

**LUNDIN MINING CORPORATION AND LUNDIN MINING AB  
as Borrowers**

**and**

**THE BANK OF NOVA SCOTIA  
as Joint Lead Arranger and Joint Book Runner**

**and**

**THE BANK OF NOVA SCOTIA  
as Administrative Agent**

**ING CAPITAL LLC  
as Joint Lead Arranger, Syndication Agent and Joint Book Runner**

**and**

**BANK OF MONTREAL  
as Documentation Agent**

**THE BANK OF NOVA SCOTIA, BANK OF MONTREAL, ING CAPITAL LLC,  
THE TORONTO-DOMINION BANK, BANK OF AMERICA, N.A., CANADA BRANCH,  
SKANDINAVISKA ENSKILDA BANKEN AB (publ) and ROYAL BANK OF CANADA**

**as Lenders**

---

**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**

---

**Dated as of August 28, 2019**

**FASKEN**

Fasken Martineau DuMoulin LLP  
Toronto, Ontario

# TABLE OF CONTENTS

Page

<b>ARTICLE 1 INTERPRETATION .....</b>	<b>1</b>
1.1 Defined Terms .....	1
1.2 Other Usages .....	40
1.3 Plural and Singular .....	40
1.4 Headings .....	40
1.5 Currency .....	40
1.6 Applicable Law.....	41
1.7 Time of the Essence.....	41
1.8 Non-Banking Days .....	41
1.9 Consents and Approvals .....	41
1.10 Amount of Credit.....	41
1.11 Schedules .....	42
1.12 Extension of Credit.....	42
1.13 Several Obligations of the Borrowers .....	42
1.14 Rule of Construction.....	42
1.15 Dutch Terms .....	42
1.16 Changes in Accounting Policies .....	42
<b>ARTICLE 2 CREDIT FACILITY .....</b>	<b>43</b>
2.1 Establishment of the Credit Facility.....	43
2.2 Lenders' Commitments .....	43
2.3 Reduction of the Credit Facility .....	44
2.4 Termination of the Credit Facility .....	44
2.5 Accordion Feature. ....	44
<b>ARTICLE 3 GENERAL PROVISIONS RELATING TO CREDITS .....</b>	<b>47</b>
3.1 Types of Credit Availments.....	47
3.2 Funding of Loans.....	47
3.3 Failure of Lender to Fund Loan.....	49
3.4 Funding of Bankers' Acceptances .....	50
3.5 BA Rate Loans .....	52
3.6 Timing of Credit Availments.....	52
3.7 Inability to Fund U.S. Dollar Advances in Canada .....	52
3.8 Time and Place of Payments .....	54
3.9 Remittance of Payments .....	54
3.10 Evidence of Indebtedness .....	54
3.11 General Provisions Relating to All Letters.....	54
3.12 Notice Periods .....	56
3.13 Administrative Agent's Discretion to Allocate .....	57
3.14 Effect of Benchmark Discontinuance Event .....	57
<b>ARTICLE 4 DRAWDOWNS .....</b>	<b>58</b>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
4.1 Drawdown Notice.....	58
<b>ARTICLE 5 ROLLOVERS.....</b>	<b>59</b>
5.1 Bankers' Acceptances.....	59
5.2 LIBOR Loans .....	59
5.3 Rollover Notice .....	59
<b>ARTICLE 6 CONVERSIONS.....</b>	<b>60</b>
6.1 Converting Loan to Other Type of Loan .....	60
6.2 Converting Loan to Bankers' Acceptances .....	60
6.3 Converting Bankers' Acceptances to Loan .....	60
6.4 Conversion Notice .....	61
6.5 Absence of Notice .....	61
6.6 Conversion by Lenders.....	62
<b>ARTICLE 7 INTEREST AND FEES .....</b>	<b>62</b>
7.1 Interest Rates .....	62
7.2 Calculation and Payment of Interest.....	62
7.3 General Interest Rules .....	63
7.4 Selection of Interest Periods .....	63
7.5 Standby Fee .....	64
7.6 Letter Fees .....	64
7.7 Acceptance Fees .....	64
7.8 Fronting Fees .....	65
7.9 Applicable Rate Adjustment.....	65
<b>ARTICLE 8 RESERVE, CAPITAL, INDEMNITY AND TAX PROVISIONS .....</b>	<b>65</b>
8.1 Conditions of Credit .....	65
8.2 Change of Circumstances .....	65
8.3 Failure to Fund as a Result of Change of Circumstances.....	67
8.4 Indemnity Relating to Credits .....	69
8.5 Indemnity for Transactional and Environmental Liability .....	70
8.6 Gross-Up for Taxes .....	71
<b>ARTICLE 9 REPAYMENTS AND PREPAYMENTS.....</b>	<b>75</b>
9.1 Repayment of RT Facility .....	75
9.2 [Intentionally deleted].....	76
9.3 Extension of RT Facility .....	76
9.4 Voluntary Prepayments under a Credit Facility .....	78
9.5 Mandatory Prepayments .....	78
9.6 Prepayment Notice .....	78
9.7 Reimbursement or Conversion on Presentation of Letters .....	78

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
9.8 Letters Subject to an Order.....	79
9.9 Currency of Repayment.....	79
9.10 Repayment of Credit Excess.....	79
<b>ARTICLE 10 REPRESENTATIONS AND WARRANTIES .....</b>	<b>79</b>
10.1 Representations and Warranties .....	79
10.2 Survival of Representations and Warranties .....	86
<b>ARTICLE 11 COVENANTS.....</b>	<b>86</b>
11.1 Affirmative Covenants .....	86
11.2 Restrictive Covenants .....	95
11.3 Performance of Covenants by Administrative Agent.....	98
<b>ARTICLE 12 CONDITIONS PRECEDENT TO OBTAINING CREDIT.....</b>	<b>98</b>
12.1 Conditions Precedent to All Credit.....	98
12.2 [Intentionally Deleted].....	98
12.3 Conditions Precedent to Effectiveness of Agreement .....	98
12.4 Waiver .....	101
<b>ARTICLE 13 DEFAULT AND REMEDIES.....</b>	<b>102</b>
13.1 Events of Default .....	102
13.2 Refund of Overpayments.....	105
13.3 Remedies Cumulative.....	105
13.4 Set-Off .....	106
<b>ARTICLE 14 THE ADMINISTRATIVE AGENT .....</b>	<b>106</b>
14.1 Appointment and Authorization of Administrative Agent .....	106
14.2 Interest Holders .....	107
14.3 Consultation with Counsel .....	107
14.4 Documents .....	107
14.5 Administrative Agent as Lender.....	107
14.6 Responsibility of Administrative Agent .....	107
14.7 Action by Administrative Agent.....	108
14.8 Notice of Events of Default .....	108
14.9 Responsibility Disclaimed.....	108
14.10 Indemnification.....	109
14.11 Credit Decision .....	109
14.12 Successor Administrative Agent .....	109
14.13 Delegation by Administrative Agent.....	110
14.14 Waivers and Amendments.....	110
14.15 Determination by Administrative Agent Conclusive and Binding.....	114
14.16 Adjustments among Lenders after Acceleration .....	114

**TABLE OF CONTENTS**  
(continued)

		<b>Page</b>
14.17	Redistribution of Payment .....	115
14.18	Distribution of Notices .....	115
14.19	Determination of Exposures .....	115
14.20	Decision to Enforce Security .....	116
14.21	Enforcement.....	116
14.22	Application of Cash Proceeds of Realization .....	116
14.23	Security Documents.....	117
14.24	Survival.....	117
14.25	Entering into Contracts .....	117
14.26	Discharge of Security .....	117
<b>ARTICLE 15 MISCELLANEOUS.....</b>		<b>118</b>
15.1	Notices .....	118
15.2	Severability .....	119
15.3	Counterparts .....	119
15.4	Successors and Assigns .....	119
15.5	Assignment .....	119
15.6	Entire Agreement.....	121
15.7	Further Assurances .....	121
15.8	Judgment Currency .....	122
15.9	Pledged Subsidiaries.....	122
15.10	No Fiduciary Duty .....	123
15.11	Confidentiality .....	123
15.12	Anti-Money Laundering Legislation .....	124
15.13	Contractual Recognition of Bail-In and No Fiduciary Duty .....	124
15.14	Parallel Debt .....	124
<b>SCHEDULE A LENDERS AND INDIVIDUAL COMMITMENTS .....</b>		<b>1</b>
<b>SCHEDULE B COMPLIANCE CERTIFICATE .....</b>		<b>1</b>
<b>SCHEDULE C FORM OF ASSIGNMENT.....</b>		<b>1</b>
<b>SCHEDULE D FORM OF DRAWDOWN NOTICE .....</b>		<b>1</b>
<b>SCHEDULE E FORM OF ROLLOVER NOTICE .....</b>		<b>1</b>
<b>SCHEDULE F FORM OF CONVERSION NOTICE .....</b>		<b>1</b>
<b>SCHEDULE G CORPORATE CHART .....</b>		<b>1</b>
<b>SCHEDULE H REIMBURSEMENT INSTRUMENT.....</b>		<b>1</b>
<b>SCHEDULE I APPLICABLE RATES .....</b>		<b>1</b>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
<b>SCHEDULE J CAPITAL OF PLEDGED SUBSIDIARIES .....</b>	<b>2</b>
<b>SCHEDULE K SECURITY DOCUMENTS .....</b>	<b>1</b>
<b>SCHEDULE L [INTENTIONALLY DELETED] .....</b>	<b>1</b>
<b>SCHEDULE M REPLACEMENT LENDER AGREEMENT .....</b>	<b>1</b>
<b>SCHEDULE N [INTENTIONALLY DELETED] .....</b>	<b>1</b>
<b>SCHEDULE O [INTENTIONALLY DELETED] .....</b>	<b>2</b>
<b>SCHEDULE 10.1(E) LITIGATION DISCLOSURE .....</b>	<b>1</b>
<b>SCHEDULE 10.1(F) [REDACTED] .....</b>	<b>1</b>
<b>SCHEDULE 10.1(G) [REDACTED] .....</b>	<b>1</b>
<b>SCHEDULE 10.1(L) [REDACTED] .....</b>	<b>2</b>
<b>SCHEDULE P QUALIFIED RISK MANAGEMENT AFFILIATE INSTRUMENT OF ADHESION .....</b>	<b>3</b>
<b>SCHEDULE Q FORM OF ACCORDION AGREEMENT .....</b>	<b>4</b>

**WHEREAS**, pursuant to a second amended and restated credit agreement dated as of October 7, 2013, among Lundin Mining Corporation, a corporation amalgamated under the laws of Canada (the “**Parent**”) and Lundin Mining AB, a corporation incorporated under the laws of Sweden (“**Lundin AB**” and, together with the Parent, the “**Borrowers**”), the lending institutions from time to time parties thereto as Lenders (for the purposes of this recital only, as defined in the Existing Credit Agreement) and The Bank of Nova Scotia, as Administrative Agent (as amended to but excluding the date hereof, the “**Existing Credit Agreement**”), such Lenders established a certain credit facility in favour of the Borrowers;

**WHEREAS** the parties hereto wish to amend and restate the Existing Credit Agreement as follows;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto covenant and agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Defined Terms**

The following defined terms shall for all purposes of this agreement, or any amendment, substitution, supplement, replacement or addition hereto, have the following respective meanings unless the context otherwise specifies or requires or unless otherwise defined herein:

“**2P Reserves**” means “probable mineral reserve” and “proven mineral reserve” as such terms are defined by the Canadian Institute of Mining, Metallurgy and Petroleum as the CIM Definition Standards on Mineral Resources and Mineral Reserves Adopted by the CIM Council, as those definitions may be amended.

“**Acceptable Financial Institution**” means, at any particular time, a financial institution that maintains an A rating or better from any of Fitch, Moody’s or S&P as well as BNP Paribas Fortis, Millennium BCP, ING, Banco BPI, Banque Privée Edmond De Rothschild Europe, Barclays, Banco Sabadell S.A., Caixa Geral de Deposito, Banco Espírito Santo, Cajamar and Banco Popular, Banco Português de Negócios, Banco Bilbao Vizcaya Argentaria, Santander S.A., Ulster Bank and such other banks in Portugal and Spain as the Borrowers and the Administrative Agent may agree upon from time to time.

“**Accordion Agreement**” means an agreement in the form of Schedule Q hereto (or in such other form having substantially similar effect as the Administrative Agent may accept) duly completed, executed and delivered by the Borrowers, an Accordion Lender, and the Administrative Agent and the Issuing Lenders pursuant to Section 2.5(d).

“**Accordion Lender**” means a Lender or a proposed new Lender that has agreed to accept an additional Individual Commitment with respect to the RT Facility or an initial

Individual Commitment with respect to the RT Facility designated in an Accordion Notice delivered to the Administrative Agent pursuant to and in accordance with Section 2.5(a).

“**Accordion Notice**” shall have the meaning ascribed thereto in Subsection 2.5(a).

“**Acquisition**” means:

- (a) if the acquisition is a share purchase, the Parent shall Control the entity being acquired immediately following the completion of such acquisition; or
- (b) if the acquisition is an asset purchase, all or substantially all of the assets of the vendor (or of a division or unit of the vendor) are being acquired.

“**Acquisition Cost**” means, with respect to any Acquisition, the aggregate amount of consideration paid or payable in exchange for the subject-matter of such Acquisition; provided that the amount of any non-cash consideration shall be equal to its fair market value as at the time of such Acquisition.

“**Additional Full Recourse Guarantor**” means any direct or indirect Subsidiary of the Parent which has become a Full Recourse Guarantor pursuant to Section 11.1(v).

“**Additional Limited Recourse Guarantor**” means any direct or indirect Subsidiary of the Parent which has become a Limited Recourse Guarantor pursuant to Section 11.1(v).

“**Additional Senior Note Guarantor**” means any direct or indirect Subsidiary of the Parent who is not a Guarantor prior to December 19, 2012 who becomes a guarantor of any Permitted Indebtedness set out in paragraph (n) of the definition thereof after such date.

“**Administration**” means in relation to a Lender the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a government or government mandated supervisory authority or regulator under or based on the law in the country where such Lender is subject to home jurisdiction supervision if Applicable Law requires that such appointment not to be publicly disclosed.

“**Administrative Agent**” means The Bank of Nova Scotia, in its capacity as administrative agent of the Finance Parties, and any successor thereto pursuant to Section 14.12.

“**Affiliate**” means an affiliated body corporate and, for the purposes of this agreement, (i) one body corporate is affiliated with another body corporate if one such body corporate is the Subsidiary of the other or both are Subsidiaries of the same body corporate or each of them is Controlled by the same Person and (ii) if two bodies corporate are affiliated with the same body corporate at the same time, they are deemed to be affiliated with each other; for greater certainty for the purposes of this definition, “body corporate” shall include a Canadian chartered bank.

“**Agreed Environmental Requirements**” means any policy, statement or guidelines of whatsoever nature relating to environmental, health and safety or similar issues and issued from time to time by the World Bank Group or the International Finance Corporation.

“**Alternate Base Rate Canada**” means, at any particular time, the variable rate of interest per annum, calculated on the basis of a year of 365 or 366 days, as the case may be, which is equal to the greater of (a) the Base Rate Canada at such time and (b) the aggregate of (i) the Federal Funds Effective Rate at such time and (ii) ½ of 1% per annum. If at any time the Alternate Base Rate Canada is less than zero, the Alternate Base Rate Canada shall be deemed to be equal to zero.

“**Altius Chapada PMPA**” means the copper purchase agreement between Altius Minerals Corporation, Altius Prairie Royalties Corp. and Yamana Gold (Barbados) Inc. dated March 31, 2016, assigned by Yamana Gold (Barbados) Inc. to Yamana International Holdings Cooperatie U.A. pursuant to a Transfer Agreement dated July 5, 2019 and assigned by Yamana International Holdings Cooperatie U.A. to LMC Bermuda Ltd. pursuant to an Assignment, Assumption and Amending Agreement dated July 5, 2019.

“**Anti-Corruption Laws**” means all laws, rules, and regulations having force of law of any jurisdiction applicable to the Companies (or to a Lender on account of its business relationship with a Company) from time to time concerning or relating to bribery or corruption, including without limitation the *Corruption of Foreign Public Officials Act* (Canada), the *U.S. Foreign Corrupt Practices Act*, the *U.K. Bribery Act 2010*, the relevant provisions of the Dutch Criminal Code (*Wetboek van strafrecht*) (the Netherlands).

“**Anti-Money Laundering Legislation**” means (as the context requires) Part II.1 of the *Criminal Code* (Canada), the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the USA Patriot Act, the Anti-Money Laundering and Anti-Terrorist Financing Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*) (the Netherlands), including any guidelines or orders with respect to any of the foregoing and any other applicable anti-money laundering, anti-terrorist financing and economic sanction laws of Canada or any other applicable jurisdiction, in each case having force of law.

“**Anti-Terrorism Laws**” means (i) US Executive order No. 13224, the USA Patriot Act, the laws comprising or implementing the “Bank Secrecy Act”, 31 U.S.C. §§ 5311 et seq., the laws administered by OFAC and any similar law enacted by the United States of America subsequent to the date of this Agreement, (ii) *Combating Terrorism Act* (Canada) and/or (iii) the Sanctions, as the context requires.

“**Applicable Law**” means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgment, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, request, guideline or directive; or (d) any franchise,

licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Official Body, in each case having the force of law and binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person.

“**Applicable Rate**” means, for a particular Fiscal Quarter, the rate per annum used to determine the interest rate on various types of Loans, the rate used to calculate standby fees pursuant to Section 7.5, the rate used to calculate Letter issuance fees pursuant to Section 7.6 or the rate used to calculate acceptance fees pursuant to Section 7.7, in each case by reference to the range in which the Leverage Ratio for the second immediately preceding Fiscal Quarter falls as set forth in Schedule I hereto, provided that (i) changes in the Applicable Rate shall be effective as set forth in Section 7.9, (ii) changes in the Applicable Rate shall apply, as at the effective dates of such changes, to Bankers’ Acceptances, BA Rate Loans, LIBOR Loans and Letters outstanding on such dates, but only for those portions of applicable terms or Interest Periods, as the case may be, falling within those times during which the changes in the Applicable Rate are effective, as provided above. At any time that an Event of Default has occurred and is continuing, the Applicable Rate shall, if the Administrative Agent has so notified the Borrowers, be increased by an additional 2.00% per annum.

“**Available RT Credit**” means, at any particular time, the amount, if any, by which the amount of the RT Facility at such time exceeds the amount of credit outstanding under the RT Facility at such time.

“**BA Discounted Proceeds**” means, in respect of any Bankers’ Acceptances to be accepted by a Lender on any day, an amount (rounded to the nearest whole cent and with one-half of one cent being rounded up) calculated on such day by multiplying:

- (a) the aggregate face amount of such Bankers’ Acceptances; by
- (b) the amount determined by dividing one by the sum of one plus the product of:
  - (i) the BA Rate which is applicable to such Bankers’ Acceptance (expressed as a decimal); and
  - (ii) a fraction, the numerator of which is the number of days remaining in the term of such Bankers’ Acceptances and the denominator of which is 365;

with the amount as so determined being rounded up or down to the fifth decimal place and .000005 being rounded up.

“**BA Proceeds**” means, with respect to a particular Bankers’ Acceptance, the BA Discounted Proceeds with respect thereto less the aggregate amount of the acceptance fees in respect of such Bankers’ Acceptance calculated in accordance with Section 7.7.

“**BA Rate**” means:

- (a) with respect to an issue of Bankers' Acceptances with the same maturity date to be accepted by a Schedule I Lender hereunder, the discount rate per annum, calculated on the basis of a year of 365 days, (i) equal to, as determined by the Administrative Agent, the arithmetic average (rounded upwards to the nearest multiple of 0.01%) of the discount rates that appear on the Reuters Screen CDOR Page at or about 10:00 a.m. (Toronto time) on the date of issue and acceptance of such Bankers' Acceptances, for bankers' acceptances having a comparable face value and an identical maturity date to the face value and maturity date of such issue of Bankers' Acceptances or (ii) if such Page does not appear, the discount rate per annum, calculated on the basis of a year of 365 days, determined by the Administrative Agent as being the arithmetic average (rounded upwards to the nearest multiple of 0.01%) of the discount rates of the Schedule I Reference Lenders determined in accordance with their normal practices at or about 10:00 a.m. (Toronto time) on the date of issue and acceptance of such Bankers' Acceptances, for bankers' acceptances having a comparable face value and an identical maturity date to the face value and maturity date of such issue of Bankers' Acceptances (the "**CDOR Rate**"). If at any time the CDOR Rate is less than zero, the CDOR Rate shall be deemed to be equal to zero; and
- (b) with respect to an issue of Bankers' Acceptances with the same maturity date to be accepted by a Schedule II or III Lender hereunder, the lesser of, but in any case never less than zero, (i) the discount rate per annum, calculated on the basis of a year of 365 days, determined by the Administrative Agent as being the arithmetic average (rounded upwards to the nearest multiple of 0.01%) of the discount rates of the Schedule II and III Reference Lenders determined in accordance with their normal practices at or about 10:00 a.m. (Toronto time) on the date of issue and acceptance of such Bankers' Acceptances, for bankers' acceptances having a comparable face value and an identical maturity date to the face value and maturity date of such issue of Bankers' Acceptances and (ii) the BA Rate with respect to an issue of Bankers' Acceptances with the same maturity date to be accepted by a Schedule I Lender hereunder plus 0.1% per annum.

"**BA Rate Loan**" shall have the meaning ascribed thereto in Section 3.5.

"**Bail-In Action**" means the exercise of any Write-down and Conversion Powers.

"**Bail-In Legislation**" means in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time.

"**Bankers' Acceptance**" means a bill of exchange subject to the *Bills of Exchange Act* (Canada) or a depository bill subject to the *Depository Bills and Notes Act* (Canada) (a) drawn by a Borrower and accepted by a Lender, (b) denominated in Canadian dollars, (c) having a term to maturity of 30 to 180 days or any other term that corresponds to the terms of an Interest Period (subject to availability and the right of the Administrative

Agent, in its discretion, to restrict the term or maturity dates applicable to Bankers' Acceptances), (d) issued and payable only in Canada and (e) having a face amount of not less than Cdn. \$1,000,000 or an integral multiple of Cdn. \$1,000 in excess thereof.

**"Banking Day"** means (x) any day, other than Saturday and Sunday, on which banks generally are open for business in Toronto, Ontario, New York, New York and Stockholm, Sweden, Amsterdam, Holland, The Netherlands and Brussels, Belgium and (y) when used in respect of LIBOR Loans, means any such day which is also a day on which banks generally are open for business in London, England and on which transactions can be carried on in the London interbank market.

**"Barinas"** means Barinas Enterprises Company Limited, a private company incorporated under the laws of Cyprus.

**"Base Rate Canada"** means the variable rate of interest per annum determined by the Administrative Agent from time to time as its base rate for United States dollar loans made by the Administrative Agent in Canada from time to time, being a variable per annum reference rate of interest adjusted automatically upon change by the Administrative Agent, calculated on the basis of a year of 365 or 366 days, as the case may be. If at any time the Base Rate Canada is less than zero, the Base Rate Canada shall be deemed to be equal to zero.

**"Base Rate Canada Loan"** means monies lent by the Lenders to a Borrower hereunder in United States dollars and upon which interest accrues at a rate referable to the Alternate Base Rate Canada.

**"Benchmark Replacement"** means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by the Administrative Agent and the Borrowers giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR (U.S.) for U.S. dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.

**"Benchmark Replacement Adjustment"** means, with respect to any replacement of LIBOR (U.S.) with an Unadjusted Benchmark Replacement for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrowers giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR (U.S.) with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR (U.S.)

with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time.

**“Benchmark Replacement Conforming Changes”** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

**“Benchmark Replacement Date”** means the earlier to occur of the following events with respect to LIBOR (U.S.):

- (a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of LIBOR (U.S.) permanently or indefinitely ceases to provide LIBOR (U.S.); or
- (b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

**“Benchmark Transition Event”** means the occurrence of one or more of the following events with respect to LIBOR (U.S.):

- (a) a public statement or publication of information by or on behalf of the administrator of LIBOR (U.S.) announcing that such administrator has ceased or will cease to provide LIBOR (U.S.), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR (U.S.);
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR (U.S.), the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for LIBOR (U.S.), a resolution authority with jurisdiction over the administrator for LIBOR (U.S.) or a court or an entity with similar insolvency or resolution authority over the administrator for LIBOR (U.S.), which states that the administrator of LIBOR (U.S.) has ceased or will cease to provide LIBOR (U.S.) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR (U.S.); or

- (c) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR (U.S.) announcing that LIBOR (U.S.) is no longer representative.

**“Benchmark Transition Start Date”** means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90<sup>th</sup> day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Administrative Agent or the Majority Lenders, as applicable, by notice to the Borrowers, the Administrative Agent (in the case of such notice by the Majority Lenders) and the Lenders.

**“Benchmark Unavailability Period”** means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR (U.S.) and solely to the extent that LIBOR (U.S.) has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR (U.S.) for all purposes hereunder in accordance with Section 3.14 and (y) ending at the time that a Benchmark Replacement has replaced LIBOR (U.S.) for all purposes hereunder pursuant to Section 3.14.

**“Blocking Law”** means Council of the European Union regulation (EC) No 2271/1996 of 22 November 1996 or any law or regulation implementing such regulation in any member state of the European Union or the United Kingdom of Great Britain and Northern Ireland.

**“Branch of Account”** means the Toronto main branch of the Administrative Agent located at Scotia Plaza, Toronto, Ontario, or such other branch of the Administrative Agent located in Canada as the Borrowers and the Administrative Agent may agree upon.

**“Canadian Dollar Equivalent”** means the Exchange Equivalent in Canadian dollars of any amount of any other currency.

**“Candelaria”** means Compañía Contractual Minera Candelaria, a contractual mining company incorporated under the laws of the Republic of Chile.

**“Candelaria/Ojos Parent PMPA Guarantee”** means the guarantee by the Parent set out in Section 9.2 of the Candelaria/Ojos PMPA.

**“Candelaria/Ojos PMPA”** means the purchase and sale agreement (gold and silver) between Franco-Nevada Corporation, Franco-Nevada (Barbados) Corporation, the Parent and LMC Bermuda Ltd. dated October 6, 2014.

“**Candelaria/Ojos PMPA Liens**” means the Liens in the Shared Streaming Collateral granted by the Parent or any of the Candelaria/Ojos Subsidiaries in connection with Candelaria/Ojos PMPA Obligations.

“**Candelaria/Ojos PMPA Obligations**” means any obligations incurred by the Parent or any of the Candelaria/Ojos Subsidiaries pursuant to the Candelaria/Ojos PMPA (including, for certainty, the Deposit (as defined in the Candelaria/Ojos PMPA)), the Candelaria/Ojos Parent PMPA Guarantee or any of the Candelaria/Ojos Subsidiaries PMPA Guarantees.

“**Candelaria/Ojos Subsidiaries**” means collectively LMC Bermuda Ltd., Candelaria, Ojos, Lundin Mining South America SpA, LMC Chile SpA, LMC Candelaria, LMC Ojos and any other direct or indirect Subsidiary of Lundin Mining South America SpA.

“**Candelaria/Ojos Subsidiaries PMPA Guarantees**” means the guarantees issued by the Candelaria/Ojos Subsidiaries pursuant to the Candelaria/Ojos PMPA.

“**Capital Lease**”, as applied to any Person, shall mean any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with generally accepted accounting principles, is, or is required to be, accounted for as a finance lease obligation on the balance sheet of that Person but excluding any leases that would have been classified as, and determined to be, operating leases in accordance with generally accepted accounting principles in effect immediately prior to the implementation of IFRS 16 - Leases.

“**Capital Reorganization**” means any change in the issued and outstanding Shares of a Subject Entity.

“**Cash**” means, at any particular time, the aggregate of cash and Cash Equivalents of such Person (determined on a consolidated basis at any such time in respect of the Parent) and shall include restricted cash to the extent that it has been reserved for as part of Reclamation Obligations.

“**Cash Equivalents**” means (i) securities issued or directly and fully guaranteed or insured by the government of any Permitted Jurisdictions or any agency or instrumentality thereof with maturities of 12 months or less from the date of acquisition, (ii) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank incorporated in a Permitted Jurisdiction having capital and surplus in excess of U.S.\$500,000,000 or the Exchange Equivalent thereof (iii) repurchase obligations for underlying securities of the types described in clauses (i) and (ii) entered into with any financial institution meeting the qualifications specified in clause (ii) above, (iv) commercial paper rated A-1 low by S&P or the equivalent thereof by Moody’s or Dominion Bond Rating Service and in each case maturing within one year after the date of acquisition, (v) investment funds investing at least 95% of their assets in securities of the types described in clauses (i) to (iv) above and (vi) readily marketable direct

obligations issued by any state or province of any Permitted Jurisdiction or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody's, S&P or Dominion Bond Rating Service with maturities of 24 months or less from the date of acquisition.

**"Cash Flow from Operations"** means, for any particular period, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated cash flow statement of the Parent for such period as the cash flow from operations.

**"Cash Proceeds of Realization"** means the aggregate of (i) all Proceeds of Realization in the form of cash and (ii) all cash proceeds of the sale or disposition of non-cash Proceeds of Realization, in each case expressed in U.S. dollars.

**"CERCLA"** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., as amended.

**"Chapada"** means Mineração Maraca Industria e Comercio S/A, a corporation formed under the laws of Brazil.

**"Chapada Parent PMPA Guarantees"** means, collectively, the guarantee by the Parent set out in Section 4.1(d) of each of the Altius Chapada PMPA and the guarantee by the Parent in connection with the Sandstorm Chapada PMPA.

**"Chapada PMPAs"** means, collectively, the Altius Chapada PMPA and the Sandstorm Chapada PMPA and **"Chapada PMPA"** means either of the Chapada PMPAs.

**"Chapada PMPA Obligations"** means any obligations incurred by the Parent or any of the Chapada Subsidiaries pursuant to any Chapada PMPA (including, for certainty, the Advance Payment (as defined in each of the Chapada PMPAs)), the Chapada Parent PMPA Guarantees or any of the Chapada Subsidiaries PMPA Guarantees.

**"Chapada Subsidiaries"** means LMC Bermuda Ltd., LMC Netherlands, LMC Brazil and Chapada.

**"Chapada Subsidiaries PMPA Guarantees"** means the guarantees issued by the Chapada Subsidiaries pursuant to the Chapada PMPAs.

**"Code"** means the Internal Revenue Code of 1986 of the United States, as amended from time to time, and any successor statute and including all regulations issued under all such statutes.

**"Companies"** means the Obligors and all other Subsidiaries of the Parent and **"Company"** means any of the Companies.

**"Contaminant"** means any contaminant, as defined by the EPA.

“**Control**” means, with respect to control of a body corporate by a Person, the holding (other than by way of security only) by or for the benefit of that Person, or Affiliates of that Person, of securities of such body corporate or the right to vote or direct the voting of securities of such body corporate to which, in the aggregate, are attached more than 50% of the votes that may be cast to elect directors of the body corporate, provided that the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate, and “**Controlled**” shall have a similar meaning.

