan Document; provided however, that no vote or other right shall be exercised or action taken which would have the effect of impairing the rights of the Secured Party in respect of such Pledged Equity.

(ii) The Grantor will permit the Secured Party or its nominee at any time during the continuance of an Event of Default to exercise all voting rights or other rights relating to the Pledged Equity owned by it, including, without limitation, exchange, subscription or any other rights, privileges, or options pertaining to any Equity Interest or Investment Property constituting such Pledged Equity as if it were the absolute owner thereof.

(iii) The Grantor shall be entitled to collect and receive for its own use all cash dividends and interest paid in respect of the Pledged Equity owned by it to the extent not in violation of the Credit Agreement; provided that, the following distributions and payments (collectively referred to as the “*Excluded Payments*”) shall be delivered to the Secured Party as and to the extent required in the following subsection (iv): (A) dividends and interest paid or payable other than in cash in respect of such Pledged Equity, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any such Pledged Equity; (B) dividends and other distributions paid or payable in cash in respect of such Pledged Equity in connection with a partial or total liquidation or dissolution of any applicable Loan Party (if such liquidation or dissolution is permitted by the Credit Agreement or is otherwise consented to in writing by the Secured Party); and (C) cash paid, payable or otherwise distributed, in respect of principal of, or in redemption of, or in exchange for, such Pledged Equity; provided however, that until actually paid, all rights to such distributions shall remain subject to the Lien created by this Agreement; and

(iv) All Excluded Payments, whenever paid or made, shall be delivered to the Secured Party to hold as Pledged Equity and shall, if received by the Grantor, be received in trust for the benefit of the Secured Party, be segregated from the other property or funds of the Grantor, and be forthwith delivered to the Secured Party as Pledged Equity in the same form as so received (with any necessary endorsement or accompanied by a duly executed stock power of attorney and other materials as may be required from time to time to provide the Secured Party with control over all Certificated Securities in the manner provided under section 23 of the STA).

(e) Securities. The Grantor shall not permit any Equity Interest which is included within the Collateral at any time to constitute a Security or permit the issuer of any such Equity Interest to take any action to have such interests treated as a Security unless (i) all certificates or other documents constituting such Security have (subject to the terms hereof) been delivered to the Secured Party and such Security is properly defined as such in the STA, whether as a result of actions by the issuer thereof or otherwise, or (ii) the Secured Party has entered into a Securities Account Control Agreement with the issuer of such Security or with a securities intermediary relating to such Security.

4.8 ULC Shares. The Grantor acknowledges that certain of the Collateral may now or in the future consist of ULC Shares, and that it is the intention of the Secured Party and the Grantor that Secured Party should not, under any circumstances prior to realization thereon, be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the Credit Agreement or any other Loan Document, where the Grantor is the registered owner of ULC Shares which are Collateral, the Grantor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Secured Party or any other Person on the books and records of the applicable ULC. Accordingly, the Grantor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of pledged Certificated Securities, which shall be delivered to the Secured Party in accordance with the terms hereof) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as the Grantor would if such ULC Shares were not pledged to the Secured Party pursuant hereto. Nothing in this Agreement, the Credit Agreement or any other Loan Document is intended to, and nothing in this Agreement, the Credit Agreement or any other Loan Document shall, constitute the Secured Party, or any other Person other than the Grantor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to the Grantor and further steps are taken pursuant hereto or thereto so as to register the Secured Party, or such other Person as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Secured Party as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed from this Agreement and shall be ineffective with respect to ULC Shares which are Collateral without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral which is not ULC Shares. Except upon the exercise of rights of the Secured Party to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, the Grantor shall not cause or permit, or enable an issuer of ULC shares (a “*ULC Issuer*”) that is a ULC to cause or permit, the Secured Party to: (a) be registered as a shareholder or member of such ULC Issuer; (b) have any notation entered in their favor in the share register of such ULC Issuer; (c) be held out as shareholders or members of such ULC Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such ULC Issuer by reason of the Secured Party holding the security interests over the ULC Shares; or (e) act as a shareholder of such ULC Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such ULC Issuer or to vote its ULC Shares.

## **ARTICLE V REMEDIAL PROVISIONS**

5.1 Application of Proceeds. After an Event of Default has occurred and is continuing, at any time at the Secured Party's election, the Secured Party may apply all or any part of Proceeds held in any collateral account in payment of the Secured Obligations in accordance with the terms of the Credit Agreement, and any part of such funds which the Secured Party elects not to so apply and deems not required as collateral security for the Secured Obligations shall be paid over from time to time by the Secured Party to the Grantor or to whomsoever may be lawfully entitled to receive the same. Any balance of such Proceeds remaining after the Secured Obligations shall have been paid in full and the Commitments shall have terminated shall be turned over to whomsoever may be lawfully entitled to receive the same.

5.2 PPSA and Other Remedies. After an Event of Default has occurred and is continuing, the Secured Party may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Secured Obligations, all rights and remedies of a secured party under the PPSA or any other applicable law. Without limiting the generality of the foregoing, after an Event of Default has occurred and is continuing, the Secured Party, without further demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below), to or upon the Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith (i) collect, receive, appropriate and realize upon the Collateral, or any part thereof, (ii) give notice of sole control or any other instruction under any Securities Account Control Agreement and take any action therein with respect to such Collateral, (iii) concurrently with written notice to the Grantor, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Equity, exchange certificates or instruments representing or evidencing Pledged Equity for certificates or instruments of smaller or larger denominations, exercise the voting and all other rights as a holder with respect thereto, collect and receive all cash dividends and other distributions made thereon and to otherwise act with respect to the Pledged Equity as though the Secured Party was the outright owner thereof, (iv) sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in the Grantor, which right or equity is hereby waived and released. The Grantor further agrees, at the Secured Party's request after an Event of Default has occurred and is continuing, to assemble the Collateral and make it available to the Secured Party at places which the Secured Party shall reasonably select, whether at the Grantor's premises or elsewhere and/or (v) appoint by instrument in writing one or more receivers of the Grantor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Secured Party under this Agreement) as may be

provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such receiver from time to time. To the extent permitted by applicable law, any receiver appointed by the Secured Party shall (for purposes relating to responsibility for the receiver's acts or omissions) be considered to be the agent of the Grantor and not of the Secured Party. The Secured Party shall apply the net proceeds of any action taken by it pursuant to this Section 5.3, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Secured Obligations, in accordance with the terms of the Credit Agreement, and only after such application and after the payment by the Secured Party of any other amount required by any provision of law, need the Secured Party account for the surplus, if any, to the Grantor. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

5.3 Deficiency. The Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay the Secured Obligations and the reasonable fees and disbursements of any attorneys employed by the Secured Party to collect such deficiency.

## **ARTICLE VI MISCELLANEOUS**

6.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with the Credit Agreement.

6.2 Notices. All notices, requests and demands to or upon the Grantor or the Secured Party hereunder shall be effected in the manner provided for in the Credit Agreement.

6.3 No Waiver by Course of Conduct; Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to Section 6.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

6.4 Enforcement Expenses; Indemnification.

(a) The Grantor agrees to pay or reimburse the Secured Party for all its costs and expenses incurred reasonably in enforcing or preserving any rights under this Agreement and the other Loan Documents to which the Grantor is a party, including, without limitation, the reasonable fees and disbursements of counsel to the Secured Party.

(b) The Grantor agrees to pay, and to save the Secured Party harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) The Grantor agrees to pay, indemnify, and hold the Secured Party and its officers, directors, employees, affiliates, agents and controlling persons (each, an “*Indemnitee*”) harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the Secured Obligations and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by such Indemnitee (all the foregoing, collectively, the “*Indemnified Liabilities*”), provided, that the Grantor shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(d) The agreements in this Section 6.4 shall survive repayment of the Secured Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents.

6.5 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Grantor and shall enure to the benefit of the Secured Party and its successors and assigns; provided that the Grantor may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Secured Party.

6.6 Set-Off. The Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time after the occurrence and during the continuance of any Event of Default without notice to the Grantor, any such notice being expressly waived by the Grantor, to set-off and hold as collateral security in any collateral account or otherwise as cash collateral for the Secured Obligations to be applied to the Secured Obligations when due, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by the Secured Party to or for the credit or the account of the Grantor, or any part thereof in such amounts as the Secured Party may elect, against and on account of the obligations and liabilities of the Grantor to the Secured Party hereunder and claims of every nature and description of the Secured Party against the Grantor, in any currency, whether arising hereunder or under any other Loan Document or otherwise, as the Secured Party may elect, whether or not the Secured Party has made any demand for payment, whether or not any of the Secured Obligations are otherwise fully secured

and although such obligations, liabilities and claims may be contingent or unmatured. The Secured Party shall notify the Grantor promptly of any such set-off and the application made by the Secured Party of the proceeds thereof; provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Secured Party under this Section 6.6 are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Secured Party may have.

6.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

6.8 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

6.9 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

6.10 Integration. This Agreement and the other Loan Documents represent the agreement of the Grantor and the Secured Party with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Secured Party relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

6.11 **GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE PROVINCE OF ALBERTA AND THE FEDERAL LAWS OF CANADA APPLICABLE THERIN.**

6.12 Submission to Jurisdiction; Waivers. The Grantor hereby irrevocably and unconditionally: (a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of any court of the Province of Alberta, and appellate courts from any thereof; (b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same; (c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Grantor at its address referred to in Section 6.2 or at such other address of which the Secured Party shall have been notified pursuant thereto; (d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall

limit the right to sue in any other jurisdiction; and (e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

6.13 Acknowledgments. The Grantor hereby acknowledges that: (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party; (b) the Secured Party does not have any fiduciary relationship with or duty to the Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantor, on the one hand, and the Secured Party, on the other hand, in connection herewith or therewith is solely that of borrower and/or guarantor and lender; and (c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby between the Grantor and the Secured Party.

6.14 **WAIVER OF JURY TRIAL. THE GRANTOR AND THE SECURED PARTY, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM RELATING THERETO.**

## **ARTICLE VII CONSENT TO PLEDGED EQUITY**

7.1 The Borrower, in its capacity as the issuer of certain Pledged Equity hereby (a) consents to the grant by the Grantor to the Secured Party of a security interest in and lien on all of the Pledged Equity with the Borrower as the issuer, (b) represents to the Secured Party that it has no rights of setoff or other claims against any such Pledged Equity, (c) acknowledges and agrees that it shall, upon demand by the Secured Party, pay to the Secured Party any dividends and distributions due to the Grantor in accordance with the terms hereof, and (d) consents to the transfer of such Pledged Equity to the Secured Party or its nominee following an Event of Default and to the substitution of the Secured Party or its nominee as a partner in any partnership or as a member in any limited liability company, as applicable, with all the rights and powers related thereto.

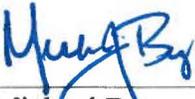
[Signature Page to Follow]

[Signature Page to Pledge Agreement (CMO Stock)]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GRANTOR:

CUTLASS COLLIERIES LLC

By:   
Name: Michael Beyer  
Title: CEO

SECURED PARTY:

CLINE TRUST COMPANY LLC

By:   
Name: Lesslie Ray  
Title: Manager

BORROWER:

COALSPUR MINES (OPERATIONS) LTD.

