

LOAN AGREEMENT

BETWEEN

MAKO MINING CORP.

and

SAILFISH ROYALTY CORP.

Dated as of

AUGUST 30, 2021

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LOAN AGREEMENT

This Agreement is made as of the 30th day of August, 2021,

BETWEEN:

MAKO MINING CORP.,
a corporation continued under the *Business
Corporations Act* (British Columbia)

(hereinafter referred to as the “**Borrower**”),

- and -

SAILFISH ROYALTY CORP.,
a corporation existing under the laws of the British
Virgin Islands,

(hereinafter referred to as the “**Lender**”).

WHEREAS the Lender has agreed to make the Loan Facility (as defined below) available to the Borrower;

AND WHEREAS the Borrower and the Lender propose to enter into this Agreement in order to provide for the advance of funds by the Lender to the Borrower under the Loan Facility;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the premises, the covenants herein contained and other valuable consideration, the parties hereto agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 **Definitions**

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“**Advance**” has the meaning ascribed thereto in Section 2.1(a);

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;

“**Agreement**”, herein, “hereby”, “hereto”, “hereunder” or similar expressions means this loan agreement, the recitals hereto and any schedules, exhibits and appendices hereto, as the same may be modified, amended, extended, restated, waived or supplemented in accordance with the terms hereof from time to time and not to any particular article, section, subsection, paragraph, clause or other portion hereof;

“**AML Legislation**” has the meaning ascribed thereto in Section 9.4;

“**Anti-Corruption Laws**” shall mean the Corruption of Foreign Public Officials Act (Canada), United States Foreign Corrupt Practices Act of 1977 and the U.K. Bribery Act 2010;

“**Applicable Creditor**” has the meaning ascribed thereto in Section 9.3(b);

“**Applicable Law**” or “**Law**” means, with respect to any Person, property, transaction or event, any present or future (a) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (b) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (c) regulatory policy, practice, ruling, interpretation, guideline or directive; or (d) Permit, in each case, having the force of law and binding on or affecting such Person or any of its property;

“**Average Market Au Price**” means, for a particular calendar month, the simple average of the Market Au Price for that calendar month calculated as the quotient of (x) the sum of the Market Au Prices for each calendar day in that calendar month that a Market Au Price is determined, divided by (y) the number of days in that calendar month that a Market Au Price is determined;

“**Associate**” has the meaning given to that term in the *Canada Business Corporations Act* on the date hereof;

“**Borrower**” has the meaning ascribed thereto in the preamble;

“**Business Day**” means any day, other than a Saturday or Sunday, on which banks in Toronto, Ontario and New York, New York, are open for commercial business during normal banking hours;

“**Ceiling Price**” means \$2,000;

“**Contract**” means any contract, license, franchise, grant, Permit, lease, arrangement, commitment, joint venture, partnership, note, bond, mortgage, indenture, instrument, deed of trust or other agreement or obligation (whether written or oral, express or implied) to which the Borrower is a party or by which the Borrower is bound or affected or to which any of their Property is subject;

“**Control**” means the possession, directly or indirectly, of the power to direct or control the direction of the management policies of a Person, whether through the ability to exercise voting power, by Contract or otherwise and “**Controlled**” has corresponding meanings;

“**Debt**” of any Person means, at any time, (without duplication), (a) all obligations of such Person for borrowed money including borrowings of commodities and the issuances of any reimbursement obligations in respect of, bankers' acceptances, letters of credit or letters of guarantee; (b) all obligations (whether or not with respect to the borrowing of money) that are evidenced by bonds, notes, debentures or similar instruments; (c) all obligations of such Person for the deferred purchase price of property or services represented by a note or other evidence of indebtedness (other than trade

payables and other current liabilities incurred in the ordinary course of business); (d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (e) all indebtedness of another Person secured by a Lien on any properties or assets of such Person; (f) all capitalized lease obligations of such Person; (g) the aggregate amount at which any shares in the capital of such Person which are redeemable or retractable at the option of the holder may be retracted or redeemed for cash or Debt provided all conditions precedent for such retraction or redemption have been satisfied; (h) all other obligations of such Person upon which interest charges are customarily paid by such Person; (i) all obligations of such Person under securitization transactions which in the opinion of the Lender represent obligations or liabilities of such Person; (j) all indebtedness and liabilities of such Person under any Hedging Agreement; and (k) all obligations and liabilities, the kind of which are described in clauses (a)-(j) above which are guaranteed by such Person or for which such Person may in any way be liable, whether directly or indirectly and whether on a vested or contingent basis;

“Default” means any event or condition that constitutes an Event of Default or that with the giving of any notice, passage of time, the making of any determination, or any combination thereof could constitute an Event of Default;

“Default Amount” has the meaning ascribed thereto in Section 7.2(c);

“Dispose” means, with respect to any asset of any person, any direct or indirect sale, lease (where such person is the lessor of such asset), assignment, cession, transfer (including any transfer of title or possession), exchange, conveyance, release or gift of such asset, including by means of a securitization transaction, or any reorganization, consolidation, amalgamation or merger of such person pursuant to which such asset becomes the property of any other person;

“Equity Interests” means, with respect to any Person, all shares, interests, units, trust units, partnership, membership or other interests, participations or other equivalent rights in the Person’s equity or capital, however designated, whether voting or non-voting, whether now outstanding or issued after the date hereof, together with warrants, options or other rights to acquire any such equity interests of such Person and securities convertible into or exchangeable for any such equity interests of such Person;

“Event of Default” has the meaning ascribed thereto in Section 7.1;

“Floor Price” means \$1,750;

“GAAP” means generally accepted accounting principles accepted in Canada from time to time and applied on a consistent basis (which, as of the date of this Agreement, consist of the International Financial Reporting Standards adopted by the International Accounting Standards Board).

“Gold Price” means, the Average Market Au Price, provided that if the Average Market Au Price is less than the Floor Price, the Gold Price is deemed to be the Floor Price and if the Average Market Au Price is more than the Ceiling Price, the Gold Price is deemed to be the Ceiling Price;

“Hedging Agreement” means any agreement with respect to any swap, forward, future or derivative transaction, or any option or similar agreement, involving, or settled by reference to, one or more rates, currencies, commodities, prices of equity or debt securities or instruments, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or any similar transaction or combination of the foregoing transactions;

“Judgment Currency” has the meaning ascribed thereto in Section 9.3(b);

“LBMA” means the London Bullion Market Association (or any successor association or body);

“Lender” has the meaning ascribed thereto in the preamble;

“Lender Compensation” means the entitlement of the Lender to receive payment(s) from the Borrower (excluding any default interest) in an amount equal to (a) in the event that all 24 Monthly Payment Amounts are paid in accordance with Section 3.1(a), the difference between the (x) the sum of the 24 Monthly Payment Amounts, and (y) the principal amount of the Loan Facility, (b) in the event of a prepayment of the Loan Facility in accordance with Section 3.1(b), the difference between (x) the sum of the Monthly Payment Amounts and the prepayment amount, and (y) the principal amount of the Loan Facility, and (c) following the occurrence and continuance of an event of default and a demand for payment by the Lender in accordance with Section 7.27.2(a), the difference between (x) the sum of the Monthly Payment Amounts paid by the Borrower and the Default Amount, and (y) the principal amount of the Loan Facility.