“**Conversion Notice**” shall have the meaning ascribed thereto in Section 6.4.

“**Corporate Reorganization**” means any change in the legal existence of any Subject Entity (other than a Capital Reorganization) including by way of amalgamation, merger, winding up, continuance, plan of arrangement or “**Division**” (as defined in Section 18-217 of the Delaware Limited Liability Company Act).

“**Credit Documents**” means this agreement, the Fee Letters, the Guarantees, the Security Documents, the Postponement and Subordination Undertaking and all instruments and agreements executed and delivered by the Obligor in favour of the Finance Parties from time to time in connection with this agreement or any other Credit Document.

“**Credit Excess**” means, as at a particular date and with respect to the RT Facility only, the amount, if any, by which the aggregate amount of credit outstanding under the RT Facility as at the close of business on such date exceeds the amount of the RT Facility as at the close of business on such date.

“**Credit Facility**” means the RT Facility.

“**Default**” means any event which is or which, with the passage of time, the giving of notice or both, would be an Event of Default.

“**Defaulting Lender**” means any Lender that (a) has failed to fund any portion of any extension of credit required to be funded by it hereunder within three Banking Days of the date required to be funded by it hereunder unless such failure has been cured, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three Banking Days of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, (c) has been determined by a court of competent jurisdiction or regulator to be insolvent or is unable to meet its obligations or admits in writing it is unable to pay its debts as they generally become due, (d) is the subject of a bankruptcy or insolvency proceeding, (e) is subject to or is seeking the appointment of an administrator, regulator, conservator, liquidator, receiver, trustee, custodian or other similar official over any portion of its assets or business, with respect to (d) and (e) other than by way of an Administration or (f) is subject to a Bail-In Action.

“**Designated Account**” means, with respect to transactions in a particular currency for a particular Borrower, the account of such Borrower maintained by the Administrative

Agent at the Branch of Account for the purposes of transactions in such currency under this agreement.

**“Distribution”** means:

- (a) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any Shares in the capital of the Parent, other than a dividend declared, paid or set aside for payment by the Parent which is payable in shares of the Parent;
- (b) the redemption, retraction, purchase, retirement or other acquisition, in whole or in part, of any Shares in the capital of the Parent or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for Shares in the capital of the Parent, including, without limitation, options, warrants, conversion or exchange privileges and similar rights; and
- (c) the payment of interest or the repayment of principal with respect to any Indebtedness of the Parent which is subordinated to the Indebtedness of the Parent under the Credit Documents.

**“\$”** denotes U.S. dollars.

**“Draft”** means any draft, bill of exchange, receipt, acceptance, demand or other request for payment drawn or issued under or in respect of a Letter.

**“Drawdown Notice”** shall have the meaning ascribed thereto in Section 4.1.

**“Dutch Civil Code”** means the Dutch Civil Code (*Burgerlijk Wetboek*).

**“Dutch Obligor”** means an Obligor incorporated in The Netherlands.

**“Eagle Mine”** means Eagle Mine LLC, a limited liability company existing under the laws of the State of Delaware.

**“Eagle Mine Project”** means the decline access, underground nickel and copper sulfide mine, and related properties, together with the associated Humboldt mill and processing complex, and related properties, all located in Marquette County, Michigan U.S.A.

**“Eagle Mine Purchase Agreement”** means the Membership Interest Purchase Agreement dated June 12, 2013 between Rio Tinto Nickel Company and Lundin Delaware.

**“Early Opt-in Election”** means the occurrence of:

- (a) (i) a determination by the Administrative Agent or (ii) a notification by the Majority Lenders to the Administrative Agent (with a copy to the Borrowers) that the Majority Lenders have determined that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to

that contained in Section 3.14, are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace LIBOR (U.S.), and

- (b) (i) the election by the Administrative Agent or (ii) the election by the Majority Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrowers and the Lenders or by the Majority Lenders of written notice of such election to the Administrative Agent (with a copy to the Borrowers).

“**EBITDA**” means, for any particular Fiscal Quarter, Net Income for such Fiscal Quarter plus, to the extent deducted in determining Net Income, the aggregate of:

- (a) Interest Expenses for such Fiscal Quarter;
- (b) consolidated income tax expenses of the Parent for such Fiscal Quarter; and
- (c) consolidated depreciation and amortization expenses and other non-cash expenses of the Parent for such Fiscal Quarter.

The calculation of EBITDA shall be adjusted for non-cash revenues and expenses of the Parent on a consolidated basis including, without limitation, deferred revenue and the difference between accrued and cash reclamation costs. For greater certainty, EBITDA shall not be adjusted for any change in any non-cash operating working capital. EBITDA shall be calculated (x) excluding (I) any EBITDA generated by the Excluded Entities and (II) any income or losses from minority owned entities and (y) including cash distributions received from any such minority owned entity whose Shares are owned, directly or indirectly, by a Guarantor that are derived from such minority owned entity’s operations. For certainty, as concerns any minority owned entity whose Shares are owned, directly or indirectly, by a Guarantor only cash investment income received therefrom by the Obligors in Permitted Jurisdictions may be included in the determination of EBITDA.

“**EBITDA/Interest Expenses Ratio**” means, for any Fiscal Quarter, the ratio of Rolling EBITDA for such Fiscal Quarter to Rolling Interest Expenses for such Fiscal Quarter.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of a Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“**Environmental Laws**” means the Agreed Environmental Requirements and all applicable federal, state, provincial, regional or local statutes, laws, ordinances, codes,

rules, regulations, decrees and orders regulating, relating to or imposing liability or standards of conduct concerning public health or protection of the environment, or the handling and management of Hazardous Materials (including, without limitation, the EPA).

“**EPA**” means the *Environmental Protection Act* (Ontario), as amended from time to time, and any successor statute.

“**Equity**” means, at any particular time, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated balance sheet of the Parent at such time as shareholders’ equity of the Parent.

“**ERISA**” means the *Employee Retirement Income Security Act* of 1974 of the United States, as amended from time to time, and any successor statute and including all regulations issued under all such statutes.

“**ERISA Affiliate**” shall mean a Person (other than the Borrowers) that is a member of a group of which either Borrower is a member and which group is treated as a single employer under Section 414(b), (c) or (m) of the Code, Section 4001 of ERISA or as a result of either Borrower or a Subsidiary of either Borrower being or having been a general partner of such Person.

“**ERISA Companies**” means the Borrowers and the ERISA Affiliates and “**ERISA Company**” means any of the ERISA Companies.

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“**Euribor**” means in relation to the Credit Facility for each Interest Period relative thereto, the rate of interest per annum, calculated on the basis of 360 days, determined by the Administrative Agent to be the rate for deposits in Euros for the specified period which appears on the Reuters Page Euribor01 at or about 11:00 a.m. (Brussels time), on the second Banking Day prior to the commencement of such Interest Period, as being the interest rate offered in the Euro-zone interbank market for Euro deposits for delivery on the first day of such Interest Period and for a period equal to such Interest Period. If such rate does not appear on the Reuters Screen Euribor01, the rate for that Interest Period will be determined as if the parties had specified Euribor-Reference Banks’ Rate as the applicable rate. In the event that Euribor is below zero such rate shall be deemed to be zero.

“**Euribor-Reference Banks’ Rate**” means the arithmetic mean of the rates quoted by major banks in the Euro-zone, selected by the Administrative Agent, at approximately 11:00 a.m. (Brussels time) on the second Banking Day prior to the commencement of such Interest Period for loans in Euros to leading European banks for a period equal to such Interest Period.

“**Euribor Loan**” means monies lent by the Lenders to a Borrower in Euros and upon which interest accrues at a rate referable to Euribor.

“**Euro**” means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.

“**Euro-zone**” means the region comprised of member states of the European Union that have adopted or that adopt the single currency in accordance with the Treaty establishing the European Community (signed in Rome on 25<sup>th</sup> March, 1957 and as subsequently amended from time to time including but not limited to the Treaty European Union (signed in Maastricht on 7<sup>th</sup> February, 1992)).

“**Event of Default**” means any one of the events set forth in Section 13.1.

“**Excluded Entity**” means, at any particular time, any Non-Guaranteeing Material Subsidiary other than Somincor to the extent such Non-Guaranteeing Material Subsidiary has incurred Limited Recourse Project Indebtedness at such time as well as any entity (which is not at such time otherwise a Subject Entity) that is designated in writing as an Excluded Entity by the Majority Lenders and the Borrowers.

“**Exchange Equivalent**” means, as of any particular date, with reference to any amount (the “**original amount**”) expressed in a particular currency (the “**original currency**”), the amount expressed in another currency which would be required to buy the original amount of the original currency using the quoted spot rates at which the principal office in Toronto of the Administrative Agent offers to provide such other currency in exchange for such original currency at 12:00 noon (Toronto time) on such date.

“**Exposure**” means, with respect to a particular Finance Party at a particular time, the amount of the Secured Obligations owing to such Finance Party at such time determined by such Finance Party in good faith in accordance with Section 14.19.

“**FATCA**” means Section 1471 through 1474 of the Code, as amended as of the date of this agreement (or any amended or successor version that is substantially comparable, and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 147(b)(i) of the Code.

“**Federal Funds Effective Rate**” means, for any day, the rate on overnight federal funds transactions calculated by the Federal Reserve Bank of New York as the federal funds effective rate, as published on the next succeeding Banking Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Banking Day, the average of the quotations for that day on overnight federal funds transactions received by the Administrative Agent from three depository institutions of recognized standing selected by the Administrative Agent. If at any time the Federal Funds Effective Rate is less than zero, the Federal Funds Effective Rate shall be deemed to be equal to zero.

“**Federal Reserve Bank of New York's Website**” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“**Fee Letters**” means (i) the amended and restated administrative agency fee letter dated the date hereof between the Borrowers and The Bank of Nova Scotia and (ii) the joint lead arranger fee letter dated the date hereof among The Bank of Nova Scotia and ING Capital LLC, as joint lead arrangers, and the Borrowers, as each may be amended, modified, supplemented or replaced from time to time.

“**Finance Documents**” means the Credit Documents and the Secured Risk Management Agreements.

“**Financial Letter**” means a standby letter of credit or guarantee issued by an Issuing Lender at the request of a Borrower in favour of a third party to secure the payment of an obligation owed to the third party.

“**Finance Parties**” means the Administrative Agent, the Lenders and the Qualified Risk Management Lenders.

“**Fiscal Quarter**” means any of the three-month periods ending on the last day of March, June, September and December in each Fiscal Year.

“**Fiscal Year**” means the twelve-month period ending on the last day of December in each year.

“**Fitch**” means Fitch Ratings Ltd. or any successor by merger or consolidation to its business.

“**Flood Insurance Laws**” means, collectively, (i) the *National Flood Insurance Act* of 1968, (ii) the *Flood Disaster Protection Act* of 1973, (iii) the *National Flood Insurance Reform Act* of 1994, and (iv) the *Biggert-Waters Flood Insurance Act* of 2012, as such statutes may be amended or re-codified from time to time, any substitution therefor, any regulations promulgated thereunder, and all other Applicable Law relating to flood insurance.

“**Fronted Loan**” shall have the meaning ascribed thereto in Section 3.2(b).

“**Fronting Lender**” means The Bank of Nova Scotia or any other Lender selected by the Administrative Agent and acceptable to the Borrowers who assumes in writing the obligation of making Fronted Loans under the Credit Facility on behalf of the Fronted Lenders.

“**F.R.S. Board**” means the Board of Governors of the Federal Reserve System of the United States or any successor thereto.

“**Full Recourse Guarantors**” means the Parent, Barinas, Zinkgruvan, Lundin Mining Holding, Lundin Delaware, Eagle Mine, Humboldt, LMC Candelaria, LMC Ojos, LMC Chile SpA, Lundin Mining South America SpA, LMC Brazil and Chapada and each Additional Full Recourse Guarantor and “**Full Recourse Guarantor**” means any of the Full Recourse Guarantors. For the avoidance of doubt, LMC Bermuda Ltd. is not a Full Recourse Guarantor.

“**generally accepted accounting principles**” means generally accepted accounting principles in effect in Canada from time to time consistently applied, as recommended by the Handbook of the Canadian Institute of Chartered Accountants.

“**Guarantees**” means the one or more guarantees to be entered into by the Guarantors in favour of the Administrative Agent for the benefit of the Finance Parties, each in form and substance satisfactory to the Administrative Agent as the same may be amended, modified, supplemented or replaced from time to time, and pursuant to which each Full Recourse Guarantor (other than the Parent) shall guarantee the Secured Obligations of the Borrowers on a full recourse basis, the Parent shall guarantee the Secured Obligations of Lundin AB on a full recourse basis, and each Limited Recourse Guarantor shall guarantee the Secured Obligations of the Borrowers on a limited recourse basis (with recourse thereunder limited to the Secured Assets owned by such Limited Recourse Guarantor) and to include, without limitation, the Guarantees described in Schedule K.

“**Guarantors**” means, the Full Recourse Guarantors and the Limited Recourse Guarantors and “**Guarantor**” means any of the Guarantors.

“**Hazardous Materials**” means:

- (a) any petroleum product, asbestos, polychlorinated biphenyl (PCB), natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel; or
- (b) any pollutant or contaminant or hazardous or toxic chemical, material, waste or substance or radioactive material, or any similar category of substances that is as “hazardous substance” as such terms is defined in CERCLA, or that is regulated under, or for which liability or standards of care are imposed under Environmental Law.

“**Humboldt**” means Humboldt Land LLC, a limited liability company existing under the laws of the State of Michigan.

“**IFRS**” means, at any given date, International Financial Reporting Standards, which include standard and interpretations adopted by the International Accounting Standards Board, applied on a consistent basis.

“**Indebtedness**” of any Person means, without duplication, (i) indebtedness of such Person for borrowed money or for the deferred purchase price of property and services, other than trade payables incurred in the ordinary course of business and payable in accordance with customary practices, (ii) other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (iii) obligations of such Person under any Capital Lease (iv) reimbursement obligations of such Person under bankers’ acceptances and contingent obligations of such Person in respect of any letter of credit, bank guarantee or surety bond, (v) to the extent accelerated, obligations (collectively, “**Risk Management Obligations**”) of any Person under any gold, silver or commodity hedging transaction, spot or forward foreign exchange transaction, interest rate swap transaction, currency swap transaction, forward rate transaction, rate cap transaction, rate floor transaction, rate collar transaction, any other exchange or rate

protection, any combination of such transactions or any option with respect to any such transaction, and (vi) the contingent obligations of such Person under any guarantee or other agreement assuring payment of any obligations of any Person of the type described in the foregoing clauses (i) to (v) (for greater certainty the contingent obligations assuring payment of Risk Management Obligations will only be treated as Indebtedness to the extent that such Risk Management Obligations have in fact been accelerated). For certainty, obligations under a streaming or royalty arrangement (including the PMPAs) are not Indebtedness (except to the extent recorded as such on the balance sheet of the Person in accordance with generally accepted accounting principles after demand has been made for (i) repayment of the balance of the upfront deposit or purchase price, (ii) liquidated damages or (iii) other financial compensation upon a default or event of default thereunder).

**“Independent Engineer”** means RPA Inc.

**“Individual Commitment”** means, with respect to a particular Lender and the Credit Facility, the amount set forth in Schedule A attached hereto, as reduced or amended from time to time pursuant to Sections 2.3, 8.3, 9.4, 9.5 and 15.5 (as concerns the Credit Facility), Section 9.1 (as concerns the RT Facility) as the individual commitment of such Lender with respect to such Credit Facility, provided that, upon the termination of such Credit Facility pursuant to Section 2.4, the Individual Commitment of each Lender with respect to the Credit Facility shall thereafter be equal to the Individual Commitment of such Lender under such Credit Facility immediately prior to the termination of the Credit Facility.

**“Intellectual Property”** shall mean all issued patents and patent applications, industrial design registrations, trade-marks, registrations and applications therefor, trade-names and styles, logos, copyright registrations and applications therefor, all of the foregoing owned by or licensed to the Subject Entities and used in or necessary to the operation of their respective business.

**“Interest Expenses”** means, for any particular period, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated income statement of the Parent for such period as gross interest expenses (including, for greater certainty, issuance fees with respect to letters of credit and stamping fees with respect to bankers’ acceptances , but excluding any amounts that would have been classified as, and determined to be, Interest Expenses solely as a result of the implementation of IFRS 15 - Revenue from Contracts with Customers and IFRS 16 - Leases).

**“Interest Period”** means, in the case of any LIBOR Loan, the applicable period for which interest on such LIBOR Loan shall be calculated pursuant to Article 7.

**“Investment”** shall mean any advance, loan, extension of credit or capital contribution to, purchase of Shares, bonds, notes, debentures or other securities of, or any other investment made in, any Person but shall exclude any Acquisition, any acquisition of tangible personal property and any capital or exploration expenditures.

**“Issuing Lender”** means The Bank of Nova Scotia, Skandinaviska Enskilda Banken AB, ING Capital LLC or any other RT Lender selected by the Administrative Agent and acceptable to the Borrowers who assumes the obligation of issuing Letters under the RT Facility on behalf of the RT Lenders.

**“Kronor Loan”** means monies lent by the Lenders to either Borrower in Swedish Kronor and upon which interest accrues at a rate referable to SEK Stibor.

**“Lenders”** means the RT Lenders and **“Lender”** means any RT Lender.

**“Letters”** means Financial Letters or Non-Financial Letters issued by the Issuing Lender (i) at the request, and on the credit, of either Borrower and (ii) on behalf of such Borrower and, if applicable, a Subsidiary of the Parent, each being denominated in United States or Canadian dollars, Euros or Swedish Kronor (or such other currency as may be acceptable to the Issuing Lender), having a term of not more than one year, being renewable in the sole discretion of the Issuing Lender, being issued to a named beneficiary acceptable to the Issuing Lender and being otherwise in a form satisfactory to the Issuing Lender including, without limitation, the SEB Letter.

**“Leverage Ratio”** means, for any Fiscal Quarter, the ratio of (i) Net Total Debt at the last day of such Fiscal Quarter to (ii) Rolling EBITDA for such Fiscal Quarter.

**“LIBOR”** means Euribor, LIBOR (U.S.) or SEK Stibor, as applicable. In the event an applicable LIBOR is below zero, such rate shall be deemed to be zero.

**“LIBOR Loans”** means Euribor Loans, LIBOR (U.S.) Loans and Kronor Loans and **“LIBOR Loan”** means any one of the LIBOR Loans.

**“LIBOR (U.S.)”** means the rate of interest per annum, calculated on the basis of a year of 360 days, determined by the Administrative Agent for a particular Interest Period to be the rate of interest per annum that appears as such on the Reuters Screen Page 3750 at 11:00 a.m. (London time) on the second Banking Day prior to the commencement of such Interest Period.

**“LIBOR (U.S.) Loan”** means monies lent by the Lenders to a Borrower in United States dollars and upon which interest accrues at a rate referable to LIBOR (U.S.).

**“Lien”** means any deed of trust, mortgage, charge, hypothec, assignment, pledge, lien, vendor’s privilege, vendor’s right of reclamation, royalty or other security interest or encumbrance of whatever kind or nature, regardless of form and whether consensual or arising by law (statutory or otherwise), that secures the payment of any indebtedness or liability or the observance or performance of any obligation.

**“Limited Recourse Guarantors”** means Lundin Mining US, LMC Netherlands and each Additional Limited Recourse Guarantor and **“Limited Recourse Guarantor”** means any of the Limited Recourse Guarantors. For the avoidance of doubt, LMC Bermuda Ltd. is not a Limited Recourse Guarantor.

“**Limited Recourse Project Indebtedness**” means Indebtedness of a Company (a “**Project Borrower**”), other than a Subject Entity (i) which is incurred for the purpose of the development and/or construction of property and includes Indebtedness under Risk Management Agreements; and (ii) where recourse to the Subject Entities in respect of such Indebtedness is limited to the Investments held by the Subject Entities in the Project Borrower and/or its Subsidiaries (the “**Limited Recourse Collateral**”).

“**LMC Brazil**” means LMC Brazil Holdings B.V., a private company with limited liability incorporated under the laws of The Netherlands.

“**LMC Candelaria**” means LMC Candelaria SpA a corporation incorporated under the laws of the Republic of Chile.

“**LMC Netherlands**” means LMC Netherlands Holdings B.V., a private company with limited liability incorporated under the laws of The Netherlands.

“**LMC Ojos**” means LMC Ojos del Salado SpA a corporation incorporated under the laws of the Republic of Chile.

“**Loans**” means Base Rate Canada Loans, LIBOR Loans, Prime Rate Loans and BA Rate Loans.

“**Lundin Delaware**” means Lundin Mining Delaware Ltd., a corporation incorporated under the laws of the State of Delaware.

“**Lundin Family Members**” means all present and future (i) lineal descendants of the late Adolf H. Lundin and their spouses (including any children by adoption); (ii) trusts, all of the beneficiaries of which are the individuals referred to in clause (i); and (iii) Subsidiaries of an individual and trusts referred to in (i) and (ii), determined on an individual or combined basis.

“**Lundin Mining Holding**” means Lundin Mining Holding AB.

“**Lundin Mining US**” means Lundin Mining US Ltd., a corporation incorporated under the laws of the State of Delaware.

“**Majority Lenders**” means, with respect to a matter relating to the Credit Facility (for certainty, the matters contemplated by Section 9.3, shall be determined solely by the RT Lenders and with reference to the RT Facility) and at any particular time up to the termination of the Credit Facility pursuant to Section 2.4, such group of Lenders (and, if there is more than one Lender, at least two Lenders) whose Individual Commitments with respect to the Credit Facility aggregate at least 66% of the Total Commitment Amount for the Credit Facility at such time and, at any particular time after the termination of the Credit Facility pursuant to Section 2.4 but prior to the repayment in full of all credit outstanding under the Credit Facility and the termination of all commitments of the Lenders in connection therewith, such group of Lenders which have aggregate Exposure attributable to the Credit Facility in an amount that is at least 66% of the aggregate Exposure of all of the Lenders attributable to the Credit Facility at such time and, at any

particular time after the termination of the Credit Facility pursuant to Section 2.4, the repayment in full of all credit outstanding under the Credit Facility and the termination of all commitments of the Lenders in connection therewith, such group of Finance Parties which have aggregate Exposure in an amount that is at least 66% of the aggregate Exposure of all of the Finance Parties at such time. Notwithstanding the foregoing, the unfunded Individual Commitment of, and the outstanding extensions of credit held or deemed to be held by, any Defaulting Lender shall be excluded for purposes of making a determination of Majority Lenders.

**“Material Adverse Change”** means any change of circumstances or event (or any Lender becoming aware of any facts not previously disclosed or known) which would reasonably be expected to have a Material Adverse Effect.

**“Material Adverse Effect”** means the effect of any event or circumstance which would reasonably be expected to have a material adverse effect on (i) the ability of the Obligors, taken as a whole, to pay any amount due and owing hereunder or under any Credit Document, as and when due or (ii) the business, operations, performance, properties, condition (financial or otherwise) or prospects of the Companies, taken as a whole.

**“Material Subsidiary”** means any present or future, direct or indirect Subsidiary of the Parent that has a direct ownership interest in (including through the holding of any permit or license or through a joint venture or partnership in) any property with 2P Reserves that are included in the 2P Reserves of the Parent or owns Shares in any Person whose 2P Reserves are included in the 2P Reserves of the Parent or is involved, as concerns any operating mine with such 2P Reserves, in any material respect in the operations of such operating mine, other than any such Subsidiary (i) whose 2P Reserves of each Primary Metal constitute less than 5% of the 2P Reserves of the Parent on a consolidated basis of such Primary Metal or (ii) whose mining operations have been, or are in the process of being, permanently closed and the Tangible Net Worth attributable to such Subsidiary is less than 1% of the Tangible Net Worth of the Parent (in each case, based on the financial statements most recently delivered by the Parent to the Lenders) (the Subsidiaries described in this clause (ii) being, **“Non-Operating Subsidiaries”**). As at the date hereof, the Material Subsidiaries are Zinkgruvan, Somincor, Eagle Mine, Humboldt, Lundin Mining US, Lundin Delaware, Candelaria, Ojos, LMC Candelaria, LMC Ojos, LMC Brazil and Chapada.

**“Moody’s”** means Moody’s Investors Service, Inc. or any successor by merger or consolidation to its business.

**“Multiemployer Plan”** means a “multiemployer plan” as defined in Section 3(37) of ERISA, any “multiemployer plan” as defined in Section 4001(a)(3) of ERISA, or any “multiple employer plan” within the meaning of Section 210 of ERISA or IRC Section 413(c), or any “multiple employer welfare arrangement,” as defined in ERISA Section 3(40) to which any ERISA Company is making or accruing an obligation to make contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

“**Net Income**” means, for any particular period, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated income statement of the Parent for such period as the net income of the Parent excluding any extraordinary items.

“**Net Total Debt**” means, at any particular time, Total Debt at such time less Cash held by Acceptable Financial Institutions in Permitted Jurisdictions which is free and clear of Liens, other than Liens securing payment of customary charges and fees relating to the accounts in which the Cash is held.

“**Neves-Corvo Mine**” means the copper and zinc mine and related facilities located in Portugal commonly referred to as the “**Neves-Corvo Mine**”.

“**Non-Financial Letter**” means a standby letter of credit or guarantee issued by an Issuing Lender at the request of a Borrower in favour of a third party to secure the non-financial performance of an obligation owed to the third party.

“**Non-Guaranteeing Material Subsidiaries**” means Material Subsidiaries that are prohibited by law or Prohibited By Contract from becoming a Full Recourse Guarantor, Somincor, any Subsidiary of the Parent designated as such by the Parent (each, a “**TNW Non-Guaranteeing Material Subsidiary**”) that becomes a Material Subsidiary after the date hereof provided and so long as it represents less than 10% of Tangible Net Worth (as reported in the financial statements of the Parent most recently delivered by the Borrowers to the Administrative Agent pursuant to Section 11.1(a)(i) or (ii)) (provided at no time shall the TNW Non-Guaranteeing Material Subsidiaries represent in the aggregate more than 10% of such Tangible Net Worth) and such other Subsidiaries as the Borrowers and all of the Lenders may hereafter agree to designate as Non-Guaranteeing Material Subsidiaries and “**Non-Guaranteeing Material Subsidiary**” means any of the Non-Guaranteeing Material Subsidiaries. As at the date hereof, the only Non-Guaranteeing Material Subsidiary is Somincor. The Borrowers and the Lenders shall be deemed to have designated as a Non-Guaranteeing Material Subsidiary any Material Subsidiary acquired, directly or indirectly, by the Parent pursuant to a Permitted Acquisition if such Material Subsidiary is not a wholly-owned Subsidiary of the Parent provided that (x) such Material Subsidiary shall become a wholly-owned Subsidiary of the Parent within the relevant statutory timelines applicable to such Material Subsidiary and (y) such designation shall cease upon such Material Subsidiary becoming a wholly-owned Subsidiary of the Parent. The Candelaria/Ojos Subsidiaries are not Non-Guaranteeing Material Subsidiaries.

“**Non-Sanctioned Person**” means, at any particular time, a Person which is not subject to Sanctions at such time.

“**Non-Syndicate Risk Management Agreements**” means (x) all Risk Management Agreements entered into prior to the date hereof by any Company with a Person who is not a Finance Party and all transactions in connection therewith entered into prior to the date hereof; and (y) all present and future Risk Management Agreements entered into by either Borrower or any Full Recourse Guarantor with a Person who is not a Lender at the

time that the agreement is entered into and all transactions entered into in connection therewith.

“**Obligors**” means the Borrowers and the Guarantors.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**Official Body**” means any supra-national (such as the European Union), national, state, provincial or municipal government or government of any political subdivision thereof, or any agency, authority, board, central bank, monetary authority, commission, department or instrumentality thereof, or any court, tribunal, grand jury, mediator, arbitrator or referee, whether foreign or domestic.

“**Ojos**” means Compañía Contractual Minera Ojos del Salado, a contractual mining company incorporated under the laws of the Republic of Chile.

“**Order**” means an order, judgment, injunction or other determination restricting payment by the Issuing Lender under or in accordance with a Letter or extending the Issuing Lender’s liability beyond the expiration date stated therein.

“**Parent**” means Lundin Mining Corporation, a corporation amalgamated under the federal laws of Canada.

“**PBGC**” means Pension Benefit Guaranty Corporation or any governmental body succeeding to its functions.

“**Permitted Acquisition**” means any Acquisition with respect to which:

- (a) the business of the entity being acquired is, (in the case of a share Acquisition) or the assets being acquired are used in or relate to, (in the case of an asset Acquisition) the mining industry;
- (b) no Default or Event of Default exists at the time of such proposed Acquisition and no Default or Event of Default would exist immediately after the implementation of any such proposed Acquisition;
- (c) the financial covenants set out in Sections 11.1(o) - 11.1(r) would be met, on a pro forma basis, immediately after giving effect to the implementation of any such Acquisition; and
- (d) to the extent applicable, the Permitted Acquisition Stream Conditions have been satisfied.

“**Permitted Acquisition Indebtedness**” means any Indebtedness resulting from a Permitted Acquisition which existed prior to, and not in contemplation of, the Permitted Acquisition and any Indebtedness incurred upon and following the Permitted Acquisition pursuant to any commitment which existed prior to, and not in contemplation of, the Permitted Acquisition, provided (x) no Default exists at the time of the incurrence of such

Indebtedness, (y) no Default would exist immediately thereafter and (z) the financial covenants set out in Sections 11.1(o) - (r) would be met, on a pro forma basis, immediately after the incurrence of such Indebtedness. Any refinancing of any Permitted Acquisition Indebtedness in excess of the original amount of such Permitted Acquisition Indebtedness shall constitute Indebtedness for the purposes of (i) of the definition of Permitted Indebtedness.

**“Permitted Acquisition Risk Management Agreements”** means any Risk Management Agreements which existed prior to, and not in contemplation of, a Permitted Acquisition and all transactions entered into prior to the date of such Permitted Acquisition with respect to such Risk Management Agreement.

**“Permitted Acquisition Stream Conditions”** means a mineral stream entered into by a Company, as seller, in connection with the acquisition of a mine or project (but, for the avoidance of doubt, not a mineral stream that exists prior to, and not in contemplation of, any such acquisition), or to be acquired, where:

- (a) the purchase price, upfront deposit or other cash consideration (including set-off against purchase price to the extent the stream is sold to the vendor of the subject mine or project) paid to the relevant Company by the purchaser of the mineral stream does not exceed 15% of the Acquisition Cost;
- (b) the mineral stream sold (A) relates solely to secondary or by-product minerals from the subject mine or project and (B) represents no greater than 15% of total revenues from the subject mine or project over the life thereof or the term of the subject mineral stream (determined as of the date of the Acquisition); and
- (c) the security (if any) to be granted by the relevant Company to the purchaser of the mineral stream is limited to (i) a Lien over the real property interests (including mineral leases, concessions or like similar permits under Applicable Law required for the lawful extraction of minerals from the subject mine or project) of the mine or project on which the mineral stream is sold, (ii) other property used solely in connection with or situated at the mine or project on which the mineral stream is sold and/or (iii), subject to an intercreditor agreement on terms and conditions satisfactory to the Lenders, acting reasonably, a second ranking Lien (ranking subordinate to the Administrative Agent’s Lien) on the Shares of the relevant Company which has sold the mineral stream.