By:   
Name: Edward Griffith  
Title: Director

SCHEDULE A

Filings and Other Actions Required to Perfect Security Interests

**Name of Grantor**

**Filing Office**

Cutlass Collieries LLC

Alberta

SCHEDULE B

Location of Jurisdiction of Organization and Chief Executive Office

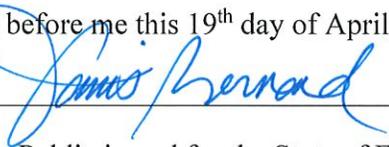
<u>Name of Grantor</u>	<u>Jurisdiction of Organization</u>	<u>Chief Executive Office</u>
Cutlass Collieres LLC	Delaware	3801 PGA Boulevard Suite 903 Palm Beach Gardens FL 33410

SCHEDULE C  
Pledged Equity

ISSUER	TYPE OF ORGANIZATION OF ISSUER	TYPE OF SHARES	NUMBER OF SHARES OWNED	NUMBE OF SHARES PLEDGED	PERCENTAGE OF SHARES PLEDGED
Coalspur Mines (Operations) Ltd.	Corporation	Common Shares	100	65	65%
Coalspur Mines (Operations) Ltd.	Corporation	Class A Preferred Shares	195,189,229	195,189,229	100%
Coalspur Mines (Operations) Ltd.	Corporation	Class B Preferred Shares	37,752,173	37,752,173	100%
Coalspur Mines (Operations) Ltd.	Corporation	Class C Preferred Shares	100,000,000	100,000,000	100%

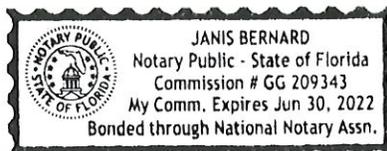
This is **Exhibit "Q"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this “*Agreement*”) is entered into as of June 19, 2019 by and among KC Euroholdings S.A.R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (“*Grantor*”), Coalspur Mines (Operations) Ltd., a corporation incorporated under the laws of Alberta, Canada (“*Borrower*”), Kameron Collieries Limited, a Nova Scotia limited company (“*KCL*”), and Cline Trust Company LLC, a Delaware limited liability company (“*Secured Party*”).

### PRELIMINARY STATEMENT

WHEREAS, Secured Party (as the Lender), Cutlass Collieries LLC (as the Guarantor) and Borrower have entered into a Credit Agreement dated March 31, 2019 (the “*Credit Agreement*”) under which the Lender will extend credit and other financial accommodations to the Borrower;

WHEREAS, it is a condition precedent to the obligation of the Lender to make extensions of credit to the Borrower under the Credit Agreement that the Grantor shall have executed and delivered this Agreement to the Secured Party and granted a security interest in favor of the Secured Party;

WHEREAS, the proceeds of the extensions of credit under the Credit Agreement will directly or indirectly benefit the Grantor in its capacity as affiliate of the Borrower and subsidiary of a common indirect parent (Cutlass Collieries LLC) with the Borrower; and

NOW, THEREFORE, in consideration of the premises and to induce the Lender to enter into the Credit Agreement and to induce the Lender to make its respective extensions of credit to the Borrower thereunder and for other good and valuable consideration the receipt of which is hereby acknowledged, the Grantor hereby agrees, for the ratable benefit of the Secured Party, as follows:

### ARTICLE I DEFINITIONS

#### 1.1 Definitions.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement, and the following terms defined in the PPSA which are not otherwise defined in this Agreement are used herein as defined in the PPSA, including, without limitation, “accounts”, “Chattel Paper”, “Consumer Goods”, “Documents of Title”, “financing statement”, “financing change statement”, “Instruments”, “Investment Property”, “Proceeds” and “Securities Account”. Terms defined in the STA which are not otherwise defined in this Agreement are used herein as defined in the STA, including, without limitation, “Certificated Security”, “Security” and “Uncertificated Security”.

(b) The following terms shall have the following meanings:

“**Agreement**” is defined in the Preamble.

“**Collateral**” is defined in Section 2.1.

“**Control**” means, with respect to a specified form of Investment Property, “control” as defined in Sections 23 through 26 of the STA, as applicable, to such form of Investment Property.

“**Excluded Payments**” is defined in Section 4.7(d)(iii).

“**Event of Default**” shall have the meaning as set forth in the Credit Agreement.

“**Intangibles**” means all “intangibles” as such term is defined in Section 1(1) of the PPSA relating thereto and, in any event, including, without limitation, with respect to the Grantor, all contracts, agreements, instruments and indentures in any form relating thereto, and portions thereof, to which the Grantor is a party or under which the Grantor has any right, title or interest or to which the Grantor or any property of the Grantor is subject, as the same may from time to time be amended, supplemented or otherwise modified, including, without limitation, (i) all rights of the Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (ii) all rights of the Grantor to damages arising thereunder and (iii) all rights of the Grantor to perform and to exercise all remedies thereunder.

“**Pledged Equity**” means the Equity Interests owned by the Grantor, whether or not evidenced by certificates physically delivered to the Secured Party pursuant to this Agreement, as set forth on Schedule C hereto.

“**PPSA**” means the Personal Property Security Act (Nova Scotia), including the regulations thereto, provided that, if perfection or the effect of perfection or non-perfection or the priority of any Lien created in the Collateral is governed by the personal property security legislation or other applicable legislation with respect to personal property security as in effect in a jurisdiction other than Nova Scotia, “PPSA” means the Personal Property Security Act or other such applicable legislation as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection effect of perfection or non-perfection or priority.

“**Proceeds**” means (i) all “proceeds” defined in the PPSA and (ii) shall include, without limitation, whatever is receivable or received when the Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

“**Secured Obligations**” means the Obligations of the Borrower under and as defined in the Credit Agreement.

“**Securities**” means (i) “securities” as defined in the STA, or if no STA is in force in the applicable jurisdiction, the PPSA of such jurisdiction; and (ii) any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

“**Securities Account Control Agreement**” means an agreement, in form and substance reasonably satisfactory to the Grantor, among the Grantor, a securities intermediary holding the Grantor’s assets constituting Collateral, including funds and securities, and the Secured Party with respect to collection and control of all deposits, securities and other balances held in a Securities Account maintained by the Grantor with such securities intermediary.

“**Securities Rights**” means all dividends, instruments or other distributions and any other right or property which the Grantor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Equity Interest constituting Collateral, any right to receive any such Equity Interest and any right to receive earnings, in which the Grantor now has or hereafter acquires any right, issued by any other Person.

“**STA**” means the Securities Transfer Act, 2010 (Nova Scotia), including the regulations thereto, provided that, to the extent that perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on Collateral is governed by the laws in effect in any province or territory of Canada other than Nova Scotia in which there is in force legislation substantially the same as the Securities Transfer Act, 2010 (Nova Scotia) (an “**Other STA Province**”), then “STA” shall mean such other legislation as in effect from time to time in such Other STA Province for purposes of the provisions hereof referring to or incorporating by reference provisions of the STA; and to the extent that such perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on the Collateral is governed by the laws of a jurisdiction that does not have in force legislation substantially the same as the Securities Transfer Act, 2010 (Nova Scotia), then references herein to the STA shall be to the Securities Transfer Act, 2010 (Nova Scotia).

“**ULC**” means an issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Issuer**” is defined in Section 4.8.

“**ULC Laws**” means the Companies Act (Nova Scotia), the Business Corporations Act (Alberta), the Business Corporations Act (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means Equity Interests consisting of shares in the capital stock of or other membership interests issued by a ULC.

1.2 Other Definitional Provisions. The words “hereof,” “herein”, “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section and Schedule references are to this Agreement unless otherwise specified. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## **ARTICLE II GRANT OF SECURITY INTEREST**

2.1 Grant of Security Interest. The Grantor hereby assigns and transfers to the Secured Party, and hereby grants to the Secured Party, a security interest in, all of the following property now owned or at any time hereafter acquired by the Grantor or in which the Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “*Collateral*”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations:

- (a) all Pledged Equity whether constituting Intangibles or Investment Property;
- (b) all books, records and documents pertaining to the Collateral;
- (c) to the extent not otherwise included, all Proceeds (including Securities Rights and Intangibles) and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing; and
- (d) to the extent not otherwise included, all accessions, additions or improvements to, all replacements, substitutions and parts for, and all proceeds and products of any of the foregoing.

2.2 Attachment; No Obligation to Advance. The Grantor confirms that value has been given by the Secured Party, that the Grantor has rights in the Collateral existing at the date of this Agreement and that, except as set out in this Section 2.2, the Grantor and the Secured Party have not agreed to postpone the time for attachment of the security interests to any of the Collateral. The security interests shall have effect and be deemed to be effective whether or not the Secured Obligations or any part thereof are owing or in existence before or after or upon the date of this Agreement. Neither the execution and delivery of this Agreement nor the provision of any financial accommodation by the Secured Party shall oblige the Secured Party to make any financial accommodation or further financial accommodation available to the Grantor or any other Person. Notwithstanding the foregoing, the security interest of the Secured Party in the Certificated Securities forming part of the Collateral shall not attach until the earlier of (i) the date on which such Certificated Securities are delivered to the Secured Party, or (ii) the date that is 30 days following the date hereof.

## **ARTICLE III REPRESENTATIONS AND WARRANTIES**

To induce the Secured Party to enter into the Credit Agreement and to make additional extensions of credit to the Borrower under the Credit Agreement, the Grantor hereby represents and warrants to the Secured Party that:

3.1 Title; No Other Liens. Except for the security interest granted to the Secured Party, pursuant to this Agreement and the other Liens permitted to exist on the Collateral by the Credit Agreement, the Grantor owns each item of the Collateral free and clear of any and all Liens or claims of others. No financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as have been filed in favor of the Secured Party, pursuant to this Agreement or as are permitted by the Credit Agreement.

3.2 Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule A (which, in the case of all filings and other documents referred to on said Schedule, have been registered in accordance with the PPSA will constitute valid perfected security interests in all of the Collateral in which a security interest can be perfected by the filing of a financing statement and/or the other filings and actions specified on Schedule A in favor of the Secured Party as collateral security for the Secured Obligations, enforceable in accordance with the terms hereof against all creditors of the Grantor and any Persons purporting to purchase any Collateral from the Grantor and (b) are prior to all other Liens on the Collateral in existence on the date hereof.

3.3 Chief Executive Office; Locations of Collateral. On the date hereof, the Grantor's jurisdiction of organization, and the location of the Grantor's chief executive office or sole place of business are specified on Schedule B.

3.4 Pledged Equity.

(a) Schedule C sets forth a complete and accurate list of all Pledged Equity that constitute Collateral owned by the Grantor as of the date of this Agreement. The Grantor is the direct, sole beneficial owner and sole holder of record of the Pledged Equity listed on Schedule C as being owned by it, free and clear of any Liens except for Liens permitted under Section 3.1. The Grantor further represents and warrants that (i) all Pledged Equity owned by it is duly authorized and validly issued and, if such Pledged Equity is a share in a corporation, is fully paid and non-assessable, (ii) with respect to any certificates delivered to the Secured Party representing Pledged Equity, either such certificates are Securities as defined in the STA as a result of actions by the applicable issuer or otherwise, or, if such certificates are not Securities, the Grantor has so informed the Secured Party so that the Secured Party may take steps to perfect its security interest therein as an Intangible, and (iii) all such Pledged Equity held by a securities intermediary is covered by a Securities Account Control Agreement.