“Lien” means, with respect to any Property, any hypothec, usufruct, mortgage, prior claim, adverse interest, adverse claim, privilege, lien, pledge, assignment, charge, security interest, encumbrance, or royalty or similar interest of any nature or kind in respect of such Property, whether contingent or absolute, and any agreement, option, right or privilege (whether granted or subsisting by Law, contract or otherwise) capable of becoming or creating any of the foregoing;

“Loan Documents” means this Agreement and all other documents, certificates and instruments at any time during the term of this Agreement executed and delivered by the Borrower to the Lender pursuant hereto, as the same may be modified, amended, extended, restated, waived or supplemented from time to time and **“Loan Document”** shall mean any one of the Loan Documents;

“Loan Facility” means the term loan facility made available by the Lender to the Borrower pursuant to this Agreement, in a maximum principal amount equal to \$8,000,000;

“Market Au Price” means, the London p.m. fixed price for an ounce of gold in United States dollars on a particular day, as determined by the LBMA;

“Material Adverse Effect” means any event, occurrence or condition which has a material adverse effect on or results in a material adverse change in (a) the business, assets, operations, liabilities, prospects or condition, financial or otherwise, of the Borrower (taken as a whole); or (b) the ability of the Borrower to perform its obligations

in accordance with the terms of the Loan Documents, or (c) the validity or enforceability of the Loan Documents or the rights or remedies of the Lender thereunder;

“Material Agreements” means those Contracts (as amended, supplemented, revised or restated as permitted herein from time to time) of the Borrower, the breach, non-performance or cancellation of which or the failure of which to renew would reasonably be expected to have a Material Adverse Effect and for greater certainty each Sailfish Agreement is a Material Agreement;

“Maturity Date” means September 6, 2023;

“Monthly Payment Amount” has the meaning ascribed thereto in Section 3.1(a);

“Monthly Payment Date” has the meaning ascribed thereto in Section 3.1(a);

“Notice of Repayment” means a notice of repayment substantially in the form attached hereto as Schedule B.

“Obligations” means all amounts now or hereafter owing by the Borrower to the Lender pursuant to this Agreement (including the principal amount of the Loan Facility, the Lender Compensation and unpaid default interest accrued up to but excluding the date of repayment or prepayment), and all other indebtedness, liabilities and obligations (whether present or future, direct or indirect, absolute or contingent, matured or not, at any time owing) of the Borrower of any and every kind, nature or description, whatsoever to the Lender under the Loan Documents, including any fees and any reimbursement of any expenses incurred, and payments made or to be made, by the Lender for which the Lender are entitled to seek payment by, or reimbursement from, the Borrower;

“OFAC” means the United States Treasury Department Office of Foreign Assets Control;

“Organizational Documents” means with respect to any Person, that Person’s articles of incorporation, articles of association, articles of continuation, articles of amalgamation or other charter documents, by-laws, unanimous shareholders agreement, partnership agreement and any and all other similar formative agreements, documents and instruments integral to that Person’s establishment, creation, formation, continuation, amalgamation or existence;

“Permits” means franchises, licenses, qualifications, authorizations, consents, certificates, registrations, exemptions, waivers, filings, grants, notifications, privileges, rights, orders, judgments, rulings, directives, permits and other approvals, obtained from or required by a Regulatory Authority;

“Permitted Debt” means trade payables and other current liabilities incurred by the Borrower in the ordinary course of business, the Debt hereunder, Debt between the Borrower and its Subsidiaries or between any Subsidiaries of the Borrower, and any other Debt permitted by the Lender in writing;

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Regulatory Authority or other entity or association of any nature; provided, for greater certainty, a Person shall not include a branch office;

“Property” means, with respect to any Person, any or all of its undertaking, property and assets, whether tangible or intangible, real or personal, moveable or immovable and includes rights under contracts;

“Regulatory Authority” means:

- (a) any multinational or supranational body or organization, nation, government, state, province, country, territory, municipality, quasi-government, administrative, judicial or regulatory authority, agency, board, body, bureau, commission, instrumentality, court or tribunal or any political subdivision thereof, or any central bank (or similar monetary or regulatory authority) thereof, any taxing authority, any ministry or department or agency of any of the foregoing;
- (b) any self-regulatory organization or stock exchange;
- (c) any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government; and
- (d) any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of such entities or other bodies pursuant to the foregoing;

“Sailfish Agreements” means (i) an amended and restated gold purchase agreement dated November 9, 2018 between Nicoz Resources, S.A., Gold Belt, S.A., Golden Reign Resources Ltd. (now the Borrower), Marlin Gold Mining Ltd. and the Lender, and (ii) a royalty agreement dated November 9, 2018 between Nicoz Resources, S.A., Gold Belt, S.A., Golden Reign Resources Ltd. (now the Borrower) and the Lender;

“Sailfish Security” means the guarantee, security and other documents executed and delivered by the counterparties to the Sailfish Agreements to and in favour of the Lender for the purpose of guaranteeing and securing the payment and performance of all present and future debts, liabilities, and obligations of certain such counterparties to the Lender that may be outstanding from time to time under the Sailfish Agreements;

“Sanctioned Country” means, at any time, a country or territory that is itself the subject or target of comprehensive Sanctions that broadly restrict trade and investment with that country or territory. As of the date of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria;

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by (i) OFAC or the U.S. Department of State, (ii) the government of Canada (including Global Affairs Canada and Public Safety Canada), (iii) the United Nations Security Council, (iv) the European Union, or (v) Her Majesty's Treasury of the United Kingdom, (b) any Person organized or resident in a Sanctioned Country or (c) any Person that is 50% or more owned or controlled by any Person or Persons described in the preceding clauses (a) and (b);

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the government of Canada, including those administered by Global Affairs Canada and Public Safety Canada, (c)

the United Nations Security Council, (d) the European Union, or (e) Her Majesty's Treasury of the United Kingdom;

"Subsidiary" means, with respect to a Person, any body corporate of which more than 50% of the outstanding shares or ownership interests, however divided, ordinarily entitled to elect a majority of the board of directors thereof or other similar governing body or authority (whether or not shares of any other class shall or might be entitled to vote upon the happening of any event or contingency) are at the time owned directly or indirectly by such Person and shall include any body corporate, partnership, joint venture or other entity over which it exercises Control, regardless of the amount of shares or ownership interests held by such Person, or which it is in a like relation to a Subsidiary; provided, for greater certainty, a Subsidiary shall not include a branch office of any Person; and

"Tax" or **"Taxes"** means (a) all income taxes (including any tax on or based upon net income, gross income, income as specially defined, earnings, profits or selected items of income, earnings or profits) and all capital taxes, gross receipts taxes, environmental taxes, sales taxes, use taxes, ad valorem taxes, value added taxes, transfer taxes, franchise taxes, licence taxes, withholding taxes, payroll taxes, employment taxes, any pension premiums, excise, severance, social security, workers' compensation, unemployment insurance or compensation, stamp taxes, occupation taxes, premium taxes, property taxes, windfall profits taxes, alternative or add-on minimum taxes, goods and services tax, customs duties or other taxes, fees, imposts, assessments or charges of any kind whatsoever, (b) any interest and any penalties or additional amounts imposed by any taxing authority (domestic or foreign) on such entity, and any interest, penalties, additional taxes and additions to tax imposed on or in respect of the amounts of the type described in clause (a) above or this clause (b), and (c) any liability for the payment of any amounts described in clause (a) or clause (b) for or to or in respect of any other person, including as a result of being a member of an affiliated, consolidated or combined group, or as a transferee or successor, by statute, by contract, or otherwise, including as a result of an express or implied obligation to indemnify any other person with respect to the payment of such amounts;

1.2 Currency

All amounts referred to herein are in lawful money of the United States of America.