**“Permitted Capital Reorganization”** means (a) any change in the issued and outstanding Shares of the Parent (i) other than in connection with an Acquisition that is not a Permitted Acquisition or (ii) that does not result in any Event of Default and (b) any Capital Reorganization (i) that does not result in any change in the combined direct and indirect percentage ownership interest of the Parent in any Subject Entity; (ii) notice of which (and reasonable details thereof) has been provided by the Parent to the Administrative Agent ten Banking Days before its proposed completion date (where a Capital Reorganization only involves a change in the capital of a Subject Entity, the notice referred to in this clause (ii) shall be reduced from ten Banking Days to three

Banking Days), (iii) where at the time of the delivery of the aforesaid notice by the Parent to the Administrative Agent, the Parent delivers to the Administrative Agent a certificate (A) certifying that the completion of the Capital Reorganization will not have a Material Adverse Effect and (B) in which the Parent shall covenant to deliver or cause to be delivered to the Administrative Agent, contemporaneously with the completion of such Capital Reorganization, any Guarantees and Security Documents and/or amendments thereto, certificates, opinions and other things as the Administrative Agent may request to ensure the completion of such Capital Reorganization shall not adversely affect any rights of any Finance Party under any Guarantee or Security Document and (iv) where no Default or Event of Default has occurred and is outstanding at the time of the completion of the Capital Reorganization or would arise immediately thereafter, provided, however, until such time as there is outstanding no Permitted Indebtedness under paragraph (m) of the definition thereof, no Capital Reorganization that results in a transfer of any assets, or assumption of any liabilities, of a Material Subsidiary to either Borrower shall constitute a Permitted Capital Reorganization. No Company which has incurred Permitted Limited Recourse Project Indebtedness which is guaranteed by a Subject Entity shall be involved in a Permitted Capital Reorganization without the prior written consent of the Majority Lenders. Notwithstanding any of the foregoing, in no circumstances shall a “Division” (as defined in Section 18-217 of the Delaware Limited Liability Company Act) constitute a Permitted Capital Reorganization.

**“Permitted Corporate Reorganization”** means any Corporate Reorganization (i) notice of which (and reasonable details thereof) has been provided by the Parent to the Administrative Agent ten Banking Days before its proposed completion date, (ii) where at the time of the delivery of the aforesaid notice by the Parent to the Administrative Agent, the Parent delivers to the Administrative Agent a certificate (A) certifying that the completion of the Corporate Reorganization will not have a Material Adverse Effect and (B) in which the Parent shall covenant to deliver or cause to be delivered to the Administrative Agent, contemporaneously with the completion of such Corporate Reorganization, any Guarantees and Security Documents and/or amendments thereto, certificates, opinions and other things as the Administrative Agent may request to ensure the completion of such Corporate Reorganization shall not adversely affect any rights of any Finance Party under any Guarantee or Security Document and (iii) where no Default or Event of Default has occurred and is outstanding at the time of the completion of the Corporate Reorganization or would arise immediately thereafter, provided, however, until such time as there is outstanding no Permitted Indebtedness under paragraph (m) of the definition thereof, no Corporate Reorganization that results in a transfer of any assets, or assumption of any liabilities, of a Material Subsidiary to either Borrower shall constitute a Permitted Corporate Reorganization. No Company which has incurred Permitted Limited Recourse Project Indebtedness which is guaranteed by a Subject Entity shall be involved in a Permitted Corporate Reorganization without the prior written consent of the Majority Lenders. Notwithstanding any of the foregoing, in no circumstances shall a “Division” (as defined in Section 18-217 of the Delaware Limited Liability Company Act) constitute a Permitted Corporate Reorganization.

**“Permitted Indebtedness”** means any one or more of the following:

- (a) the Secured Obligations;
- (b) Indebtedness of the Companies in respect of Risk Management Agreements incurred in accordance with Section 11.2(h);
- (c) Permitted Acquisition Indebtedness, Indebtedness under Permitted Acquisition Risk Management Agreements and any guarantees of any Permitted Acquisition Indebtedness or of any Indebtedness under Permitted Acquisition Risk Management Agreements by the Parent;
- (d) Indebtedness in respect of bonds, standby letters of credit or letters of guarantee securing Reclamation Obligations;
- (e) Indebtedness owing by any Company to another Company provided that in the case of Indebtedness owing by any Obligor to another Company such Indebtedness is subordinated and postponed pursuant to the Postponement and Subordination Undertaking;
- (f) Indebtedness owing by Somincor in an aggregate outstanding principal amount of not more than €60,000,000;
- (g) Indebtedness with respect to equipment leases in an aggregate principal amount of not more than €100,000,000;
- (h) **[Intentionally deleted];**
- (i) Indebtedness under, or in connection with, loans or financial assistance made, or sponsored, by Official Bodies on terms that are more favourable to the relevant Company than the existing market terms in an aggregate outstanding principal amount not exceeding at any particular time €60,000,000;
- (j) **[Intentionally deleted];**
- (k) Permitted Limited Recourse Project Indebtedness;
- (l) unsecured guarantees by the Parent of Permitted Limited Recourse Project Indebtedness until such time as the relevant development and/or construction of the relevant mine has achieved commercial completion;
- (m) any limited recourse guarantee provided by a Company where recourse is limited to the Limited Recourse Collateral;
- (n) Indebtedness of:
  - (i) the Borrowers; and
  - (ii) any other Subject Entity or other Company with a direct or indirect ownership interest in any Subject Entity (including, for the avoidance of

doubt, operating companies) in a maximum aggregate amount at any particular time of US\$500,000,000 and at a maximum amount of US\$150,000,000 at any particular time with respect to any one such Company or Subject Entity;

provided, in each case at the time of incurrence of any such Indebtedness;

- (iii) the covenants set out in Sections 11.1(o) - (r) inclusive are in compliance with a *pro forma* basis, immediately following the incurrence of such Indebtedness;
- (o) Indebtedness in the combined aggregate of up to \$30,000,000 relating to rail cars with respect to the Eagle Mine Project;
- (p) the Candelaria/Ojos Parent PMPA Guarantee;
- (q) the Candelaria/Ojos Subsidiaries PMPA Guarantees;
- (r) the Chapada Parent PMPA Guarantees;
- (s) the Chapada Subsidiaries PMPA Guarantees;
- (t) to the extent it constitutes Indebtedness, the PMPA Obligations;
- (u) Indebtedness pursuant to a fiscal unit (*fiscale eenheid*) for Dutch corporate income tax or value added tax purposes between Obligor only; and
- (v) Indebtedness, with respect to Obligor only, pursuant to a declaration of joint and several liability as referred to in Section 2:403 of the Dutch Civil Code (and any residual liability under such declaration, as referred to in Section 2:404 (2) of the Dutch Civil Code).

**“Permitted Jurisdictions”** means Canada, the United States of America, Japan, Australia, the United Kingdom, Switzerland, Spain, Portugal, the Netherlands, the Republic of Chile, Barbados, Bermuda, Brazil, Peru and their respective territories and those other members of the European Union that are rated at least A by S&P or the equivalent by Moody’s.

**“Permitted Liens”** means any one or more of the following with respect to the property and assets of the Companies:

- (a) Liens for taxes, assessments or governmental charges or levies not at the time due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles so long as forfeiture of any part of such property or assets will not result from the failure to pay such taxes, assessments or governmental charges or levies during the period of such contest;

- (b) the Lien of any judgment rendered or the Lien of any claim filed which is being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles so long as forfeiture of any part of such property or assets will not result from the failure to satisfy such judgment or claim during the period of such contest;
- (c) Liens and charges incidental to construction or current operations which have not at such time been filed pursuant to law or which relate to obligations not due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles so long as forfeiture of any part of such property or assets will not result from the failure to pay such obligations during the period of such contest;
- (d) restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons which in the aggregate do not materially impair the usefulness, in the operation of the business of any Company, of the property subject to such restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons;
- (e) the right reserved to or vested in any Official Body by the terms of any lease, licence, franchise, grant or permit acquired by any Company or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (f) the Lien resulting from the deposit of cash or securities (i) in connection with contracts, tenders or expropriation proceedings, or (ii) to secure workers' compensation, surety or appeal bonds, costs of litigation when required by law and public and statutory obligations, or (iii) in connection with the discharge of Liens or claims incidental to construction and mechanics', warehouseman's, carriers' and other similar liens;
- (g) security given to a public utility or any other Official Body when required by such utility or other Official Body in connection with the operations of any Company, all in the ordinary course of business (whether such security is given directly to such public utility or other Official Body or indirectly (i.e. as security for a letter of credit or bank guarantee that is issued at the request, and on the credit, of a Company if required by a public utility or any other Official Body in connection with the operations of such Company, all in the ordinary course of business);
- (h) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown or in comparable grants, if any, in jurisdictions other than Canada;
- (i) title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use of the property for the purpose for which it is held [REDACTED];

- (j) applicable municipal and other Official Body restrictions affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with, or will be complied with as and when required by Applicable Law, and will not materially impair the use of the property for the purpose for which it is held;
- (k) Liens on concentrates or minerals or the proceeds of sale of such concentrates or minerals arising or granted pursuant to a processing arrangement entered into in the ordinary course and upon usual market terms, securing the payment of a Company's portion of the fees, costs and expenses attributable to the processing of such concentrates or minerals under any such processing arrangement, but only insofar as such Liens relate to obligations which are at such time not past due or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles;
- (l) the Security;
- (m) in addition to the Liens permitted by any other paragraph of this definition, Liens in Cash or securities to secure the Non-Syndicate Risk Management Agreements, provided the aggregate amount of such other Liens in Cash or securities does not, at any particular time, exceed in the aggregate U.S. \$30,000,000;
- (n) Liens granted to secure Reclamation Obligations or Permitted Indebtedness described in paragraph (d) of the definition of Permitted Indebtedness;
- (o) Liens on any assets (including any after-acquired assets relating to the business acquired) or Shares acquired pursuant to a Permitted Acquisition to the extent that they secure payment or performance of any Permitted Acquisition Indebtedness;
- (p) in addition to the Liens permitted by any other paragraph of this definition, Liens to secure Permitted Indebtedness permitted by paragraph (n) of the definition thereof; provided such Liens do not extend to the Secured Assets and the aggregate amount of the Permitted Indebtedness so secured does not exceed U.S. \$80,000,000;
- (p1) Liens granted by Somincor as security for the Permitted Indebtedness described in paragraphs (f) and (g) thereof;
- (q) royalties on the production or profits from mining and other Liens arising under Third Party Mining Arrangements provided such royalties (x) are in existence as at the date hereof or otherwise are granted on a mine or project acquired pursuant to a Permitted Acquisition as partial consideration for the Acquisition Cost and such royalty does not exceed 3% of the applicable net smelter return under the applicable Third Party Mining Arrangement or (y) do not relate to a property in production at the time the royalty was granted;

- (r) Liens in favour of Finance Parties to secure charges and fees relating to accounts in which Cash is held;
- (s) Liens existing at the date hereof that secure Silver Purchase Agreements;
- (t) Liens securing any Permitted Acquisition Indebtedness or Permitted Acquisition Risk Management Agreement provided such Liens were in existence at the time of the relevant Permitted Acquisition;
- (u) **[Intentionally deleted]**;
- (v) **[Intentionally deleted]**;
- (w) Liens in Limited Recourse Collateral;
- (x) Liens as security for the Permitted Indebtedness described in paragraph (o) thereof, provided such security is limited to such rail cars and the proceeds thereof;
- (y) Specifically with respect to the Eagle Mine Project (i) Liens described in Section 1.1(bbbbb) of the Disclosure Schedule attached to the Eagle Mine Purchase Agreement, (ii) grants of timber leases or oil and gas leases granted by any governmental authority or other third party, (iii) surface use agreements, hunting easements, zoning restrictions, encroachments, pipelines, native american access and use rights (whether by treaty, historical precedence or contract), transmission and transportation lines; and (iv) Liens arising by operation of Applicable Law including Environmental Laws, zoning ordinances, planning and land use restrictions, building restrictions and ordinances; and
- (z) Liens referenced in paragraph (c) of the definition of Permitted Acquisition Stream Conditions provided all of the conditions referenced in such definition have been satisfied;
- (aa) the Candelaria/Ojos PMPA Liens; and
- (bb) **[Intentionally deleted]**; and
- (cc) Liens in favour of Dutch banks arising from their general banking conditions (*algemene bankvoorwaarden*).

**“Permitted Limited Recourse Project Indebtedness”** means Limited Recourse Project Indebtedness provided:

- (a) no Default exists at the time of the incurrence of such Limited Recourse Project Indebtedness or would exist immediately thereafter;

- (b) the financial covenants set out in Section 11.1(o) - (r) would be met, on a pro forma basis, immediately after the incurrence of such Limited Recourse Project Indebtedness; and
- (c) at no time shall the aggregate principal amount of such Limited Recourse Project Indebtedness exceed \$200,000,000.

**“Permitted Reorganizations”** means Permitted Corporate Reorganizations and Permitted Capital Reorganizations provided, however, in no event shall a Permitted Reorganization involve a “Division” as such term is defined in Section 18-217 of the Delaware Limited Liability Company Act.

**“Person”** means any natural person, corporation, firm, partnership, joint venture, joint stock company, incorporated or unincorporated association, government, governmental agency or any other entity, whether acting in an individual, fiduciary or other capacity.

**“Plan”** means each “employee benefit plan”, as defined in Section 3(3) of ERISA (including any Multiemployer Plan), and each other employment, consulting, bonus or other incentive compensation, salary continuation during any absence from active employment for disability or other reasons, supplemental retirement, cafeteria benefit (Section 125 of the IRC) or dependent care (Section 129 of the IRC), sick pay, tuition assistance, club membership, employee discount, employee loan, vacation pay, severance, deferred compensation, incentive, fringe benefit, perquisite, change in control, retention, stock option, stock purchase, restricted stock or other compensatory plan, policy, agreement or arrangement (including any collective bargaining agreement) (i) that is currently, or has been at any time in the six prior calendar years, maintained, administered, contributed to or required to be contributed to by either Borrower, or (ii) to which either Borrower is a party or has any liability, or (iii) that covers any current or former officer, director, employee or independent contractor, (or any of their dependents) of either Borrower or any ERISA Affiliate.

**“Pledged Subsidiaries”** means those Subsidiaries of the Parent the shares of which are pledged to the Administrative Agent pursuant to a Security Document, which, for greater certainty shall not include any of the Candelaria/Ojos Subsidiaries.

**“PMPAs”** means, collectively, the Candelaria/Ojos PMPA and the Chapada PMPAs and **“PMPA”** means any of the PMPAs.

**“PMPA Obligations”** means, collectively, the Candelaria/Ojos PMPA Obligations and the Chapada PMPA Obligations.

**“Pollutant”** means any pollutant, as defined by EPA.

**“Postponement and Subordination Undertaking”** means the postponement and subordination undertaking to be entered into by the Companies in favour of the Administrative Agent pursuant to Section 11.1(s), in form and substance satisfactory to the Administrative Agent as the same may be amended, modified, supplemented or replaced from time to time.

**“Prepayment Amount”** means an amount equal to 45% of the sale price for the Shares of the relevant Material Subsidiary.

**“Prepayment Notice”** shall have the meaning ascribed thereto in Section 9.6.

**“Prepayment Trigger Event”** means the sale, assignment, transfer, conveyance or other disposition of any nature or kind whatsoever (including, in the context of an asset sale, by way of Sale Leaseback) of (i) Shares of any Material Subsidiary with the result that the Parent ceases to Control (directly or indirectly) the subject Material Subsidiary and/or (ii) all or substantially all of the assets of any Material Subsidiary.

**“Primary Metal”** means, at any particular time, any metal that represents 5% or more of consolidated revenues of the Parent in the latest Fiscal Quarter reported on in the financial statements of the Parent most recently delivered to the Lenders pursuant to Section 11.1(a).

**“Prime Rate”** means the greater of (a) the variable rate of interest per annum equal to the rate of interest determined by the Administrative Agent from time to time as its prime rate of Canadian dollar loans made by the Administrative Agent in Canada from time to time, being a variable per annum reference rate of interest adjusted automatically upon change by the Administrative Agent calculated on the basis of a year of 365 days and (b) the sum of (A) the BA Rate for a Schedule I Lender for a 30 day term on the date of determination and (B) 5/8 of 1% per annum. If at any time the Prime Rate is less than zero, the Prime Rate shall be deemed to be equal to zero.

**“Prime Rate Loans”** means monies lent by the Lenders to a Borrower hereunder in Canadian dollars and upon which interest accrues at a rate referable to the Prime Rate.

**“Proceeds of Realization”** means all cash and non-cash proceeds derived from any sale, disposition or other realization of the Secured Assets (i) after any notice by the Administrative Agent to the Borrowers pursuant to Section 13.1 declaring all indebtedness of the Borrowers hereunder to be immediately due and payable, (ii) upon any dissolution, liquidation, winding-up, reorganization, bankruptcy, insolvency or receivership of any of the Obligors (or any other arrangement or marshalling of the Secured Assets that is similar thereto) or (iii) upon the enforcement of, or any action taken with respect to, any of the Security Documents or the Guarantees.

**“Prohibited by Contract”** means, as concerns any Material Subsidiary, provisions in:

- (x) any agreement to which such Material Subsidiary is a party evidencing any Permitted Acquisition Indebtedness;
- (y) any partnership, joint venture or shareholder agreement or other agreement relating to the ownership of Shares with respect to such Material Subsidiary; or
- (z) any agreement to which such Material Subsidiary is a party relating to any operating mine;

in each case, (I) that existed (x) prior to the date hereof or (y) prior to the direct or indirect formation by the Parent of such Material Subsidiary or prior to such Material Subsidiary becoming a Material Subsidiary and (II) that prohibit such Material Subsidiary from becoming a Full Recourse Guarantor.

**“Prohibited Transaction”** means a transaction that is prohibited under Section 4975 of the Code or Section 406 of ERISA and is not eligible for an exemption under those sections or related sections of the Code or ERISA.

**“Pro Rata Share”** means, at any particular time with respect to (i) a particular Lender, the ratio of the Individual Commitment of such Lender with respect to the Credit Facility at such time to the aggregate of the Individual Commitments of all Lenders with respect to the Credit Facility at such time; and (ii) a particular Borrower and a particular payment under the Credit Facility, the ratio of outstanding credit granted to such Borrower under the Credit Facility to the aggregate of all outstanding credit granted to both Borrowers under the Credit Facility.

**“Purchase Money Indebtedness”** means Indebtedness assumed by any Subject Entity as part of, or issued or incurred by any Subject Entity to pay or provide funds to pay, all or a part of the purchase price of any equipment hereafter or previously acquired by such Subject Entity.

**“Qualified Risk Management Affiliate”** means any Affiliate of a Lender who has executed and delivered to the Administrative Agent an instrument of adhesion in the form set forth in Schedule P.

**“Qualified Risk Management Lender”** means any Person that enters into a Secured Risk Management Agreement at a time when such Person is a Lender or a Qualified Risk Management Affiliate, provided that such Person ceases to be a Qualified Risk Management Lender if and when such Lender, or, in the case of a Qualified Risk Management Affiliate, the Lender to whom the Qualified Risk Management Affiliate is affiliated, ceases to be a Lender.

**“Quarterly Reporting Date”** means, with respect to any particular Fiscal Quarter, the date which is 60 days after the end of such Fiscal Quarter.

**“Receiver”** means a receiver, receiver and manager or the person having similar powers or authority appointed by the Administrative Agent or by a court at the instance of the Administrative Agent in respect of the Secured Assets or any part thereof.

**“Reclamation Obligations”** means, with respect to any Person, all mine closure, asset retirement and environmental reclamation obligations of such Person, whether matured, real or contingent, on a consolidated basis at such time (except to the extent fully defeased by cash collateral).

**“Release”** means a “discharge”, as such term is defined in the EPA, or a “release” as such term is defined in CERCLA.

**"Relevant Governmental Body"** means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

**"Replacement Lender Agreement"** means an agreement substantially in the form of Schedule M hereto.

**"Resolution Authority"** means any body which has authority to exercise any Write-down and Conversion Powers.

**"Risk Management Agreements"** means any present or future swap, spot, hedging, foreign exchange or cash management agreement or other derivative transaction entered in by a Borrower provided that, as concerns spot agreements, only spot agreements with a Qualified Risk Management Lender shall constitute Risk Management Agreements. For certainty, neither any Silver Purchase Agreement nor the PMPAs shall constitute a Risk Management Agreement.

**"Rolling EBITDA"** means, for each Fiscal Quarter,

- (i) the sum of EBITDA (exclusive of any portion thereof attributable to any Rolling Permitted Acquisition EBITDA) for such Fiscal Quarter and the three immediately preceding Fiscal Quarters; and
- (ii) any Rolling Permitted Acquisition EBITDA for such Fiscal Quarter.

**"Rolling Interest Expenses"** means, for each Fiscal Quarter, the sum of Interest Expenses for that Fiscal Quarter and the three immediately preceding Fiscal Quarters.

**"Rolling Permitted Acquisition EBITDA"** means, for any Fiscal Quarter as concerns any Permitted Acquisition or any other asset acquisition if such asset acquisition is accounted for in accordance with generally accepted accounting principles on a proportionate or consolidated accounting basis with respect to which four Fiscal Quarter ends or less have occurred since the date of the completion of such Permitted Acquisition or other asset acquisition, pro forma EBITDA attributable to such Permitted Acquisition or other asset acquisition during such Fiscal Quarter and the three immediately preceding Fiscal Quarters as if such Permitted Acquisition or other asset acquisition had occurred on the first day of such four Fiscal Quarter period.

**"Rollover Notice"** shall have the meaning ascribed thereto in Section 5.3.

**"RT Facility"** means the revolving term credit facility established by the RT Lenders in favour of the Borrowers pursuant to Section 2.1.

**"RT Lenders"** means the financial institutions set forth in Schedule A hereto with an Individual Commitment under the RT Facility.

**“RT Maturity Date”** means August 28, 2023, as the same may be extended pursuant to Section 9.3.

**“S&P”** means Standard & Poor’s Ratings Service or any successor by merger or consolidation to its business.

**“Sale Leaseback”** shall mean any transaction or series of related transactions pursuant to which any Subject Entity (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

**“Sanctioned Person”** means any Person who is a designated target of Sanctions or is otherwise a subject of Sanctions, including as a result of being:

- (a) owned or controlled directly or indirectly by any person which is a designated target of Sanctions;
- (b) located or resident in or organized under the laws of any country that is subject to general or country-wide Sanctions;
- (c) a U.S. Blocked Person; or
- (d) any person that is a “designated person”, “politically exposed foreign person” or “terrorist group” as described in any Canadian Sanctions.

**“Sanctions”** means any legislation, regulations, orders, economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by OFAC (or any other part of the US Treasury Department), the US Department of State, the United Nations Security Council, the Parliament of Canada (including Global Affairs Canada), the European Union, and/or any present or future member state thereof and/or the United Kingdom’s Her Majesty’s Treasury; in each case, (a) which governs transactions in controlled goods or technologies or dealings with countries, entities, organization or individuals subject to economic sanctions or similar measures and (b) having the force of law and binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person. Notwithstanding the foregoing, (i) no Sanctions shall apply to a Subject Entity to the extent that such application would constitute a breach of any Blocking Law and (ii) any Lender not able to avail itself of such Blocking Law may, on written notice to the Administrative Agent and the Borrowers, require the immediate repayment of its Loans, the cash collateralization of its pro rata portion of any outstanding Bankers’ Acceptances and Letters and the termination of its Individual Commitment if the application of clause (i) would result in a violation of Applicable Law by such Lender.

**“Sandstorm Chapada PMPA”** means the copper purchase agreement between Sandstorm Gold Ltd. and Yamana Gold (Barbados) Inc. dated October 27, 2015, as amended by Amending Agreement No. 1 dated September 26, 2016 and assigned by

Yamana Gold (Barbados) Inc. to Yamana International Holdings Cooperatie U.A. pursuant to a Transfer Agreement dated July 5, 2019 and assigned by Yamana International Holdings Cooperatie U.A. to LMC Bermuda Ltd. pursuant to an Assignment, Assumption and Amending Agreement dated July 5, 2019.

“**Schedule I Lenders**” means the Lenders that are listed in Schedule I to the *Bank Act* (Canada).

“**Schedule I Reference Lenders**” means The Bank of Nova Scotia and such other Schedule I Lenders as may be agreed upon by the Borrowers and the Administrative Agent from time to time.

“**Schedule II and III Lenders**” means Lenders that are not Schedule I Lenders that are otherwise residents of Canada for purpose of the *Income Tax Act* (Canada).

“**Schedule II and III Reference Lenders**” means such group of Schedule II and III Lenders as may be agreed upon by the Borrowers and the Administrative Agent from time to time.

“**SEB Letter**” means any guarantee agreement between Skandinaviska Enskilda Banken AB in favour of Länsstyrelsen i Örebro Län.

“**Secured Assets**” means (i) all present and future Shares of the Pledged Subsidiaries (other than Lundin AB, Barinas and the Candelaria/Ojos Subsidiaries) and all proceeds therefrom, and 49% of all present or future shares of Lundin AB and Barinas and all proceeds therefrom, (ii) all present and after acquired personal property of the Parent and all proceeds therefrom and (iii) the assets charged pursuant to the Security Documents delivered by each of Eagle Mine, Humboldt and Lundin Delaware and all proceeds therefrom.

“**Secured Obligations**” shall mean all indebtedness, obligations and liabilities, present or future, absolute or contingent, matured or not, at any time owing by any of the Obligors to any of the Finance Parties, or remaining unpaid to any of the Finance Parties, under or in connection with any of the Finance Documents and Secured Obligations of a particular Obligor shall mean all indebtedness, obligations and liabilities, present or future, absolute or contingent, matured or not, at any time owing by such Obligor to any of the Finance Parties, or remaining unpaid to any of the Finance Parties, under or in connection with any of the Finance Documents to which such Obligor is a party. For certainty, “**Secured Obligations**” shall include interest accruing subsequent to the filing of, or which would have accrued but for the filing of, a petition for bankruptcy, in accordance with and at the rate (including any rate applicable upon any Default or Event of Default to the extent lawful) specified herein, whether or not such interest is an allowable claim in such bankruptcy proceeding.

“**Secured Risk Management Agreements**” means Risk Management Agreements between a Borrower on the one hand and a Qualified Risk Management Lender on the other hand (but only for so long as such Lender remains a Qualified Risk Management Lender).

“**Security**” means the collateral security constituted by the Security Documents.

“**Security Documents**” shall mean the security documents (as the same may be amended, modified, supplemented, restated or replaced from time to time) which, in the reasonable opinion of the Administrative Agent, are required to be entered into from time to time by the Obligors in favour of the Administrative Agent for the benefit of the Finance Parties in order to grant directly or indirectly to the Administrative Agent a first-ranking Lien on the Secured Assets as continuing collateral security for the payment and performance of the Secured Obligations, such security documents to be in form and substance satisfactory to the Administrative Agent and to include, without limitation, the security documents described in Schedule K.

“**SEK Stibor**” means the rate of interest per annum, calculated on the basis of a year of 365 days, determined by the Administrative Agent for a particular Interest Period to be the rate of interest per annum that appears as such on the Telerate Screen Page 3750 with respect to Swedish Kronor at 11:00 a.m. (London time) on the second Banking Day prior to the commencement of such Interest Period.

“**Shared Streaming Collateral**” means (i) all of the Shares of the Candelaria/Ojos Subsidiaries held by the Parent and its Subsidiaries and all dividends, distributions and rights relating thereto, (ii) any other assets of the Candelaria/Ojos Subsidiaries and (iii) and all proceeds and products of any of the foregoing.

“**Shares**”, as applied to the shares of any corporation or other entity, means the shares or other ownership interests of every class whether now or hereafter authorized, regardless of whether such shares or other ownership interests shall be limited to a fixed sum or percentage with respect to the rights of the holders thereof to participate in dividends and in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding-up of such corporation or other entity.

“**Silver Purchase Agreement**” means any agreement pursuant to which a Subject Entity agrees to sell silver actually produced from project assets owned by such Subject Entity with respect to which silver is a by-product to a purchaser for a specified period.

“**SOFR**” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“**Somincor**” means Sociedade Mineira de Neves - Corvo, S.A., a corporation incorporated under the laws of Portugal.

“**Subject Entities**” means the Obligors, the Non-Guaranteeing Material Subsidiaries, Candelaria and Ojos and “**Subject Entity**” means any of the Subject Entities.

“**Subsidiary**” means, with respect to any Person, any corporation, company or other similar business entity (including, for greater certainty, a Canadian chartered bank) of which more than fifty per cent (50%) of the outstanding Shares or other equity interests

(in the case of Persons other than corporations) having ordinary voting power to elect a majority of the board of directors or the equivalent thereof of such corporation, company or similar business entity (irrespective of whether at the time Shares of any other class or classes of the Shares of such corporation, company or similar business entity shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned by such Person, by such Person and one or more other Subsidiaries of such Person, or by one or more other Subsidiaries of such Person.

“**Swedish Kronor**” means the lawful currency of Sweden.

“**Tangible Net Worth**” means, at any particular time, the amount of Equity at such time less the aggregate of the amounts, at such time, which would, in accordance with generally accepted accounting principles, be classified upon the consolidated balance sheet of the Parent as goodwill (without taking into account any future income tax assets that may be classified as goodwill), intangible assets, but without adjustment for any currency translation adjustments or any unrealized gains or losses in respect of any Risk Management Agreements and excluding the Excluded Entities.

“**Tax Act**” means the *Income Tax Act* (Canada), as amended from time to time, and regulations promulgated thereunder.

“**Taxes**” means all taxes, charges, fees, levies, imposts, rates, dues and assessments, including all income, sales, use, goods and services, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed, levied, collected, withheld or assessed by any Official Body (including federal, state, provincial, municipal and foreign Official Bodies), and whether disputed or not.

“**Term SOFR**” means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“**Termination Event**” means (i) any of the events set forth in Section 4043(b) of ERISA or the regulations thereunder; (ii) either Borrower, or any ERISA Affiliate’s, withdrawal from a Multiemployer Plan during a year in which it was a “substantial employer”, as this term is defined in Section 4001(a)(2) of ERISA, (iii) the incurrence of liability by either Borrower or any ERISA Affiliate under Section 4064 of ERISA upon the termination of a Multiemployer Plan; (iv) providing notice of intent to terminate a Plan under 4041(a)(2) of ERISA or the treatment of a Multiemployer Plan amended as a termination under 4041 of ERISA; (v) the PBGC instituting proceedings to terminate a Plan under Section 4041 of ERISA; (vi) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA to terminate or appoint a trustee to administer a Multiemployer Plan; (vii) the occurrence of an event described in Section 303(k), 4069, 4070, or 4212(c) of ERISA; (viii) any complete or partial withdrawal from

a Multiemployer Plan, any termination of a Multiemployer Plan, or any Multiemployer Plan being insolvent or in reorganization status; or (ix) any occurrence similar to any of those referenced in clauses (i) – (viii) above under the applicable law of a foreign country.