(b) In addition, (i) none of the Pledged Equity Interests owned by the Grantor have been issued or transferred in violation of the securities registration, securities disclosure or similar laws of any jurisdiction to which such issuance or transfer may be subject, (ii) no options, warrants, calls or commitments of any character whatsoever (x) exist relating to such Pledged

Equity Interests or (y) obligate the issuer of any Pledged Equity Interests to issue additional Equity Interests, and (iii) except for any that have been obtained, as of the date hereof, no consent, approval, authorization, or other action by, and no giving of notice, filing with, any governmental authority or any other Person is required for the pledge by the Grantor of such Pledged Equity pursuant to this Agreement or for the execution, delivery and performance of this Agreement by the Grantor, or for the exercise by the Secured Party of the voting or other rights provided for in this Agreement or for the remedies in respect of the Pledged Equity Interests pursuant to this Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally.

#### **ARTICLE IV COVENANTS**

The Grantor covenants and agrees with the Secured Party that, from and after the date of this Agreement until the Secured Obligations shall have been paid in full in cash and the Commitments shall have terminated:

4.1 Delivery of Instruments, Certificated Securities. The Grantor will (a) deliver to the Secured Party, immediately upon the date of this Agreement, the originals of all Certificated Securities of Pledged Equity Interests constituting Collateral owned by it on the date of this Agreement (if any then exist), and (b) following the date of this Agreement, upon receipt thereof, deliver to the Secured Party any Certificated Securities of Pledged Equity Interests constituting Collateral. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Certificated Security, such Instrument or Certificated Security shall be promptly delivered to the Secured Party, duly endorsed in a manner satisfactory to the Secured Party, to be held as Collateral pursuant to this Agreement.

4.2 Maintenance of Perfected Security Interest; Further Documentation.

(a) The Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in Section 3.2 and shall defend such security interest against the claims and demands of all Persons whomsoever.

(b) The Grantor will furnish to the Secured Party from time to time statements and schedules further identifying and describing the assets and property of the Grantor and such other reports in connection therewith relating to Collateral as the Secured Party may reasonably request, all in reasonable detail.

(c) At any time and from time to time, upon the written request of the Secured Party, and at the sole expense of the Grantor, the Grantor will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Secured Party may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) filing any financing or financing change statements under the PPSA (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and (ii) in the case of any other relevant Collateral, taking any actions necessary to enable the Secured Party to

obtain “control” (within the meaning of the STA), if necessary for perfection, with respect thereto.

4.3 Changes in Locations, Name, etc. Grantor will not, except upon 30 days’ prior written notice to the Secured Party and delivery to the Secured Party of (a) all additional financing statements and financing change statements and other documents reasonably requested by the Secured Party to maintain the validity, perfection and priority of the security interests provided for herein and (b) if applicable, a written supplement to Schedule B showing any additional location at which Collateral shall be kept: (i) change its jurisdiction of organization or the location of its chief executive office or sole place of business from that referred to in Section 3.3; or (ii) change its name, identity or corporate structure to such an extent that any financing statement and financing change statement filed by the Secured Party in connection with this Agreement would become misleading.

4.4 Notices. The Grantor will advise the Secured Party promptly, in reasonable detail, of any Lien (other than Liens created hereby or Liens permitted under the Credit Agreement) on any of the Collateral which would adversely affect the ability of the Secured Party to exercise any of its remedies hereunder; and of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the Liens created hereby.

4.5 Compliance with Credit Agreement. The Grantor shall comply with all of the covenants and other provisions of the Credit Agreement which apply to it by their terms.

4.6 Uncertificated Pledged Equity. The Grantor will permit the Secured Party from time to time to cause the applicable Person as issuer (and, if held with a securities intermediary, such securities intermediary) of uncertificated Securities or other types of Pledged Equity not represented by certificates owned by it to mark their books and records with respect thereto to reflect the Lien of the Secured Party granted pursuant to this Agreement. With respect to any Pledged Equity owned by it, the Grantor will, upon request by the Secured Party, cause (a) each applicable Person, and (b) any securities intermediary which is the holder of any such Pledged Equity, to cause the Secured Party to have and retain Control over such Pledged Equity. Without limiting the foregoing, the Grantor will, with respect to any such Pledged Equity held with a securities intermediary, cause such securities intermediary to enter into a Securities Account Control Agreement.

4.7 Pledged Equity.

(a) Changes in Capital Structure of Issuers. The Grantor will not (i) permit or suffer any issuer of an Equity Interest constituting Pledged Equity owned by it to dissolve, amalgamate, liquidate, retire any of its Equity Interests or other Securities evidencing ownership, reduce its capital, sell or encumber all or substantially all of its assets (except for Liens or sales of assets permitted under the Credit Agreement) or merge or consolidate with any other entity (except as permitted pursuant to the Credit Agreement), or (ii) vote any such Pledged Equity in favor of any of the foregoing.

(b) Issuance of Additional Securities. The Grantor will not permit or suffer any issuer of an Equity Interest constituting Pledged Equity owned by it to issue additional Equity Interests, any right to receive the same or any right to receive earnings, except to the Grantor.

(c) Registration of Pledged Equity. After an Event of Default has occurred and is continuing, the Grantor will permit any registerable Pledged Equity owned by it to be registered in the name of the Secured Party or its nominee at any time at the option of the Secured Party.

(d) Exercise of Rights in Pledged Equity. (i) Subject to clause (ii) below, the Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Equity owned by it for all purposes not inconsistent with this Agreement, the Credit Agreement or any other Loan Document; provided however, that no vote or other right shall be exercised or action taken which would have the effect of impairing the rights of the Secured Party in respect of such Pledged Equity.

(ii) The Grantor will permit the Secured Party or its nominee at any time during the continuance of an Event of Default to exercise all voting rights or other rights relating to the Pledged Equity owned by it, including, without limitation, exchange, subscription or any other rights, privileges, or options pertaining to any Equity Interest or Investment Property constituting such Pledged Equity as if it were the absolute owner thereof.

(iii) The Grantor shall be entitled to collect and receive for its own use all cash dividends and interest paid in respect of the Pledged Equity owned by it to the extent not in violation of the Credit Agreement; provided that, the following distributions and payments (collectively referred to as the “*Excluded Payments*”) shall be delivered to the Secured Party as and to the extent required in the following subsection (iv): (A) dividends and interest paid or payable other than in cash in respect of such Pledged Equity, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any such Pledged Equity; (B) dividends and other distributions paid or payable in cash in respect of such Pledged Equity in connection with a partial or total liquidation or dissolution of any applicable Person; and (C) cash paid, payable or otherwise distributed, in respect of principal of, or in redemption of, or in exchange for, such Pledged Equity; provided however, that until actually paid, all rights to such distributions shall remain subject to the Lien created by this Agreement; and

(iv) All Excluded Payments, whenever paid or made, shall be delivered to the Secured Party to hold as Pledged Equity and shall, if received by the Grantor, be received in trust for the benefit of the Secured Party, be segregated from the other property or funds of the Grantor, and be forthwith delivered to the Secured Party as Pledged Equity in the same form as so received (with any necessary endorsement).

(e) Securities. The Grantor shall not permit any Equity Interest which is included within the Collateral at any time to constitute a Security or permit the issuer of any such Equity Interest to take any action to have such interests treated as a Security unless (i) all certificates or other documents constituting such Security have been delivered to the Secured Party and such Security is properly defined as such in the STA, whether as a result of actions by the issuer

thereof or otherwise, or (ii) the Secured Party has entered into a Securities Account Control Agreement with the issuer of such Security or with a securities intermediary relating to such Security.

4.8 ULC Shares. The Grantor acknowledges that certain of the Collateral may now or in the future consist of ULC Shares, and that it is the intention of the Secured Party and the Grantor that Secured Party should not, under any circumstances prior to realization thereon, be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the Credit Agreement or any other Loan Document, where the Grantor is the registered owner of ULC Shares which are Collateral, the Grantor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Secured Party or any other Person on the books and records of the applicable ULC. Accordingly, the Grantor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of pledged Certificated Securities, which shall be delivered to the Secured Party to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as the Grantor would if such ULC Shares were not pledged to the Secured Party pursuant hereto. Nothing in this Agreement, the Credit Agreement or any other Loan Document is intended to, and nothing in this Agreement, the Credit Agreement or any other Loan Document shall, constitute the Secured Party, or any other Person other than the Grantor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to the Grantor and further steps are taken pursuant hereto or thereto so as to register the Secured Party, or such other Person as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Secured Party as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed from this Agreement and shall be ineffective with respect to ULC Shares which are Collateral without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral which is not ULC Shares. Except upon the exercise of rights of the Secured Party to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, the Grantor shall not cause or permit, or enable an issuer of ULC shares (a “*ULC Issuer*”) that is a ULC to cause or permit, the Secured Party to: (a) be registered as a shareholder or member of such ULC Issuer; (b) have any notation entered in their favor in the share register of such ULC Issuer; (c) be held out as shareholders or members of such ULC Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such ULC Issuer by reason of the Secured Party holding the security interests over the ULC Shares; or (e) act as a shareholder of such ULC Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such ULC Issuer or to vote its ULC Shares.

## **ARTICLE V REMEDIAL PROVISIONS**

5.1 Application of Proceeds. After an Event of Default shall have occurred and be continuing, at any time at the Secured Party’s election, the Secured Party may apply all or any

part of Proceeds held in any collateral account in payment of the Secured Obligations in such order as the Secured Party may elect, and any part of such funds which the Secured Party elects not to so apply and deems not required as collateral security for the Secured Obligations shall be paid over from time to time by the Secured Party to the Grantor or to whomsoever may be lawfully entitled to receive the same. Any balance of such Proceeds remaining after the Secured Obligations shall have been paid in full and the Commitments shall have terminated shall be turned over to whomsoever may be lawfully entitled to receive the same.

5.2 PPSA and Other Remedies. After an Event of Default shall have occurred and be continuing, the Secured Party may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Secured Obligations, all rights and remedies of a secured party under the PPSA or any other applicable law. Without limiting the generality of the foregoing, the Secured Party, without further demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below), to or upon the Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith (i) collect, receive, appropriate and realize upon the Collateral, or any part thereof, (ii) give notice of sole control or any other instruction under any Securities Account Control Agreement and take any action therein with respect to such Collateral, (iii) concurrently with written notice to the Grantor, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Equity, exchange certificates or instruments representing or evidencing Pledged Equity for certificates or instruments of smaller or larger denominations, exercise the voting and all other rights as a holder with respect thereto, collect and receive all cash dividends and other distributions made thereon and to otherwise act with respect to the Pledged Equity as though the Secured Party was the outright owner thereof, (iv) sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in the Grantor, which right or equity is hereby waived and released. The Grantor further agrees, at the Secured Party's request, to assemble the Collateral and make it available to the Secured Party at places which the Secured Party shall reasonably select, whether at the Grantor's premises or elsewhere and/or (v) appoint by instrument in writing one or more receivers of the Grantor or any or all of the Collateral with such rights, powers and authority (including any or all of the rights, powers and authority of the Secured Party under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such receiver from time to time. To the extent permitted by applicable law, any receiver appointed by the Secured Party shall (for purposes relating to responsibility for the receiver's acts or omissions) be considered to be the agent of the Grantor and not of the Secured Party. The Secured Party shall apply the net proceeds of any action taken by it pursuant to this Section 5.3, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any

way relating to the Collateral or the rights of the Secured Party hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Secured Obligations, in such order as the Secured Party may elect, and only after such application and after the payment by the Secured Party of any other amount required by any provision of law, need the Secured Party account for the surplus, if any, to the Grantor. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

5.3 Deficiency. The Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay the Secured Obligations and the fees and disbursements of any attorneys employed by the Secured Party to collect such deficiency.