1.3 Non-Business Days

If any day on which any payment is payable or by which any other action is required to be taken hereunder is not a Business Day, such payment shall be payable or such other action shall be required to be taken on the next day that is a Business Day.

1.4 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided herein.

1.5 Governing Law and Submission to Jurisdiction

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the Laws of the Province of British Columbia and the federal Laws of Canada applicable therein. Each of the parties irrevocably and unconditionally (i) submits to the non-exclusive jurisdiction of the courts of the Province of British Columbia over any action or proceeding arising out of or relating to this Agreement, (ii) waives any objection that it might otherwise be entitled to assert to the jurisdiction of such courts, and (iii) agrees not to assert that such courts are not a convenient forum for the determination of any such action or proceeding. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.1. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

1.6 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

1.7 Construction

In this Agreement, unless otherwise expressly stated or the context otherwise requires:

- (a) references to an "Article", "Section" or "Schedule" followed by a number or letter refer to the specified Article or Section of or Schedule to this Agreement;
- (b) words importing the singular shall include the plural and vice versa, and words importing gender shall include the masculine, feminine and neuter genders;
- (c) the use of headings is for convenience of reference only and shall not affect the construction or interpretation hereof;
- (d) a period of Business Days is to be computed as beginning on the day following the event that began the period and ending at 4:30 p.m. (Toronto time) on the last day of the period if the period is a Business Day or at 4:30 p.m. (Toronto time) on the next Business Day if the last day of the period does not fall on a Business Day;
- (e) the terms "material" and "materially" shall, when used in this Agreement, be construed, measured or assessed on the basis of whether the matter would materially affect a party, taken as a whole;

- (f) references to any legislation or to any provision of any legislation shall include any modification or re-enactment thereof, any legislation provision substituted therefor and all regulations, rules and interpretations issued thereunder or pursuant thereto;
- (g) references to any agreement or document shall be to such agreement or document (together with the schedules and exhibits attached thereto), as it may have been or may hereafter be modified, amended, extended, restated, waived or supplemented from time to time; and
- (h) wherever the term “includes” or “including” is used, it shall be deemed to mean “includes, without limitation” or “including, without limitation”, respectively.

1.8 Accounting Standards

Any reference in this Agreement to accounting standards or accounting principles refers to GAAP. All accounting terms not specifically defined in this Agreement shall be construed in accordance with such applicable accounting standards. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Agreement or any certificate or other document made or delivered pursuant hereto, such determination or computation shall, to the extent applicable and except as otherwise specified in this Agreement or as otherwise agreed in writing by the parties, be made in accordance with such applicable accounting standards as at the date on which such determination or computation is made or required to be made, applied on a consistent basis.

ARTICLE 2 LOAN FACILITY

2.1 Loan Facility

- (a) Subject to the terms and conditions of this Agreement, the Lender establishes the Loan Facility in favour of the Borrower in a principal amount of \$8,000,000. The Borrower will receive a single advance of \$8,000,000 (the “**Advance**”) under the Loan Facility on the date hereof.
- (b) The Borrower hereby directs the Lender to pay the proceeds of the Advance to in accordance with the Direction re: Funds attached as Schedule A hereto.
- (c) The Loan Facility is non-revolving and, accordingly, no principal amounts repaid under the Loan Facility may be re-borrowed and the limit of the Loan Facility will be automatically and permanently reduced by the amount of any principal repayment thereunder.
- (d) The Loan Facility is unsecured.
- (e) The Loan Facility is non-interest bearing except as required herein by Section 7.5.
- (f) As compensation for the Lender establishing the Loan Facility and making the Advance, the Lender shall be entitled to the Lender Compensation.

2.2 Purpose of the Loan Facility

Subject to the terms and conditions of this Agreement, the Loan Facility shall be used by the Borrower to repay certain outstanding Debt

ARTICLE 3 PAYMENTS

3.1 Payments

(a) The Borrower agrees to make monthly cash payments to the Lender on account of the principal amount of the Loan Facility and the Lender Compensation, such payments to be made on the third Business Day of each calendar month as set out in the table below for 24 consecutive calendar months (each such day, a “**Monthly Payment Date**”), commencing on the third Business Day of the first full calendar month following the date of the Advance, which for certainty shall be October 5, 2021, and ending on the earlier of (i) the Maturity Date, and (ii) the date on which the Obligations have otherwise been paid in full, in an amount per calendar month calculated as the product of (x) 205, and (y) the Gold Price for the immediately preceding calendar month (each such payment, a “**Monthly Payment Amount**” and collectively, the “**Monthly Payment Amounts**”). Following payment by the Borrower to the Lender of the 24 Monthly Payment Amounts in accordance with this Section 3.1(a), the Obligations shall have been irrevocably satisfied and paid in full. In connection with each Monthly Payment Amount, the Borrower shall deliver to the Lender a Notice of Repayment not later than 12:00 p.m. (Toronto time) on the first Business Day of each calendar month setting out, among other things, (A) the Average Market Au Price for the preceding calendar month, (B) the Gold Price used to calculate the Monthly Payment Amount, and (C) and the Monthly Payment Amount. In the event that the Borrower fails to deliver a Notice of Repayment as required by this Section 3.1(a), for purposes of calculating the Monthly Payment Amount for the next Monthly Payment Date, the Lender shall provide written notice to the Borrower with the calculation of the applicable Gold Price on the second Business Day of the calendar month.

	Monthly Payment Date
1.	October 5, 2021
2.	November 3, 2021
3.	December 3, 2021
4.	January 6, 2022
5.	February 3, 2022
6.	March 3, 2022
7.	April 5, 2022
8.	May 4, 2022

	Monthly Payment Date
9.	June 3, 2022
10.	July 7, 2022
11.	August 3, 2022
12.	September 6, 2022
13.	October 5, 2022
14.	November 3, 2022
15.	December 5, 2022
16.	January 5, 2023
17.	February 3, 2023
18.	March 3, 2023
19.	April 5, 2023
20.	May 3, 2023
21.	June 5, 2023
22.	July 7, 2023
23.	August 3, 2023
24.	September 6, 2023

(b) Provided an Event of Default has not occurred, the Borrower shall be entitled to prepay all or any portion of the amounts then outstanding under the Loan Facility (including, for certainty, the Lender Compensation) at any time, without premium or penalty, provided that: (i) the Borrower shall deliver an irrevocable notice that is substantially in the form attached hereto as Schedule C hereto to the Lender not later than 12:00 p.m. (Toronto time) two (2) Business Days prior to the proposed prepayment date; (ii) the proposed prepayment date is a Business Day; and (iii) the prepayment amount shall be calculated as the product of (x) number of months that are being prepaid, (y) 205, and (z) the Gold Price for the month preceding the date upon which the notice of prepayment is delivered to the Lender.