**“Third Party Mining Arrangements”** means any arrangement with another Person or Persons of a nature that is, or shall have become customary in, the mining business for the purposes of sharing the risks or costs of exploring, acquiring, developing or producing minerals from property owned by a Subject Entity, including, operating, processing, farm-in, farm-out, development, area of mutual interest, unitization, pooling, joint bidding, joint venture, service, partnership, subscription and stock purchase agreement and other similar agreements.

**“Total Commitment Amount”** means, with respect to the Credit Facility, at any particular time, the aggregate of the Individual Commitments with respect thereto of all of the Lenders at such time.

**“Total Debt”** means, at any particular time, the aggregate Indebtedness and Reclamation Obligations of the Parent on a consolidated basis at such time less all Permitted Limited Recourse Project Indebtedness at such time. For certainty, to the extent any Permitted Limited Recourse Project Indebtedness is guaranteed by the Parent as permitted under clause (m) of the definition of **“Permitted Indebtedness”**, such Indebtedness of the Parent shall be included in the calculation of Total Debt.

**“Unadjusted Benchmark Replacement”** means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

**“U.S.”** and **“United States”** means the United States of America.

**“U.S. Blocked Person”** means any person: (i) listed in the annex to, or otherwise subject of the provisions of, US Executive order No. 13224, including the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to US Executive order No. 13224 and/or any other list of terrorists or other restricted persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable executive orders; (ii) a person determined by the Secretary of the Treasury to be owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, US Executive order No. 13224; (iii) a person with which any Finance Party is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law and who is identified to the Borrowers; (iv) a person determined by the Secretary of the Treasury who commits, threatens or conspires to commit or supports “terrorism” as defined in US Executive order No. 13224; or (v) a person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list.

**“U.S. Dollar Equivalent”** means the Exchange Equivalent in United States dollars of any amount of any other currency.

“**USA Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001), as amended, and any regulations (including the regulations contained in 31 CFR 103.121) or guidelines promulgated thereunder.

“**Waste**” means any waste, as defined by EPA.

“**Withdrawal Liability**” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“**Write-down and Conversion Powers**” means in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule.

“**Zinkgruvan**” means Zinkgruvan Mining AB, a corporation incorporated under the laws of Sweden.

“**Zinkgruvan Mine**” means the zinc and lead mine, copper project and related facilities located in Sweden commonly referred to as the “**Zinkgruvan Mine**”.

## **1.2 Other Usages**

References to “this agreement”, “the agreement”, “hereof”, “herein”, “hereto” and like references refer to this Third Amended and Restated Credit Agreement and not to any particular Article, Section or other subdivision of this agreement. Any references herein to any agreements or documents shall mean such agreements or documents as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

## **1.3 Plural and Singular**

Where the context so requires, words importing the singular number shall include the plural and vice versa.

## **1.4 Headings**

The division of this agreement into Articles and Sections and the insertion of headings in this agreement are for convenience of reference only and shall not affect the construction or interpretation of this agreement.

## **1.5 Currency**

Unless otherwise specified herein, all statements of or references to dollar amounts in this agreement shall mean lawful money of the United States.

## **1.6 Applicable Law**

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any legal action or proceeding with respect to this agreement may be brought in the courts of the Province of Ontario and, by execution and delivery of this agreement, the parties hereby accept for themselves and in respect of their property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts. Nothing herein shall limit the right of any party to serve process in any manner permitted by law or to commence legal proceedings or otherwise proceed against any other party in any other jurisdiction.

## **1.7 Time of the Essence**

Time shall in all respects be of the essence of this agreement.

## **1.8 Non-Banking Days**

Subject to Section 7.4(c), whenever any payment to be made hereunder shall be stated to be due or any action to be taken hereunder shall be stated to be required to be taken on a day other than a Banking Day, such payment shall be made or such action shall be taken on the next succeeding Banking Day and, in the case of the payment of any amount, the extension of time shall be included for the purposes of computation of interest, if any, thereon.

## **1.9 Consents and Approvals**

Whenever the consent or approval of a party hereto is required in a particular circumstance, unless otherwise expressly provided for therein, such consent or approval shall not be unreasonably withheld or delayed by such party.

## **1.10 Amount of Credit**

Any reference herein to the amount of credit outstanding shall mean, at any particular time:

- (a) in the case of a Prime Rate Loan, a BA Rate Loan, Euribor Loan or Kronor Loan, the U.S. Dollar Equivalent of the principal amount thereof;
- (b) in the case of a Bankers' Acceptance, the U.S. Dollar Equivalent of the face amount thereof;
- (c) in the case of a LIBOR (U.S.) Loan or Base Rate Canada Loan, the principal amount thereof; and
- (d) in the case of a Letter, the contingent liability of the Issuing Lender thereunder.

### **1.11 Schedules**

Each and every one of the schedules which is referred to in this agreement and attached to this agreement shall form a part of this agreement.

### **1.12 Extension of Credit**

For the purposes hereof, each drawdown, rollover and conversion shall be deemed to be an extension of credit to the Borrowers hereunder.

### **1.13 Several Obligations of the Borrowers**

All obligations hereunder which are stated to be obligations of each Borrower are its several obligations.

### **1.14 Rule of Construction**

The Credit Documents have been negotiated by each party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of the Credit Documents.

### **1.15 Dutch Terms**

In this Agreement, where it relates to a Dutch Obligor, a reference to:

- (a) a necessary action to authorise, where applicable, includes, without limitation, any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*);
- (b) a winding-up, administration or dissolution includes a Dutch Obligor being dissolved (*ontbonden*);
- (c) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;
- (d) a liquidator includes a *curator*;
- (e) an administrator includes a *bewindvoerder*;
- (f) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and
- (g) an attachment includes a *beslag*.

### **1.16 Changes in Accounting Policies**

Whereas the Borrowers may adopt new accounting policies from time to time (including with respect to IFRS), whereby such adoption is compelled by accounting or

regulatory bodies having jurisdiction or at its own discretion, and whereas these accounting changes may result in a material change in the calculation of the financial covenants or financial covenant thresholds or terms used in this agreement or any other Credit Document, then the Borrowers, the Administrative Agent and the Lenders agree to enter into good faith negotiations in order to amend such provisions of this agreement or such other Credit Document, as applicable, so as to equitably reflect such accounting changes with the desired result that the criteria for evaluating the Borrowers' or any of their Subsidiary's financial condition, financial covenants, financial covenant thresholds or terms used in this agreement or any other Credit Document shall be the same after such accounting changes as if such accounting changes had not been made; provided, however, that the agreement of the Majority Lenders to any required amendments of such provisions shall be sufficient to bind all Lenders. If the Borrowers and the Majority Lenders cannot agree upon the required amendments, then all calculations of financial covenants, financial covenant thresholds or terms used in this agreement or any other Credit Document shall be prepared and delivered without reflecting the accounting policy change.

## **ARTICLE 2 CREDIT FACILITY**

### **2.1 Establishment of the Credit Facility.**

Subject to the terms and conditions hereof, the Lenders hereby establish in favour of the Borrowers a revolving term credit facility (the "**RT Facility**") in the amount of U.S.\$800,000,000 (as such amount may be reduced pursuant to Section 2.3 or increased pursuant to Section 2.5).

### **2.2 Lenders' Commitments**

Subject to the terms and conditions hereof, the Lenders severally agree to extend credit to the relevant Borrower under the Credit Facility from time to time provided that the aggregate amount of credit extended by each Lender under the Credit Facility shall not at any time exceed the Individual Commitment of such Lender under the Credit Facility and further provided that the aggregate amount of credit outstanding under the Credit Facility shall not at any time exceed the amount of the Credit Facility. All credit requested under the Credit Facility shall be made available to the relevant Borrower contemporaneously by all of the Lenders. Each such Lender shall provide to the relevant Borrower its Pro Rata Share of each credit, whether such credit is extended by way of drawdown, rollover or conversion. No Lender shall be responsible for any default by any other Lender in its obligation to provide its Pro Rata Share of any credit under the Credit Facility nor shall the Individual Commitment of any Lender be increased as a result of any such default of another Lender in extending credit under the Credit Facility. The failure of any Lender to make available to the relevant Borrower its Pro Rata Share of any credit under the Credit Facility shall not relieve any other Lender of its obligation hereunder to make available to such Borrower its Pro Rata Share of such credit under the Credit Facility. For certainty, all obligations of each Lender hereunder are its several obligations.

### 2.3 Reduction of the Credit Facility

The Borrowers may, from time to time and at any time, by notice in writing to the Administrative Agent, permanently reduce the amount of the RT Facility in whole or in part to the extent it is not being utilized at the time such notice is given, provided that such reduction shall not become effective until five Banking Days after such notice has been given. The amount of the RT Facility will be permanently reduced at the time, and in the amount, of each repayment or prepayment made pursuant to Section 9.1 or 9.5. In the event that, in connection with any mandatory prepayments under the RT Facility pursuant to Section 9.5, the amount of such mandatory prepayment exceeds the aggregate amount of credit outstanding under the RT Facility at the time of such mandatory prepayment (in each case, a “**Mandatory Prepayment Excess Amount**”), the amount of the RT Facility shall be, contemporaneously with such mandatory prepayment, permanently reduced by an amount equal to such Mandatory Prepayment Excess Amount. Any repayment or prepayment of credit outstanding under the RT Facility (other than as set forth above) shall not cause a reduction in the RT Facility. Any repayment of outstanding credit which forms part of any conversion from one type of credit to another type of credit under Article 3 or Article 6 or of any rollover under Article 5 shall not cause any reduction in the amount of the Credit Facility. Upon any reduction of the amount of the Credit Facility, the Individual Commitment of each relevant Lender with respect to such Credit Facility shall thereupon be reduced by an amount equal to such relevant Lender’s Pro Rata Share of such reduction of the amount of the Credit Facility.

### 2.4 Termination of the Credit Facility

- (a) The Credit Facility shall terminate upon the earliest to occur of:
  - (i) the termination of the Credit Facility in accordance with Section 13.1;
  - (ii) the date on which the amount of the Credit Facility has been permanently reduced to zero pursuant to Section 2.3; and
  - (iii) the RT Maturity Date.
- (b) Upon the termination of the Credit Facility, the right of the Borrowers to obtain any credit thereunder and all of the obligations of the Lenders to extend credit under the Credit Facility shall automatically terminate.

### 2.5 Accordion Feature.

- (a) The Borrowers may, by prior notice to the Administrative Agent (an “**Accordion Notice**”), from time to time request that the amount of the RT Credit Facility be increased by an aggregate amount of up to \$200,000,000 (in the aggregate for all Accordion Notices) and in increments of \$10,000,000 and multiples thereof specifying the Lenders and/or, subject to Section 2.5(b), proposed new Lenders that have agreed to accept Individual Commitments with respect to the RT Facility in the aggregate amount of such requested increase. Promptly following receipt of an Accordion Notice requesting an increase of the RT Facility, the

Administrative Agent shall promptly notify the Issuing Lenders and shall request the Issuing Lenders to approve such increase.

- (b) Promptly following receipt of an Accordion Notice from the Administrative Agent pursuant to Section 2.5(a) with respect to the RT Facility, each Issuing Lender shall promptly notify the Administrative Agent whether or not it approves of the increase in the amount of the RT Facility requested in such Accordion Notice. If any Issuing Lender does not approve such increase, then no increase in the amount of the RT Facility shall take place pursuant to this Section 2.5. Subject to receipt of the Issuing Lenders' approvals with respect to an Accordion Notice with respect to the RT Facility, the Administrative Agent shall send a copy of the Accordion Notice to each Lender. Each of the existing Lenders shall be given the opportunity to increase their respective Individual Commitments pursuant to an Accordion Notice prior to any solicitation by the relevant Borrower for an initial Individual Commitment from a Person that is not an existing Lender.
- (c) Upon receipt of an Accordion Notice pursuant to Section 2.5(b), each Accordion Lender that is an existing Lender shall send a confirming letter to the Administrative Agent confirming that it has agreed to increase its Individual Commitment with respect to the RT Facility and setting out the amounts of that increase. The increase in that Accordion Lender's Individual Commitment with respect to the RT Facility shall, subject to Sections 2.5(b) and (f), take place with effect from such day as such Accordion Lender, the Borrowers and the Administrative Agent may agree. Upon any such increase of that Accordion Lender's Individual Commitment with respect to the RT Facility, Schedule A hereto shall be deemed to be amended to increase the Individual Commitment of that Accordion Lender with respect to the RT Facility by the amount of such increase. For certainty, increases of the Individual Commitments of the existing Lenders with respect to the RT Facility pursuant to this Section 2.5 need not be effected on a pro rata basis.
- (d) Any Accordion Lender with respect to the RT Facility that is not an existing Lender must be acceptable to each of the Administrative Agent and the Issuing Lenders in each case acting in their discretion exercised reasonably. Upon delivery to the Administrative Agent and the Issuing Lenders of an Accordion Agreement executed by the Borrowers and an Accordion Lender that is so acceptable to the Administrative Agent and the Issuing Lenders, the Administrative Agent and the Issuing Lenders shall promptly execute and deliver such Accordion Agreement whereupon this agreement and each other Credit Document shall, subject to Section 2.5(f) and on and from such date as the parties thereto may agree, be read and construed as if such Accordion Lender were party to this agreement as a Lender having all of the rights and obligations of a Lender expressed herein with respect to the Individual Commitment with respect to the RT Facility that the Accordion Lender has agreed to accept and all references to any Lender in any Credit Document shall (to the extent the context so admits) be construed accordingly. Consequent thereto, Schedule A hereto shall be deemed to be amended to add the Individual Commitment of such Accordion Lender with

respect to the RT Facility. Each Lender irrevocably appoints, authorizes and directs the Administrative Agent, as its attorney and agent, with full power of substitution and delegation, to complete and execute on its behalf an Accordion Agreement with each Accordion Lender. Each Lender agrees that it will be bound by the terms of each such Accordion Agreement so completed and executed by the Administrative Agent.

- (e) The Administrative Agent shall promptly notify the Borrowers and the Lenders of the increased Individual Commitments with respect to the RT Facility arising pursuant to Section 2.5(c) and/or 2.5(d). Notwithstanding any other provision hereof with respect to the funding of Loans and Bankers' Acceptances and reimbursing with respect to Letters in accordance with each relevant Lender's Pro Rata Share, the Administrative Agent shall be entitled to reallocate the funding or reimbursement obligations among the relevant Lenders or the outstanding credit under the RT Facility (any such reallocation of outstanding credit to be effected by way of participations) in order to ensure, to the greatest extent practicable, that after such increase the aggregate amount of credit extended hereunder by each Lender coincides with such Lender's Pro Rata Share of the aggregate amount of credit extended under the RT Facility by all of the Lenders, provided that no such allocation shall result in the aggregate amount of credit extended hereunder by any Lender exceeding such Lender's Individual Commitment with respect to the RT Facility.
- (f) No increase in the amount of the RT Facility
  - (i) shall be permitted at any time that a Default or Event of Default has occurred and is outstanding; and
  - (ii) shall be effective where, in the opinion of the Administrative Agent, acting reasonably, an amendment to any Guarantee or Security Document to which a Guarantor formed under the laws of the Netherlands, Chile or Brazil is party is required to ensure that the Secured Obligations (after the increase of credit pursuant to this 2.5 is exercised) of the Borrowers continue to be guaranteed pursuant to, or secured by, such Guarantee or Security Document, as applicable, unless and until legal counsel to such Guarantor shall have delivered to the Administrative Agent a legal opinion, in substance satisfactory to the Administrative Agent (acting reasonably), confirming the that Secured Obligations (after the increase of credit pursuant to this Section 2.5 is exercised) of the Borrowers continue to be guaranteed pursuant to, or secured by, such Guarantee or Security Document, as applicable.

**ARTICLE 3**  
**GENERAL PROVISIONS RELATING TO CREDITS**

**3.1 Types of Credit Availments**

Subject to the terms and conditions hereof:

- (a) each Borrower may obtain credit under the RT Facility from the RT Lenders by way of one or more Loans, Bankers' Acceptances and Letters, provided, at no time, shall the aggregate amount of credit outstanding in respect of Letters exceed \$150,000,000. Any extension of credit under the RT Facility by way of Base Rate Canada Loans or LIBOR (U.S.) Loans shall be in a minimum amount of U.S.\$1,000,000, by way of Euribor Loans shall be in a minimum amount of €1,000,000, by way of Kronor Loans shall be in a minimum amount of 1,000,000 Swedish Kronor and by way of Prime Rate Loans, BA Rate Loans or Bankers' Acceptances shall be in a minimum amount of Cdn.\$1,000,000.

**3.2 Funding of Loans**

- (a) Each Lender shall make available to the Administrative Agent its Pro Rata Share of the principal amount of each Loan under the Credit Facility prior to 2:00 p.m. (Toronto time) on the date of the extension of credit. The Administrative Agent shall, upon fulfilment by the relevant Borrower of the terms and conditions set forth in Article 12 and unless otherwise irrevocably authorized and directed in the Drawdown Notice, in respect of the Credit Facility, make such funds available to such Borrower on the date of the extension of credit by crediting the relevant Designated Account (or causing such account to be credited). Unless the Administrative Agent has been notified by a Lender at least one Banking Day prior to the date of the extension of credit that such Lender will not make available to the Administrative Agent its Pro Rata Share of such Loan, the Administrative Agent may assume that such Lender has made such portion of the Loan available to the Administrative Agent on the date of the extension of credit in accordance with the provisions hereof and the Administrative Agent may, in reliance upon such assumption, make available to the relevant Borrower on such date a corresponding amount. If the Administrative Agent has made such assumption, to the extent such Lender shall not have so made its Pro Rata Share of the Loan available to the Administrative Agent, such Lender agrees to pay to the Administrative Agent, forthwith on demand, such Lender's Pro Rata Share of the Loan and all reasonable costs and expenses incurred by the Administrative Agent in connection therewith together with interest thereon at the then prevailing interbank rate for each day from the date such amount is made available to the relevant Borrower until the date such amount is paid or repaid to the Administrative Agent; provided, however, that notwithstanding such obligation, if such Lender fails so to pay, the relevant Borrower shall, without prejudice to any rights that such Borrower might have against such Lender, repay such amount to the Administrative Agent forthwith after demand therefor by the Administrative Agent. The amount payable by each Lender to the Administrative Agent pursuant

hereto shall be set forth in a certificate delivered by the Administrative Agent to such Lender and the relevant Borrower (which certificate shall contain reasonable details of how the amount payable is calculated) and shall constitute prima facie evidence of such amount payable. If such Lender makes the payment to the Administrative Agent required herein, the amount so paid shall constitute such Lender's Pro Rata Share of the Loan for purposes of this agreement and shall entitle the Lender to all rights and remedies against the relevant Borrower in respect of such Loan.

- (b) If, in the sole judgement of a Lender (each such Lender, a "**Fronted Lender**"), such Fronted Lender is unable to extend credit by way of Prime Rate Loans or Base Rate Canada Loans (each such Loan, a "**Fronted Loan**") in accordance with this agreement, such Lender shall give an irrevocable notice to such effect to the Administrative Agent, the Fronting Lender and the relevant Borrower prior to 10:00 a.m. (Toronto time) on the date of the requested credit extension. Upon receipt of any such irrevocable notice, the Fronting Lender shall advance, in the place and stead of the relevant Fronted Lender, such Fronted Lender's Pro Rata Share of such Fronted Loan. All interest payments and principal repayments of or in respect of Fronted Loans, to the extent advanced by the Fronting Lender, shall be solely for the account of the Fronted Lenders in their respective pro rata shares.

Notwithstanding anything to the contrary herein contained or contrary to the provisions of Applicable Law, (I) if a Default occurs and is continuing or (II) if the Fronting Lender so requires, and there are then outstanding any Fronted Loans, then, effective on the day of notice to that effect to the Fronted Lenders from the Fronting Lender, the Borrowers shall be deemed to have requested, and hereby request, an extension of credit by way of drawdown of an amount of Prime Rate Loans and/or Base Rate Canada Loans sufficient to repay the Fronted Lenders' Pro Rata Share of the Fronted Loans and accrued and unpaid interest in respect thereof, and on the day of receipt of such notice, each of the other Fronted Lenders shall disburse to the Fronting Lender its respective Pro Rata Share of such amounts and such amounts shall thereupon be deemed to have been advanced by the Fronted Lenders to the relevant Borrower. If a Fronted Lender does not disburse to the Fronting Lender its respective Pro Rata Share of any amount under this Section then, for the purpose only of any distributions or payments to such Fronted Lenders (and not, for greater certainty, for purposes of any obligations of such Fronted Lenders, including those under Section 14.10), including any distribution or payment with respect to the relevant Borrower in the event of any enforcement or realization proceedings or any bankruptcy, winding-up, liquidation, arrangement, compromise or composition, the Individual Commitments of such Lender shall be deemed to be nil and the Individual Commitments of the Fronting Lender shall be increased by the Individual Commitment of such Fronted Lender until the amounts owed by the relevant Borrower are outstanding to each Fronted Lender in accordance with its Pro Rata Share determined without regard to this sentence. If any amount disbursed by a Fronted Lender to the Fronting Lender under this Section and deemed to have been advanced to the relevant Borrower must be repaid by the Fronting Lender or

by such Fronted Lender to the relevant Borrower then no reduction of the Fronted Loans as contemplated above shall be deemed to have occurred, but the relevant Fronted Lenders shall purchase participations in the Fronted Loans (without recourse to the Fronting Lender) for an amount or otherwise effect transactions to achieve the financial results contemplated by this Section.

For certainty, it is hereby acknowledged and agreed that the Fronted Lenders shall be obligated to advance their Pro Rata Share of an extension of credit by way of drawdown contemplated by the Section 3.2(b) and to disburse to the Fronted Lender their Pro Rata Shares of the Fronted Loan referenced therein irrespective of:

- (i) whether a Default or Event of Default is then continuing or whether any other condition in Article 12 is met; and
- (ii) whether the relevant Borrower has in fact actually requested such extension of credit by way of drawdown (by delivery of a Drawdown Notice or otherwise).

### **3.3 Failure of Lender to Fund Loan**

If any Lender fails to make available to the Administrative Agent its Pro Rata Share of any Loan under the Credit Facility as required (such Lender being herein called the “**Defaulting Lender**”) and the Administrative Agent has not funded pursuant to Section 3.2, the Administrative Agent shall forthwith give notice of such failure by the Defaulting Lender to the relevant Borrower and the other Lenders and such notice shall state that any Lender may make available to the Administrative Agent all or any portion of the Defaulting Lender’s Pro Rata Share of such Loan (but in no way shall any other Lender or the Administrative Agent be obliged to do so) in the place and stead of the Defaulting Lender. If more than one Lender gives notice that it is prepared to make funds available in the place and stead of a Defaulting Lender in such circumstances and the aggregate of the funds which such Lenders (herein collectively called the “**Contributing Lenders**” and individually called the “**Contributing Lender**”) are prepared to make available exceeds the amount of the advance which the Defaulting Lender failed to make, then each Contributing Lender shall be deemed to have given notice that it is prepared to make available its pro rata share of such advance based on the Contributing Lenders’ relative commitments to advance in such circumstances. If any Contributing Lender makes funds available in the place and stead of a Defaulting Lender in such circumstances, then the Defaulting Lender shall pay to any Contributing Lender making the funds available in its place and stead, forthwith on demand, any amount advanced on its behalf together with interest thereon at the then prevailing interbank rate for each day from the date of advance to the date of payment, against payment by the Contributing Lender making the funds available of all interest received in respect of the Loan from the relevant Borrower. In addition to interest as aforesaid, the relevant Borrower shall pay all amounts owing by such Borrower to the Defaulting Lender hereunder (with respect to the amounts advanced by the Contributing Lenders on behalf of the Defaulting Lender) to the Contributing Lenders until such time as the Defaulting Lender pays to the Administrative Agent for the Contributing Lenders all amounts advanced by the Contributing Lenders on behalf of the Defaulting Lender.

### 3.4 Funding of Bankers' Acceptances

- (a) If the Administrative Agent receives from a Borrower a Drawdown Notice, Rollover Notice or Conversion Notice requesting a drawdown of, a rollover of or a conversion into Bankers' Acceptances, the Administrative Agent shall notify each Lender, prior to 11:00 a.m. (Toronto time) on the second Banking Day prior to the date of such extension of credit of such request and of each such Lender's Pro Rata Share of such extension of credit. The Administrative Agent shall also at such time notify the relevant Borrower of each Lender's Pro Rata Share of such extension of credit. Each Lender shall, not later than 11:00 a.m. (Toronto time) on the date of each extension of credit by way of Bankers' Acceptance, accept drafts of the relevant Borrower which are presented to it for acceptance and which have an aggregate face amount equal to such Lender's Pro Rata Share of the total extension of credit being made available by way of Bankers' Acceptances on such date, as advised by the Administrative Agent. Each Lender shall purchase the Bankers' Acceptances which it has accepted for a purchase price equal to the BA Discounted Proceeds therefor. Each Lender may at any time and from time to time hold, sell, rediscount or otherwise dispose of any and all Bankers' Acceptances accepted and purchased by it.
- (b) The relevant Borrower shall provide for payment to the accepting Lenders of the face amount of each Bankers' Acceptance at its maturity, either by payment of such amount or through an extension of credit hereunder or through a combination of both. The relevant Borrower hereby waives presentment for payment of Bankers' Acceptances by the Lenders and any defence to payment of amounts due to a Lender in respect of a Bankers' Acceptance which might exist by reason of such Bankers' Acceptance being held at maturity by such Lender which accepted it and agrees not to claim from such Lender any days of grace for the payment at maturity of Bankers' Acceptances.
- (c) In the case of a drawdown by way of Bankers' Acceptance, each Lender shall, forthwith after the acceptance of drafts of the relevant Borrower as aforesaid, make available to the Administrative Agent the BA Proceeds with respect to the Bankers' Acceptances accepted by it. The Administrative Agent shall, upon fulfilment by the relevant Borrower of the terms and conditions set forth in Article 12, make such BA Proceeds available to the relevant Borrower on the date of such extension of credit by crediting the applicable Designated Account. In the case of a rollover of or conversion into Bankers' Acceptances, each Lender shall retain the Bankers' Acceptance accepted by it and shall not be required to make any funds available to the Administrative Agent for deposit to the applicable Designated Account; however, forthwith after the acceptance of drafts of the relevant Borrower as aforesaid, the relevant Borrower shall pay to the Administrative Agent on behalf of the Lenders an amount equal to the aggregate amount of the acceptance fees in respect of such Bankers' Acceptances calculated in accordance with Section 7.7 plus the amount by which the aggregate face amount of such Bankers' Acceptances exceeds the aggregate BA Discounted Proceeds with respect thereto.

- (d) Any Bankers' Acceptance may, at the option of the relevant Borrower, be executed in advance by or on behalf of the relevant Borrower, by mechanically reproduced or facsimile signatures of any two officers of the relevant Borrower who are properly so designated and authorized by the relevant Borrower from time to time. Any Bankers' Acceptance so executed and delivered by the relevant Borrower to the Lenders shall be valid and shall bind the relevant Borrower and may be dealt with by the Lenders to all intents and purposes as if the Bankers' Acceptance had been signed in the executing officers' own handwriting.
- (e) Each relevant Borrower shall notify the Lenders as to those officers whose signatures may be reproduced and used to execute Bankers' Acceptances in the manner provided in Section 3.4(d). Bankers' Acceptances with the mechanically reproduced or facsimile signatures of designated officers may be used by the Lenders and shall continue to be valid, notwithstanding the death, termination of employment or termination of authorization of either or both of such officers or any other circumstance.
- (f) Each Borrower hereby indemnifies and agrees to hold harmless the Lenders against and from all losses, damages, expenses and other liabilities caused by or attributable to the use of the mechanically reproduced or facsimile signature instead of the original signature of an authorized officer of such Borrower on a Banker's Acceptance prepared, executed, issued and accepted pursuant to this agreement, except to the extent determined by a court of competent jurisdiction to be due to the gross negligence or wilful misconduct of the Lenders.
- (g) Each Lender agrees that, in respect of the safekeeping of executed drafts of the Borrowers which are delivered to it for acceptance hereunder, it shall exercise the same degree of care which it gives to its own property, provided that it shall not be deemed to be an insurer thereof.
- (h) All Bankers' Acceptances to be accepted by a particular Lender shall, at the option of such Lender, be issued in the form of depository bills made payable originally to and deposited with The Canadian Depository for Securities Limited pursuant to the *Depository Bills and Notes Act* (Canada).
- (i) In order to facilitate the issuance of Bankers' Acceptances pursuant to this agreement, each Borrower hereby authorizes each Lender, and appoints each Lender as such Borrower's attorney, to complete, sign and endorse drafts or depository bills (each such executed draft or bill being herein referred to as a "**BA Draft**") on its behalf in handwritten form or by facsimile or mechanical signature or otherwise in accordance with the applicable Drawdown Notice, Rollover Notice or Conversion Notice and, once so completed, signed and endorsed to accept them as Bankers' Acceptances under this agreement and then if applicable, purchase, discount or negotiate such Bankers' Acceptances in accordance with the provisions of this agreement. BA Drafts so completed, signed, endorsed and negotiated on behalf of such Borrower by such Lender shall bind such Borrower as fully and effectively as if so performed by an authorized officer of such

Borrower. Each draft of a Bankers' Acceptance completed, signed or endorsed by a Lender shall mature on the last day of the term thereof.

### **3.5 BA Rate Loans**

If, in the sole judgement of a Lender, such Lender is unable to extend credit by way of Bankers' Acceptances in accordance with this agreement, such Lender shall give an irrevocable notice to such effect to the Administrative Agent and the relevant Borrower prior to 10:00 a.m. (Toronto time) on the date of the requested credit extension and shall make available to such Borrower prior to 11:00 a.m. (Toronto time) on the date of such requested credit extension a Canadian dollar loan (a "**BA Rate Loan**") in the principal amount equal to such Lender's Pro Rata Share of the total credit to be extended by way of Bankers' Acceptances, such BA Rate Loan to be funded in the same manner as a Loan is funded pursuant to Sections 3.2 and 3.3. Such BA Rate Loan shall have the same term as the Bankers' Acceptances for which it is a substitute and shall bear such rate of interest per annum throughout the term thereof as shall permit such Lender to obtain the same effective rate as if such Lender had accepted and purchased a Bankers' Acceptance at the same acceptance fee and pricing at which a Schedule II Lender would have accepted and purchased such Bankers' Acceptance at approximately 11:00 a.m. (Toronto time) on the date such BA Rate Loan is made, on the basis that, and each Borrower hereby agrees that, for such a BA Rate Loan, interest shall be payable in advance on the date of the extension of credit by the Lender deducting the interest payable in respect thereof from the principal amount of such BA Rate Loan. All BA Rate Loans to be made by a particular Lender shall, at the option of such Lender, be evidenced by a promissory note in the form of a depository note made payable originally to and deposited with The Canadian Depository for Securities Limited pursuant to the *Depository Bills and Notes Act* (Canada).

### **3.6 Timing of Credit Availments**

No Bankers' Acceptance, BA Rate Loan or LIBOR Loan under the Credit Facility may have a maturity date later than the RT Maturity Date.