## **ARTICLE VI MISCELLANEOUS**

6.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with the Credit Agreement.

6.2 Notices. All notices, requests and demands to or upon the Grantor or the Secured Party hereunder shall be effected in the manner provided for in the Credit Agreement.

6.3 No Waiver by Course of Conduct; Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to Section 6.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

6.4 Enforcement Expenses.

(a) The Grantor agrees to pay or reimburse the Secured Party for all its costs and expenses incurred in enforcing or preserving any rights under this Agreement and the other Loan Documents to which the Grantor is a party, including, without limitation, the reasonable fees and disbursements of counsel to the Secured Party.

(b) The Grantor agrees to pay, and to save the Secured Party harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) [Reserved.]

(d) The agreements in this Section 6.4 shall survive repayment of the Secured Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents.

6.5 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Grantor and shall enure to the benefit of the Secured Party and its successors and assigns; provided that the Grantor may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Secured Party.

6.6 Set-Off. The Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time after the occurrence and during the continuance of any Event of Default without notice to the Grantor, any such notice being expressly waived by the Grantor, to set-off and hold as collateral security in any collateral account or otherwise as cash collateral for the Secured Obligations to be applied to the Secured Obligations when due, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by the Secured Party to or for the credit or the account of the Grantor, or any part thereof in such amounts as the Secured Party may elect, against and on account of the obligations and liabilities of the Grantor to the Secured Party hereunder and claims of every nature and description of the Secured Party against the Grantor, in any currency, whether arising hereunder or under any other Loan Document or otherwise, as the Secured Party may elect, whether or not the Secured Party has made any demand for payment, whether or not any of the Secured Obligations are otherwise fully secured and although such obligations, liabilities and claims may be contingent or unmatured. The Secured Party shall notify the Grantor promptly of any such set-off and the application made by the Secured Party of the proceeds thereof; provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Secured Party under this Section 6.6 are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Secured Party may have.

6.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

6.8 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any

such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

6.9 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

6.10 Integration. This Agreement and the other Loan Documents represent the agreement of the Grantor and the Secured Party with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Secured Party relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

6.11 **GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE PROVINCE OF NOVA SCOTIA AND THE FEDERAL LAWS OF CANADA APPLICABLE THERIN.**

6.12 Submission to Jurisdiction; Waivers. The Grantor hereby irrevocably and unconditionally: (a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of any court of the Province of Nova Scotia, and appellate courts from any thereof; (b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same; (c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Grantor at its address referred to in Section 6.2 or at such other address of which the Secured Party shall have been notified pursuant thereto; (d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and (e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

6.13 Acknowledgments. The Grantor hereby acknowledges that: (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party; (b) the Secured Party does not have any fiduciary relationship with or duty to the Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantor, on the one hand, and the Secured Party, on the other hand, in connection herewith or therewith is solely that of borrower and/or guarantor and lender; and (c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby between the Grantor and the Secured Party.

6.14 WAIVER OF JURY TRIAL. THE GRANTOR AND THE SECURED PARTY, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM RELATING THERETO.

**ARTICLE VII  
CONSENT TO PLEDGED EQUITY**

7.1 KCL, in its capacity as the issuer of Pledged Equity hereby (a) consents to the grant by the Grantor to the Secured Party of a security interest in and lien on all of the Pledged Equity, (b) represents to the Secured Party that it has no rights of setoff or other claims against any of the Pledged Equity, (c) acknowledges and agrees that it shall, upon demand by the Secured Party, pay to the Secured Party any dividends and distributions due to the Grantor in accordance with the terms hereof, and (d) consents to the transfer of such Pledged Equity to the Secured Party or its nominee following an Event of Default and to the substitution of the Secured Party or its nominee as a partner in any partnership or as a member in any limited liability company, as applicable, with all the rights and powers related thereto.

[Signature Page to Follow]

[Signature Page to Pledge Agreement (KCL Stock)]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GRANTOR:

KC EUROHOLDINGS S.A.R.L.

By: Keith Varney  
Name: Keith Varney  
Title: Authorized Signatory

SECURED PARTY:

CLINE TRUST COMPANY LLC

By: \_\_\_\_\_  
Name: Lesslie Ray  
Title: Manager

BORROWER:

COALSPUR MINES (OPERATIONS) LIMITED

By: \_\_\_\_\_  
Name: Edward Griffith  
Title: Director

KCL:

KAMERON COLLIERIES LIMITED

By: Keith Varney  
Name: Keith Varney  
Title: Authorized Signatory

[Signature Page to Pledge Agreement (KCL Stock)]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

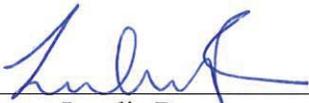
GRANTOR:

KC EUROHOLDINGS S.A.R.L.

By: \_\_\_\_\_  
Name: Keith Varney  
Title: Authorized Signatory

SECURED PARTY:

CLINE TRUST COMPANY LLC

By:  \_\_\_\_\_  
Name: Lesslie Ray  
Title: Manager

BORROWER:

COALSPUR MINES (OPERATIONS) LIMITED

By: \_\_\_\_\_  
Name: Edward Griffith  
Title: Director

KCL:

KAMERON COLLIERIES LIMITED

By: \_\_\_\_\_  
Name: Keith Varney  
Title: Authorized Signatory

[Signature Page to Pledge Agreement (KCL Stock)]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GRANTOR:

KC EUROHOLDINGS S.A.R.L.

By: \_\_\_\_\_  
Name: Keith Varney  
Title: Authorized Signatory

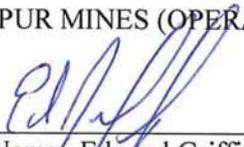
SECURED PARTY:

CLINE TRUST COMPANY LLC

By: \_\_\_\_\_  
Name: Lesslie Ray  
Title: Manager

BORROWER:

COALSPUR MINES (OPERATIONS) LIMITED

By:  \_\_\_\_\_  
Name: Edward Griffith  
Title: Director

KCL:

KAMERON COLLIERIES LIMITED

By: \_\_\_\_\_  
Name: Keith Varney  
Title: Authorized Signatory

SCHEDULE A

Filings and Other Actions Required to Perfect Security Interests

**Name of Grantor**

KC Euroholdings S.A.R.L

**Filing Office**

Nova Scotia

SCHEDULE B

Location of Jurisdiction of Organization and Chief Executive Office

<u>Name of Grantor</u>	<u>Jurisdiction of Organization</u>	<u>Chief Executive Office</u>
KC Euroholdings S.A.R.L	Luxembourg	14, rue Edward Steichen, L- 2540 Luxembourg

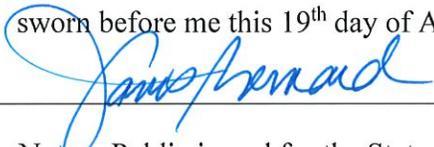
SCHEDULE C

Pledged Equity Interests

ISSUER	TYPE OF ORGANIZATION OF ISSUER	TYPE OF SHARES	NUMBER OF SHARES OWNED	NUMBE OF SHARES PLEDGED	PERCENTAGE OF SHARES PLEDGED
Kameron Collieries Limited	Limited Company	Common Shares	100	65	65%

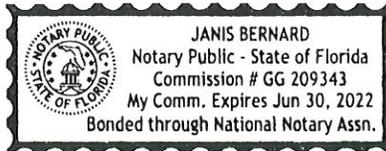
This is **Exhibit "R"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## GUARANTEE

THIS GUARANTEE AGREEMENT (this “**Guarantee**”), is dated as of March 31, 2019, is made and entered into by **CUTLASS COLLIERIES LLC**, a Delaware limited liability company (“**Guarantor**”), in favor of **CLINE TRUST COMPANY LLC**, a Delaware limited liability company (“**Lender**”), guaranteeing certain obligations of **COALSPUR MINES (OPERATIONS) LTD.**, an Alberta corporation (“**Borrower**”) as set forth below.

For good and valuable consideration, Guarantor agrees as follows:

1. Guarantor hereby absolutely, irrevocably and unconditionally agrees to guarantee the prompt and punctual payment, performance and satisfaction of all present and future obligations of Borrower to Lender, whether direct or indirect, joint or several, absolute or contingent, secured or unsecured, matured or unmatured under that certain Credit Agreement dated as of March 31, 2019 among Borrower, Lender and Guarantor (the “**Credit Agreement**”) and all related Loan Documents (collectively, the “**Obligations**”). This Guarantee is irrespective of any invalidity or unenforceability of any Obligation or the insufficiency, invalidity or unenforceability of any security for any Obligation. Guarantor agrees, without Lender first having to proceed against Borrower or any security for any Obligation, to pay on demand all sums due and to become due to Lender from Borrower and against all losses, costs, legal fees and disbursements (on a solicitor and own client basis), expenses or taxes that may be suffered or imposed on Lender by reason of Borrower's default or a default of the Guarantor. Guarantor agrees to be bound by and to pay on demand any deficiency established by a sale of any security, with or without notice to it. Guarantor shall not be released or discharged, either in whole or in part, by Lender's failure or delay to perfect or continue the perfection of any security interest in any property which secures the Obligations of the Borrower to Lender, or to protect the property covered by such security interest. Capitalized terms used but not otherwise defined herein shall have the meaning given such terms in the Credit Agreement.
2. Guarantor's obligations and liabilities under this Guarantee shall remain in full force and effect until all of the Obligations have been paid and performed in full, *provided* that no Event of Default has occurred and is continuing (the “**Termination Date**”).
3. The liabilities of Guarantor hereunder are independent of the Borrower's Obligations and of any and all other guarantees that may be made by any others with respect to the Obligations and a separate action may be prosecuted against Guarantor whether or not action is brought against Borrower, and Lender may make demand on Guarantor for payment of any amount guaranteed hereunder (a) without first seeking or exhausting any recourse or remedy against Borrower or any other person liable for payment of all or any portion of the Obligations and (b) with or without notice to, or demand for payment by, Borrower or subsequent holders of Borrower's Obligations.
4. Subject to the Termination Date, this Guarantee is irrevocable. Any change of control

in the Guarantor will not terminate this Guarantee or discharge its obligations under this Guarantee.