(c) So long as no Event of Default has occurred and is continuing, all amounts paid in accordance with Section 3.1(a) and/or Section 3.1(b) shall be applied as follows: (i) first, against the repayment of the principal amount of the Loan Facility, (ii) second, against the payment of the Lender Compensation, and (iii) third, against any outstanding default interest

owing by the Borrower to the Lender in accordance with Section 7.5 hereof or other outstanding Obligations.

ARTICLE 4 **MATURITY DATE**

4.1 All Obligations Due at Maturity and Termination

Unless the Obligations are fully satisfied in accordance with Sections 3.1(a) or 3.1(b) and subject to Section 4.2, the Borrower shall repay all outstanding Obligations on or prior to the Maturity Date. This Agreement shall terminate, without any further action or notice required, and become null and void and of no force or effect upon the date on which the Obligations have been indefeasibly repaid in full.

4.2 Withholdings

Each payment to be made by the Borrower under or pursuant to the terms of this Agreement or any other Loan Documents to which it is a party shall be made without deduction, set-off or counterclaim of any kind and shall be made free and clear of and without deduction or withholding for any and all Taxes or withholdings and all liabilities with respect thereto, unless such Taxes, withholdings and liabilities are required by Applicable Law to be withheld or deducted. If the Borrower shall be required by Applicable Law to deduct or withhold any such Taxes, withholdings or other liabilities from or in respect of any sum payable under or pursuant to the terms of this Agreement or any other Loan Documents to which it is a party: (i) the amount payable must be increased as necessary, so that after the required withholding, the Lender receives the total amount as if such withholding was not made; (ii) the Borrower shall make such deductions and withholdings; and (iii) the Borrower shall pay the full amount of such deduction or withholding to the relevant taxation or other authority in accordance with Applicable Law.

4.3 Account of Record

The Lender shall open and maintain books of account evidencing the advance of the Advance and all other amounts owing by the Borrower to the Lender under this Agreement (including, without limitation, the Lender Compensation). The Lender shall enter in those books details of all amounts from time to time owing, paid or repaid by the Borrower (including, without limitation, each Monthly Payment Amount and any prepayment made in respect of the Loan Facility) or withheld or deducted by the Borrower in accordance with Section 4.2, and this information shall constitute *prima facie* evidence of the Obligations of the Borrower to the Lender under this Agreement. The failure of the Lender to correctly record any amount outstanding hereunder or under any Loan Document, including any Advance made or any other Obligation shall not adversely affect the obligation or covenant of the Borrower to repay the Lender for any outstanding Advances or to pay and satisfy in full any Obligation owed under the Loan Documents to the Lender. After a request by the Borrower, the Lender shall promptly advise the Borrower of any entries made in the Lender' books of account, the outstanding principal amount of the Loan Facility, the amount of each Monthly Payments Amount applied against the principal amount of the Loan Facility and the Lender Compensation and the amount of any other outstanding Obligations (including, without limitation, the Lender Compensation and any default interest).

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties

The Borrower represents and warrants to and covenants and agrees with the Lender as follows and acknowledges that the Lender is relying upon these representations and warranties in connection with the entering into of the Loan Documents.

- (a) **Organization.** Each of the Borrower and its Subsidiaries is duly incorporated or amalgamated and organized and validly subsisting under the Laws of its jurisdiction of existence and has the necessary power and authority to enter into and perform its obligations under any Loan Documents to which it is a party, to own or Dispose or lease its Property and to carry on the business in which it is engaged.
- (b) **Qualification.** Each of the Borrower and its Subsidiaries is duly qualified, licensed or registered to carry on business under Applicable Laws in all jurisdictions in which the nature of its Property or business makes such qualification necessary and where failure to be so qualified would have a Material Adverse Effect.
- (c) **Authorization.** All necessary corporate action has been taken by the Borrower or on its part to authorize its execution and delivery of the Loan Documents to which it is or will be a party and the performance of its obligations hereunder and thereunder.
- (d) **Absence of Conflict.** The execution, delivery and performance by the Borrower of the Loan Documents to which it is a party will not result in (with or without notice or the passage of time):
 - (i) the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, amendment, acceleration or cancellation of any of its obligations under: (A) the Sailfish Agreements; (B) any provision of the Borrower's Organizational Documents or resolutions of its board of directors (or any committee thereof) or securityholders; (C) any judgment, decree, order or award of any Regulatory Authority having jurisdiction over it; or (D) any Applicable Law, except, in each case, where such breach, violation, default, conflict, amendment, acceleration or cancellation would not reasonably be expected to have a Material Adverse Effect
 - (ii) the acceleration of the maturity of any material Debt binding on or affecting the Borrower;
 - (iii) the creation or imposition of any Lien on any of the Borrower's Property or the requirement to create any Lien on any of its Property;
 - (iv) any third party to terminate or acquire any rights adverse to the Borrower under any Material Agreement except where such conflict, result,

requirement or permit would not reasonably be expected to have a Material Adverse Effect; or

- (v) the forfeiture of any of the Borrower's Property.
- (e) **No Restrictions in Constatng Documents.** The Organizational Documents of the Borrower do not restrict the power of its directors (or equivalent governing body) to borrow money or to give financial assistance by way of loan, guarantee or otherwise.
- (f) **Enforceability.** The Loan Documents to which the Borrower is or will be a party have been or will be duly executed and delivered by it and when so executed and delivered (assuming due execution and delivery by the other parties thereto), shall constitute legal, valid and binding obligations of it enforceable against it in accordance with their respective terms.
- (g) **No Default.** No Default or Event of Default has occurred and is continuing.
- (h) **Compliance with Applicable Laws.** Each of the Borrower and its Subsidiaries has not violated or failed to comply with any Applicable Law, or any judgment, decree or order of any court, applicable to its business, except where the aggregate of all such violations or failures to comply would not reasonably be expected to have a Material Adverse Effect. The conduct of the business of the Borrower and its Subsidiaries is in conformity with all Applicable Law, except where such non-conformities would not reasonably be expected to have a Material Adverse Effect. The Borrower nor its Subsidiaries has received any notice to the effect that, or otherwise been advised that, it is not in compliance with any Applicable Law, and the Borrower does not have knowledge of any currently existing circumstances that are likely to result in the violation of any Applicable Law, which non-compliance or violation would reasonably be expected to have a Material Adverse Effect.
- (i) **Anti-Corruption Laws and Sanctions.** Each of the Borrower and its Subsidiaries has implemented and maintained in effect policies and procedures designed to ensure compliance by the Borrower, each of its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, each of its Subsidiaries and to the knowledge of the Borrower, their respective officers, employees, directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower or any of its Subsidiaries being designated as a Sanctioned Person. None of (a) the Borrower, any of its Subsidiaries, or, to the knowledge of the Borrower, any of their respective directors, officers or employees, or (b) to the knowledge the Borrower, any agent of the Borrower that will act in any capacity in connection with or benefit from the Loan Facility made available pursuant to the terms hereof, is a Sanctioned Person. The Borrower is in compliance with Anti-Corruption Laws or applicable Sanctions in all material respects. The representations and warranties given in this Section 5.1(h) shall not be made by nor apply to in so far as such representation would result in a violation of or conflict with the *Foreign Extra Territorial Measures Act* (Canada).