### **3.7 Inability to Fund U.S. Dollar Advances in Canada**

If a Lender determines in good faith, which determination shall be final, conclusive and binding on the Borrowers, and the Administrative Agent notifies the Borrowers that (i) by reason of circumstances affecting financial markets inside or outside Canada, deposits of United States dollars are unavailable to such Lender in Canada, (ii) adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided in the definition of LIBOR (U.S.) or Alternate Base Rate Canada, as the case may be, (iii) the making or continuation of United States dollar advances in Canada has been made impracticable by the occurrence of a contingency (other than a mere increase in rates payable by such Lender to fund the advance) which materially and adversely affects the funding of the advances at any interest rate computed on the basis of the LIBOR (U.S.) or the Alternate Base Rate Canada, as the case may be, or by reason of a change in any Applicable Law or government regulation, guideline or order (whether or not having the force of law but, if not having the force of law, one with which a responsible Canadian chartered bank would comply) or in the interpretation thereof by any Official Body affecting such Lender or any relevant financial market, which results in LIBOR

(U.S.) or the Alternative Base Rate Canada, as the case may be, no longer representing the effective cost to such Lender of deposits in such market for a relevant Interest Period, or (iv) any change to present law or any future law, regulation, order, treaty or official directive (whether or not having the force of law but, if not having the force of law, one with which a responsible Canadian chartered bank would comply) or any change therein or any interpretation or application thereof by any Official Body has made it unlawful for such Lender to make or maintain or give effect to its obligations in respect of United States dollar advances in Canada as contemplated herein, then:

- (a) the right of the Borrowers to obtain any affected Base Rate Canada Loan or LIBOR (U.S.) Loan from such Lender shall be suspended until such Lender determines that the circumstances causing such suspension no longer exist and such Lender so notifies the Borrowers;
- (b) if any affected Base Rate Canada Loan or LIBOR (U.S.) Loan is not yet outstanding, any applicable Drawdown Notice shall be cancelled and the advance requested therein shall not be made;
- (c) if any LIBOR (U.S.) Loan is already outstanding at any time when the right of the Borrowers to obtain credit by way of a LIBOR (U.S.) Loan is suspended, it shall, subject to the Borrowers having the right to obtain credit by way of a Base Rate Canada Loan at such time, be converted on the last day of the Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) to a Base Rate Canada Loan in the principal amount equal to the principal amount of the LIBOR (U.S.) Loan or, if the Borrowers do not have the right to obtain credit by way of a Base Rate Canada Loan at such time, such LIBOR (U.S.) Loan shall be converted on the last day of the Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) to a loan in such other currency as may be mutually agreed upon in the principal amount equal to the Exchange Equivalent of such LIBOR (U.S.) Loan; and
- (d) if any Base Rate Canada Loan is already outstanding at any time when the right of the Borrowers to obtain credit by way of a Base Rate Canada Loan is suspended, it shall, subject to the Borrowers having the right to obtain credit by way of a LIBOR (U.S.) Loan at such time, be immediately converted to a LIBOR (U.S.) Loan in the principal amount equal to the principal amount of the Base Rate Canada Loan and having an Interest Period of one month or, if the Borrowers do not have the right to obtain credit by way of a LIBOR (U.S.) Loan at such time, it shall be immediately converted to a loan in such other currency as may be mutually agreed upon in the principal amount equal to the Exchange Equivalent of the principal amount of the Base Rate Canada Loan.

This Section 3.7 shall apply mutatis mutandis to Kronor and Euribor advances in Canada.

### **3.8 Time and Place of Payments**

Unless otherwise expressly provided herein, the Borrowers shall make all payments pursuant to this agreement or pursuant to any document, instrument or agreement delivered pursuant hereto by deposit to the relevant Designated Account before 1:00 p.m. (Toronto time) on the day specified for payment and the Administrative Agent shall be entitled to withdraw the amount of any payment due to the Administrative Agent or the Lenders hereunder from such accounts on the day specified for payment.

### **3.9 Remittance of Payments**

Forthwith after the withdrawal from the applicable Designated Account by the Administrative Agent of any payment of principal, interest, fees or other amounts for the benefit of the Lenders pursuant to Section 3.8, the Administrative Agent shall, subject to Sections 3.3 and 8.3 remit to each Lender, in immediately available funds, such Lender's Pro Rata Share of such payment (except to the extent such payment results from a Loan with respect to which a Lender had failed, pursuant to Section 3.2, to make available to the Administrative Agent its Pro Rata Share and, where any other Lender has made funds available in the place and stead of a Defaulting Lender); provided that if the Administrative Agent, on the assumption that it will receive, on any particular date, a payment of principal (including, without limitation, a prepayment), interest, fees or other amount under the Credit Facility, remits to each Lender its Pro Rata Share of such payment and the relevant Borrower fails to make such payment, each Lender agrees to repay to the Administrative Agent, forthwith on demand, to the extent that such amount is not recovered from the relevant Borrower on demand and after reasonable efforts by the Administrative Agent to collect such amount (without in any way obligating the Administrative Agent to take any legal action with respect to such collection), such Lender's Pro Rata Share of the payment made to it pursuant hereto together with interest thereon at the then prevailing interbank rate for each day from the date such amount is remitted to the Lenders until the date such amount is paid or repaid to the Administrative Agent, the exact amount of the repayment required to be made by the Lenders pursuant hereto to be as set forth in a certificate delivered by the Administrative Agent to each Lender, which certificate shall constitute prima facie evidence of such amount of repayment.

### **3.10 Evidence of Indebtedness**

The Administrative Agent shall maintain accounts wherein the Administrative Agent shall record the amount of credit outstanding, each payment of principal and interest on account of each Loan, each Bankers' Acceptances accepted and cancelled, each Letter issued and draw upon and all other amounts becoming due to and being paid to the Lenders or the Administrative Agent hereunder, including, Letter fees and standby fees. The Administrative Agent's accounts constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrowers pursuant to this agreement.

### **3.11 General Provisions Relating to All Letters**

- (a) Each Borrower hereby acknowledges and confirms to the Issuing Lender that the Issuing Lender shall not be obliged to make any inquiry or investigation as to the

right of any beneficiary to make any claim or Draft or request any payment under a Letter and payment by the Issuing Lender pursuant to a Letter shall not be withheld by the Issuing Lender by reason of any matters in dispute between the beneficiary thereof and such Borrower. The sole obligation of the Issuing Lender with respect to Letters is to cause to be paid a Draft drawn or purporting to be drawn in accordance with the terms of the applicable Letter and for such purpose the Issuing Lender is only obliged to determine that the Draft purports to comply with the terms and conditions of the relevant Letter.

- (b) The Issuing Lender shall not have any responsibility or liability for or any duty to inquire into the form, sufficiency (other than to the extent provided in the preceding paragraph), authorization, execution, signature, endorsement, correctness (other than to the extent provided in the preceding paragraph), genuineness or legal effect of any Draft, certificate or other document presented to it pursuant to a Letter and each Borrower unconditionally assumes all risks with respect to the same. Each Borrower agrees that it assumes all risks of the acts or omissions of the beneficiary of any Letter with respect to the use by such beneficiary of the relevant Letter.
- (c) The obligations of each Borrower hereunder with respect to Letters shall be absolute, unconditional and irrevocable and shall not be reduced by any event or occurrence including, without limitation:
  - (i) any lack of validity or enforceability of this agreement or any such Letter;
  - (ii) any amendment or waiver of or any consent to departure from this agreement;
  - (iii) the existence of any claim, set-off, defence or other rights which such Borrower may have at any time against any beneficiary or any transferee of any such Letter (or any person or entities for whom any such beneficiary or any such transferee may be acting), any Lender, the Issuing Lender or any other Person;
  - (iv) any Draft, statement or other document presented under any such Letter proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;
  - (v) payment by the Issuing Lender under such Letter against presentation of a sight draft or certificate which does not comply with the terms of such Letter;
  - (vi) any non-application or misapplication by the beneficiary of such Letter of the proceeds of any drawing under such Letter;
  - (vii) the surrender or impairment of any Security; or

- (viii) any reduction or withdrawal of the Issuing Lender's credit rating by any rating agency.

The obligations of each Borrower hereunder with respect to Letters shall remain in full force and effect and shall apply to any amendment to or extension of the expiration date of any such Letter.

- (d) Any action, inaction or omission taken or suffered by the Issuing Lender or any of the Issuing Lender's correspondents under or in connection with a Letter or any Draft made thereunder, if in good faith and in conformity with foreign or domestic laws, regulations or customs applicable thereto, shall be binding upon the relevant Borrower and shall not place the Issuing Lender or any of its correspondents under any resulting liability to such Borrower. Without limiting the generality of the foregoing, the Issuing Lender and its correspondents may receive, accept or pay as complying with the terms of a Letter, any Draft thereunder, otherwise in order which may be signed by, or issued to, the administrator or any executor of, or the trustee in bankruptcy of, or the receiver for any property of, or other Person or entity acting as the representative or in the place of, such beneficiary or its successors and assigns. Each Borrower covenants that it will not take any steps, issue any instructions to the Issuing Lender or any of its correspondents or institute any proceedings intended to derogate from the right or ability of the Issuing Lender or its correspondents to honour and pay any Draft or Drafts.
- (e) Each Borrower agrees that the Lenders, the Issuing Lender and the Administrative Agent shall have no liability to it for any reason in respect of or in connection with any Letter, the issuance thereof, any payment thereunder, or any other action taken by the Lenders, the Issuing Lender or the Administrative Agent or any other person in connection therewith, other than on account of the Issuing Lender's gross negligence or wilful misconduct.
- (f) Save to the extent expressly provided otherwise in this Section 3.11, the rights and obligations between the Issuing Lender and the relevant Borrower with respect to each Letter shall be determined in accordance with the applicable provisions of the (i) Uniform Customs and Practice for Documentary Credits (1993 Revision), ICC Publications 500 or (ii) the International Standby Practices - ISP98, ICC Publication No. 590, as applicable.

### **3.12 Notice Periods**

Each Drawdown Notice, Rollover Notice, and Conversion Notice shall be given to the Administrative Agent prior to 1:00 p.m. (Toronto time) on the third Banking Day prior to the date of a drawdown of, rollover of, conversion into or conversion of a Bankers' Acceptance or Loan or the issuance of a Letter. Each Prepayment Notice shall be given to the Administrative Agent prior to 1:00 p.m. (Toronto time) on the fifth Banking Day prior to any voluntary prepayment.

### **3.13 Administrative Agent's Discretion to Allocate**

Notwithstanding the provisions of Sections 3.2 and 9.7(b) with respect to the funding of Loans and Bankers' Acceptances and reimbursing with respect to Letters in accordance with each Lender's Pro Rata Share, the Administrative Agent shall be entitled to reallocate the funding or reimbursement obligations among the Lenders in order to ensure, to the greatest extent practicable, that after such funding the aggregate amount of credit extended hereunder by each Lender coincides with such Lender's Pro Rata Share of the aggregate amount of credit extended under the Credit Facility by all of the Lenders, provided that no such allocation shall result in the aggregate amount of credit extended hereunder by any Lender exceeding such Lender's Individual Commitment under the Credit Facility.

### **3.14 Effect of Benchmark Discontinuance Event**

- (a) Notwithstanding anything to the contrary herein or any other Credit Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Administrative Agent and the Borrowers may amend this Agreement to replace LIBOR (U.S.) with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Banking Day after the Administrative Agent has posted such proposed amendment to all Lenders and the Borrowers so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Majority Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Majority Lenders have delivered to the Administrative Agent written notice that such Majority Lenders accept such amendment. No replacement of LIBOR (U.S.) with a Benchmark Replacement pursuant to this Section 3.14 will occur prior to the applicable Benchmark Transition Start Date.
- (b) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Credit Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.
- (c) The Administrative Agent will promptly notify the Borrowers and the Lenders of
  - (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or Lenders pursuant to this Section 3.14, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any

action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.14.

- (d) Upon the Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke any request for, conversion to or continuation of LIBOR (U.S.) Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrowers will be deemed to have converted any such request into a request for, or conversion to, Base Rate Canada Loans.

## **ARTICLE 4 DRAWDOWNS**

### **4.1 Drawdown Notice**

Subject to Sections 3.1 and 3.7 and provided that all of the applicable conditions precedent set forth in Article 12 have been fulfilled by the Borrowers or waived by the Lenders as provided in Section 14.14, either Borrower may, from time to time, obtain credit hereunder by giving to the Administrative Agent an irrevocable notice in substantially the form of Schedule D hereto ("**Drawdown Notice**") in accordance with Section 3.12 and specifying:

- (a) **[Intentionally Deleted];**
- (b) the applicable Borrower;
- (c) the date the credit is to be obtained;
- (d) whether the credit is to be obtained by way of Base Rate Canada Loan or LIBOR (U.S.) Loan, other LIBOR Loan, Prime Rate Loan, Bankers' Acceptances or Letter;
- (e) in the case of any credit to be obtained by way of a Loan, the principal amount of the Loan;
- (f) if the credit is to be obtained by way of Bankers' Acceptances, the aggregate face amount of the Bankers' Acceptances to be issued and the term of the Bankers' Acceptances;
- (g) if the credit is to be obtained by way of LIBOR Loan, the applicable Interest Period;
- (h) if the credit is to be obtained by way of Letter, the named beneficiary of the Letter, the maturity date and amount of the Letter, the currency in which the Letter is to be denominated and all other terms of the Letter (including, without limitation, (i) the proposed form of the Letter and (ii) if the Letter is to be issued on behalf of a Subsidiary of the relevant Borrower as well as on behalf of the relevant Borrower, the name of such Subsidiary); and

- (i) the details of any irrevocable authorization and direction pursuant to Section 3.2.

If credit is to be obtained by way of Letter and if such Letter is to be issued on behalf of a Subsidiary of the Parent as well as on behalf of the relevant Borrower, such Borrower shall ensure that accompanying such Drawdown Notice is an instrument, substantially in the form of Schedule H hereto, and pursuant to which such Subsidiary shall agree, without qualification, to reimburse the Issuing Lender on demand for the full amount of each and any Draft presented to and paid by the Issuing Lender in accordance with such Letter.

## **ARTICLE 5 ROLLOVERS**

### **5.1 Bankers' Acceptances**

Provided that the relevant Borrower has, by giving notice to the Administrative Agent in accordance with Section 5.3, requested that the Lenders accept its drafts to replace all or a portion of outstanding Bankers' Acceptances as they mature, each Lender shall, on the maturity of such Bankers' Acceptances and concurrent with the payment by the relevant Borrower to such Lender of the face amount of such Bankers' Acceptances or the portion thereof to be replaced, accept the relevant Borrower's draft or drafts having an aggregate face amount equal to its Pro Rata Share of the aggregate face amount of the matured Bankers' Acceptances or the portion thereof to be replaced in accordance with Section 3.4.

### **5.2 LIBOR Loans**

Subject to Section 3.7 and provided that the relevant Borrower has, by giving notice to the Administrative Agent in accordance with Section 5.3, requested the Lenders to continue to extend credit by way of a LIBOR Loan to replace all or a portion of an outstanding LIBOR Loan as it matures, each Lender shall, on the maturity of such LIBOR Loan, continue to extend credit to such Borrower by way of a LIBOR Loan (without a further advance of funds to such Borrower) in the principal amount equal to such Lender's Pro Rata Share of the principal amount of the matured LIBOR Loan or the portion thereof to be replaced.

### **5.3 Rollover Notice**

The notice to be given to the Administrative Agent pursuant to Section 5.1 or 5.2 ("**Rollover Notice**") shall be irrevocable, shall be given in accordance with Section 3.12, shall be in substantially the form of Schedule E hereto and shall specify:

- (a) **[Intentionally deleted]**;
- (b) the applicable Borrower;
- (c) the maturity date of the maturing Bankers' Acceptances or the maturing LIBOR Loan, as the case may be;

- (d) the face amount of the maturing Bankers' Acceptances or the principal amount of the maturing LIBOR Loan, as the case may be, and the portion thereof to be replaced;
- (e) in the case of a maturing LIBOR Loan, the maturity date of the maturing LIBOR Loan, the principal amount of the maturing LIBOR Loan and the portion thereof to be replaced and the Interest Period or Interest Periods of the replacement LIBOR Loans; and
- (f) in the case of maturing Bankers' Acceptances, the aggregate face amount of the new Bankers' Acceptances to be issued and the term of the new Bankers' Acceptances.

## **ARTICLE 6 CONVERSIONS**

### **6.1 Converting Loan to Other Type of Loan**

Subject to the provisions hereof and provided that the relevant Borrower has, by giving notice to the Administrative Agent in accordance with Section 6.4, requested the Lenders to convert all or a portion of an outstanding Loan (other than a BA Rate Loan) into another type of Loan (other than a BA Rate Loan), each Lender shall, on the date of conversion (which, in the case of the conversion of all or a portion of an outstanding LIBOR Loan, shall be the date on which such Loan matures), continue to extend credit to such Borrower by way of the type of Loan into which the outstanding Loan or a portion thereof is converted (with a repayment and a subsequent advance of funds to such Borrower) in the aggregate principal amount equal to such Lender's Pro Rata Share of the principal amount of the outstanding Loan or the portion thereof which is being converted.

### **6.2 Converting Loan to Bankers' Acceptances**

Provided that the relevant Borrower has, by giving notice to the Administrative Agent in accordance with Section 6.4, requested the Lenders to accept its drafts to replace all or a portion of an outstanding Loan and, if a LIBOR Loan or a BA Rate Loan is to be replaced the date of conversion is the date on which such Loan matures, each Lender shall, on the date of conversion and concurrent with the payment by the relevant Borrower to such Lender of the principal amount of such outstanding Loan or the portion thereof which is being converted, accept the relevant Borrower's draft or drafts having an aggregate face amount equal to its Pro Rata Share of the aggregate principal amount of such Loan or the portion thereof which is being converted or the Canadian Dollar Equivalent thereof, as the case may be, such acceptance to be in accordance with Section 3.4.

### **6.3 Converting Bankers' Acceptances to Loan**

Each Lender shall, on the maturity date of a Bankers' Acceptance which such Lender has accepted, pay to the holder thereof the face amount of such Bankers' Acceptance. Subject to Sections 3.1, 3.7 and 3.8 and provided that the relevant Borrower has, by giving notice to the Administrative Agent in accordance with Section 6.4, requested the Lenders to convert all

or a portion of outstanding maturing Bankers' Acceptances into a Loan, each Lender shall, upon the maturity date of such Bankers' Acceptances and the payment by such Lender to the holders of such Bankers' Acceptances of the aggregate face amount thereof and concurrent with the payment by the relevant Borrower to such Lender of the aggregate face amount of such Bankers' Acceptances, extend credit to the relevant Borrower by way of the Loan into which the matured Bankers' Acceptances or a portion thereof are converted in the aggregate principal amount equal to its Pro Rata Share of the aggregate face amount or the U.S. Dollar Equivalent of the aggregate face amount, as the case may be, of the matured Bankers' Acceptances or the portion thereof which are being converted. Where a particular Lender has funded the relevant Borrower by way of a BA Rate Loan rather than by way of Bankers' Acceptances, the provisions of this Section 6.3 as they relate to Bankers' Acceptances shall apply mutatis mutandis to such BA Rate Loan.

#### **6.4 Conversion Notice**

The notice to be given to the Administrative Agent pursuant to Section 6.1 (“**Conversion Notice**”) shall be irrevocable, shall be given in accordance with Section 3.12, shall be in substantially the form of Schedule F hereto and shall specify:

- (a) **[Intentionally deleted]**;
- (b) the applicable Borrower;
- (c) whether an outstanding Loan or Bankers' Acceptances are to be converted and, if an outstanding Loan is to be converted, the type of Loan to be converted;
- (d) the date on which the conversion is to take place;
- (e) the face amount of the Bankers' Acceptances or the portion thereof which is to be converted or the principal amount of the Loan or the portion thereof which is to be converted;
- (f) the type and amount of the Loan or Bankers' Acceptances into which the outstanding Loan or Bankers' Acceptances are to be converted;
- (g) if an outstanding Loan or Bankers' Acceptances are to be converted into a LIBOR Loan, the applicable Interest Period; and
- (h) if an outstanding Loan is to be converted into Bankers' Acceptances, the aggregate face amount of the new Bankers' Acceptances to be issued and the term of the new Bankers' Acceptances.

#### **6.5 Absence of Notice**

Subject to Section 3.7, in the absence of a Rollover Notice or Conversion Notice within the appropriate time periods referred to herein, a maturing LIBOR Loan in favour of a Borrower shall be automatically converted to a Base Rate Canada Loan and a maturing Bankers'

Acceptance or BA Rate Loan shall be automatically converted to a Prime Rate Loan, as though a notice to such effect had been given in accordance with Section 6.4.

## **6.6 Conversion by Lenders**

Upon written notice to such effect to the relevant Borrower at such time as a Default has occurred and is continuing, the Administrative Agent may, as applicable, on the maturity date of a Bankers' Acceptance, BA Rate Loan or a LIBOR Loan, convert such Bankers' Acceptance, BA Rate Loan or LIBOR Loan into Prime Rate Loan or Base Rate Canada Loan, as applicable, as though a notice to such effect had been given in accordance with Section 6.4.

## **ARTICLE 7 INTEREST AND FEES**

### **7.1 Interest Rates**

The Borrowers shall pay to the Lenders, in accordance with Section 3.8, interest on the outstanding principal amount from time to time of each Loan (other than a BA Rate Loan) at the rate per annum equal to:

- (i) in the case of each Prime Rate Loan, the Prime Rate plus the Applicable Rate;
- (ii) in the case of each Base Rate Canada Loan, the Alternate Base Rate Canada plus the Applicable Rate; and
- (iii) in the case of each LIBOR Loan, the applicable LIBOR plus the Applicable Rate.

### **7.2 Calculation and Payment of Interest**

- (a) Interest on the outstanding principal amount from time to time of each Prime Rate Loan and Base Rate Canada Loan shall accrue from day to day from and including the date on which credit is obtained by way of such Loan to but excluding the date on which such Loan is repaid in full (both before and after maturity and as well after as before judgment) and shall be calculated on the basis of the actual number of days elapsed divided by 365.
- (b) Interest on the outstanding principal amount from time to time of each LIBOR Loan shall accrue from day to day from and including the date on which credit is obtained by way of such Loan to but excluding the date on which such Loan is repaid in full (both before and after maturity and as well after as before judgment) and shall be calculated on the basis of the actual number of days elapsed divided by 360.
- (c) Accrued interest shall be paid,

- (i) in the case of interest on Prime Rate Loans and Base Rate Canada Loans, quarterly in arrears on the first day of each Fiscal Quarter; and
- (ii) in the case of interest on LIBOR Loans, on the last day of the applicable Interest Period; provided that, in the case of Interest Periods of a duration longer than three months, accrued interest shall be paid no less frequently than every three months from the first day of such Interest Period during the term of such Interest Period and on the date on which such LIBOR Loans are otherwise required to be repaid.

### **7.3 General Interest Rules**

- (a) For the purposes hereof, whenever interest is calculated on the basis of a year of 360 or 365 days, each rate of interest determined pursuant to such calculation expressed as an annual rate for the purposes of the *Interest Act* (Canada) is equivalent to 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 360 or 365 days, respectively.
- (b) Interest on each Loan and on overdue interest thereon shall be payable in the currency in which such Loan is denominated during the relevant period.
- (c) If a Borrower fails to pay any fee or other amount of any nature payable by it to the Administrative Agent or the Lenders hereunder or under any document, instrument or agreement delivered pursuant hereto on the due date therefor, such Borrower shall pay to the Administrative Agent or the Lenders, as the case may be, interest on such overdue amount in the same currency as such overdue amount is payable from and including such due date to but excluding the date of actual payment (as well after as before judgment) at the rate per annum, calculated and compounded monthly, which is equal to the Alternate Base Rate Canada plus 3% in the case of overdue amounts denominated in U.S. dollars. Such interest on overdue amounts shall become due and be paid on demand made by the Administrative Agent.

### **7.4 Selection of Interest Periods**

With respect to each LIBOR Loan, the applicable Borrower shall specify in the Drawdown Notice, Rollover Notice or Conversion Notice, the duration of the Interest Period provided that:

- (a) Interest Periods shall have a duration from one, two, three or six months (subject to availability and to the aggregate number of Interest Periods with different dates outstanding being not more than ten (10));
- (b) the first Interest Period for a LIBOR Loan shall commence on and include the day on which credit is obtained by way of such Loan and each subsequent Interest Period applicable thereto shall commence on and include the date of the expiry of the immediately preceding Interest Period applicable thereto; and

- (c) if any Interest Period would end on a day which is not a Banking Day, such Interest Period shall be extended to the next succeeding Banking Day unless such next succeeding Banking Day falls in the next calendar month, in which case such Interest Period shall be shortened to end on the immediately preceding Banking Day.

#### **7.5 Standby Fee**

- (a) Upon the first Banking Day following the completion of each Fiscal Quarter and on the termination of the RT Facility, the Borrowers shall pay, in accordance with Section 3.8, to the RT Lenders, in arrears, a standby fee calculated at the rate per annum, on the basis of a year of 365 days, equal to the Applicable Rate on the daily Available RT Credit during the most recently completed Fiscal Quarter, such fee to accrue daily from the date this agreement becomes effective to and including termination of the RT Facility. Notwithstanding the foregoing, standby fees shall cease to accrue on the unfunded portion of the Individual Commitment of any RT Lender while it is a Defaulting Lender.

#### **7.6 Letter Fees**

The relevant Borrower shall pay to the Lenders, in accordance with Section 3.8, an issuance fee quarterly in arrears on the first Banking Day of each Fiscal Quarter, calculated at a rate per annum equal to the Applicable Rate on the basis of a year of 365 days and on the amount of each such Letter for a period of time equal to the number of days in the preceding Fiscal Quarter on which such Letter was outstanding. In addition, with respect to all Letters, the relevant Borrower shall from time to time pay to the Issuing Lender its usual and customary fees (at the then prevailing rates) for the amendment, delivery and administration of letters of credit such as the Letters. Each such payment is non-refundable and fully earned when due.

#### **7.7 Acceptance Fees**

- (a) Upon the acceptance of any draft of a Borrower under the RT Facility pursuant hereto, such Borrower shall pay to the RT Lenders, in the manner provided herein, in advance, an acceptance fee calculated at the rate per annum, on the basis of a year of 365 days, equal to the Applicable Rate on the face amount of such Bankers' Acceptance for its term, being the actual number of days in the period commencing on the date of acceptance of such Borrower's draft and ending on but excluding the maturity date of the Bankers' Acceptance; provided, however, that such fee shall not be less than Cdn. \$500 with respect to any single transaction involving the issuance of one or more Bankers' Acceptances.
- (b) With respect to each drawdown by way of Bankers' Acceptances, such acceptance fees shall be paid by the Lenders deducting the amount thereof from the BA Discounted Proceeds before advancing the BA Proceeds to the Administrative Agent as provided in Section 3.4(c). With respect to each rollover or conversion into Bankers' Acceptances, such acceptance fees shall be paid by

the relevant Borrower to the Administrative Agent as provided in Section 3.4(c). Each such payment is non-refundable and fully earned when due.

## **7.8 Fronting Fees**

With respect to each Fronted Loan issued hereunder, the relevant Borrower shall pay to the Fronting Lender, in accordance with Section 3.8, a fronting fee quarterly in arrears on the first Banking Day of each Fiscal Quarter, calculated at a rate of 0.400% per annum on that portion of the amount of each such Fronted Loan that the Fronting Lender has extended credit on behalf of the Fronted Lenders. Each such payment is non-refundable and fully earned when due.

## **7.9 Applicable Rate Adjustment**

The changes in the Applicable Rate shall be effective as of the first day of the applicable Fiscal Quarter, in each case based upon the compliance certificate contemplated under Section 11.1(a)(iii) that has previously been delivered to the Administrative Agent with respect to the second immediately preceding Fiscal Quarter. If a new Applicable Rate becomes effective during the term of an outstanding Bankers' Acceptances, BA Rate Loan, LIBOR Loan or Letter, the Administrative Agent shall forthwith determine the amount of any overpayment or underpayment of acceptance fees with respect to such Bankers' Acceptances, interest with respect to such BA Rate Loan or LIBOR Loan or issuance fees with respect to such Letters and notify the Borrowers and the Lenders of such amounts. Such determination by the Administrative Agent shall constitute, in the absence of manifest error, prima facie evidence of the amount of such overpayment or underpayment, as the case may be. In the event of an underpayment, the Borrowers shall, upon receipt of such notice, pay to the Lenders in accordance with Section 3.8, the amount of such underpayment. In the event of any overpayment, the amount of such overpayment shall be credited to succeeding payments of interest or issuance fees, as the case may be, as they become due until such amount has been fully applied, or, if any overpayment or part thereof is still outstanding on the first Banking Day of the next Fiscal Quarter, the amount of such overpayment or part thereof shall be paid by the Lenders to the relevant Borrower on such first Banking Day.

# **ARTICLE 8 RESERVE, CAPITAL, INDEMNITY AND TAX PROVISIONS**

## **8.1 Conditions of Credit**

The obtaining or maintaining of credit hereunder shall be subject to the terms and conditions contained in this Article 8.

## **8.2 Change of Circumstances**

- (a) If, with respect to any type of credit, the introduction or adoption of any law, regulation, guideline, request or directive (whether or not having the force of law) of any governmental authority, central bank or comparable agency ("**Restraint**") or any change therein or in the application thereof to a Borrower or to any Lender or in the interpretation or administration thereof or any compliance by any Lender therewith:

- (i) prohibits or restricts extending or maintaining such type of credit or the charging of interest or fees in connection therewith, such Borrower agrees that such Lender shall have the right to comply with such Restraint, shall have the right to refuse to permit such Borrower to obtain such type of credit and shall have the right to require, at the option of such Borrower, the conversion of such outstanding credit to another type of credit to permit compliance with the Restraint or repayment in full of such credit together with accrued interest thereon on the last day on which it is lawful for such Lender to continue to maintain and fund such credit or to charge interest or fees in connection therewith, as the case may be; or
- (ii) shall impose or require any reserve, special deposit or liquidity requirements or Tax (excluding Taxes measured with reference to the net income of such Lender or capital taxes or receipts and franchise taxes or U.S. federal withholding taxes imposed under FATCA), shall establish an appropriate amount of capital to be maintained by such Lender or shall impose any other requirement or condition which results in an increased cost to such Lender of extending or maintaining a credit or obligation hereunder or reduces the amount received or receivable by such Lender with respect to any credit under this agreement or reduces such Lender's effective return hereunder or on its capital or causes such Lender to make any payment or to forego any return based on any amount received or receivable hereunder, then, on notification to such Borrower by such Lender, such Borrower shall pay immediately to such Lender such amounts as shall fully compensate such Lender for all such increased costs, reductions, payments or foregone returns which accrue up to and including the date of receipt by such Borrower of such notice and thereafter, upon demand from time to time, such Borrower shall pay such additional amount as shall fully compensate such Lender for any such increased or imposed costs, reductions, payments or foregone returns. Such Lender shall notify the relevant Borrower of any actual increased or imposed costs, reductions, payments or foregone returns forthwith on becoming aware of same and shall concurrently provide to such Borrower a certificate of an officer of such Lender setting forth the amount of compensation to be paid to such Lender and the basis for the calculation of such amount. Notwithstanding this Section 8.2(a), no Borrower shall be liable to compensate such Lender for any such cost, reduction, payment or foregone return occurring more than 120 days before receipt by such Borrower of the aforementioned notification from such Lender; provided, however, that the aforementioned limitation shall not apply to any such cost, reduction, payment or foregone return of a retroactive nature.