5. Guarantor waives in all circumstances: (a) notice of acceptance of this Guarantee; (b) notice of the existence, creation or incurrence of new or additional Obligations; (c) presentment, demand, protest and notice of nonpayment or protest as to any Obligation; (d) any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution or any other claim that Guarantor may now or hereafter have against Borrower or any other person directly or contingently liable for the Obligations, arising from the existence or performance of this Guarantee until the Obligations are paid in full; (e) all exemptions and any demands and notices required by law; (f) all setoffs and counterclaims; (g) any and all defenses based on suretyship or any other applicable law, including without limitation all rights and defenses arising out of (i) an election of remedies by Lender even though that election of remedies may have destroyed rights of subrogation and reimbursement against Borrower by operation of law or otherwise, (ii) protections afforded to Borrower pursuant to antideficiency or similar laws limiting or discharging the Obligations, (iii) the invalidity or unenforceability of this Guarantee, (iv) the failure to notify Guarantor of the disposition of any property securing the Obligations, (v) the commercial reasonableness of such disposition or the impairment, however caused, of the value of such property, (vi) any duty on Lender's part to disclose to Guarantor any matter, fact or thing related to the business operations or condition (financial or otherwise) of Borrower or its affiliates or property, whether now or hereafter known by Lender, and (vii) any failure to perfect or protect (or fail to continue the perfection or protection of) any security or guarantee; and (h) any other occurrence or circumstance that might be a legal or equitable discharge, release or defence that might limit recourse against Guarantor but for the provisions of this Section 5.
6. In the case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or involuntary), or if the Borrower makes a bulk sale of any of its assets under bulk sales laws, or makes any arrangement with creditors, Lender shall have the right to rank in full for its claim and receive all amounts owed under this Guarantee until its claim is paid in full. Guarantor's right to receive any payments from the Borrower shall be subordinate to Lender's rights to collect and enforce payment and performance from the Borrower.
7. Guarantor authorizes Lender, without notice or demand and without affecting Guarantor's liability hereunder to:
  - (a) renew, extend (including extensions beyond the original term), modify (including changes in interest rates), release or discharge any Obligation or any obligations of Borrower's obligors, of co-guarantors (whether under this Guarantee or under a separate agreement) or of any other party at any time directly or contingently liable for the payment of any of the Obligations;
  - (b) accept partial payments of the Obligations;
  - (c) accept new or additional documents relating to or in substitution of the Obligations;

- (d) settle, release (by operation of law or otherwise), compound, compromise, collect or liquidate any of the Obligations and the security in any manner;
  - (e) consent to the transfer or return of the security, take and hold additional security or guarantees for the Obligations;
  - (f) amend, exchange, release or waive any security or guarantee;
  - (g) bid and purchase at any sale of security and apply any proceeds or security, and direct the order and manner of sale; or
  - (h) apply the proceeds of realization of any security or any payment as Lender deems best.
8. If a claim is made upon Lender at any time for repayment or recovery of any amounts or other value received by Lender, from any source, in payment of or on account of any of the Obligations and Lender repays or otherwise become liable for all or any part of such claim by reason of:
- (a) any action by a court or administrative body, or
  - (b) any settlement or compromise of any such claim,

then, subject to the Termination Date, the Guarantor shall remain liable to Lender for the amount Lender repaid or for which Lender is otherwise liable to the same extent as if such amounts had never been received by it, even if any of the Obligations are terminated. Lender is not required to proceed against or exhaust any recourse or remedy against the Borrower, any security or any other person before making any demand on the Guarantor.

9. Guarantor represents and warrants to Lender that: (a) all necessary action has been taken, and all other necessary authorizations and consents have been unconditionally obtained and are in full force and effect, to authorize Guarantor to execute, deliver and perform Guarantor's Obligations under this Guarantee; (b) the execution, delivery and performance of this Guarantee will not contravene or constitute a default under any agreement, instrument, law, judgment, order, license, permit or consent by which Guarantor or any of Guarantor's assets is bound or affected; (c) this Guarantee, when executed and delivered by Guarantor, will constitute a legal, valid and binding obligation of Guarantor enforceable in accordance with its terms; and (d) Guarantor will receive a direct or indirect material benefit from or arising out of, Borrower's Obligations.
10. This Guarantee is for the benefit of Lender's successors and assigns. The Guarantor hereby agrees that Lender may assign this Guarantee and any and all rights and interest included herein to Lender's sole discretion without notice to Guarantor. Guarantor acknowledges that an assignment of Lender's rights under this Guarantee shall occur automatically upon the assignment of the Obligations whether or not this Guarantee is specifically mentioned in any instrument of assignment. Any assignee shall be entitled to all rights and benefits hereunder without setoff, counterclaim, reduction, recoupment, abatement, deduction or defense based on any claim (other than a claim by Guarantor against Lender related to the Credit Agreement about which Guarantor has given

Lender written notice and is unresolved as at the date of assignment) Guarantor may have against such assignee, Lender or subsequent holders of Borrower's Indebtedness. This Guarantee will bind Guarantor's respective heirs, administrators, representatives, successors, and permitted assigns.

11. Guarantor shall not assign this Guarantee or any right or obligation under it without Lender's prior written consent. This Guarantee is intended as a final expression of Guarantor's guarantee and is intended as a complete and exclusive statement of its terms. No course of dealing, course of performance or trade usage shall be used to waive, supplement or change the terms of this Guarantee. No waiver, modification or change in this Guarantee will bind Lender unless it agrees to it in writing. Oral agreements are not binding. If Lender does not exercise its rights under this Guarantee, or if Lender waives its rights, that does not mean that Lender is prevented from exercising its rights in the future or that Lender is waiving any of its other rights under this Guarantee. Guarantor is aware of the financial condition of Borrower. This Guarantee is in addition to and not in substitution of any other security or guarantee that Lender holds now or will hold in the future with respect to the Obligations or any part of them.
12. This Guarantee is governed by and construed under the laws of the State of Delaware and the federal laws of the United States. Guarantor consents to the jurisdiction of any provincial or federal court located within the State of Delaware. **The parties waive the right to trial by jury in any action arising out of or related to this Guarantee.** If a provision of this Guarantee is invalid under any law, it shall be deemed omitted. Any such deemed omission will not invalidate the remaining provisions.
13. This Guarantee may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one agreement.

[Signature Page to Follow]

GUARANTOR HAS READ AND FULLY UNDERSTANDS ALL OF THE PROVISIONS OF THIS GUARANTEE.

CUTLASS COLLIERIES LLC

By: 

Name: Michael Beyer

Title: CEO



## GUARANTEE

THIS GUARANTEE AGREEMENT (this "**Guarantee**"), is dated as of March 31, 2019, is made and entered into by **KC EUROHOLDINGS S.A.R.L.**, a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg ("**Guarantor**"), in favor of **CLINE TRUST COMPANY LLC**, a Delaware limited liability company ("**Lender**"), guaranteeing certain obligations of **COALSPUR MINES (OPERATIONS) LTD.**, an Alberta corporation ("**Borrower**") as set forth below.

For good and valuable consideration, Guarantor agrees as follows:

1. Guarantor hereby absolutely, irrevocably and unconditionally agrees to guarantee the prompt and punctual payment, performance and satisfaction of all present and future obligations of Borrower to Lender, whether direct or indirect, joint or several, absolute or contingent, secured or unsecured, matured or unmatured under that certain Credit Agreement dated as of March 31, 2019 among Borrower, Lender and Guarantor (the "**Credit Agreement**") and all related Loan Documents (collectively, the "**Obligations**"). This Guarantee is irrespective of any invalidity or unenforceability of any Obligation or the insufficiency, invalidity or unenforceability of any security for any Obligation. Guarantor agrees, without Lender first having to proceed against Borrower or any security for any Obligation, to pay on demand all sums due and to become due to Lender from Borrower and against all losses, costs, legal fees and disbursements (on a solicitor and own client basis), expenses or taxes that may be suffered or imposed on Lender by reason of Borrower's default or a default of the Guarantor. Guarantor agrees to be bound by and to pay on demand any deficiency established by a sale of any security, with or without notice to it. Guarantor shall not be released or discharged, either in whole or in part, by Lender's failure or delay to perfect or continue the perfection of any security interest in any property which secures the Obligations of the Borrower to Lender, or to protect the property covered by such security interest. Capitalized terms used but not otherwise defined herein shall have the meaning given such terms in the Credit Agreement.
2. Guarantor's obligations and liabilities under this Guarantee shall remain in full force and effect until all of the Obligations have been paid and performed in full, *provided* that no Event of Default has occurred and is continuing (the "**Termination Date**").
3. The liabilities of Guarantor hereunder are independent of the Borrower's Obligations and of any and all other guarantees that may be made by any others with respect to the Obligations and a separate action may be prosecuted against Guarantor whether or not action is brought against Borrower, and Lender may make demand on Guarantor for payment of any amount guaranteed hereunder (a) without first seeking or exhausting any recourse or remedy against Borrower or any other person liable for payment of all or any portion of the Obligations and (b) with or without notice to, or demand for payment by, Borrower or subsequent holders of Borrower's Obligations.

4. Subject to the Termination Date, this Guarantee is irrevocable. Any change of control in the Guarantor will not terminate this Guarantee or discharge its obligations under this Guarantee.
5. Guarantor waives in all circumstances: (a) notice of acceptance of this Guarantee; (b) notice of the existence, creation or incurrence of new or additional Obligations; (c) presentment, demand, protest and notice of nonpayment or protest as to any Obligation; (d) any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution or any other claim that Guarantor may now or hereafter have against Borrower or any other person directly or contingently liable for the Obligations, arising from the existence or performance of this Guarantee until the Obligations are paid in full; (e) all exemptions and any demands and notices required by law; (f) all setoffs and counterclaims; (g) any and all defenses based on suretyship or any other applicable law, including without limitation all rights and defenses arising out of (i) an election of remedies by Lender even though that election of remedies may have destroyed rights of subrogation and reimbursement against Borrower by operation of law or otherwise, (ii) protections afforded to Borrower pursuant to antideficiency or similar laws limiting or discharging the Obligations, (iii) the invalidity or unenforceability of this Guarantee, (iv) the failure to notify Guarantor of the disposition of any property securing the Obligations, (v) the commercial reasonableness of such disposition or the impairment, however caused, of the value of such property, (vi) any duty on Lender's part to disclose to Guarantor any matter, fact or thing related to the business operations or condition (financial or otherwise) of Borrower or its affiliates or property, whether now or hereafter known by Lender, and (vii) any failure to perfect or protect (or fail to continue the perfection or protection of) any security or guarantee; and (h) any other occurrence or circumstance that might be a legal or equitable discharge, release or defence that might limit recourse against Guarantor but for the provisions of this Section 5.
6. In the case of liquidation, winding up or bankruptcy of the Borrower (whether voluntary or involuntary), or if the Borrower makes a bulk sale of any of its assets under bulk sales laws, or makes any arrangement with creditors, Lender shall have the right to rank in full for its claim and receive all amounts owed under this Guarantee until its claim is paid in full. Guarantor's right to receive any payments from the Borrower shall be subordinate to Lender's rights to collect and enforce payment and performance from the Borrower.
7. Guarantor authorizes Lender, without notice or demand and without affecting Guarantor's liability hereunder to:
  - (a) renew, extend (including extensions beyond the original term), modify (including changes in interest rates), release or discharge any Obligation or any obligations of Borrower's obligors, of co-guarantors (whether under this Guarantee or under a separate agreement) or of any other party at any time directly or contingently liable for the payment of any of the Obligations;
  - (b) accept partial payments of the Obligations;
  - (c) accept new or additional documents relating to or in substitution of the

Obligations;

- (d) settle, release (by operation of law or otherwise), compound, compromise, collect or liquidate any of the Obligations and the security in any manner;
- (e) consent to the transfer or return of the security, take and hold additional security or guarantees for the Obligations;
- (f) amend, exchange, release or waive any security or guarantee;
- (g) bid and purchase at any sale of security and apply any proceeds or security, and direct the order and manner of sale; or
- (h) apply the proceeds of realization of any security or any payment as Lender deems best.

8. If a claim is made upon Lender at any time for repayment or recovery of any amounts or other value received by Lender, from any source, in payment of or on account of any of the Obligations and Lender repays or otherwise become liable for all or any part of such claim by reason of:
- (a) any action by a court or administrative body, or
  - (b) any settlement or compromise of any such claim,

then, subject to the Termination Date, the Guarantor shall remain liable to Lender for the amount Lender repaid or for which Lender is otherwise liable to the same extent as if such amounts had never been received by it, even if any of the Obligations are terminated. Lender is not required to proceed against or exhaust any recourse or remedy against the Borrower, any security or any other person before making any demand on the Guarantor.