- (j) **Corporate Chart.** Other than as listed on the corporate organization chart of the Borrower attached hereto as Schedule D, the Borrower has no material Subsidiaries.

5.2 **Survival of Representations and Warranties**

All of the representations and warranties of the Borrower contained in Article 5 shall survive the execution and delivery of this Agreement and shall continue to be fully effective until the Obligations have been repaid and this Agreement has been terminated, notwithstanding any investigation made at any time by or on behalf of the Lender; provided that if any such representation and warranty is specifically given in respect of a particular date or period of time and relates only to such date or period of time, then such representation and warranty shall be true and correct only on such date or on each such day of such period.

ARTICLE 6 **COVENANTS**

6.1 **Positive Covenants**

For so long as any Obligations remain outstanding under any of the Loan Documents, the Borrower agrees as follows:

- (a) **Existence and Good Standing.** The Borrower shall, and shall cause each of its Subsidiaries to, (i) preserve and maintain, as applicable, its corporate or other form of existence, (ii) operate its affairs in compliance with its Organizational Documents and (iii) remain in good standing in all applicable jurisdictions except to the extent that a failure to remain in good standing would not reasonably be expected to have a Material Adverse Effect.
- (b) **Permits.** The Borrower shall, and shall cause each of its Subsidiaries to, at all times maintain in effect and obtain all Permits required by it to carry on its business, except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (c) **Books and Records and Inspection Rights.** The Borrower shall, and shall cause each of its Subsidiaries to, keep or cause to be kept appropriate books and records of account and record or cause to be recorded faithfully and accurately all transactions with respect to its business in accordance with GAAP. The Borrower shall, and shall cause each of its Subsidiaries to, permit any representatives designated by the Lender, upon reasonable prior notice and during normal business hours, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and auditors, all at such reasonable times and as often as reasonably requested by the Lender; provided that all such visits, inspections and inquiries shall be coordinated through the Lender.
- (d) **Property.** The Borrower shall, and shall cause each of its Subsidiaries to, maintain all of its Property necessary for the proper conduct of its business in good condition (ordinary wear and tear excepted) and make all necessary repairs, renewals, replacements and improvements thereof, except where the

failure to do same would not reasonably be expected to have a Material Adverse Effect.

- (e) **Material Agreements.** The Borrower shall, and shall cause each of its Subsidiaries to, maintain in good standing and shall obtain, as and when required, all Material Agreements to which it is a party, which it requires to permit it to acquire, own, operate and maintain its business and Property, except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect, and perform its obligations under any Loan Document to which it is or will be a party. The Borrower shall, and shall cause each of its Subsidiaries to, cause to be faithfully observed, performed and discharged the covenants, conditions and obligations imposed on it under each Material Agreement to which it is a party, and shall do all other things necessary in order to protect its interests thereunder, except to the extent and for so long as any such obligation is contested in good faith by appropriate proceedings being diligently pursued, or except where the failure to do same would not reasonably be expected to have a Material Adverse Effect.
- (f) **Compliance with Applicable Law.** The Borrower shall, and shall cause each of its Subsidiaries to, operate its business in compliance with Applicable Laws except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (g) **Insurance.** The Borrower shall, and shall cause each of its Subsidiaries to, maintain, with financially sound and reputable insurers, insurance with respect to its properties and business against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated.
- (h) **Payment of Taxes.** The Borrower shall, and shall cause each of its Subsidiaries to, pay all Taxes which are due and payable by it; withhold from each payment made to any of its past or present employees, officers or directors, and to any non-resident of the country in which it is resident, the amount of all Taxes and other deductions required to be withheld therefrom and pay the same to the proper tax or other receiving officers within the time required under any Applicable Law; and collect from all Persons the amount of all Taxes required to be collected from them and remit the same to the proper tax or other receiving officers within the time required under any Applicable Law; in each case, unless any such Taxes are (a) being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and (b) cash reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor.
- (i) **Performance of Obligations.** The Borrower shall, and shall cause each of its Subsidiaries to, duly and punctually pay and perform its indebtedness, liabilities and obligations hereunder and under the other Loan Documents to which it is a party at the times and places and in the manner required by the terms hereof and thereof.

- (j) **Litigation.** The Borrower shall, and shall cause each of its Subsidiaries to, diligently and in good faith contest any actions, suits or legal proceedings instituted and outstanding or pending against it, the outcome of which would reasonably be expected to have a Material Adverse Effect, and shall make such reserves or other appropriate provision therefor, if any, as shall be required by GAAP.
- (k) **Priority of Obligations.** The Borrower will ensure that its payment obligations under this Agreement will at all times rank *pari passu*, with all other unsecured Debt of the Borrower, except for any such unsecured Debt which may be accorded priority by operation of Law.
- (l) **Notice to Lender.** The Borrower shall, promptly after it becomes aware thereof, notify the Lender of:
 - (i) any Default or Event of Default;
 - (ii) the occurrence of any action, suit, dispute, arbitration, proceeding, labour or industrial dispute or other circumstance affecting it or any of its Subsidiaries, the result of which if determined adversely would reasonably be expected to have a Material Adverse Effect, and shall from time to time provide the Lender with all information requested by it concerning the status thereof; and
 - (iii) the occurrence or existence of event or circumstance known to it which would reasonably be expected to have a Material Adverse Effect.
- (m) **Further Assurances.** From time to time, upon reasonable request of the Lender, execute and deliver to the Lender such further documents, agreements and instruments and do such other acts and things as the Lender may request in order to effectuate fully the purpose and intent of the Agreement, all at the expense of the Borrower.

6.2 **Negative Covenants**

For so long as any Obligations remain outstanding under any of the Loan Documents, the Borrower shall not do any of following, without the prior written consent of the Lender, which consent may be granted at the Lender's sole and unfettered discretion:

- (a) **Business and Corporate Matters.** The Borrower shall not reorganize, combine, consolidate, amalgamate or merge by plan of arrangement pursuant to statutory authority or otherwise with any other entity, make any material acquisition (except for those acquisitions in the ordinary course of business), or materially alter its corporate purposes, the nature of its present business or its present corporate structure;
- (b) **Use of Funds.** The Borrower shall not allocate or use the proceeds of the Loan Facility except as contemplated by Section 2.2.