For certainty, the Dodd-Frank Wall Street Reform and Consumer Protection Act as well as Basel III and all requests, rules, guidelines or directives thereunder or issued in connection therewith and promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities shall be

deemed to be a “**Restraint**”, regardless of the date enacted, adopted, promulgated or issued.

- (b) Each Lender agrees that, as promptly as practicable after it becomes aware of the occurrence of an event or the existence of a condition that would cause it to seek additional amounts from the relevant Borrower pursuant to Section 8.2(a), it will use reasonable efforts to make, fund or maintain the affected credit of such Lender through another lending office or take such other actions as it deems appropriate if as a result thereof the additional moneys which would otherwise be required to be paid in respect of such credit pursuant to Section 8.2(a), would be reduced and if, as determined by such Lender in its sole discretion, the making, funding or maintaining of such affected credit through such other lending office or the taking of such other actions would not otherwise adversely affect such credit or such Lender and would not, in such Lender’s sole discretion, be commercially unreasonable.
- (c) For the purposes of this Section 8.2 only, “**Lender**” shall include, as concerns any Lender, any parent holding company of such Lender.

### **8.3 Failure to Fund as a Result of Change of Circumstances**

- (a) If any Lender but not all of the Lenders who have Individual Commitments seeks additional compensation pursuant to Section 8.2(a)(ii) or if any Lender becomes a Defaulting Lender (the “**Affected Lender**”), then the relevant Borrower may indicate to the Administrative Agent in writing that it desires to replace the Affected Lender with one or more of the other Lenders, and the Administrative Agent shall then forthwith give notice to the other Lenders that any such Lender or Lenders may, in the aggregate, advance all (but not part) of the Affected Lender’s Pro Rata Share of the affected credit and, in the aggregate, assume all (but not part) of the Affected Lender’s Individual Commitment and obligations under the Credit Facility and acquire all (but not part) of the rights of the Affected Lender and assume all (but not part) of the obligations of the Affected Lender under each of the other Credit Documents to the extent they relate to the Credit Facility (but in no event shall any other Lender or the Administrative Agent be obliged to do so). For certainty, no Lender has any obligation to acquire and assume the rights and obligations of any Affected Lender. If one or more Lenders shall so agree in writing (herein collectively called the “**Assenting Lenders**” and individually called an “**Assenting Lender**”) with respect to such advance, acquisition and assumption, the Pro Rata Share of such credit of each Assenting Lender and the Individual Commitment and the obligations of such Assenting Lender under the Credit Facility and the rights and obligations of such Assenting Lender under each of the other Credit Documents to the extent they relate to the Credit Facility shall be increased by its respective pro rata share (based on the relative Individual Commitments of the Assenting Lenders) of the Affected Lender’s Pro Rata Share of such credit and Individual Commitments and obligations under the Credit Facility and rights and obligations under each of the other Credit Documents to the extent they relate to the Credit Facility on a date

mutually acceptable to the Assenting Lenders and the relevant Borrower. On such date, the Assenting Lenders shall extend to the relevant Borrower the Affected Lender's Pro Rata Share of such credit and shall prepay to the Affected Lender the advances of the Affected Lender then outstanding, together with all interest accrued thereon and all other amounts owing to the Affected Lender hereunder, and, upon such advance and prepayment by the Assenting Lenders, the Affected Lender shall cease to be a "**Lender**" for purposes of this agreement and shall no longer have any obligations hereunder, subject always to its continuing obligations pursuant to Section 9.7. Upon the assumption of the Affected Lender's Individual Commitments as aforesaid by an Assenting Lender, Schedule A hereto shall be deemed to be amended to increase the Individual Commitment of such Assenting Lender by the respective amounts of such assumption. For certainty, the Borrowers shall not be required to pay an Affected Lender that is a Defaulting Lender in respect of breakage costs or other amounts required to be paid as a result of prepayment to such Lender.

- (b) The Borrowers may, by notice to the Administrative Agent (a "**Replacement Lender Notice**"), from time to time prior to the RT Maturity Date, request that the amount of the Individual Commitments with respect to the Credit Facility be increased by the aggregate amount of any Individual Commitments cancelled pursuant to this section (which have not been replaced) the relevant Lenders and/or proposed new relevant Lenders (each, a "**Replacement Lender**") that have agreed to accept Individual Commitments with respect to the Credit Facility in the aggregate amount of such requested increase. For certainty, the aggregate Individual Commitments under the RT Facility shall not exceed at any particular time \$800,000,000 (as such amount may be increased in accordance with Section 2.5) minus the aggregate of any permanent reductions to the RT Facility made by either Borrower pursuant to Sections 2.3 and 9.5.
- (c) Each Replacement Lender that is an existing Lender shall send a confirming letter to the Administrative Agent confirming that it has agreed to an increased Individual Commitment with respect to the Credit Facility and setting out the amount of that commitment. The establishment of that Replacement Lender's Individual Commitment with respect to the Credit Facility shall, subject to Sections 8.3(f) and (g), take place with effect from the second Banking Day following the date of the delivery of such notice to the Administrative Agent. Upon the establishment of that Replacement Lender's increased Individual Commitment with respect to the Credit Facility, Schedule A hereto shall be deemed to be amended to evidence the Individual Commitment with respect to the Credit Facility of that Replacement Lender by the amount of such increase.
- (d) Any Replacement Lender that is not an existing Lender must be acceptable to the Administrative Agent acting in its sole discretion exercised reasonably. Upon delivery to the Administrative Agent of a Replacement Lender Agreement executed by the Borrowers and a Replacement Lender that is so acceptable to the Administrative Agent, the Administrative Agent shall promptly execute and deliver such Replacement Lender Agreement whereupon this agreement and each

other Credit Document shall, subject to Sections 8.3(f) and (g), henceforth be read and construed as if such Replacement Lender were party to this agreement as a Lender having all of the rights and obligations of a Lender expressed herein with respect to the Individual Commitment with respect to the applicable Credit Facility that the Replacement Lender has agreed to accept and all references to any Lenders in any Credit Document shall (to the extent the context so admits) be construed accordingly. Consequent thereto, Schedule A hereto shall be deemed to be amended to add the Individual Commitment of such Replacement Lender. Each Lender irrevocably appoints, authorizes and directs the Administrative Agent, as its attorney and agent, with full power of substitution and delegation, to complete and execute on its behalf each Replacement Lender Agreement relating to each Replacement Lender. Each Lender agrees that it will be bound by the terms of each such Replacement Lender Agreement so completed and executed by the Administrative Agent.

- (e) The Administrative Agent shall promptly notify the Borrowers and the Lenders of the increased Individual Commitments with respect to the applicable Credit Facility arising pursuant to Sections 8.3(c) and (d).
- (f) No increase in or establishment of, any Individual Commitment with respect to the Credit Facility pursuant to this Section 8.3 shall be permitted at any time that a Default or Event of Default has occurred and is outstanding.
- (g) On the first Banking Day following any deemed amendment to Schedule A pursuant to Section 8.3(c) or (d), the Administrative Agent shall advise the Replacement Lender in writing of (i) the aggregate outstanding credit under the applicable Credit Facility already advanced by the Lenders to the Borrowers (the “**Existing Facility Indebtedness**”) and (ii) its Pro Rata Share of the Existing Facility Indebtedness. Within one Banking Day of receipt of such notice from the Administrative Agent, the Replacement Lender shall pay to the Administrative Agent, for the pro rata benefit of each Lender, its Pro Rata Share of the Existing Facility Indebtedness whereupon the Administrative Agent shall disburse such proceeds to the Lenders in accordance with Section 3.8.

#### **8.4 Indemnity Relating to Credits**

Upon notice from the Administrative Agent to the relevant Borrower (which notice shall be accompanied by a detailed calculation of the amount to be paid by such Borrower), such Borrower shall pay to the Administrative Agent or the Lenders such amount or amounts as will compensate the Administrative Agent or the Lenders (including, for certainty, the Issuing Lender) for any loss, cost or expense incurred by them:

- (a) in the liquidation or redeposit of any funds acquired by the Lenders to fund or maintain any portion of a LIBOR Loan or a BA Rate Loan as a result of:
  - (i) the failure of such Borrower to borrow or make repayments on the dates specified under this agreement or in any notice from such Borrower to the

Administrative Agent (provided that if any notice specifies the repayment of a LIBOR Loan or a BA Rate Loan at any time other than its maturity date, then such Borrower shall be responsible for any loss, costs or expenses referred to above); or

- (ii) the repayment or prepayment of any amounts on a day other than the payment dates prescribed herein or in any notice from such Borrower to the Administrative Agent (provided that if any notice specifies the repayment of a LIBOR Loan or a BA Rate Loan at any time other than its maturity date, then such Borrower shall be responsible for any loss, costs or expenses referred to above).
- (b) with respect to any Bankers' Acceptance or Letter, arising from claims or legal proceedings, and including reasonable legal fees and disbursements, respecting the collection of amounts owed by such Borrower hereunder in respect of such Bankers' Acceptance or Letter or the enforcement of the Administrative Agent, the Issuing Lender or the Lenders' rights hereunder in respect of such Bankers' Acceptance or Letter including, without limitation, legal proceedings attempting to restrain the Administrative Agent, the Issuing Lender or the Lenders from paying any amount under such Bankers' Acceptance or Letter.

Notwithstanding the foregoing, the Borrowers shall not be required to indemnify a Lender for any such cost or expense if such cost or expense is sustained or incurred by such Lender while it is a Defaulting Lender.

## **8.5 Indemnity for Transactional and Environmental Liability**

- (a) Each Borrower hereby agrees to indemnify and hold the Administrative Agent, each Lender, the Issuing Lender and each of their respective parent holding companies, Affiliates, shareholders, officers, directors, employees, and agents (collectively, the "**Indemnified Parties**") free and harmless from and against any and all claims, demands, actions, causes of action, suits, losses, costs, charges, liabilities and damages, and expenses in connection therewith (irrespective of whether such Indemnified Party is a party to the action for which indemnification hereunder is sought), and including, without limitation, reasonable legal fees and out of pocket disbursements and amounts paid in settlement which are approved by such Borrower (collectively in this Section 8.5(a), the "**Indemnified Liabilities**"), incurred or suffered by, or asserted against, the Indemnified Parties or any of them as a result of, or arising out of, or relating to (i) the extension of credit contemplated herein, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of any credit extended hereunder, (iii) any actual or threatened investigation, litigation or other proceeding relating to any credit extended or proposed to be extended as contemplated herein or (iv) the execution, delivery, performance or enforcement of the Credit Documents and any instrument, document or agreement executed pursuant hereto or thereto, except for any such Indemnified Liabilities that a court

of competent jurisdiction determines arose on account of an Indemnified Party's gross negligence or wilful misconduct.

- (b) Without limiting the generality of the indemnity set out in the preceding clause (a), each Borrower hereby further agrees to indemnify and hold the Indemnified Parties free and harmless from and against any and all claims, demand, actions, causes of action, suits, losses, costs, charges, liabilities and damages, and expenses in connection therewith, including, without limitation, reasonable legal fees and out of pocket disbursements and amounts paid in settlement which are approved by such Borrower, of any and every kind whatsoever paid (collectively in this Section 8.5(a), the “**Indemnified Liabilities**”), incurred or suffered by, or asserted against, the Indemnified Parties or any of them for, with respect to, or as a direct or indirect result of, (i) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, any real property legally or beneficially owned (or any estate or interest which is owned), leased, used or operated by any Company of any Hazardous Material, Contaminant, Pollutant or Waste, and (ii) any other violation of or liability pursuant to an Environmental Law by any Company, and regardless of whether caused by, or within the control of, such Company, except for any such Indemnified Liabilities that a court of competent jurisdiction determines arose on account of an Indemnified Party's gross negligence or wilful misconduct.
- (c) All obligations provided for in this Section 8.5 shall survive indefinitely the permanent repayment of the outstanding credit hereunder and the termination of this agreement. The obligations provided for in this Section 8.5 shall not be reduced or impaired by any investigation made by or on behalf of the Administrative Agent, the Issuing Lender or any of the Lenders.
- (d) Each Borrower hereby agrees that, for the purposes of effectively allocating the risk of loss placed on such Borrower by this Section 8.5, the Administrative Agent, the Issuing Lender and each Lender shall be deemed to be acting as the agent or trustee on behalf of and for the benefit of their respective shareholders, officers, directors, employees and agents.
- (e) If, for any reason, the obligations of a Borrower pursuant to this Section 8.5 shall be unenforceable, such Borrower agrees to make the maximum contribution to the payment and satisfaction of each obligation that is permissible under Applicable Law.

## **8.6 Gross-Up for Taxes**

- (a) Any and all payments made by any Borrower under this agreement or under any other Credit Document (any such payment being hereinafter referred to as a “**Payment**”) to or for the benefit of the Administrative Agent or any Lender shall be made without set-off or counterclaim, and free and clear of, and without deduction or withholding for, or on account of, any and all present or future Taxes

except to the extent that such deduction or withholding is required by law or the administrative practice of any Official Body. If any such Taxes are so required to be deducted or withheld from or in respect of any Payment made to or for the benefit of the Administrative Agent or any Lender, the relevant Borrower shall:

- (i) promptly notify the Administrative Agent of such requirement;
  - (ii) pay to the Administrative Agent or such Lender, as the case may be, in addition to the Payment to which the Administrative Agent or such Lender is otherwise entitled, such additional amount as is necessary to ensure that the net amount actually received by the Administrative Agent or such Lender (free and clear of, and net of, any such Taxes, including the full amount of any Taxes required to be deducted or withheld from any additional amount paid by such Borrower under this Section 8.6(a), whether assessable against such Borrower, the Administrative Agent or such Lender) equals the full amount the Administrative Agent or such Lender, as the case may be, would have received had no such deduction or withholding been required except such Borrower shall not pay to any Lender or gross-up the payments for any U.S. federal withholding taxes that would not have been imposed but for a failure by a Lender (or any financial institution through which any payment is made to such Lender) to comply with the procedures, certifications, information reporting, disclosure, or other related requirements of FATCA.
  - (iii) make such deduction or withholding;
  - (iv) pay to the relevant Official Body in accordance with Applicable Law the full amount of Taxes required to be deducted or withheld (including the full amount of Taxes required to be deducted or withheld from any additional amount paid by such Borrower to the Administrative Agent or such Lender under this Section 8.6(a)), within the time period required by Applicable Law; and
  - (v) as promptly as possible thereafter, forward to the Administrative Agent or such Lender, as the case may be, an original official receipt (or a certified copy), or other documentation reasonably acceptable to the Administrative Agent and such Lender, evidencing such payment to such Official Body.
- (b) If the Administrative Agent or any Lender is subject to Taxes under Part XIII of the Tax Act (or any successor part) in respect of any Payment made by the relevant Borrower but such Taxes are not levied by way of deduction or withholding (all such Taxes being “**Non-Withheld Part XIII Taxes**”), such Borrower shall pay to the Administrative Agent or such Lender, as the case may be, at the time such Borrower makes such Payment and in addition to such Payment, such additional amount as is necessary to ensure that the total amount received by the Administrative Agent or such Lender, as the case may be, is equal to the Payment plus the amount of Non-Withheld Part XIII Taxes exigible in

respect of the aggregate of the Payment and the additional amount payable under this Section 8.6(b).

- (c) In addition, each Borrower agrees to pay any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes or excise or property Taxes, charges or levies of a similar nature, which arise from any Payment made by it or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, the Credit Documents and the transactions contemplated thereby (any such amounts being hereinafter referred to as “**Other Taxes**”).
- (d) Each Borrower hereby indemnifies and holds harmless the Administrative Agent and each Lender, on an after-Taxes basis, for the full amount of Taxes and Other Taxes, including Non-Withheld Part XIII Taxes, interest, penalties and other liabilities, levied, imposed or assessed against (and whether or not paid directly by) the Administrative Agent or such Lender, as applicable, and for all expenses, resulting from or relating to such Borrower’s failure to:
  - (i) remit to the Administrative Agent or such Lender the documentation referred to in Section 8.6(a)(v);
  - (ii) pay any Taxes or Other Taxes when due to the relevant Official Body (including, without limitation, any Taxes imposed by any Official Body on amounts payable under this Section 8.6)); or
  - (iii) pay to the Administrative Agent or applicable Lender any Non-Withheld Part XIII Taxes in accordance with Section 8.6(b),

whether or not such Taxes were correctly or legally assessed. The Administrative Agent or any Lender who pays any Taxes or Other Taxes (other than Non-Withheld Part XIII Taxes), and the Administrative Agent or any Lender who pays any Non-Withheld Part XIII Taxes in excess of the amount (if any) paid by such Borrower on account thereof under Section 8.6(b), shall promptly notify such Borrower of such payment, provided, however, that failure to provide such notice shall not detract from, or compromise, the obligations of such Borrower under this Section 8.6. Payment pursuant to this indemnification shall be made within 30 days from the date the Administrative Agent or the relevant Lender, as the case may be, makes written demand therefor accompanied by a certificate as to the amount of such Taxes or Other Taxes and the calculation thereof, which calculation shall be *prima facie* evidence of such amount.

- (e) If a Borrower determines in good faith that a reasonable basis exists for contesting any Taxes for which a payment has been made under this Section 8.6, the relevant Lender or the Administrative Agent, as applicable, shall, if so requested by such Borrower, cooperate with such Borrower in challenging such Taxes at such Borrower’s expense.

- (f) If any Lender or the Administrative Agent, as applicable, receives a refund of, or credit for, Taxes for which a payment has been made by a Borrower under this Section 8.6, which refund or credit in the good faith judgment of such Lender or the Administrative Agent, as the case may be, is attributable to the Taxes giving rise to such payment made by such Borrower, then the Lender or the Administrative Agent, as the case may be, shall pay to such Borrower the amount of such refund or credit (if any, but not exceeding the amount of any payment made under this Section 8.6 that gives rise to such refund or credit), net of out-of-pocket expenses of such Lender or the Administrative Agent, as the case may be, which the Administrative Agent or such Lender, as the case may be, determines in its absolute discretion will leave it, after such reimbursement, in no better or worse position than it would have been in if such Taxes had not been exigible. Each Borrower, upon the request of the Administrative Agent or any Lender, agrees to repay the Administrative Agent or such Lender, as the case may be, any portion of any such refund or credit paid over to such Borrower that the Administrative Agent or such Lender, as the case may be, is required to repay to the relevant Official Body and agrees to pay any interest, penalties or other charges paid by such Lender or the Administrative Agent, as the case may be, as a result of or related to such repayment to such Official Body. Neither the Administrative Agent nor any Lender shall be under any obligation to arrange its tax affairs in any particular manner so as to claim any refund or credit. None of the Lenders nor the Administrative Agent shall be obliged to disclose any information regarding its tax affairs or computations to such Borrower or any other Person in connection with this Section 8.6(f) or any other provision of this Section 8.6.
- (g) Each Borrower also hereby indemnifies and holds harmless the Administrative Agent and each Lender, on an after-Taxes basis, for any additional Taxes on net income that the Administrative Agent or such Lender may be obliged to pay as a result of the receipt of amounts under this Section 8.6.
- (h) Any Lender that is entitled to an exemption from or reduction of withholding Tax or Non-Withheld Part XIII Taxes under the law of the jurisdiction in which a Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to Payments shall, at the request of such Borrower, deliver to such Borrower (with a copy to the Administrative Agent), at the time or times prescribed by Applicable Law or reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by Applicable Law (if any) as will permit such payments to be made without withholding or at a reduced rate of withholding or a reduced rate of Non-Withheld Part XIII Taxes. In addition, (i) any Lender, if requested by a Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law (if any) or reasonably requested by such Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to withholding or information reporting requirements, and (ii) any Lender that ceases to be, or to be deemed to be, resident in Canada for purposes of Part XIII of the Tax Act or any successor

provision thereto in respect of Payments shall within five Banking Days thereof notify such Borrower and the Administrative Agent in writing. Notwithstanding the foregoing, no Lender shall be required to deliver any documentation pursuant to this Section 8.6(h) that such Lender is not legally able to deliver. In addition, if a Payment made to a Lender under any Credit Document would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable procedures, certifications, information reporting, disclosure or other related requirements of FATCA, such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such Payment. Solely for purposes of the preceding sentence, "FATCA" shall include any amendments to FATCA after the date of this agreement, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with FATCA.

- (i) Additional amounts payable under Section 8.6(a) and Non-Withheld Part XIII Taxes payable under Section 8.6(b) have the same character as the Payments to which they relate. For greater certainty, for example, additional amounts payable under Section 8.6(a) or Non-Withheld Part XIII Taxes payable under Section 8.6(b), in respect of interest payable under a Credit Document, shall be payments of interest under such Credit Document. All payments made under this Section 8.6 shall be subject to the provisions of this Section 8.6.
- (j) Each Borrower's obligations under this Section 8.6 shall survive without limitation the termination of the Credit Facility and this agreement and all other Credit Documents and the permanent repayment of the outstanding credit and all other amounts payable hereunder.

## **ARTICLE 9 REPAYMENTS AND PREPAYMENTS**

### **9.1 Repayment of RT Facility**

Each Borrower shall repay to the RT Lenders in full the outstanding credit granted to such Borrower under the RT Facility on the RT Maturity Date together with all accrued and unpaid interest thereon and all accrued and unpaid fees with respect thereto. As concerns any Letter issued for the account of a Borrower which, on the RT Maturity Date, has an expiry date later than the RT Maturity Date, such Borrower shall pay to the Issuing Lender, on the RT Maturity Date, the then contingent liability of the Issuing Lender thereunder (to be held solely for the purpose of satisfying any draw under such Letter and to be held subject to

Section 13.2). Following such payment by such Borrower to the Issuing Lender, such Borrower shall have no further liability to the RT Lenders with respect to any such Letter.

**9.2 [Intentionally deleted].**

**9.3 Extension of RT Facility**

- (a) At any time not more than 90 days and not less than 60 days prior to the date which is two years prior to the then current RT Maturity Date (the “**Extension Request Period**”), the Borrowers may, by written request to the Administrative Agent (the “**Extension Request**”), request that the then current RT Maturity Date be extended for a further period of one year from the then current RT Maturity Date at such time. A copy of the Extension Request shall be provided by the Administrative Agent to each of the RT Lenders in accordance with Section 14.18. Each RT Lender may, in its sole discretion and regardless of whether or not there is any Default hereunder, by written notice to the Administrative Agent (the “**Extension Response Notice**”), not later than 25 days prior to the date which is two years prior to the then current RT Maturity Date (the “**Extension Response Period**”), approve or decline the Extension Request. If any RT Lender does not provide an Extension Response Notice within the Extension Response Period, such RT Lender shall be deemed to have declined the Extension Request. If the RT Lenders with Individual Commitments with respect to the RT Facility that in the aggregate are less than 66 2/3% of the aggregate Individual Commitments of all RT Lenders with respect to the RT Facility approve the Extension Request, the Administrative Agent shall notify the Borrowers and the RT Lenders that the current RT Maturity Date shall not be extended.
- (b) If the RT Lenders with Individual Commitments with respect to the RT Facility that in the aggregate are equal to or greater than 66 2/3% but less than 100% of the aggregate Individual Commitments of all RT Lenders with respect to the RT Facility approve the Extension Request within the Extension Response Period (the “**Approving Lenders**”), the following shall apply:
- (i) On or before the second Banking Day after the Extension Response Period, the Administrative Agent shall give written notice (the “**Acquisition Request Notice**”) to the Borrowers and each RT Lender identifying the Approving Lenders and the RT Lender or RT Lenders that have declined or are deemed to have declined the Extension Request (the “**Declining Lenders**”) and their respective Individual Commitments with respect to the RT Facility.
- (ii) Any Approving Lender may, at its option, acquire all or any portion of the rights and obligations of the Declining Lenders under the Credit Documents to the extent that they relate to the RT Facility (all of such rights and obligations being herein called the “**Available RT Amount**”) by giving written notice to the Administrative Agent (an “**Acquisition**

**Notice**”) of the portion of the Available RT Amount which it is prepared to acquire (the “**Desired Acquisition Amount**”). Such Acquisition Notice shall be given within 10 days following the giving of the Acquisition Request Notice (such deadline being herein called the “**Acquisition Deadline**”). If only one Approving Lender gives an Acquisition Notice to the Administrative Agent or if more than one Approving Lender gives an Acquisition Notice to the Administrative Agent but the aggregate of their Desired Acquisition Amounts is less than or equal to the Available RT Amount, then each such Approving Lender shall be entitled to acquire its Desired Acquisition Amount of the rights and obligations of the Declining Lenders under the Credit Documents to the extent that they relate to the RT Facility. If more than one Approving Lender gives an Acquisition Notice to the Administrative Agent and the aggregate of the Desired Acquisition Amounts is greater than the Available RT Amount, then each such Approving Lender shall be entitled to acquire a pro rata share of the rights and obligations of the Declining Lenders under the Credit Documents to the extent that they relate to the RT Facility, such pro rata share being determined based on the relative Desired Acquisition Amount of each such Approving Lender. On or before the second Banking Day following the Acquisition Deadline, the Administrative Agent shall give to the Borrowers and each RT Lender a written notice identifying the Available RT Amount of each Declining Lender and the portion thereof available to be acquired by each Approving Lender. Each of such acquisitions shall be completed on the date which is two years prior to the then current RT Maturity Date (in each case without giving effect to any extension thereof) in accordance with the procedures set out in Section 15.5(d). If the Available RT Amount is not completely acquired by the Approving Lenders, the Borrowers may locate other Persons (“**Substitute Lenders**”) who qualify as RT Lenders, are satisfactory to the Administrative Agent, acting reasonably, and who acquire all or a portion of the balance of the rights and obligations of the Declining Lenders under the Credit Documents to the extent that they relate to the RT Facility on the date which is two years prior to the then current RT Maturity Date (in each case without giving effect to any extension thereof) in accordance with the procedures set out in Section 15.5(d). If Approving Lenders who, together with Substitute Lenders, constitute 100% of the Individual Commitments with respect to the RT Facility, the Administrative Agent shall notify the Borrowers and the RT Lenders of such approval and confirm the new RT Maturity Date. Otherwise, the Administrative Agent shall notify the Borrowers and the RT Lenders that the RT Maturity Date shall not be extended, the Borrowers may, by written notice to the Administrative Agent, either choose (x) not to extend the current RT Maturity Date in which case the current RT Maturity Date shall not be extended or (y) to extend the current RT Maturity Date to the date which is the first anniversary of the then current RT Maturity Date (in which case the RT Maturity Date shall be extended to the first anniversary of the then

current RT Maturity Date) and prepay in its entirety any outstanding credit under the RT Facility to any Declining Lender whose rights and obligations under the Credit Documents to the extent that they relate to the RT Facility have not been acquired by an Approving Lender or Substitute Lender. Any such prepayment shall occur on the date which is two years prior to the then current RT Maturity Date. Contemporaneously with any such prepayment, the Individual Commitment of the relevant Declining Lender shall be nil.

#### **9.4 Voluntary Prepayments under a Credit Facility**

Subject to Section 9.6, either Borrower shall be entitled to prepay all or any portion of the outstanding Loans under the Credit Facility at any time, without penalty, provided that Section 8.4(a) shall be complied with in connection with any such prepayment. Amounts which are prepaid as aforesaid in respect of the RT Facility may be reborrowed.

#### **9.5 Mandatory Prepayments**

On each occasion that a Prepayment Trigger Event occurs, the Borrowers shall give written notice thereof to the Administrative Agent. The Borrowers shall, within two Banking Days after the occurrence of each Prepayment Trigger Event, prepay outstanding credit hereunder in an amount equal to the Prepayment Amount. All mandatory payments made pursuant to this Section 9.5 shall be made subject to Section 8.4 and all such amounts prepaid shall not be reborrowed.

#### **9.6 Prepayment Notice**

The relevant Borrower shall give: (i) one Banking Day, in relation to the prepayment effected under Section 11.1(z), or (ii) five Banking Days, in each other instance, prior written notice to the Administrative Agent of each voluntary prepayment pursuant to Section 9.4. Such notice (a “**Prepayment Notice**”) shall be irrevocable, shall be given in accordance with Section 3.10 and shall specify:

- (a) the Credit Facility under which the prepayment is to be made;
- (b) the date on which the prepayment is to take place; and
- (c) the type and principal amount of the Loan or the portion thereof which is to be prepaid.

#### **9.7 Reimbursement or Conversion on Presentation of Letters**

- (a) On presentation of a Letter and payment thereunder by the Issuing Lender, the relevant Borrower shall forthwith pay to the Administrative Agent for the account of the Issuing Lender, and thereby reimburse the Issuing Lender for, all amounts paid by the Issuing Lender pursuant to such Letter; failing such payment, such Borrower shall be deemed to have effected a conversion of such Letter into a Base Rate Canada Loan to the extent of the payment of the Issuing Lender thereunder.

- (b) If the Issuing Lender makes payment under any Letter and the relevant Borrower does not fully reimburse the Issuing Lender on or before the date of payment, then Section 9.7(a) shall apply to deem a Base Rate Canada Loan to be outstanding to such Borrower under the RT Facility in the manner therein set out. Each Lender shall, on request by the Issuing Lender, immediately pay to the Issuing Lender an amount equal to such Lender's Pro Rata Share of the amount paid by the Issuing Lender such that each Lender is participating in the deemed Base Rate Canada Loan in accordance with its Pro Rata Share.
- (c) Each Lender shall immediately on demand indemnify the Issuing Lender to the extent of such Lender's Pro Rata Share of any amount paid or liability incurred by the Issuing Lender under each Letter issued by it to the extent that the relevant Borrower does not fully reimburse the Issuing Lender therefor.

### **9.8 Letters Subject to an Order**

Subject to Section 13.2, the relevant Borrower shall pay to the Issuing Lender an amount equal to the maximum amount available to be drawn under any unexpired Letter which becomes the subject of any Order; payment in respect of each such Letter shall be due forthwith upon demand.

### **9.9 Currency of Repayment**

All payments and repayments of outstanding credit hereunder shall be made in the currency of such outstanding credit.

### **9.10 Repayment of Credit Excess**

In the event that there is a Credit Excess with respect to the RT Facility at any time, each Borrower shall repay to the RT Lenders on demand its Pro Rata Share of the amount of such Credit Excess.