9. Guarantor represents and warrants to Lender that: (a) all necessary action has been taken, and all other necessary authorizations and consents have been unconditionally obtained and are in full force and effect, to authorize Guarantor to execute, deliver and perform Guarantor's Obligations under this Guarantee; (b) the execution, delivery and performance of this Guarantee will not contravene or constitute a default under any agreement, instrument, law, judgment, order, license, permit or consent by which Guarantor or any of Guarantor's assets is bound or affected; (c) this Guarantee, when executed and delivered by Guarantor, will constitute a legal, valid and binding obligation of Guarantor enforceable in accordance with its terms; and (d) Guarantor will receive a direct or indirect material benefit from or arising out of, Borrower's Obligations.
10. This Guarantee is for the benefit of Lender's successors and assigns. The Guarantor hereby agrees that Lender may assign this Guarantee and any and all rights and interest included herein to Lender's sole discretion without notice to Guarantor. Guarantor acknowledges that an assignment of Lender's rights under this Guarantee shall occur automatically upon the assignment of the Obligations whether or not this Guarantee is specifically mentioned in any instrument of assignment. Any assignee shall be entitled to all rights and benefits hereunder without setoff, counterclaim, reduction, recoupment, abatement, deduction or defense based on any claim (other than a claim by Guarantor

against Lender related to the Credit Agreement about which Guarantor has given Lender written notice and is unresolved as at the date of assignment) Guarantor may have against such assignee, Lender or subsequent holders of Borrower's Indebtedness. This Guarantee will bind Guarantor's respective heirs, administrators, representatives, successors, and permitted assigns.

11. Guarantor shall not assign this Guarantee or any right or obligation under it without Lender's prior written consent. This Guarantee is intended as a final expression of Guarantor's guarantee and is intended as a complete and exclusive statement of its terms. No course of dealing, course of performance or trade usage shall be used to waive, supplement or change the terms of this Guarantee. No waiver, modification or change in this Guarantee will bind Lender unless it agrees to it in writing. Oral agreements are not binding. If Lender does not exercise its rights under this Guarantee, or if Lender waives its rights, that does not mean that Lender is prevented from exercising its rights in the future or that Lender is waiving any of its other rights under this Guarantee. Guarantor is aware of the financial condition of Borrower. This Guarantee is in addition to and not in substitution of any other security or guarantee that Lender holds now or will hold in the future with respect to the Obligations or any part of them.
12. This Guarantee is governed by and construed under the laws of the State of Delaware and the federal laws of the United States. Guarantor consents to the jurisdiction of any provincial or federal court located within the State of Delaware. **The parties waive the right to trial by jury in any action arising out of or related to this Guarantee.** If a provision of this Guarantee is invalid under any law, it shall be deemed omitted. Any such deemed omission will not invalidate the remaining provisions.
13. This Guarantee may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one agreement.

[Signature Page to Follow]

GUARANTOR HAS READ AND FULLY UNDERSTANDS ALL OF THE PROVISIONS OF THIS GUARANTEE.

KC EUROHOLDINGS S.A.R.L.

By:   
Name: Keith Varney  
Title: Authorized Signatory

**KAMERON COLLIERIES LIMITED**  
(the "Company")

**RESOLUTIONS IN LIEU OF DIRECTORS MEETING PURSUANT TO  
SECTION 91 OF THE NOVA SCOTIA *COMPANIES ACT***

**BE IT RESOLVED THAT:**

1. The Company is hereby authorized to grant to each holder of common shares in the capital of the Company a right, in respect of each common share held, to subscribe for and acquire an additional Ninety-Nine (99) common shares at a subscription price of One U.S. Dollar (USD\$1.00) each, such grant of right (the "Grant") to be in the form appended hereto as Schedule "A"; and
2. Any officer or director of the Company is hereby authorized to execute the Grant for and on behalf of the Company, and to execute such other documents and take such further actions as may be necessary to give effect to the intent of these resolutions.

These resolutions are resolutions in writing signed by the sole director of the Company pursuant to subsection 91(1) of the *Companies Act* (Nova Scotia).

DATED the 19th day of June, 2019.

  
Keith Varney

---

## Schedule "A"

### GRANT OF RIGHT TO ACQUIRE COMMON SHARES OF KAMERON COLLIERIES LIMITED

To: Each holder of common shares in the capital of Kameron Collieries Limited

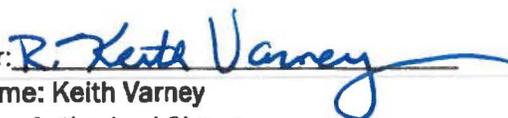
The undersigned, Kameron Collieries Limited (the "Company"), hereby grants to each holder of common shares in the capital of the Company a right, in respect of each common share of the Company currently held by such holder, to subscribe for and acquire an additional Ninety-Nine (99) common shares in the capital of the Company at a subscription price of One U.S. Dollar (USD\$1.00) per share.

A holder of common shares in the capital of the Company may exercise the aforesaid right by notice in writing delivered to the Company not later than 11:59 p.m. (Atlantic Time) on the 19th day of June, 2019. Notice of the exercise of the aforesaid right may be given to any director, officer or recognized agent of the Company via electronic mail, facsimile transmission, courier, regular mail or personal delivery.

**Schedule "A"**

Dated this 19th day of June, 2019 and granted under the corporate seal of the Company.

**KAMERON COLLIERIES LIMITED**

Per:   
**Name: Keith Varney**  
**Title: Authorized Signatory**

**EXERCISE OF RIGHT TO ACQUIRE COMMON SHARES  
OF  
KAMERON COLLIERIES LIMITED**

To: Kameron Collieries Limited

The undersigned, being the registered holder of One (1) common share in the capital of Kameron Collieries Limited, refers to that certain Grant of Right to Acquire Common Shares of Kameron Collieries Limited (the "Right") issued by Kameron Collieries Limited under seal on the 19th day of June, 2019, pursuant to which each holder of common shares is granted a right, in respect of each common share of Kameron Collieries Limited currently held, to subscribe for and acquire an additional Ninety-Nine (99) common shares in the capital of Kameron Collieries Limited at a subscription price of One U.S. Dollar (USD\$1.00) per share.

The undersigned gives notice to Kameron Collieries Limited that it hereby exercises the aforesaid right, subscribes for Ninety-Nine (99) common shares of Kameron Collieries Limited at a subscription price of One U.S. Dollar (USD\$1.00) per share, and tenders the sum of Ninety-Nine U.S. Dollars (USD\$99.00) representing payment in full of the aforesaid aggregate subscription amount.

Dated this 25 day of July, 2019

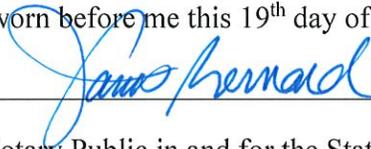
KC EUROHOLDINGS, SÀ R.L.

Per: Robert Keith Varney  
Name: Robert Keith Varney  
Title: Class A Manager

Per: [Signature]  
Name: Lux Business Management Sàrl  
Title: Class B Manager

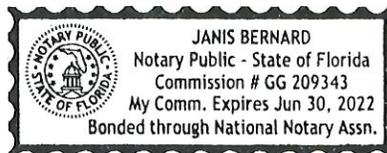
This is **Exhibit "S"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



## SUBORDINATION AGREEMENT

Subordination Agreement dated May 11, 2020 among Coalspur Mines (Operations) Ltd. (the "**Borrower**"), Cline Trust Company LLC, as the subordinated party (the "**Subordinated Party**") and Trafigura Pte. Ltd. (the "**Senior Lender**").

### RECITALS:

- (a) The Borrower has agreed to grant security to the Senior Lender in respect of certain obligations owing under the Coal Purchase Prepayment Agreement; and
- (b) The Subordinated Party has agreed to execute and deliver this Agreement to confirm the subordination and postponement of the Subordinated Indebtedness.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### Section 1.1 Defined Terms.

As used in this Agreement, the following terms have the following meanings:

**"Agreement"** means this subordination agreement as the same may be amended, modified, replaced, restated or supplemented from time to time.

**"Coal Purchase Agreement"** means the coal purchase and sale agreement entered into by the Senior Lender, as buyer, and the Borrower, as seller, dated April 13, 2020, as amended from time to time and being denominated contract number 1812957.

**"Coal Purchase Prepayment Agreement"** means the coal purchase prepayment agreement entered into by the Senior Lender and the Borrower, dated as of even date herewith.

**"Business Day"** means a day, excluding Saturday and Sunday, on which financial institutions generally are open for business in Calgary, Alberta.

**"Governmental Authority"** means:

- (a) any multinational, federal, provincial, state, regional, municipal, local or other government or any governmental or public department, court, tribunal, arbitral body, commission, board, bureau, ministry, minister, division, Governor in Council or agency, domestic or foreign;
- (b) any subdivision, agent, commission, board or authority of any of the foregoing;

- (c) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing; and
- (d) any stock exchange.

**“Insolvency Law”** means any of the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), and the *Winding-Up and Restructuring Act* (Canada), each as now and hereafter in effect, and any successors to such statutes and any other applicable insolvency law or other law of any jurisdiction, domestic or foreign permitting a debtor to obtain a stay of proceedings to enforce, or a compromise or arrangement of, some or all of the claims of its creditors against it, including any such proceeding under applicable corporate law.

**“Insolvency Proceedings”** means any dissolution, bankruptcy, insolvency, receivership, winding-up, liquidation, assignment for the benefit of creditors, or other similar proceedings in respect of the Borrower or any guarantor (whether voluntary or involuntary), any proposal or other proceeding seeking a stay of proceedings, reorganization, compromise or arrangement of some or all of the claims of creditors made or commenced by or against the Borrower or any guarantor under any Insolvency Law, or any distribution of assets of the Borrower or any guarantor among its creditors in any manner whatsoever.

**“Person”** includes any individual, firm, partnership, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate group, body corporate, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not having legal status.

**“Senior Credit Documents”** means the Coal Purchase Agreement, the Coal Purchase Prepayment Agreement, the Senior Security and all other documents executed and delivered to the Senior Lender by the Borrower, any guarantor or any other Person (in each case whether alone or with another or others), from time to time, in each case in connection with the Coal Purchase Prepayment Agreement or any other Senior Credit Document.

**“Senior Indebtedness”** means (i) all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, at any time or from time to time due or accruing due and owing by or otherwise payable by the Borrower, any guarantor or any other Person who is party to a Senior Credit Document (whether alone or with another or others and whether as principal or surety) to the Senior Lender, in any currency, under or in connection with or pursuant to the Coal Purchase Prepayment Agreement and any other Senior Credit Document and whether incurred by the Borrower, any guarantor or such other Person alone or jointly with another or others and whether as principal, guarantor or surety and in whatever name or style, (ii) the due performance and compliance by the Borrower, any guarantor or any other Person who is party to a Senior Credit Document with all of the terms and conditions of the Coal Purchase Prepayment Agreement and the other Senior Credit Documents or any

other agreements or documents with the Senior Lender, in each case as such debts, liabilities and obligations may be varied from time to time, and (iii) all expenses, costs and charges incurred by or on behalf of the Senior Lender in connection with the Senior Credit Documents, the collateral thereunder or the security interests and liens granted thereunder, including all legal fees, court costs, receiver's or agent's remuneration and other expenses of taking possession of, repairing, protecting, insuring, preparing for disposition, realizing, collecting, selling, transferring, delivering or obtaining payment for the collateral, and of taking, defending or participating in any action or proceeding in connection with any of the foregoing matters or otherwise in connection with the Senior Lender's interest in any collateral, whether or not directly relating to the enforcement of and Senior Credit Document.