ARTICLE 7
EVENTS OF DEFAULT

7.1 Events of Default

The occurrence of any one or more of the following events (each such event being herein referred to as an “**Event of Default**”) shall constitute an event of default under this Agreement:

- (a) if the Borrower fails to pay the principal amount of the Advance, Lender Compensation, default interest or other Obligations within three (3) Business Days after payment of such amount becoming due and payable;
- (b) if the Borrower makes any certification, representation or warranty under any of the Loan Documents which is incorrect, misleading or incomplete when made or deemed to be made in all material respects and, if such breach of a representation and warranty is capable of remedy, such breach continues for sixty (60) days from the earlier of (i) the Lender providing written notice thereof to the Borrower, or (ii) the Borrower becoming aware of the incorrect representation or warranty;
- (c) if the Borrower shall default in the observance or performance of any agreement, covenant or condition contained in Article 6 and such breach or failure continues for sixty (60) days from the earlier of (i) the Lender providing written notice thereof to the Borrower and requiring rectification of same, or (ii) the Borrower becoming aware of such breach or failure;;
- (d) if the Borrower:
 - (i) admits in writing its inability to pay its debts generally, or declares any general moratorium on its indebtedness, or proposes a compromise or arrangement between it or any class of its creditors;
 - (ii) makes an assignment of its property for the general benefit of its creditors, or makes a proposal (or files a notice of its intention to do so) in either case under any federal, provincial or foreign Law now or hereafter in effect relating to bankruptcy or insolvency;
 - (iii) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (iv) institutes any proceeding seeking to adjudicate it an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of its or its debts or any other relief, under any federal, provincial or foreign Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any applicable corporations legislation) or at common law

or in equity, or files an answer admitting the material allegations of a petition filed against it in any such proceeding;

- (v) applies for the appointment of, or the taking possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official for it or any substantial part of its property or a petition is presented for its winding-up or liquidation by it or a regulatory, supervisor or similar official; or
 - (vi) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in this Section 7.1(b) or otherwise acts in furtherance thereof or fails to act in a timely and appropriate manner in defence thereof;
- (e) any petition is filed, application made or other proceeding instituted against or in respect of the Borrower:
- (i) seeking to adjudicate it as insolvent;
 - (ii) seeking a receiving order against it under the *Bankruptcy and Insolvency Act* (Canada) or under analogous foreign Law;
 - (iii) seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts or any other relief under any federal, provincial or foreign Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and any applicable corporations legislation or at common law or in equity); or
 - (iv) seeking the entry of an order for relief or the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official for it or any substantial part of its property;

and such petition, application or proceeding continues undismissed, or unstayed and in effect, for a period of sixty (60) days after the institution thereof, provided that if an order, decree or judgment is granted or entered (whether or not entered or subject to appeal) against such Person thereunder in the interim, such grace period will cease to apply, and provided further that if such Person files an answer admitting the material allegations of a petition filed against it in any such proceeding, such grace period will cease to apply;

- (f) any other event occurs which, under the Laws of any applicable jurisdiction, has an effect equivalent to any of the events referred to in either Section 7.1(d) or Section 7.1(e) and if the event is equivalent to the event referred to in Section 7.1(e), the sixty (60) day grace period will apply as set out in Section 7.1(e);

- (g) if the Borrower denies its obligations under any Loan Document to which it is or will be a party or claims any of such Loan Document to be invalid or unenforceable, in whole or in part; or any of such Loan Document is invalidated or determined to be unenforceable by any act, regulation or action of any Regulatory Authority or is determined to be invalid or unenforceable by a court or other judicial entity of competent jurisdiction and such determination or repudiation is not remediated within sixty (60) days of the Borrower becoming aware of such determination or making such repudiation;
- (h) if one or more judgments are rendered by a court of competent jurisdiction against the Borrower in an aggregate amount in excess of \$500,000 (or, if applicable, the equivalent thereof in other currencies) and (a) the same are not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within sixty (60) days after their entry, commencement or levy or (b) such Person is not contesting such judgments or decrees in good faith and by appropriate proceedings and adequate reserves in accordance with GAAP have not been set aside on its books;
- (i) if Property of the Borrower having an aggregate value of more than \$1,000,000 (or, if applicable, the equivalent thereof in other currencies) is seized or taken possession of (or subject to other similar legal proceedings by a creditor for seizure or possession of Property) (the “**Seizure Proceeding**”), except to the extent that the applicable Person is diligently and in good faith contesting any such Seizure Proceeding by appropriate proceedings and such Seizure Proceeding remains undismissed or unstayed for a period of three (3) consecutive Business Days; or the Borrower takes any action in furtherance of, or indicates its consent to, approval of, or acquiescence in, any such Seizure Proceeding; or
- (j) the occurrence of any event or circumstances which has a Material Adverse Effect, provided such Material Adverse Effect has not been waived by the Lender or remedied by the Borrower, to the satisfaction of the Lender, within sixty (60) days following delivery by the Borrower of notice to the Lender of such event or circumstances pursuant to Section 6.1(l).

7.2 Remedies

(a) If an Event of Default occurred and is continuing and has not been waived or otherwise cured within the applicable cure period set out in Section 7.1, the Lender may, at their option, declare immediately due and payable, by written notice to the Borrower, the entire amount of the Obligations then outstanding (which for certainty, shall be equal to the Default Amount). The Borrower shall not have the right to invoke against the Lender (or any Affiliate of the Lender) any defence or right of action, indemnification or compensation of any nature or kind whatsoever that the Borrower may at any time have or have had against the Lender. At such time, the Lender may exercise all of their rights, remedies and recourses available to it at Law, in equity and under the provisions of this Agreement and of the other Loan Documents. For greater certainty, after the Lender makes a declaration as contemplated by this Section 7.2(a) or the Obligations otherwise become immediately due and payable, no Event of Default may be cured by the Borrower without the prior written consent of the Lender.

(b) The rights and remedies of the Lender under this Agreement are cumulative and not alternative. Any single or partial exercise by the Lender of any right or remedy for a default of any term, covenant, condition or agreement in this Agreement shall not be deemed to be a waiver of or to alter, affect or prejudice any other rights or remedies to which the Lender may be lawfully entitled for the same default. Such rights and remedies are in addition to and not in substitution for any rights or remedies provided by Applicable Law. Any waiver by the Lender of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained shall be deemed not to be a waiver of any subsequent default. No waiver shall be inferred from or implied by any failure to act or delay in acting by the Lender in respect of any default or by anything done or omitted to be done by the Borrower.

(c) Upon the occurrence and continuance of an Event of Default, the outstanding principal amount of the Loan Facility and Lender Compensation payable under Section 3.1 (a) shall be deemed to be equal to the product of (x) 24 minus the number of Monthly Payment Amounts received by the Lender under Section 3.1 (a), (y) 205, and (z) the Gold Price for the month preceding the Event of Default (the "**Default Amount**").

(d) After the Lender makes a declaration as contemplated by Section 7.2(a), any proceeds received by the Lender on account of the Default Amount shall be applied against any Obligations now or hereafter existing under this Agreement or any other Loan Document (whether principal, interest or otherwise), as determined at the sole discretion of the Lender.

7.3 No Notice

Except where otherwise expressly provided herein (including Section 7.27.2(a)), no notice or demand of any nature is required to be given to the Borrower by the Lender in order to put the Borrower in Default, the latter being in Default by the simple lapse of time granted to execute an obligation or by the simple occurrence of a Default.

7.4 Set-Off

Upon the occurrence of any Event of Default by which the Obligations become due and payable under Section 7.2, the Lender is hereby authorized at any time and from time to time, at the Lender's sole discretion, to: (a) set off and apply obligations (in whatever currency) at any time owing by the Lender or any of its Affiliates or Associates to or for the credit or the account of the Borrower against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to the Lender, irrespective of whether or not the Lender has made any demand under this Agreement or any other Loan Document and although the Obligations may be contingent or unmatured; and (b) hold any amounts owing by the Lender as collateral to secure payment of the obligations owing to it to the extent that those amounts may be required to satisfy any contingent or unmatured obligations owing to it. The rights of the Lender under this Section are in addition to other rights and remedies (including other rights of set-off, consolidation of accounts and bankers' lien) that the Lender or its Affiliates may have. The Lender agrees to promptly notify the Borrower after any such set-off and application, but the failure to give such notice shall not affect the validity of such set-off and application.