## **ARTICLE 10 REPRESENTATIONS AND WARRANTIES**

### **10.1 Representations and Warranties**

To induce the Lenders and the Administrative Agent to enter into this agreement and to induce the Lenders to extend credit hereunder, each Borrower hereby represents and warrants to the Lenders and the Administrative Agent, as of the date of this agreement, as of the date of each extension of credit hereunder and as of the last day of each Fiscal Quarter, as follows and acknowledges and confirms that the Lenders and the Administrative Agent are relying upon such representations and warranties in entering into this agreement and in extending credit hereunder:

- (a) **Status and Power of Subject Entities.** Each Subject Entity is a corporation, company or limited liability company duly incorporated and organized and validly subsisting in good standing under the laws of its jurisdiction of

incorporation. Each Subject Entity is duly qualified, registered or licensed in all jurisdictions where the failure to do so would reasonably be expected to have a Material Adverse Effect. Each Subject Entity has all requisite corporate capacity, power and authority to own, hold under licence or lease its properties, to carry on its business as now conducted except where the failure to maintain such corporate capacity, power and authority would not reasonably be expected to have a Material Adverse Effect. Each Obligor has all requisite corporate capacity to enter into, and carry out the transactions contemplated by, the Credit Documents to which is a party.

- (b) **Authorization and Enforcement.** All necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance by each Obligor of the Credit Documents to which it is a party. Each Obligor has duly executed and delivered the Credit Documents to which it is a party. The Credit Documents to which each Obligor is a party are legal, valid and binding obligations of such Obligor, enforceable against such Obligor in accordance with its terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditors' rights generally, (ii) the fact that the courts may deny the granting or enforcement of equitable remedies and (iii) the fact that, pursuant to the *Currency Act* (Canada), no court in Canada may make an order expressed in any currency other than lawful money of Canada.
- (c) **Compliance with Other Instruments.** The execution, delivery and performance by each Obligor of the Credit Documents to which it is a party, and the consummation of the transactions contemplated herein and therein, do not and will not conflict with, result in any breach or violation of, or constitute a default under, the terms, conditions or provisions of the charter or constating documents or by-laws of, or any shareholder agreement or declaration relating to, such Obligor or of any law, regulation, judgment, decree or order binding on or applicable to such Obligor or to which its property is subject or of any material agreement, lease, licence, permit or other instrument to which such Obligor is a party or is otherwise bound or by which such Obligor benefits or to which its property is subject and do not require the consent or approval of any Official Body or any other party.
- (d) **Financial Statements.** The consolidated financial statements of the Parent for the most recently completed Fiscal Quarter or Fiscal Year, as the case may be, were prepared in accordance with generally accepted accounting principles and no Material Adverse Change has occurred in the condition, financial or otherwise, of the Parent since the date of such financial statements. The consolidated balance sheet of the aforesaid financial statement presents a fair statement of the financial condition and assets and liability of the Parent as at the date thereof and the consolidated statements of operations, retained earnings and cashflows contained in the aforesaid consolidated financial statements fairly presents the results of the operations of the Parent throughout the period covered thereby. Except to the

extent reflected or reserved against in the aforesaid balance sheet (including the notes thereto) and except as incurred in the ordinary and usual course of the business of the Parent, the Parent does not have any outstanding indebtedness or any liability or obligations (whether accrued, absolute, contingent or otherwise) of a material nature customarily reflected or reserved against in a balance sheet (including the notes thereto) prepared in accordance with generally accepted accounting principles.

- (e) **Litigation.** Save and except as disclosed in Schedule 10.1(e), there are no actions, suits, inquiries, claims or proceedings (whether or not purportedly on behalf of any Subject Entity) pending or threatened in writing against or affecting any Subject Entity before any Official Body which in any case or in the aggregate could reasonably be expected to have a Material Adverse Effect.
- (f) **Title to Assets.** [REDACTED] each Subject Entity has good title to all of its property, assets and undertaking, free from any Lien other than the Permitted Liens.
- (g) **Conduct of Business.** No Subject Entity is in violation of any agreement, mortgage, franchise, licence, judgment, decree, order, statute, statutory trust, rule or regulation relating in any way to itself or to the operation of its business or to its property or assets (including, without limitation, Environmental Laws) and which could reasonably be expected to have a Material Adverse Effect. [REDACTED] each Subject Entity holds all licenses, certificates of approval, approvals, registrations, permits and consents which are required to operate its businesses where they are currently being operated except where the failure to have such licenses, certificates of approval, approvals, registrations, permits and consents could not reasonably be expected to have a Material Adverse Effect.
- (h) **Outstanding Defaults.** No event has occurred which constitutes or which, with the giving of notice, lapse of time or both, would constitute a default under or in respect of any material agreement, undertaking or instrument to which any Subject Entity is a party or to which its respective property or assets may be subject, and which could reasonably be expected to have a Material Adverse Effect.
- (i) **Solvency Proceedings.** No Subject Entity has:
  - (i) admitted its inability to pay its debts generally as they become due or failed to pay its debts generally as they become due;
  - (ii) in respect of itself, filed an assignment or petition in bankruptcy or a petition to take advantage of any insolvency statute;
  - (iii) made an assignment for the benefit of its creditors;
  - (iv) consented to the appointment of a receiver of the whole or any substantial part of its assets;

- (v) filed a petition or answer seeking a reorganization, arrangement, adjustment or composition in respect of itself under applicable bankruptcy laws or any other Applicable Law or statute of Canada, the United States or other applicable jurisdiction or any subdivision thereof; or
- (vi) been adjudged by a court having jurisdiction a bankrupt or insolvent, nor has a decree or order of a court having jurisdiction been entered for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy of any Subject Entity with such decree or order having remained in force and undischarged or unstayed for a period of 30 days.
- (j) **Tax Returns and Taxes.** Each Subject Entity has filed all Tax returns and Tax reports required by law to have been filed by it and has paid all Taxes thereby shown to be owing, except (i) any such Taxes which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with generally accepted accounting principles shall have been set aside on its books or (ii) where the failure to file such Tax returns or Tax reports or pay such Taxes would not reasonably be expected to have a Material Adverse Effect.
- (k) **Expropriation.** There is no present or threatened (in writing) expropriation of the property or assets of any Subject Entity, which expropriation could reasonably be expected to have a Material Adverse Effect.
- (l) **Environmental Compliance. [REDACTED]**
  - (i) All facilities and property (including underlying groundwater) owned, leased, used or operated by any Company have been, and continue to be, owned or leased in compliance with all Environmental Laws where any such non-compliance could reasonably be expected to have a Material Adverse Effect;
  - (ii) There are no pending or threatened (in writing)
    - (A) claims, complaints, notices or requests for information received by any Company with respect to any alleged violation of any Environmental Law which, if proved, could reasonably be expected to have a Material Adverse Effect;
    - (B) complaints, notices or inquiries to any Company regarding potential liability under any Environmental Law which liability could reasonably be expected to have a Material Adverse Effect;
  - (iii) There have been no Releases of any Hazardous Materials or any escape, seepage, leakage, spillage, discharge, emission or release of any Contaminants, Pollutants or Waste at, on, under or from any property now or previously owned, operated, used or leased by any Company that,

singly or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect;

- (iv) Each Company has been issued and is in compliance with all permits, certificates, approvals, licenses and other authorizations under any Environmental Laws to carry on its business except where any such non-issuance or non-compliance could not reasonably be expected to have a Material Adverse Effect; and
- (v) No conditions exist at, on or under any property now or previously owned, operated, used or leased by any Company which, with the passage of time, or the giving of notice or both, would give rise to liability under any Environmental Law which liability could reasonably be expected to have a Material Adverse Effect.
- (m) **Material Subsidiaries and Partnerships.** There are no Material Subsidiaries other than the Subject Entities, and those Material Subsidiaries which are or will hereafter identified in compliance certificates delivered to the Administrative Agent pursuant to Section 11.1(a)(iii). No Subject Entity is, directly or indirectly, a member of, or a partner or participant in, any partnership, joint venture or syndicate where the liability of the relevant Subject Entity arising from such partnership, joint venture or syndicate could reasonably be expected to have a Material Adverse Effect.
- (n) **Corporate Structure.** As at the date hereof, and hereafter, except as such information may change as a result of a transaction permitted hereby and reported to the Administrative Agent in accordance with Section 11.1(a)(iii), the chart attached hereto as Schedule G accurately sets out the corporate structure of the Parent and all of its Subsidiaries and evidences (i) intercorporate share ownership and (ii) ownership of mines.
- (o) **Assets Insured.** The property and assets of each Subject Entity are insured with insurers, in amounts, for risks and otherwise which are reasonable in relation to such property and assets (subject to the amount of such deductibles as are reasonable and normal in the circumstances) against loss or damage, and there has been no default or failure by the party or parties insured under the provisions of such policies of insurance maintained which (i) would prevent the recovery by such Subject Entity insured thereunder of the full amount of any material insured loss and (ii) would reasonably be expected to have a Material Adverse Effect.
- (p) **Consents, Approvals, etc.** No consents, approvals, acknowledgements, undertakings, non-disturbance agreements, directions or other documents or instruments are required to be entered into by any Person, other than those that have been obtained, to make effective the Security created or intended to be created by the Obligors in favour of the Administrative Agent pursuant to the Security Documents and to ensure the perfection and the intended priority of such Security.

- (q) **Capital of Pledged Subsidiaries.** As at the date hereof, and hereafter, except as such information may change as a result of a transaction permitted hereby and reported to the Administrative Agent in accordance with Section 11.1(i), Schedule J sets out (A) the authorized and issued capital of each Pledged Subsidiary, all of which issued shares have been issued and are outstanding as fully paid and non-assessable and (B) the owner of record of all such issued shares. There are no outstanding warrants, options or other agreements which require or may require the issuance of any shares of any Pledged Subsidiary or the issuance of any debt or securities convertible into shares of any Pledged Subsidiary, there are no outstanding debt or securities convertible into shares of any Pledged Subsidiary and there are no shares of any Pledged Subsidiary allotted for such issued shares.
- (r) **French Form of Corporate Name.** Except as reported or to be reported to the Administrative Agent in accordance with Section 11.1(i), there is no French form of the corporate name of the Parent.
- (s) **Principal Places of Business; Jurisdictions of Incorporation.** Except as reported or to be reported to the Administrative Agent in accordance with Section 11.1(i), the location of the Parent (for the purposes of Section 7(3) of the *Personal Property Security Act* (Ontario)) is the Province of Ontario.
- (t) **Intellectual Property.** Each Subject Entity owns or is licensed or otherwise has the right to use all Intellectual Property that is used in the operation of their businesses without conflict with the rights of any other Person (other than any Intellectual Property the absence of which or any such conflict with respect to which would not have a Material Adverse Effect). No Subject Entity has received any notice of any claim of infringement or similar claim or proceeding relating to any of the Intellectual Property which if determined against such Subject Entity could reasonably be expected to have a Material Adverse Effect and, to the best knowledge of the Borrowers, no present or former employee of any Subject Entity and no other Person owns or claims to own or has or claims to have any interest, direct or indirect, in whole or in part, in any of the Intellectual Property of the Subject Entities that could reasonably be expected to have a Material Adverse Effect.
- (u) **Employment and Labour Agreements.** Each Subject Entity is in compliance with the terms and conditions of all such collective bargaining agreements and other labour agreements except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.
- (v) **No Omissions.** None of the representations and statements of fact set forth in this Section 10.1 omits to state any material fact necessary to make any such representation or statement of fact not misleading in any material respect.
- (w) **Sanctions and AML Legislation.** None of the transactions contemplated by the Finance Documents, nor the execution and delivery thereof, violates the Sanctions

(other than by virtue of transacting or otherwise dealing with Non-Sanctioned Persons) and each Subject Entity is in compliance with all Sanctions (other than by virtue of transacting or otherwise dealing with Non-Sanctioned Persons). Furthermore, none of the Parent, any Subsidiary or Affiliate of the Parent or, to the knowledge of the Parent, any director, officer, employee of the Parent or any of its Subsidiaries or Affiliates is a Sanctioned Person and none of the Parent and its Subsidiaries or Affiliates engages in any dealings or transactions with a Sanctioned Person, contrary to Sanctions. The Parent and each other Subject Entity has (i) conducted its business in compliance with all Anti-Money Laundering Legislation and Sanctions applicable to it and (ii) adopted and maintains adequate procedures and controls to ensure that it and the other Subject Entities are in compliance with all Anti-Money Laundering Legislation and Sanctions applicable to it.

(x) **Illicit Practices.**

- (i) To its knowledge, no investment in any Shares of either Borrower and no payment made by either Borrower in respect of the Credit Facility have been funded out of funds from an Illicit Source.
- (ii) To its knowledge, none of the Loans or other assets of either Borrower or its Subsidiaries are used to finance equipment or sectors under embargo decisions of, or sanctions regulations issued by, the United Nations, the World Bank, the European Union, the United States of America, The Netherlands or Canada.
- (iii) To its knowledge, neither Borrower transacts directly or indirectly with any Person listed on the Specially Designated Nationals List administered by the United States Department of the Treasury or the Consolidated List of Financial Sanctions Targets in the UK administered by HM Treasury and/or listed or subject to similar legislation or regulation in the European Union, the Netherlands, or Canada.
- (iv) In this paragraph, “**Illicit Source**” means any origin which is illegal or fraudulent, including without limitation, drug traffic, corruption, organized criminal activities, terrorism or fraud against financial interests of the United Nations, the World Bank, the European Union or any member state thereof, the United States of America, The Netherlands or Canada.

- (y) **Employee Benefit Plans.** Each of the ERISA Affiliates is in compliance with ERISA and all Applicable Law related to ERISA, except where such non-compliance is not reasonably expected to have a Material Adverse Effect. There have been no Prohibited Transactions or breaches of fiduciary duty with respect to any Plan that could be reasonably expected to have Material Adverse Effect. No Termination Event has occurred or is expected to occur with respect to any Plan that could be reasonably expected to have a Material Adverse Effect.

- (z) **Investment Company Act.** No Obligor is (a) an “investment company” or (b) required to register as an “investment company”, in each case, within the meaning of the Investment Company Act of 1940, as amended.
- (aa) **Regulations T, U and X/Margin Stocks.** Neither Borrower is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any credit obtained hereunder shall be used for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the F.R.S. Board. Terms for which meanings are provided in Regulation T, U or X of the F.R.S. Board or any regulations substituted therefor, as from time to time in effect, are used in this Section with such meanings.

## 10.2 Survival of Representations and Warranties

All of the representations and warranties of the Borrowers contained in Section 10.1 shall survive the execution and delivery of this agreement until all credit outstanding hereunder has been repaid in full and the Credit Facility have been terminated, notwithstanding any investigation made at any time by or on behalf of the Administrative Agent or any of the Lenders.

## ARTICLE 11 COVENANTS

### 11.1 Affirmative Covenants

Each Borrower hereby covenants and agrees with the Administrative Agent and the Lenders that, until all credit outstanding hereunder has been repaid in full and the Credit Facility has been terminated, and unless waived in writing in accordance with Section 14.14:

- (a) **Financial Reporting.** The Borrowers shall furnish the Administrative Agent with the following statements and reports (with sufficient copies for all of the Lenders) (the filing of any of the following documents on SEDAR shall satisfy the delivery obligation in relation to such documents so filed when the Borrowers have provided written notice of such filing to the Administrative Agent):
  - (i) within 90 days after the end of each Fiscal Year, copies of the audited consolidated financial statements of the Parent for such Fiscal Year and the auditors’ report from an accounting firm of international repute thereon and, copies of the unaudited non-consolidated financial statements of each Borrower for such Fiscal Year, each in form and substance satisfactory to the Administrative Agent;
  - (ii) within 60 days after the end of each of the first three Fiscal Quarters, copies of the unaudited consolidated financial statements of the Parent and the unaudited non-consolidated financial statements of each Borrower in form and substance satisfactory to the Administrative Agent;

- (iii) concurrent with the deliveries of financial statements pursuant to either of clauses (i) and (ii) above, a duly executed and completed compliance certificate, in the form attached as Schedule B hereto and signed by a senior financial officer of the Parent;
  - (iv) within 90 days after the end of each Fiscal Year, updated life of mine plans for all operating mines within the Parent's consolidated corporate group;
  - (v) promptly upon any Subject Entity becoming aware of a breach by such Subject Entity of any Anti-Money Laundering Legislation or Sanctions applicable to it, the details of such breach and the Subject Entity's proposed plan to remedy such breach or consequences of such breach; and
  - (vi) such other statements, reports and information as the Administrative Agent on the instructions of the Majority Lenders may reasonably request from time to time, including, any information that may be reasonably requested in respect of any Permitted Acquisition.
- (b) **Copies of Public Filings.** The Borrowers shall, upon request, furnish the Administrative Agent with copies of all documents which are filed by any Subject Entity with the Ontario Securities Commission or with any similar Official Body in any other jurisdiction in compliance with applicable securities legislation which are not available on SEDAR.
- (c) **Use of Proceeds.** Each Borrower shall apply all of the proceeds of the RT Facility towards general corporate purposes of such Borrower provided that the RT Facility shall only be used to finance an Acquisition if such Acquisition constitutes a Permitted Acquisition. Notwithstanding the foregoing, neither Borrower shall use any of the credit extended to it in contravention of any Sanctions (other than by virtue of transacting or otherwise dealing with Non-Sanctioned Persons), in any manner which will result in the imposition of Sanctions against any Person (including any Person participating in the transactions contemplated hereby, whether as Finance Party or otherwise) or for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws.
- (d) **Insurance.** The Borrowers shall, and shall cause each other Subject Entity to, insure and keep insured, with insurers, for risks, in amounts in a manner consistent with industry practice and otherwise upon terms satisfactory to the Administrative Agent acting reasonably, all of the Subject Entities' assets, property and undertaking.
- (e) **Access to Senior Financial Officers.** Upon the request of the Administrative Agent at reasonable intervals, the Borrowers shall, and shall cause each other

Subject Entity to, make available its senior financial officers to answer questions concerning such Subject Entity's business and affairs.

- (f) **Reimbursement of Expenses.** The Borrowers shall (i) reimburse the Administrative Agent, on demand, for all reasonable out-of-pocket costs, charges and expenses incurred by or on behalf of the Administrative Agent (including, without limitation, the reasonable fees, disbursements and other charges of one primary counsel and any local or special counsel to the Administrative Agent as well as of any environmental, insurance or other consultants retained by the Administrative Agent) in connection with the negotiation, preparation, execution, delivery, syndication, administration and interpretation of the Credit Documents and the closing documentation ancillary to the completion of the transactions contemplated hereby and thereby and any amendments and waivers hereto (whether or not consummated or entered into), the charges of Intralinks and any lien search fees and (ii) reimburse the Administrative Agent and the Lenders, on demand, for all reasonable out-of-pocket costs, charges and expense incurred by or on behalf of any of them (including the fees, disbursements and other charges of counsel) in connection with the enforcement of the Credit Documents.
- (g) **Notice of Expropriation or Condemnation.** The Borrowers shall promptly notify the Administrative Agent of the commencement or the written threat of any expropriation or condemnation of any of the material assets, property or undertaking of any Subject Entity or of the institution of any proceedings related thereto.
- (h) **Inspection of Assets and Operations.** The Borrowers shall, and shall cause each other Subject Entity to, permit representatives of the Administrative Agent from time to time and representatives of the Lenders to inspect the assets, property or undertaking of any Subject Entity and for that purpose to enter on any property which is owned and controlled by any Subject Entity and where any of the assets, property or undertaking of the Subject Entities may be situated during reasonable business hours and, unless a Default has occurred and is continuing, upon reasonable notice.
- (i) **Change of Name, Office or Other Information.** The Parent shall notify the Administrative Agent in writing (i) promptly of any change in (A) the corporate name of any Obligor; (B) the location of the Parent for purposes of Section 8(1) of the *Personal Property Security Act* (Ontario), or (C) the jurisdiction of incorporation of any Subject Entity; and (ii) not less than 10 Banking Days prior to the closing thereof, of any transaction permitted hereby which will result in any change in the information set out in the representations made in Section 10.1.
- (j) **Corporate Existence.** Except as contemplated by any Permitted Corporate Reorganization, the Borrowers shall, and shall cause each other Subject Entity to, maintain its corporate existence in good standing. The Borrowers shall, and shall cause each other Subject Entity to, qualify and remain duly qualified to carry on

business and own property in each jurisdiction where the failure to do so could reasonably be expected to result in a Material Adverse Effect.

- (k) **Conduct of Business.** The Borrowers shall, and shall cause each Subject Entity to, conduct its business in such a manner so as to comply with all laws and regulations (including, without limitation, Environmental Laws), so as to observe and perform all its obligations under leases, licences and agreements necessary for the proper conduct of its business and so as to preserve and protect its property and assets and the earnings, income and profits therefrom where such non-compliance, non-observance or non-performance could reasonably be expected to have a Material Adverse Effect (save and except for Anti-Corruption Laws which non-compliance with which shall not be so qualified by Material Adverse Effect). The Borrowers shall, and shall cause each Subject Entity to, perform all obligations incidental to any trust imposed upon it by statute and shall ensure that any breaches of the said obligations and the consequences of any such breach shall be promptly remedied where the failure to do so could reasonably be expected to have a Material Adverse Effect. The Borrowers shall, and shall cause each Subject Entity to, obtain and maintain all licenses, permits, government approvals, franchises, authorizations and other rights necessary for the operation of its business where failure to do so could reasonably be expected to have a Material Adverse Effect. The Borrowers shall, and shall cause each other Company and its and their respective officers and employees to, comply with all applicable Anti-Corruption Laws, Anti-Terrorism Laws and Sanctions (other than by virtue of transacting or otherwise dealing with Non-Sanctioned Persons).
- (l) **Taxes.** The Borrowers shall pay, and shall cause each Subject Entity to pay, all Taxes levied, assessed or imposed upon it and upon its property or assets or any part thereof, as and when the same become due and payable, save and except (i) when and so long as the validity of any such Taxes is being contested in good faith by appropriate proceedings and reserves are being maintained in accordance with generally accepted accounting principles while forfeiture of any part of its property or assets may result from the failure to so pay during the period of any such contest or (ii) where the non-payment of such Taxes would not reasonably be expected to have a Material Adverse Effect.
- (m) **Notice of Litigation.** The Borrowers shall promptly notify the Administrative Agent of any actions, suits, inquiries, claims or proceedings (whether or not purportedly on behalf of any Subject Entity) commenced or threatened in writing against or affecting any Subject Entity before any Official Body which in any case or in the aggregate could reasonably be expected to have a Material Adverse Effect.
- (n) **Environmental Matters.** The Borrowers shall, and shall cause each other Company to, as soon as practicable and in any event within 30 days, notify the Administrative Agent and provide copies upon receipt of all written claims, complaints, notices or inquiries relating to the condition of its facilities and properties or compliance with Environmental Laws, which claims, complaints,

notices or inquiries relate to matters which could reasonably be expected to have a Material Adverse Effect and shall proceed diligently to resolve any such claims, complaints, notices or inquiries relating to compliance with Environmental Laws and provide such information and certifications which the Administrative Agent may reasonably request from time to time to evidence compliance with this Section 11.1(n) [REDACTED].

- (o) **Tangible Net Worth.** The Borrowers shall, at all times, cause the Tangible Net Worth to be greater than or equal to the sum of (x) U.S. \$2,062,200,000, (y) 50% of each equity issuance by the Parent after June 30, 2013, and (z) 50% of the positive Net Income, if any, for each Fiscal Year from and including the Fiscal Year ending December 31, 2013 as such Net Income is reflected in the audited financial statements of the Parent for such Fiscal Year.
- (p) [Intentionally deleted]
- (q) **Leverage Ratio.** The Borrowers shall, cause the Leverage Ratio to be less than or equal to 3.0:1. Notwithstanding the foregoing, if one or more Permitted Acquisitions with aggregate consideration of at least U.S.\$100,000,000 are completed in any Fiscal Quarter or Fiscal Quarters during any period of four consecutive Fiscal Quarters (in this Section 11.1(q), the “**Step-Up Threshold**”), the maximum permitted Leverage Ratio shall for the Fiscal Quarter in which the Step-Up Threshold was met and for each of the four full Fiscal Quarters following such Fiscal Quarter (in this Section 11.1(q), each such period, the “**Step-Up Period**”), be increased to 4.5 to 1 and shall return to 3.00 to 1 at the end of the Step-Up Period. No further step up of the Leverage Ratio shall be permitted during any Step-Up Period. Furthermore, consideration paid in connection with any additional Permitted Acquisition that is made after the commencement and prior to the expiry of a Step-Up Period may not be applied in order to meet the Step-Up Threshold for any subsequent Step-Up Period.
- (r) **EBITDA/Interest Expenses Ratio.** The Borrowers shall, for each Fiscal Quarter, cause the EBITDA/Interest Expenses Ratio to be greater than or equal to 2.5:1.
- (s) **Intercompany Indebtedness.** The Borrowers shall cause all Indebtedness owing by any Obligor to another Company to be subordinated and postponed, pursuant to the Postponement and Subordination Undertaking, to the Secured Obligations of such Obligor for so long as a Default has occurred and is continuing. The Borrowers shall cause any other Company, prior to the incurrence of any such Indebtedness, to execute and deliver to the Administrative Agent the Postponement and Subordination Undertaking or an instrument of adherence thereto.
- (t) **Books and Records.** The Borrowers shall, and shall cause each other Subject Entity to, keep proper books of account and records covering all its business and affairs on a current basis, make full, true and correct entries of its transactions in

such books, set aside on its books from their earnings all such proper reserves as required by generally accepted accounting principles and permit representatives of the Administrative Agent to inspect such books of account, records and documents and to make copies therefrom during reasonable business hours.

- (u) **Notice of Default or Event of Default.** Upon the occurrence of either a Default or an Event of Default of which either Borrower is aware, the Borrowers shall promptly deliver to the Administrative Agent a notice specifying the nature and date of occurrence of such Default or Event of Default, the Borrowers' assessment of the duration and effect thereof and the action which the Borrowers propose to take with respect thereto.
- (v) **Additional Guarantors.** Upon the direct or indirect formation or acquisition by the Parent of a Material Subsidiary that is not a Non-Guaranteeing Material Subsidiary or upon a Subsidiary of the Parent becoming a Material Subsidiary that is not a Non-Guaranteeing Material Subsidiary and prior to or concurrently with any Subsidiary of the Parent becoming an Additional Senior Note Guarantor:
  - (i) the Borrowers shall forthwith cause each such Subsidiary (the "**Prospective Full Recourse Guarantor**") and any Subsidiary of the Parent which has an ownership interest in such Prospective Full Recourse Guarantor (the "**Prospective Limited Recourse Guarantor**") to duly execute and deliver to the Administrative Agent the Guarantee to which it is a party;
  - (ii) the Borrowers shall forthwith deliver, or cause to be delivered to, the Administrative Agent, in form and substance satisfactory to the Administrative Agent:
    - (A) a duly certified copy of the articles of incorporation and by-laws or comparable documents of each such Subsidiary;
    - (B) a certificate of status or good standing for each such Subsidiary issued by the appropriate governmental body or agency of the jurisdiction in which such Subsidiary is incorporated (other than with respect to any Subsidiary whose jurisdiction of incorporation does not customarily offer such certificates);
    - (C) a duly certified copy of the resolution of the board of directors (or other responsible managing body pursuant to Applicable Law) of each such Subsidiary (and, if necessary or advisable in accordance with local Applicable Laws, the shareholders of such Subsidiary) authorizing it to execute, deliver and perform its obligations under each Credit Document to which such Subsidiary is a signatory and, in the case of the Prospective Full Recourse Guarantor, a duly certified copy of the resolution of the board of directors (if required under the constating documents or by-laws of such

Subsidiary) of such Subsidiary authorizing the pledge of all of its issued and outstanding shares to the Administrative Agent and any subsequent disposition thereof by the Administrative Agent in realizing on the security therein constituted by the relevant Security Documents;

- (D) a certificate of an officer of each such Subsidiary, in such capacity, setting forth specimen signatures of the individuals authorized to sign the Credit Documents to which such Subsidiary is a signatory (other than with respect to any Subsidiary with respect to the Credit Documents to which it is a signatory are all executed before a notary public);
  - (E) share certificates representing all of the issued and outstanding shares of the Prospective Full Recourse Guarantor, in each case duly endorsed in blank for transfer or attached to duly executed stock transfers and powers of attorney (other than with respect to any Subsidiary whose jurisdiction of incorporation does not customarily offer such share certificates);
  - (F) other than with respect to a Subsidiary incorporated under the laws of the Netherlands (for which an opinion with respect to the below will be provided by the Administrative Agent's Dutch counsel addressed to the Lenders), an opinion of each such Subsidiary's counsel addressed to the Lenders, the Administrative Agent and its counsel, relating to the status and capacity of such Subsidiary, the due authorization, execution and delivery and the validity and enforceability of the Credit Documents to which such Subsidiary is a party in the jurisdiction of incorporation of such Subsidiary and in the Province of Ontario and such other matters as the Administrative Agent may reasonably request; and
  - (G) an opinion of the Administrative Agent's counsel with respect to such matters as may be reasonably required by the Administrative Agent in connection with each such Subsidiary (including, without limitation, the legality, validity and binding nature of the obligations of such Subsidiary under, and the enforceability against such Subsidiary of, the Credit Documents which are governed by the laws of the Province of Ontario);
- (iii) the Borrowers shall forthwith cause such additional Security Documents or amendments to existing Security Documents to be executed and delivered to permit the pledge of the Shares of the Prospective Full Recourse Guarantor (if applicable);
  - (iv) the Administrative Agent and its counsel shall be satisfied, acting reasonably, that all necessary approvals, acknowledgements, directions

and consents have been given and that all relevant laws have been complied with in respect of all agreements and transactions referred to herein; and

- (v) all documents and instruments shall have been properly registered, recorded and filed in all places which, searches shall have been conducted in all jurisdictions which, and deliveries of all consents, approvals, acknowledgements, undertakings, directions, negotiable documents of title and other documents and instruments to the Administrative Agent shall have been made which, in the opinion of the Administrative Agent's counsel, acting reasonably, are desirable or required to make effective the Security created or intended to be created pursuant to Section 11.1(v)(iii) and to ensure the perfection and the intended first-ranking priority of such Security;

whereupon the Prospective Full Recourse Guarantor shall become an Additional Full Recourse Guarantor and the Prospective Limited Recourse Guarantor shall become an Additional Limited Recourse Guarantor.

Upon the direct or indirect formation or acquisition by the Parent of a Material Subsidiary that is a Non-Guaranteeing Material Subsidiary or upon a Subsidiary of the Parent becoming a Material Subsidiary that is a Non-Guaranteeing Material Subsidiary, this Section 11.1(v) shall apply to the Subsidiary of the Parent which has the closest direct or indirect ownership interest in such Material Subsidiary and to the shareholder(s) of such Subsidiary, mutatis mutandis.

For the avoidance of doubt, notwithstanding anything contained herein, the Borrowers shall not be required to pledge, or cause the applicable Subsidiary to pledge, the Shares of Candelaria/Ojos Subsidiaries.