**"Senior Security"** means all liens, assignments, security interests, charges, pledges, hypothecations, mortgages and other encumbrances from time to time granted by the Borrower, any guarantor or any other Person to the Senior Lender as security for the Senior Indebtedness, and any arrangements having the effect of any of the foregoing, including any right of set off.

**"Subordinated Credit Documents"** means, collectively, any document, agreement understanding or undertaking, whether written or oral pursuant to which debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, are or may be at any time or from time to time due or accruing due and owing by or otherwise payable by the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document (in each case whether alone or with another or others) to the Subordinated Party, as the same may be amended, modified, extended, renewed, replaced, restated, supplemented or refinanced from time to time, including any agreement extending the maturity of, refinancing or restructuring all or any portion of, the indebtedness thereunder or any successor agreement, the Subordinated Security and all other documents executed and delivered or to be executed and delivered by the Borrower, any guarantor or any other Person (in each case whether alone or with another or others) to the Subordinated Party, from time to time, in each case in connection with any Subordinated Credit Document.

**"Subordinated Indebtedness"** means (i) all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, at any time or from time to time due or accruing due and owing by or otherwise payable by the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document (in each case whether alone or with another or others) to the Subordinated Party, in any currency, however or wherever incurred and whether incurred by the Borrower, any guarantor or such other Person alone or jointly with another or others and whether as principal, guarantor or surety and in whatever name or style, and (ii) the due performance and compliance by the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document with all of the terms and conditions of the Subordinated Credit Documents or any other agreements or documents with the Subordinated Party, in each case as such debts, liabilities and obligations may be varied from time to time.

**“Subordinated Security”** means all liens, assignments, security interests, charges, pledges, hypothecations, mortgages and other encumbrances from time to time granted by the Borrower, any guarantor or any other Person to the Subordinated Party as security for the Subordinated Indebtedness, and any arrangements having the effect of any of the foregoing, including any right of set off.

**Section 1.2 Certain Rules of Interpretation.**

Any reference in this Agreement to gender shall include all genders and words importing the singular number only shall include the plural and vice versa. The division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and are not to affect its interpretation. In this Agreement, the words “including” and “includes” mean “including (or includes) without limitation”.

**ARTICLE 2  
SUBORDINATION AND POSTPONEMENT**

**Section 2.1 Subordination and Postponement.**

- (1) The Subordinated Indebtedness shall for all purposes be, and at all times remain, subordinated, inferior, junior, postponed and subordinated to the prior indefeasible repayment in full in cash of the Senior Indebtedness and the termination of the obligations of the Senior Lender thereunder, in the manner and to the extent provided in this Agreement. The Subordinated Security shall for all purposes be, and at all times remain, subordinated, inferior, junior, postponed and subordinated to the Senior Security, in the manner and to the extent provided in this Agreement
- (2) Without limiting the generality of the foregoing, the subordination and postponement of the Subordinated Indebtedness and the Subordinated Security shall prevail in all circumstances and irrespective of:
  - (a) the priorities otherwise accorded to the Senior Security and the Subordinated Security under applicable law;
  - (b) the time of creation, granting, execution, delivery, attachment, registration, perfection or enforcement of the Senior Security and the Subordinated Security;
  - (c) that any of the security interests constituted by the Senior Security or the Subordinated Security shall be defective, unperfected or unenforceable for any reason whatsoever;
  - (d) the time of crystallization of any floating charge or floating hypothec constituted by the Senior Security or the Subordinated Security;
  - (e) the provisions of the Senior Credit Documents or the Subordinated Credit Documents;

- (f) any forbearance whatsoever, whether as to time, performance, or otherwise under, or any release, discharge, loss or alteration in or dealing with, all or any part of the Senior Security or the Subordinated Security;
- (g) the giving of, or the failure to give, any notice to the Borrower, any guarantor or to any other Person or the time of giving any such notice (including pursuant to this Agreement or otherwise);
- (h) any invalidity or unenforceability of, or any limitation on, the liability of the Borrower, any guarantor or any other Person;
- (i) any defence, compensation, set-off or counterclaim which the Borrower, any guarantor or any other Person may have or assert;
- (j) any Insolvency Proceedings;
- (k) the date of incurrence of the Senior Indebtedness, the Subordinated Indebtedness, or any portion thereof;
- (l) any priority granted by any principle of law or any statute; or
- (m) any other matter whatsoever.

**Section 2.2 Repayment of Subordinated Indebtedness.**

The Subordinated Indebtedness or any portion thereof (whether as principal, interest, fees or otherwise) may not be paid or repaid unless and until all of the Senior Indebtedness has been indefeasibly paid or repaid in full in cash and all obligations of the Senior Lender thereunder shall be terminated. For certainty, nothing in this Agreement requires the payment or repayment of the Subordinated Indebtedness or any portion thereof (whether as principal, interest, fees or otherwise) prior to the dates required for such payment or repayment in accordance with the provisions of any applicable Subordinated Credit Document.

**Section 2.3 Restriction on Enforcement.**

The Subordinated Party agrees that it will not and will not be entitled to, prior to the indefeasible payment in full in cash of the Senior Indebtedness and the termination of the obligations of the Senior Lender thereunder:

- (a) demand or receive payment of, assert its right to accelerate, declare due or take any similar action in respect of the Subordinated Indebtedness;
- (b) exercise any right to require the Borrower to acquire, incur, assume or create any Subordinated Indebtedness;
- (c) appoint a receiver, receiver manager, agent or other person having similar powers, whether by way of a private or court appointment in respect of the Borrower, any guarantor or any other Person who is party to a Subordinated

Credit Document or a Senior Credit Document or any asset of the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document or a Senior Credit Document, petition the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document or a Senior Credit Document into bankruptcy or initiate any Insolvency Proceeding or similar proceeding in respect of the Borrower, any guarantor or any other Person who is party to a Subordinated Credit Document or a Senior Credit Document; or

- (d) commence or initiate, or authorize to be taken or initiated, any action by way of suit, foreclosure, sale, quit claim or acceptance of a deed in lieu of foreclosure or otherwise take any proceedings to recover or receive payment of any of the Subordinated Indebtedness or realize against any of the assets of the Borrower pursuant to the Subordinated Security or otherwise, any guarantor or any other Person who is party to a Subordinated Credit Document or a Senior Credit Document.

However, notwithstanding the foregoing, the Subordinated Party may (i) file a claim with respect to the Subordinated Indebtedness (and may accelerate the Subordinated Indebtedness for the sole purpose of proving such claim), provided that an Insolvency Proceeding has been commenced by or against the Borrower, or (ii) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the Subordinated Party, in each case, not in contravention of the terms of this Agreement.

#### **Section 2.4      Insolvency Proceedings.**

In the event of any Insolvency Proceedings, the Senior Lender shall be entitled to receive payment of the Senior Indebtedness in full in cash before the Subordinated Party shall be entitled to receive any payment on account of the Subordinated Indebtedness. The Senior Lender shall be entitled to receive, for application in payment of the Senior Indebtedness, any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or deliverable to the Subordinated Party in respect of the Subordinated Indebtedness. To the extent any payment of Senior Indebtedness is declared to be a fraudulent preference or otherwise preferential, set aside or required to be paid to a trustee, receiver or other similar Person under any Insolvency Law, then if such payment is recoverable by, or paid over to, such trustee, receiver or similar Person, the Senior Indebtedness or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

#### **Section 2.5      Payments Received Contrary to Agreement.**

All payments or distributions on account of, or in respect of, the Subordinated Indebtedness which are received by the Subordinated Party contrary to this Agreement shall be received in trust for the benefit of the Senior Lender, shall be segregated from other funds and property held by the Subordinated Party and shall be immediately paid over to the Senior Lender in the same form as received (with any necessary endorsement) to be applied to the

payment or repayment of the Senior Indebtedness in accordance with the terms of the Coal Purchase Prepayment Agreement.

**Section 2.6 Voting/Classification Matters.**

The Subordinated Party acknowledges and agrees that there is no commonality of interest between the Senior Indebtedness and the Subordinated Indebtedness and it will not take any steps to have the Subordinated Indebtedness classified in the same creditor class as the Senior Indebtedness in any Insolvency Proceeding. In any Insolvency Proceeding, the Subordinated Party hereby agrees that the Senior Lender will have and is hereby granted the authority to and power of attorney to vote any claims that the Subordinated Party has against the Borrower in respect of the Subordinated Indebtedness as the Senior Lender determines in its sole discretion.

**Section 2.7 Preservation of Senior Lender's Rights.**

The Senior Lender shall not be prejudiced in any way in the right to enforce this Agreement by any act or failure to act on the part of the Borrower, any guarantor, any other Person or the Subordinated Party. The Senior Lender may, at any time and from time to time, without any consent of, or notice to, the Subordinated Party and without impairing or releasing the obligations of the Subordinated Party under this Agreement (i) change the manner, place or terms of payment or change or extend the time of payment of, or renew or alter, the Senior Indebtedness (including any change in the rate of interest), or amend in any manner any of the Senior Credit Documents, (ii) sell, exchange, release, perfect, not perfect, alter, renew or otherwise deal with any of the Senior Security, (iii) release any Person liable in any manner under, or in respect of, any of the Senior Credit Documents, or otherwise settle or compromise any of the Senior Indebtedness, (iv) grant time or other indulgences to the Borrower, any guarantor or any other Person, or exercise, delay in, or refrain from, exercising any rights against the Borrower, any guarantor or any other Person, or (v) apply any sums from time to time received to the Senior Indebtedness. The Senior Lender shall not be required to marshal in favour of the Subordinated Party or any other Person the Senior Security or any other securities or any moneys or other assets which the Senior Lender may be entitled to receive or upon which the Senior Lender may have a claim.

**Section 2.8 No Contest of Senior Security.**

The Subordinated Party will not:

- (a) assert in any action, suit or proceeding whatsoever the invalidity, unenforceability or ineffectiveness of this Agreement or any of the Senior Credit Documents; or
- (b) participate in or co-operate with any other party to pursue any such action, suit or proceeding,

it being understood and agreed that, regardless of the validity, effectiveness or enforceability of any Senior Credit Document, as between the Subordinated Party and the Senior Lender,

the Senior Lender shall have first and prior rights of payment as contemplated in this Agreement.

**Section 2.9 Preservation of Subordinated Party's Rights.**

Nothing contained in this Agreement shall impair, as between the Borrower and the Subordinated Party, the obligation of the Borrower, which is absolute and unconditional, to pay to the Subordinated Party the Subordinated Indebtedness as and when the same becomes due and payable, all subject to the rights, if any, of the Senior Lender to receive cash, property or securities otherwise payable or deliverable to the Senior Lender under this Agreement or otherwise in accordance with the Senior Credit Documents.

**ARTICLE 3  
REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS**

**Section 3.1 Representations, Warranties and Agreements of the Subordinated Party.**

The Subordinated Party represents, warrants and covenants to the Senior Lender that:

- (a) it is duly organized and validly existing under the laws of its jurisdiction of incorporation or formation;
- (b) it has the full power, capacity and authority to enter into this Agreement and to do all acts and execute, perform and deliver all other documents as are required hereunder;
- (c) it has taken all necessary action to authorize the creation, execution, delivery of, and the performance of, its obligations under this Agreement in accordance with the terms hereof;
- (d) this Agreement constitutes a legal, valid and binding obligation of the Subordinated Party, enforceable against the Subordinated Party in accordance with its terms;
- (e) the Subordinated Party has obtained all consents and approvals necessary for the performance by it of the terms and conditions contained herein including, without limitation, any consents and approvals required under the Subordinated Credit Documents, and all such consents and approvals were duly obtained and are in full force and effect; and
- (f) it shall not amend, supplement, replace, restate or otherwise modify any term of any Subordinated Credit Document.