7.5 Default Interest

Subject to Section 7.6, default interest shall be payable on the Default Amount, both before and after maturity, demand, default and judgement until paid at a rate equal to 12%

per annum. Default interest payable under this Section 7.5 shall accrue daily in arrears with no compounding and shall be calculated on the basis of the actual number of days in a calendar year. Default interest shall be payable on demand. All principal, default interest and other amounts payable hereunder shall be payable by wire transfer to the Lender to the account specified by the Lender from time to time or as may be otherwise directed in writing by the Lender.

7.6 Calculation of Interest

Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis of such determination. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement. The Lender agrees that, if requested in writing by the Borrower, it shall calculate the nominal and effective per annum rate of interest outstanding at any time and provide such information to the Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve the Borrower of any of its obligations under this Agreement or any other Loan Document, nor result in any liability to the Lender.

7.7 Maximum Interest Rate

(a) In the event that any provision of this Agreement or any other Loan Document would oblige the Borrower to make any payment of interest or any other payment (whether in cash or in kind) which is construed by a court of competent jurisdiction to be interest in an amount or calculated at a rate which would be provided by Law or would result in a receipt by the Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada) or other Applicable Law), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted, *nunc pro tunc* to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Law or so result in receipt by the Lender of interest at a criminal rate.

(b) If notwithstanding the provisions of Section 7.7(a) and after giving effect to all adjustments contemplated thereby, the Lender shall have received an amount in excess of the maximum permitted by such clause, then such excess shall be applied by the Lender to the reduction of the principal balance outstanding and not to the payment of interest, or if such excessive interest exceeded such principal balance, such excess shall be refunded to the Borrower.

ARTICLE 8 INDEMNITY AND EXPENSES

8.1 Indemnity

The Borrower shall indemnify and hold harmless the Lender and their Affiliates and each of their and their Affiliates' directors, officers, employees, agents, consultants and advisors (each, an "**Indemnified Party**") from and against any and all claims, damages, losses, liabilities, costs and expenses (including, without limitation, reasonable and documented fees

and expenses of counsel) (each, a “**Claim**”) that may be incurred by, or asserted or awarded against, any Indemnified Party by a Person other than an Indemnified Party, in each case arising out of, or in connection with, or by reason of, any investigation, litigation or proceeding (or the preparation for the defence of any investigation, litigation or proceeding) arising out of, related to or in connection with (a) this Agreement, (b) the other Loan Documents or (c) any of the transactions contemplated herein or therein or the actual or proposed use of the proceeds of the Advances, whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, shareholders or creditors or by an Indemnified Party, or any other Person, or any Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated, except to the extent such Claim results from such Indemnified Party’s gross negligence or wilful misconduct. Each party agrees not to assert any claim against each other party, its officers, directors, employees, agents or advisors, on any theory of liability for special, indirect, consequential or punitive damages arising out of or otherwise relating to this Agreement and the other Loan Documents and any of the transactions contemplated herein or therein or the actual or proposed use of the proceeds of the Advances. All amounts due under this Section shall be payable promptly after written demand therefor.

8.2 **Expenses**

The Borrower shall pay all reasonable out of pocket expenses incurred by the Lender, including the reasonable and documented fees and expenses of counsel for the Lender, in connection with the preparation of the Loan Documents and the interpretation, defence, establishment, preservation, protection or enforcement of rights of the Lender under hereunder and under the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated). All amounts due under this Section shall be payable promptly after written demand therefor.

8.3 **Survival**

The agreements in this Article 8 shall survive the repayment of the Obligations.

ARTICLE 9
GENERAL

9.1 **Notice**

(a) Any notice, waiver or other communication required or permitted to be given under this Agreement by a party shall be in writing and may be given by delivering same or sending same by e-mail or by delivery addressed to the party to which the notice is to be given at its address for service herein. Any notice, consent, waiver, direction or other communication aforesaid shall, if delivered, be deemed to have been given and received on the date on which it was delivered to the address provided herein (if a Business Day, if not, the next succeeding Business Day). The address for service for each of the parties hereto shall be as follows:

if to the Borrower:

Mako Mining Corp.
595 Burrard Street, Suite 2833
Vancouver, BC, V7X 1K8, Canada

Attention: Akiba Leisman
Email: [REDACTED]

if to the Lender:

Sailfish Royalty Corp.
Sea Meadow House, PO Box 116
Road Town, Tortola, BVI VG1110

Attention: Loans Committee
Email: [REDACTED]

- (b) Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 9.1.

9.2 No Fiduciary Relationship

The Borrower agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Borrower and its Affiliates, on the one hand, and the Lender and its Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Lender or its Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Lender and its Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Lender or its Affiliates has any obligation to disclose any of such interests to the Borrower or any of its Affiliates.

9.3 Judgment Currency

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in dollars into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction dollars could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party hereto in respect of any sum due to any other party hereto or any holder of the obligations owing hereunder (the “**Applicable Creditor**”) shall, notwithstanding any judgment in a currency (the “**Judgment Currency**”) other than dollars, be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase dollars with the Judgment Currency; if the amount of dollars so purchased is less than the sum originally due to the Applicable Creditor in dollars, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The agreements in this Section 9.3 shall survive the repayment of the Obligations.

9.4 Anti-Money Laundering Legislation

The Borrower acknowledges that, pursuant to *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*, and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” Applicable Laws, whether within Canada or elsewhere, including any regulations, guidelines or orders thereunder (“**AML Legislation**”), the Lender may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by the Lender, or any prospective assignee or participant of the Lender, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

9.5 Amendment

This Agreement may only be amended by a written document signed by each of the parties hereto.

9.6 Waiver

The Lender shall not by any act, delay, omission or otherwise be deemed to have waived any of their rights or remedies under any Loan Document and no waiver shall be valid unless in writing and signed by the Lender, and then only to the extent therein set forth. A waiver by the Lender of any right or remedy under any Loan Document on any one occasion shall not be construed as a bar to any right or remedy which the Lender would otherwise have on any future occasion. No failure to exercise, nor any delay in exercising on the part of the Lender, any right, power or privilege under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies under any Loan Document are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights or remedies provided by Law.

9.7 Assignment

Neither this Agreement nor any right or obligation under this Agreement may be assigned by the Borrower without the prior written consent of the Lender. The Borrower acknowledges and agrees that the Lender may assign this Agreement or any right or obligation under this Agreement without the prior consent of the Borrower. This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns.

9.8 Counterparts and Electronic Delivery

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement. To evidence the fact that it has executed this Agreement or any other document contemplated by or delivered under or in connection with this Agreement, a party may transmit

an executed copy to the other party by electronic mail or other electronic means. The transmitting party shall be deemed to have delivered this Agreement or such document, as the case may be, on the date it so transmitted such executed copy, unless the parties agree to some other date as the date of delivery. Unless otherwise provided or agreed by the parties, a party transmitting an executed copy of this Agreement or such other document by such electronic means shall promptly thereafter deliver to the other party a copy bearing its original signature, but any failure or delay in so doing shall not derogate in any way from the sufficiency or effectiveness of that party having electronically transmitted its executed copy. The signature of an individual executing this Agreement or such other document on behalf of a party, if sent and received by electronic mail or other electronic means, will be deemed to be genuine in the absence of evidence to the contrary and thus effective in the hands of the recipient, and binding upon the individual whose signature it reproduces and upon the party on whose behalf that individual signed, for all purposes and with the same effect as if it were the original signature of that individual.

9.9 Sailfish Consent

To the extent that the consent of the Lender is required under the terms of any of the Sailfish Agreements or the Sailfish Security, the Lender hereby irrevocably consents to the Borrower (a) creating, incurring, or assuming the Obligations, and (b) executing, delivering, and performing their respective obligations under the Loan Documents. For greater certainty, the Lender confirms and agrees that the foregoing actions do not and will not constitute a default under, or otherwise contravene or breach, any of the Sailfish Agreements or the Sailfish Security.

[The remainder of this page has been left intentionally blank.]

IN WITNESS WHEREOF this Agreement has been executed by the parties as of the date first above written.

MAKO MINING CORP.

by (Signed) *John Hick*
Name: John Hick
Title: Chairman

SAILFISH ROYALTY CORP.

by (Signed) *Walter Reich*
Name: Walter Reich
Title: Director

SCHEDULE A
DIRECTION RE: FUNDS

[REDACTED]

**SCHEDULE B
NOTICE OF REPAYMENT**

Date: _____, 20__.

To: The Lender (as defined below)

Ladies and Gentlemen:

1. This irrevocable notice is delivered to you pursuant to that certain loan agreement dated as of August 30, 2021 between Mako Mining Corp., as Borrower and Sailfish Royalty Corp., as Lender (as amended, restated, amended and restated, renewed, extended, supplemented, replaced or otherwise modified from time to time, the "**Agreement**"). Capitalized terms used and not expressly defined in this notice of repayment shall have the respective meanings given to them in the Agreement.

2. The undersigned hereby gives notice that it intends to make the payment to the Lender pursuant to Section 3.1(a) of the Agreement:

(a) Monthly Payment Date":

(b) Average Market Au Price for the month immediately preceding the Monthly Payment Date

(c) Gold Price used to calculate the Monthly Payment Amount:

(d) Monthly Payment Amount:

Very truly yours,

MAKO MINING CORP.

By _____

Name:

Title:

**SCHEDULE C
NOTICE OF PREPAYMENT**

Date: _____, 20__.

To: The Lender (as defined below)

Ladies and Gentlemen:

3. This prepayment notice is delivered to you pursuant to that certain loan agreement dated as of August 30, 2021 between Mako Mining Corp., as Borrower and Sailfish Royalty Corp., as Lender (as amended, restated, amended and restated, renewed, extended, supplemented, replaced or otherwise modified from time to time, the "**Agreement**"). Capitalized terms used and not expressly defined in this notice of prepayment shall have the respective meanings given to them in the Agreement.

4. The undersigned hereby gives notice that it intends to prepay outstanding amounts on the Loan Facility pursuant to Article 3 of the Agreement as follows:

- (a) **Prepayment date:** [DATE].
- (b) **Amount of prepayment:** \$[AMOUNT].

Very truly yours,

MAKO MINING CORP.

By _____

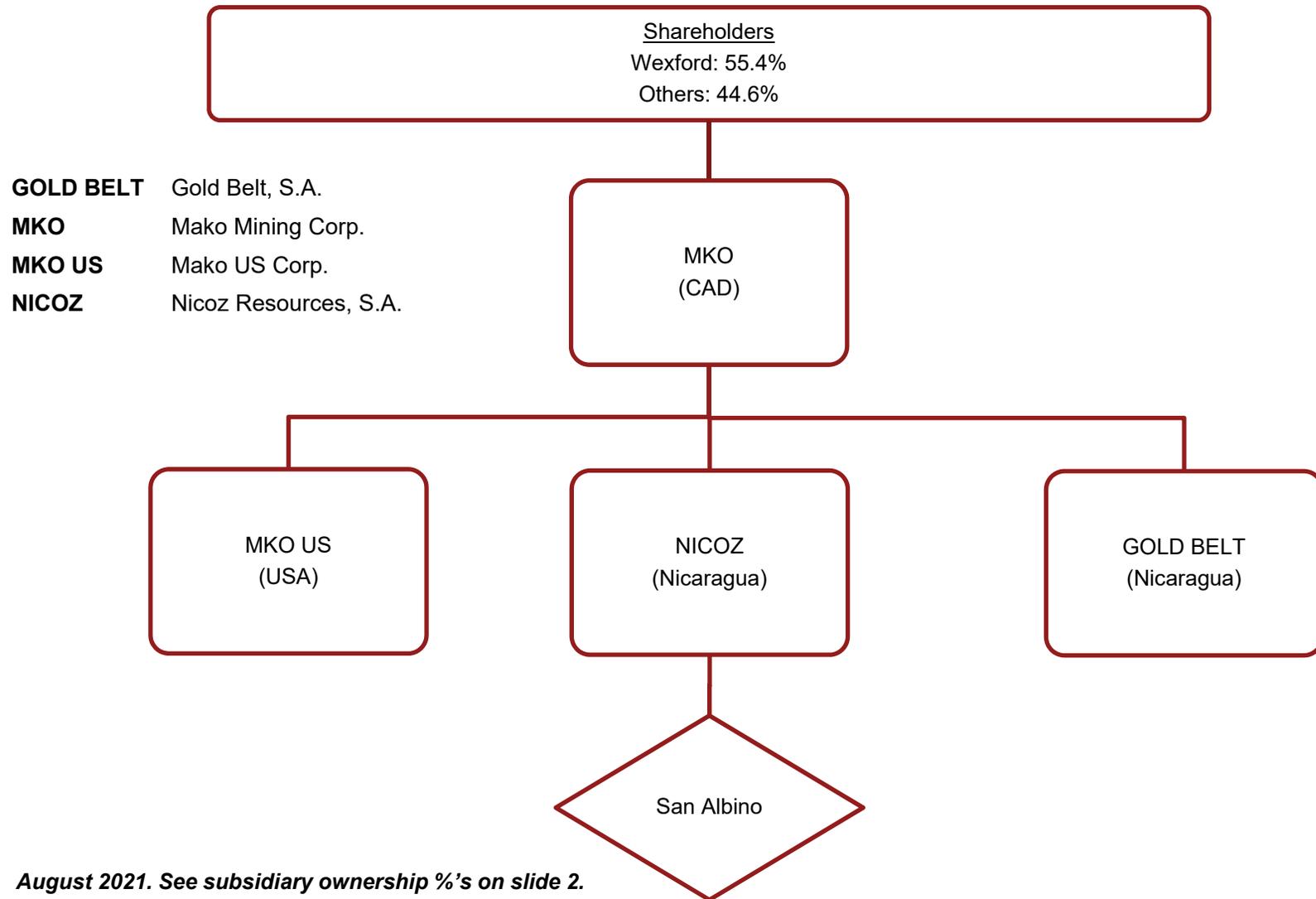
Name:

Title:

**SCHEDULE D
CORPORATE ORGANIZATION CHART**

Attached.

Mako Mining Corp. - Organizational Chart



August 2021. See subsidiary ownership %'s on slide 2.