The representations, warranties and covenants in this Section 3.1 are made as of the date hereof and as of the date of making any advances to the Borrower (both before and after

giving effect to each such advance), and all such representations, warranties and covenants shall survive the execution and delivery of this Agreement.

#### ARTICLE 4 MISCELLANEOUS PROVISIONS

##### **Section 4.1 Notices, etc.**

Any notice, direction or other communication required or permitted to be given under this Agreement shall be in writing and given by delivering it or sending it by facsimile or other similar form of recorded communication addressed, if to the Borrower, to it at:

(a) to the Borrower at:

Coalspur Mines (Operations) Ltd  
Attn: Donald S. Swartz II  
3852 PGA Boulevard Suite 1101  
Palm Beach Gardens, FL 33410  
Phone: +1-561-626-0327  
Email: [dswartz@clinegrp.com](mailto:dswartz@clinegrp.com)

(b) to the Subordinated Party at:

Cline Trust Company LLC  
c/o Matthew F. Burger, Esq.  
Buchanan Ingersoll & Rooney  
Union Trust Building, Suite 200  
501 Grant Street  
Pittsburgh, PA 15219  
Email: [matthew.burger@bipc.com](mailto:matthew.burger@bipc.com)

(c) to the Senior Lender at:

TRAFIGURA PTE. LTD.  
c/o Trafigura Pte. Ltd., Singapore, Branch Office Geneva  
1 Rue de Jargonnant  
1207 Geneva, Switzerland  
Email: [genevacaloperations@trafigura.com](mailto:genevacaloperations@trafigura.com)

Any such communication shall be deemed to have been validly and effectively given if personally delivered or delivered by facsimile or similar means of recorded communication, on the date of such delivery if such date is a Business Day and such delivery was made prior to 4:00 p.m. at the place of delivery otherwise on the next Business Day. Any party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to the party at its changed address.

**Section 4.2 No Waiver; Remedies.**

No failure on the part of the Senior Lender to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any right preclude any other or further exercise of the right or the exercise of any other right. No waiver of any provision of this Agreement nor consent to any departure by the Subordinated Party, the Borrower, any guarantor or any other Person therefrom shall be effective unless the same is in writing and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. These remedies are cumulative and not exclusive of any remedies provided by law.

**Section 4.3 No Representations, etc.**

There are no other representations, collateral agreements or conditions with respect to this Agreement or affecting the Senior Lender's or the Subordinated Party's liability other than as contained or referred to in this Agreement.

**Section 4.4 No Merger, etc.**

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Borrower or the Subordinated Party under this Agreement nor shall the acceptance of any payment or alternate security constitute or create any novation and it is further agreed that the taking of a judgment or judgments under any of the covenants contained in this Agreement shall not operate as a merger of such covenants.

**Section 4.5 Borrower Bound.**

By executing this Agreement, the Borrower acknowledges its existence and agrees to be bound by its terms. Nothing in this Agreement shall confer or be deemed to confer any right, benefit or advantage on the Borrower or any guarantor. The consent of the Borrower or any guarantor to any amendment of this Agreement shall not be required.

**Section 4.6 Further Assurances.**

Each of the parties shall execute all such further agreements, instruments, assignments and other documents and shall do all such further acts and things as may reasonably be required from time to time to give full force and effect to this Agreement and the subordination and postponement provided for herein.

**Section 4.7 Successors and Assigns.**

- (1) This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinated Party and their respective successors and assigns, and shall enure to the benefit of the Senior Lender and the Subordinated Party and their respective successors and assigns. All rights of the Senior Lender shall be assignable and in any action brought by an assignee to enforce those rights, the Borrower, each guarantor and the Subordinated Party shall not assert against the assignee any claim or defence

which the Borrower, any guarantor and the Subordinated Party now has or hereafter may have against the Senior Lender.

- (2) Neither the Borrower, any guarantor nor the Subordinated Party shall assign this Agreement or any of the Subordinated Credit Documents unless and until (i) the proposed purchaser, assignee or transferee has executed and delivered, to the satisfaction of the Senior Lender, an agreement substantially the same as this Agreement, or (ii) any rights arising under such sale, assignment or transfer are otherwise subordinated to the Senior Indebtedness and the Senior Security in a manner satisfactory to the Senior Lender.

**Section 4.8 Severability.**

If any provision of this Agreement shall be deemed by any court of competent jurisdiction to be invalid or void, the remaining provisions shall remain in full force and effect.

**Section 4.9 Governing Law.**

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

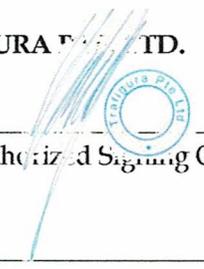
**Section 4.10 Counterparts.**

This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this Agreement.

**TRAFIGURA P.L.C. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer



**COALSPUR MINES (OPERATIONS) LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

**CLINE TRUST COMPANY LLC**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

IN WITNESS WHEREOF the parties have executed this Agreement.

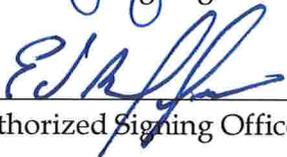
**TRAFIGURA PTE. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

**COALSPUR MINES (OPERATIONS) LTD.**

By:  \_\_\_\_\_  
Authorized Signing Officer

By:  \_\_\_\_\_  
Authorized Signing Officer

**CLINE TRUST COMPANY LLC**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

IN WITNESS WHEREOF the parties have executed this Agreement.

**TRAFIGURA PTE. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

**COALSPUR MINES (OPERATIONS)  
LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

By: \_\_\_\_\_  
Authorized Signing Officer

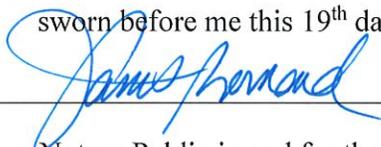
**CLINE TRUST COMPANY LLC**

By: Leslie Ray  
Authorized Signing Officer  
*Leslie Ray*

By: Timothy Elliott  
Authorized Signing Officer  
*Timothy Elliott*

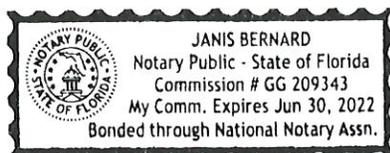
This is **Exhibit "T"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



**Coalspur Mines (Operations) Ltd.**  
**Cash Flow Statement**  
For the 4-week period ending May 21, 2021

<i>(USD thousands)</i>	<i>Week Ending</i>	<i>Notes</i>	<b>Initial Stay Period</b>		<b>Week 3</b>	<b>Week 4</b>	<b>Total</b>
			<b>Week 1</b>	<b>Week 2</b>			
			<b>30-Apr</b>	<b>7-May</b>	<b>14-May</b>	<b>21-May</b>	
<b>Operating Receipts</b>							
Sales Receipts		[1]	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Operating Receipts</b>			-	-	-	-	-
<b>Operating Disbursements</b>							
Payroll and Benefits		[2]	-	330	-	300	630
Contractors		[3]	-	120	-	120	240
Rent		[4]	8	-	-	-	8
Fuel		[5]	159	65	159	65	447
Power		[6]	150	-	-	-	150
Material & Supplies		[7]	95	95	95	95	380
CCAA Professional Fees		[8]	-	750	-	-	750
Net Taxes		[9]	33	28	(278)	27	(191)
Vista Energy Management Fee		[10]	250	250	-	250	750
<b>Total Operating Disbursements</b>			694	1,638	(25)	857	3,164
<b>Net Change in Cash from Operations</b>			(694)	(1,638)	25	(857)	(3,164)
<b>Net Change in Cash</b>			(694)	(1,638)	25	(857)	(3,164)
<b>Opening Cash</b>			4,374	3,680	2,042	2,066	4,374
<b>Ending Cash</b>			\$ 3,680	\$ 2,042	\$ 2,066	\$ 1,210	\$ 1,210



Michael Beyer, Chief Executive Officer

Vista Energy Holdings LLC, the parent corporation of Coalspur Mines (Operations) Ltd.

**Notes:**

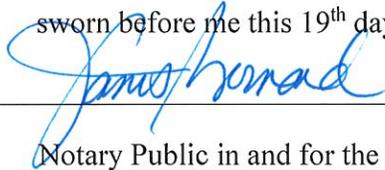
Management has prepared this Cash Flow Statement solely for the purposes of determining the liquidity requirements of the Company during the CCAA Proceedings.

The Cash Flow Statement is based on the probable and hypothetical assumptions detailed below. Actual results will likely vary from performance projected and such variations may be material.

- [1] Sales Receipts are forecasted based on the assumption that the mine stays in care and maintenance operations throughout the forecast period. Sales Receipts are assumed to be nil.
- [2] Payroll and benefits relate to management and employees at Coalspur's corporate office as well as the employees that are currently performing care and maintenance activities at the mine site.
- [3] Contractors are required to provide security and temporary employment for hourly operators. This also includes labor to operate the coal preparation plant.
- [4] Rent relates to apartment rentals for expat employees relocating to Hinton to work on the mine.
- [5] Fuel relates to fuel costs required to operate the mining operations.
- [6] Power includes electricity costs required to power and operate the mine site.
- [7] Material & Supplies includes chemical and blasting supplies expenses to operate the Hinton mine site.
- [8] CCAA Professional fees includes the Applicants' Canadian legal counsel, United States legal counsel as well as the Monitor and the Monitor's legal counsel.
- [9] Net Taxes includes tax payments on expenditures such as fuel and refund for certain GST payments.
- [10] Vista Energy Management Fee relates to payments to Vista Energy pursuant to a Management Service Agreement for administrative and other services (payroll, accounting, IT, etc.), and supplies incidental to the production of coal.

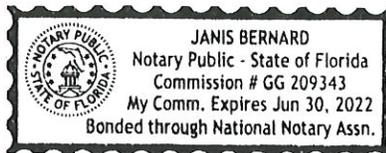
This is **Exhibit "U"** to the Affidavit of Michael Beyer

sworn before me this 19<sup>th</sup> day of April 2021.



---

Notary Public in and for the State of Florida



COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, as amended

AND IN THE MATTER OF THE  
COMPROMISE OR ARRANGEMENT OF  
COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT

**CONSENT TO ACT AS MONITOR**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**Osler, Hoskin & Harcourt LLP**  
Barristers & Solicitors  
Brookfield Place, Suite 2700  
225 6 Ave SW  
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski  
Telephone: (403) 260-7000  
Facsimile: (403) 260-7024  
Email: [RVandemosselaer@osler.com](mailto:RVandemosselaer@osler.com) / [EPaplawski@osler.com](mailto:EPaplawski@osler.com)  
File Number: 1217428

FTI Consulting Canada Inc. does hereby consent to act as Monitor in these proceedings if so appointed by this Honourable Court.

DATED at the City of Calgary, in the Province of Alberta, this 18<sup>th</sup> day of April, 2021

FTI Consulting Canada Inc.

Per: \_\_\_\_\_



Deryck Helkaa, CA, CPA, CIRP, LIT