- (w) **ERISA.** The Borrowers shall, and shall cause each ERISA Affiliate to, furnish to the Administrative Agent:
  - (i) promptly after receipt thereof (but in no event later than 30 days after such receipt), a copy of any notice any ERISA Company receives after the date of this agreement from the PBGC relating to the intention of the PBGC to terminate any Plan or Plans or to appoint a trustee to administer any Plan or Plans, if such termination or appointment would result in a Material Adverse Effect;
  - (ii) within 10 days after the due date for filing with the PBGC pursuant to Section 430(k) of the Code of a notice of failure to make a required instalment or other payment with respect to a Plan, a statement of a financial officer setting forth details as to such failure and the action proposed to be taken with respect thereto, together with a copy of such notice given to the PBGC, but only if such failure to make a required

instalment or other payment with respect to a Plan would result in a Material Adverse Effect; and

- (iii) promptly and in any event within 30 days after receipt thereof by any ERISA Company from the sponsor of a Multiemployer Plan, a copy of each notice received by any ERISA Company concerning (A) the imposition of any Withdrawal Liability or (B) a determination that a Multiemployer Plan is, or is expected to be, terminated or in reorganization, in each case within the meaning of Title IV of ERISA, but only if the imposition of such withdrawal liability, in the case of clause (A), or such termination or reorganization, in the case of clause (B), would result in a Material Adverse Effect.
- (x) **Violations of Anti-Terrorism Laws.** If (i) any Subject Entity is the subject of or (ii) , to the knowledge of the Borrowers, any holder of a direct or indirect equity or financial interest in it is the subject of any enforcement action or restriction under the Anti-Terrorism Laws and/or Anti-Corruption Laws, the Parent shall promptly notify the Administrative Agent in writing thereof. Upon the request of the Administrative Agent, the Parent shall promptly provide any information the Administrative Agent believes is reasonably necessary to be delivered to comply with any Anti-Terrorism Laws and Anti-Corruption Laws.
- (y) **[Intentionally deleted]**
- (z) **[Intentionally deleted]**
- (aa) **Candelaria/Ojos PMPA.** The Parent shall provide to the Administrative Agent copies of any material amendments, waivers or consents with respect to the Candelaria/Ojos PMPA promptly after the Parent's receipt thereof.
- (bb) **Flood Insurance.** With respect to any real property located in the United States (and which are subject to Flood Insurance Laws) in which any Liens have been granted to the Administrative Agent in any of the Security Documents that is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a "special flood hazard area" with respect to which flood insurance is required and has been made available under Flood Insurance Laws, the Borrowers shall cause the applicable Obligor to: (A) have obtained and will maintain, with financially sound and reputable insurance companies, such flood insurance in such reasonable total amount as the Administrative Agent and the Majority Lenders may from time to time reasonably require, and that is otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws; and (B) promptly upon request of the Administrative Agent or Majority Lenders, deliver to the Administrative Agent or Majority Lenders, as applicable, evidence of such compliance including, without limitation, evidence of annual renewals of such insurance.

## 11.2 Restrictive Covenants

Each Borrower hereby covenants and agrees with the Administrative Agent and the Lenders that, until all credit outstanding hereunder has been repaid in full and the Credit Facility has been terminated, and unless waived in writing in accordance with Section 14.14:

- (a) **Liens.** The Borrowers shall not, and shall not permit or suffer any other Subject Entity to, enter into or grant, create, assume or suffer to exist any Lien on, subject to the following sentence, any of their respective properties, assets or undertaking, whether now owned or hereafter acquired, save and except only for the Permitted Liens. The Borrowers shall not, and shall not suffer or permit any other Company to, enter into or grant, create, assume or suffer to exist any Lien on any issued and outstanding Shares of any Non-Guaranteeing Material Subsidiary or any Pledged Subsidiaries other than Permitted Liens that arise in the ordinary course of business by operation of law or secure Permitted Acquisition Indebtedness.
- (b) **Corporate Existence.** Except for Permitted Reorganizations, the Borrowers shall not, and shall not permit or suffer any other Subject Entity to, change its legal existence (including by way of amalgamation, merger, winding up, continuance, plan of arrangement or “Division” (as defined in Section 18-217 of the Delaware Limited Liability Company Act)) or change its issued and outstanding Shares.
- (c) **Change in Business.** The Borrowers shall not, and shall not suffer or permit any other Subject Entity to, (i) discontinue its business or any material part thereof other than in connection with a Permitted Reorganization or a temporary shutdown or permanent closure of mining operations which could not reasonably be expected to result in a Material Adverse Effect, or (ii) carry on any business that is not related to the mining industry.
- (d) **Disposition of Shares or Assets of Material Subsidiaries.** The Borrowers shall not, and shall not suffer or permit any other Company to, sell, transfer or otherwise dispose (by way of Sale Leaseback or otherwise) of the Shares or assets of any Material Subsidiary except if:
  - (i) such sale is on an arm’s length basis;
  - (ii) no Default or Event of Default exists at the time of such sale or would arise immediately thereafter;
  - (iii) contemporaneous with the completion of such sale the Borrowers shall comply with Section 9.5 and the Credit Facility permanently reduced pursuant to Section 2.3;
  - (iv) the Borrowers, upon completion or such sale would not, on a pro forma basis, be in breach of any of the financial covenants under Sections 11.1(o), (p) and (r) as at the date of such sale; and

- (v) following such sale, no Indebtedness to any Company shall be owed by any Material Subsidiary whose Shares are so sold.

Notwithstanding the foregoing, the preceding shall not prohibit sales of inventory or obsolete equipment in the ordinary course of business, the sale or other disposition of exploration properties or the sale of all or any silver in concentrate now or hereafter produced from any operating mine pursuant to a Silver Purchase Agreement.

- (e) **Distributions.** The Borrowers shall not suffer or permit the Parent to make any Distribution if (i) a Default has occurred and is continuing at the time of making any such Distribution or (ii) a Default would arise immediately after the making of any such Distribution.
- (f) **Indebtedness.** The Borrowers shall not, and shall not suffer or permit any other Subject Entity or any other Company with a direct or indirect ownership interest in any Subject Entity to create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness. The Borrowers shall not suffer or permit the Non-Guaranteeing Material Subsidiaries to have any Indebtedness other than Permitted Indebtedness set forth in (x) paragraphs 1.1(b)- 1.1(f) and 1.1(i) of the definition thereof and (y) up to a maximum, at any particular time, an aggregate of \$12,000,000, provided in paragraph (n) of the definition thereof. The Borrowers shall not suffer or permit any Subject Entity (other than the Parent) or any other Company with a direct or indirect ownership interest in any Subject Entity to incur any Indebtedness by way of guarantee or any other contingent obligation with respect to any Permitted Acquisition Indebtedness.
- (g) **Acquisitions.** The Borrowers shall not, and shall not suffer or permit any other Company to, make any Acquisitions, other than Permitted Acquisitions.
- (h) **Risk Management Agreements.** The Borrowers shall not, and shall not suffer or permit any other Company to, enter into any Risk Management Agreement (x) for speculative purposes, (y) that requires the posting of any Cash as collateral security thereof other than as permitted pursuant to paragraph (m) of the definition of "Permitted Liens", or (z) that contains any delivery obligations or contingent delivery obligations for a particular metal for any particular Fiscal Quarter that together with any delivery obligations for such metal under any other Risk Management Agreements for such Fiscal Quarter exceed 75% of the forecast productions of the Parent on a consolidated basis for such metal during such Fiscal Quarter.
- (i) **Amendments.** The Borrowers shall not, and shall not suffer or permit any of the Subject Entities to, amend their articles of incorporation, other than to effect a transaction permitted hereunder or for changes that are to be reported to the Administrative Agent pursuant hereto, provided that the Parent is not in default of such reporting obligation.

- (j) **Investments.** The Borrowers shall not, and shall not permit any of the other Companies to, make any Investments in any Person, except:
  - (i) extensions of trade credit and asset purchases in the ordinary course of business;
  - (ii) Cash;
  - (iii) [**Intentionally deleted**]; and
  - (iv) additional Investments in the mining industry made at a time when no Default has occurred and is continuing or would arise as a result of such Investments.
  
- (k) **Transactions with Affiliates.** The Borrowers shall not, and shall not suffer or permit any other Subject Entity to, enter into any transaction including, without limitation, any management or consulting agreement with any of its Affiliates which could reasonably be expected to have a Material Adverse Effect. Notwithstanding the foregoing, no Subject Entity shall dispose of any assets to any of its Affiliates pursuant to a Division (as defined in Section 18-217 of the Delaware Limited Liability Company Act).
  
- (l) **Clause (n) Indebtedness.** The Parent shall not, and shall not suffer or permit any other Obligor to, make any payment or take any action that (i) is in violation of the subordination provisions of any Indebtedness of the Parent permitted under Clause (n) of the definition of “Permitted Indebtedness” (“**Clause (n) Indebtedness**”) or (ii) would cause any Clause (n) Indebtedness to no longer constitute Permitted Indebtedness.
  
- (m) **Candelaria/Ojos Subsidiaries.** The Parent shall not suffer or permit any Subsidiary of the Parent that exists as at October 27, 2014 (other than any Candelaria/Ojos Subsidiaries that exists as at October 27, 2014) to become a direct or indirect Subsidiary of Lundin Mining South America SpA, provided that, for certainty, this Section 11.2(n) shall not prohibit the formation of additional Candelaria/Ojos Subsidiaries after October 27, 2014.
  
- (n) **Real Property Security.** At any time on or after the date hereof, the Borrowers shall not suffer or permit any Obligor to enter into any Security Document in respect of any real property in the United States on which improvements are located (and which are subject to Flood Insurance Laws) acquired by the relevant Obligor after the date of the Credit Agreement until (1) the Administrative Agent has delivered to the Lenders (which may be delivered electronically) the following documents in respect of such real property: (i) a completed flood hazard determination from a third party vendor; (ii) if such real property is located in a “special flood hazard area”, (A) a notification to the relevant Obligor that flood insurance coverage is not available and (B) evidence of the receipt by the relevant Obligor) of such notice; and (iii) if such notice is required to be provided to relevant Obligor and flood insurance is available in the community in which such

real property is located, evidence of required flood insurance and (2) the Administrative Agent shall have received written confirmation from the Majority Lenders that flood insurance due diligence and flood insurance compliance have been completed by the Majority Lenders (such written confirmation not to be unreasonably conditioned, withheld or delayed).

### **11.3 Performance of Covenants by Administrative Agent**

The Administrative Agent may, on the instructions of the Majority Lenders and upon notice by the Administrative Agent to the Borrowers, perform any covenant of the Borrowers under this agreement which the Borrowers fail to perform or cause to be performed and which the Administrative Agent is capable of performing, including any covenants the performance of which requires the payment of money, provided that the Administrative Agent shall not be obligated to perform any such covenant on behalf of the Borrowers and no such performance by the Administrative Agent shall require the Administrative Agent to further perform the Borrowers' covenants or shall operate as a derogation of the rights and remedies of the Administrative Agent and the Lenders under this agreement or as a waiver of such covenant by the Administrative Agent. Any amounts paid by the Administrative Agent as aforesaid shall be reimbursed by the Lenders in their Pro Rata Shares and shall be repaid by the Borrowers to the Administrative Agent on behalf of the Lenders on demand.

## **ARTICLE 12 CONDITIONS PRECEDENT TO OBTAINING CREDIT**

### **12.1 Conditions Precedent to All Credit**

The obligation of the Lenders to extend credit hereunder is subject to fulfillment of the following conditions precedent on the date such credit is extended:

- (a) the relevant Borrower shall have complied with the requirements of Article 4, 5 or 6, as the case may be, in respect of the relevant credit;
- (b) no Default has occurred and is continuing or would arise immediately after giving effect to or as a result of such extension of credit;
- (c) the representations and warranties of the Borrowers contained in Section 10.1 shall be true and correct in all respects on the date such credit is extended as if such representations and warranties were made on such date; and
- (d) the Credit Facility has not been terminated pursuant to Section 2.4.

### **12.2 [Intentionally Deleted].**

### **12.3 Conditions Precedent to Effectiveness of Agreement**

This agreement shall become effective upon the fulfillment, on or prior to August 28, 2019, of the following conditions precedent:

- (a) the conditions precedent set forth in Sections 12.1(b) - (d) have been fulfilled;
- (b) each Obligor has executed and delivered (to the extent not previously delivered) to the Administrative Agent the Guarantee and Security Documents to which it is party; provided that the Deed of Pledge of Registered Shares governed by the laws of the Netherlands entered into by LMC Netherlands in favour of the Administrative Agent shall be executed and delivered promptly after the effectiveness of this Agreement and the Dutch law governed Guarantees;
- (c) each of LMC Netherlands, LMC Brazil, Chapada, Lundin Mining Limited, LMC Bermuda Ltd., Lundin Mining South America SpA, LMC Chile SpA, LMC Candelaria and LMC Ojos shall have executed and delivered to the Administrative Agent the Postponement and Subordination Undertaking.
- (d) a confirmation of guarantee and security by each existing Obligor, in form and substance satisfactory to the Lenders, shall have been executed and delivered;
- (e) there shall exist no pending or threatened litigation, proceedings or investigations which (x) contest the consummation of the subject financing or (y) save and except as disclosed in Schedule 10.1(e), could reasonably be expected to have a Material Adverse Effect;
- (f) the Administrative Agent has received, in form and substance satisfactory to the Administrative Agent:
  - (i) a duly certified copy of the articles of incorporation, articles of amalgamation or similar documents and by-laws of each Obligor;
  - (ii) a certificate of status or good standing for each Obligor issued by the appropriate governmental body or agency of the jurisdiction in which each Obligor is incorporated;
  - (iii) a duly certified copy of the resolution of the board of directors (or, in the case of any Dutch Obligor and to the extent applicable, a certified copy of the resolution of the supervisory directors of such Dutch Obligor approving of the resolutions of the board of managing directors of such Dutch Obligor or otherwise any other responsible managing body pursuant to Applicable Law) of:
    - (A) each Borrower authorizing it to execute, deliver and perform its obligations under this agreement as well as the applicable matters provided in paragraph (B) below; and
    - (B) each existing Obligor authorizing it to execute, deliver and perform its obligations under the confirmation referred to in Section 12.3(d) and confirming that the Guarantee and Security Documents to which it is party remains in full force and effect after giving effect

to this agreement and the increase of the amount of the Credit Facility contemplated herein;

- (C) each of Lundin Mining South America SpA, LMC Chile SpA, LMC Candelaria, LMC Ojos, Chapada, LMC Brazil and LMC Netherlands and, where applicable, of the shareholders of such Obligor authorizing it to execute, deliver and perform its obligations under the Credit Documents to which such Obligor is a signatory and, in the case of each Full Recourse Guarantor (other than Lundin Mining South America SpA, LMC Chile SpA, LMC Candelaria and LMC Ojos) a duly certified copy of the resolution of the board of directors (if required under the constating documents or by-laws of such Subsidiary) of such Full Recourse Guarantor authorizing the pledge of all of its issued and outstanding shares to the Administrative Agent and any subsequent disposition thereof by the Administrative Agent in realizing on the security therein constituted by the relevant Security Documents;
- (iv) a certificate of an officer of each Obligor, in such capacity, setting forth specimen signatures of the individuals authorized to sign the Credit Documents to which such Obligor is a signatory (other than with respect to any subsidiary with respect to the Credit Documents to which it is a signatory are all executed before a notary public);
- (v) a certificate of a senior officer of the Parent, in such capacity, certifying that, to the best of his knowledge after due inquiry, no Default has occurred and is continuing or would arise immediately upon the initial extension of credit under the Credit Facility;
- (vi) to the extent not previously delivered and to the extent such shares are certificated, share certificates representing all of the issued and outstanding shares of the Pledged Subsidiaries, in each case duly endorsed in blank for transfer or attached to duly executed stock transfers and powers of attorney or, where applicable, notices to the relevant share accountholder where the shares are in uncertificated form;
- (vii) if applicable, a copy of (A) the request for advice from each works council, or central or European works council with jurisdiction over the Dutch Obligors and the transactions contemplated by the Finance Documents to which it is a party and (B) the neutral or positive advice (*advies*) from the works council of that person which, if conditional, contains conditions which can reasonably be complied with and would not cause and are not reasonably likely to cause a breach of any term of any Finance Document.
- (viii) an opinion of counsel to each of the Borrowers, Lundin Mining South America SpA, LMC Chile SpA, LMC Candelaria, LMC Ojos, Chapada,

LMC Brazil and LMC Netherlands, addressed to the Finance Parties and their counsel, relating to the status and capacity of such Obligor, the due authorization, execution and delivery and the validity and enforceability of the Credit Documents to which such Obligor is a party in the jurisdiction of incorporation of such Obligor and in the Province of Ontario together with such other matters as the Lenders may reasonably request;

- (ix) an opinion of counsel to each of the existing Obligors (except the Borrowers), addressed to the Finance Parties and their counsel, relating to the status and capacity of such Obligor, and that the Guarantee and Security Documents to which such Obligor is a party remain enforceable in respect of the Obligations created hereunder and that any further actions and registrations required in connection therewith have been completed together with such other matters as the Lenders may reasonably request; and
- (x) an opinion of the Administrative Agent's counsel with respect to such matters as may be reasonably required by the Lenders in connection with the transactions hereunder (including, without limitation, the legality, validity and binding nature obligations of each Obligor under, and the enforceability against each such Obligor of, the Credit Documents which are governed by the laws of the Province of Ontario);
- (g) the Borrowers shall have paid to the Administrative Agent and the Lenders all fees and expenses required to be paid pursuant to the Fee Letters.
- (h) the Administrative Agent and its counsel shall be satisfied, acting reasonably, that all necessary approvals, acknowledgements, directions and consents have been given and that all relevant laws have been complied with in respect of all agreements and transactions referred to herein; and
- (i) all documents and instruments shall have been properly registered, recorded and filed in all places which, and deliveries of all consents, approvals, acknowledgements, undertakings, directions, negotiable documents of title and other documents and instruments to the Administrative Agent shall have been made which, in the opinion of the Administrative Agent's counsel, acting reasonably, are desirable or required.

#### **12.4 Waiver**

The terms and conditions of Sections 12.1, 12.2, and 12.3 are inserted for the sole benefit of the Administrative Agent and the Lenders, and the Lenders may waive them in accordance with Section 14.14, in whole or in part, with or without terms or conditions, in respect of any extension of credit, without prejudicing their right to assert the terms and conditions of Section 12.1 in whole or in part in respect of any other extension of credit.

**ARTICLE 13**  
**DEFAULT AND REMEDIES**

**13.1 Events of Default**

Upon the occurrence of any one or more of the following events, unless expressly waived in writing in accordance with Section 14.14:

- (a) the breach by either Borrower of the provisions of Section 9.1;
- (b) the failure of any Obligor to pay any amount due under the Credit Documents (other than amounts due pursuant to Section 9.1) within one Banking Day after the Administrative Agent has given the Borrowers notice of such failure;
- (c) the commencement by any Subject Entity or by any other Person of proceedings for the dissolution, liquidation or winding up of such Subject Entity or for the suspension of operations of such Subject Entity (other than such proceedings commenced by another Person which are diligently defended and are discharged, vacated or stayed within thirty days after commencement or proceedings commenced by such Subject Entity in connection with a Permitted Reorganization);
- (d) if any Subject Entity ceases or threatens to cease to carry on its business or is adjudged or declared bankrupt or insolvent or admits its inability to pay its debts generally as they become due or fails to pay its debts generally as they become due or makes an assignment for the benefit of creditors, petitions or applies to any tribunal for the appointment of a receiver or trustee for it or for any part of its property (or such a receiver or trustee is appointed for it or any part of its property), or commences (or any other Person commences) any proceedings relating to it under any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect (other than such proceedings commenced by another Person which are diligently defended and are discharged, vacated or stayed within thirty days after commencement), or by any act indicates its consent to, approval of, or acquiescence in, any such proceeding for it or for any part of its property, or suffers the appointment of any receiver or trustee, sequestrator or other custodian;
- (e) if any representation or warranty made by any Obligor in this agreement or in any other document, agreement or instrument delivered pursuant hereto or referred to herein or any material information furnished in writing to the Administrative Agent by any Obligor proves to have been incorrect when made or furnished and continues to be incorrect for thirty days after the Administrative Agent has given the Borrowers notice thereof;
- (f) if a writ, execution, attachment or similar process is issued or levied against all or any portion of the property of any Subject Entity in connection with any judgment against it in an amount of at least U.S.\$50,000,000 and such writ, execution,

attachment or similar process is not released, bonded, satisfied, discharged, vacated or stayed within thirty days after its entry, commencement or levy;

- (g) the breach or failure of due observance or performance by either Borrower of Section 11.1 (o), (p), (q), (r) or (z), or any provision of Section 11.2;
- (h) the breach or failure of due observance or performance by any Obligor of any covenant or provision of any Credit Document (other than those previously referred to in this Section 13.1) or of any other document, agreement or instrument delivered pursuant hereto or thereto or referred to herein or therein to which the Administrative Agent or any of the Lenders is a party and such breach or failure continues for ten Banking Days after the Administrative Agent has given the Borrowers notice of such breach or failure;
- (i) if one or more encumbrancers, liens or landlords take possession of any part of the property of any Subject Entity or attempt to enforce their security or other remedies against such property (other than at the expiry of the relevant lease) and their claims remain unsatisfied for such period as would permit such property to be sold thereunder and such property which has been repossessed or is capable of being sold has an aggregate fair market value of at least U.S.\$50,000,000;
- (j) if any Subject Entity fails to pay, within five Banking Days of the completion of any Permitted Acquisition, any related Permitted Acquisition Indebtedness in an aggregate amount in excess of U.S. \$50,000,000 that is or has become due and payable upon the completion of such Permitted Acquisition;
- (k) if an event of default under any one or more agreements, indentures or instruments, under which any Subject Entity has outstanding Indebtedness (which, for the purpose of this Section 13.1(k) shall be deemed to include PMPA Obligations to the extent due and payable in Cash) in an amount of at least U.S.\$ 50,000,000 or under which another Person has outstanding Indebtedness in an amount of at least U.S.\$ 50,000,000 which is guaranteed by any Subject Entity, shall happen (with all applicable grace periods having expired) and be continuing (other than a change of control with respect to Permitted Acquisition Indebtedness as a result of the underlying Permitted Acquisition), or if any Indebtedness of or guaranteed by any Subject Entity in an amount of at least U.S.\$ 50,000,000 which is payable on demand is not paid on demand;
- (l) unless otherwise consented to by the Majority Lenders, any Person or combination of Persons acting in concert (other than Lundin Family Members) acquires direct or indirect beneficial ownership of more than 50% of the outstanding voting securities of the Parent;
- (m) any one or more of the Credit Documents is determined by a court of competent jurisdiction not to be a legal, valid and binding obligation of any Obligor which is a party thereto, enforceable by the Administrative Agent, the Lenders or any of them against such Obligor and such Credit Document has not been replaced by a

legal, valid, binding and enforceable document which is equivalent in effect to such Credit Document, assuming such Credit Document had originally been legal, valid, binding and enforceable, in form and substance acceptable to the Administrative Agent, within 30 days of such determination, provided, however, that such grace period shall only be provided if such Obligor actively co-operates with the Administrative Agent to so replace such Credit Document;

- (n) a Material Adverse Change occurs;
- (o) (i) any Termination Event occurs (not otherwise described in this Section 13.1(n)) that, when taken together with all other Termination Events that have occurred, could be expected, in the reasonable opinion of the Majority Lenders, to result in a liability of either Borrower, when added to any liability of any other ERISA Company, in excess of \$10,000,000; (ii) failure to make full payment (including all required instalments) when due of all amounts that, under the provisions of any Plan or Applicable Law, any ERISA Affiliate is required to pay as contributions thereto, which, together with all such other failures, would result in a liability to either Borrower, when added to any liability of a Guarantor, in excess of \$10,000,000; (iii) failure of any ERISA Affiliate to timely pay an amount or amounts aggregating in excess of \$10,000,000 for which it is liable under Section 4062, 4063 or 4064 of ERISA and for which any ERISA Affiliate does not reasonably dispute the amount or validity thereof; (iv) notice of intent to terminate a Plan shall be filed under Title IV of ERISA by any ERISA Affiliate, any plan administrator, or both if such termination would be reasonably expected to result in a Material Adverse Effect; (v) the PBGC institutes proceedings under Title IV of ERISA to terminate, to impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or to cause a trustee to be appointed to administer any Plan if such action by PBGC would result in a Material Adverse Effect; or (vi) there shall occur a complete or partial withdrawal from, or a default, within the meaning of Section 4219(c)(5) of ERISA, with respect to, one or more Multiemployer Plans which could cause one or more ERISA Affiliates to incur a current annual payment obligation in excess of \$10,000,000, and the where relevant breach, default, failure to pay or other violation described in (i) through (vi) above, as applicable, remains unremedied by the Borrowers or the relevant ERISA Affiliate thirty (30) days after the occurrence of such breach, default, failure to pay or other violation; or
- (p) a notice under Article 36 Tax Collection Act (*Invorderingswet 1990*) (Netherlands) has been given by any Dutch Obligor;

the Administrative Agent (with the approval and instructions of the Majority Lenders) may, by notice to the Borrowers, terminate the Credit Facility (provided, however, that the Credit Facility shall automatically terminate, without notice of any kind, upon the occurrence of an event described in clause (c) or (d) above) and the Administrative Agent (with the approval and instructions of the Majority Lenders) may, by the same or further notice to the Borrowers, declare all indebtedness of the Borrowers to the Lenders pursuant to this agreement (including the (i) face amount of all Bankers' Acceptances issued and outstanding hereunder and

(ii) the then contingent liability of the Issuing Lender under all Letters) to be immediately due and payable whereupon all such indebtedness shall immediately become and be due and payable and the Security shall become immediately enforceable without further demand or other notice of any kind, all of which are expressly waived by the Borrowers (provided, however, that all such indebtedness of the Borrowers to the Lenders shall automatically become due and payable and the Security shall become immediately enforceable, without notice of any kind, upon the occurrence of an event described in clause (c) or (d) above). Upon the payment by the Borrowers to the Lenders of the face amount of all Bankers' Acceptances issued and outstanding hereunder, the Borrowers shall have no further liability to the Lenders with respect to such Bankers' Acceptances. Upon the payment by the Borrowers to the Issuing Lender of the then contingent liability under all outstanding Letters, the Borrowers shall have no further liability to the Issuing Lender with respect to such Letters.

### **13.2 Refund of Overpayments**

With respect to each Letter for which the Issuing Lender has been paid all of its contingent liability pursuant to Section 9.8 or 13.1 and provided that all amounts due by the relevant Borrower to the Issuing Lender under Section 9.8 or 13.1 have been paid, the Issuing Lender agrees to pay to such Borrower, upon the later of:

- (a) if the Letter is subject to an Order, the date on which any final and non-appealable order, judgment or other determination has been rendered or issued either permanently enjoining the Issuing Lender from paying under such Letter or terminating any outstanding Order; and
- (b) the earlier of:
  - (i) the date on which either the original counterpart of such Letter is returned to the Issuing Lender for cancellation or the Issuing Lender is released by the beneficiary thereof from any further obligations in respect of such Letter;
  - (ii) the expiry of such Letter; and
  - (iii) (where the contingent liability under such Letter is less than the face amount thereof), all amounts possibly payable under such Letter have been paid;

an amount equal to any excess of the amount received by the Issuing Lender hereunder in respect of its contingent liability under such Letter over the total of amounts applied to reimburse the Issuing Lender for amounts paid by it under or in connection with such Letter (the Issuing Lender having the right to so appropriate such funds).

### **13.3 Remedies Cumulative**

The Borrowers expressly agree that the rights and remedies of the Administrative Agent and the Lenders under this agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by the

Administrative Agent or any Lender of any right or remedy for a default or breach of any term, covenant or condition in this agreement does not waive, alter, affect or prejudice any other right or remedy to which the Administrative Agent or such Lender may be lawfully entitled for the same default or breach. Any waiver by the Administrative Agent with the approval of the Majority Lenders or all of the Lenders in accordance with Section 14.14 of the strict observance, performance or compliance with any term, covenant or condition of this agreement is not a waiver of any subsequent default and any indulgence by the Lenders with respect to any failure to strictly observe, perform or comply with any term, covenant or condition of this agreement is not a waiver of the entire term, covenant or condition or any subsequent default. No failure or delay by the Administrative Agent or any Lender in exercising any right shall operate as a waiver of such right nor shall any single or partial exercise of any power or right preclude its further exercise or the exercise of any other power or right.

#### **13.4 Set-Off**

In addition to any rights now or hereafter granted under Applicable Law, and not by way of limitation of any such rights, the Administrative Agent and each Lender is authorized, at any time that an Event of Default and has occurred and is continuing without notice to the Borrowers or to any other Person, any such notice being expressly waived by the Borrowers, to set-off, appropriate and apply any and all deposits, matured or unmatured, general or special, and any other indebtedness at any time held by or owing by the Administrative Agent or such Lender, as the case may be, to or for the credit of or the account of the Borrowers against and on account of the obligations and liabilities of the Borrowers which are due and payable to the Administrative Agent or such Lender, as the case may be, under the Credit Documents.

### **ARTICLE 14 THE ADMINISTRATIVE AGENT**

#### **14.1 Appointment and Authorization of Administrative Agent**

Each Finance Party hereby appoints and authorizes, and hereby agrees that it will require any assignee of any of its interests in the Credit Documents (other than the holder of a participation in its interests herein or therein) to appoint and authorize the Administrative Agent to take such actions as agent on its behalf (including for the purposes of article 18 of Law No. 20,190 of Chile, to act as its security agent (*agente de garantías*) with respect to the Security Documents and the Guarantees, and irrevocably authorizing the Administrative Agent to execute and deliver, on behalf of the Finance Parties, of a Collateral Agency Agreement (*contrato de agencia de garantías*) governed by the laws of Chile for the purposes of designating or appointing the Administrative Agent as collateral agent for the execution, amendment or release of any Credit Documents, including Security Documents and Guarantees, governed by the laws of Chile with the authorities to be included therein, including the exercise of the rights arising therefrom, and any Security Document or Guarantee governed by the laws of Chile expressed to be executed by the Administrative Agent, in its capacity as collateral agent for the Finance Parties, on its behalf) and to exercise such powers under the Credit Documents as are delegated to the Administrative Agent by such Finance Party by the terms hereof, together with such powers as are reasonably incidental thereto. Neither the Administrative Agent nor any of its directors, officers, employees or agents shall be liable to any of the Finance Party for any action

taken or omitted to be taken by it or them thereunder or in connection therewith, except for its own gross negligence or wilful misconduct and each Finance Party hereby acknowledges that the Administrative Agent is entering into the provisions of this Section 14.1 on its own behalf and as agent and trustee for its directors, officers, employees and agents. The Borrowers expressly accept the appointment of the Administrative Agent as security agent for the Finance Parties.

#### **14.2 Interest Holders**

The Administrative Agent may treat each Lender set forth in Schedule A hereto or the Person designated in the last notice delivered to it under Section 15.5 as the holder of all of the interests of such Lender under the Credit Documents.

#### **14.3 Consultation with Counsel**

The Administrative Agent may consult with legal counsel selected by it as counsel for the Administrative Agent and the Lenders and shall not be liable for any action taken or not taken or suffered by it in good faith and in accordance with the advice and opinion of such counsel.

#### **14.4 Documents**

The Administrative Agent shall not be under any duty to the Lenders to examine, enquire into or pass upon the validity, effectiveness or genuineness of the Credit Documents or any instrument, document or communication furnished pursuant to or in connection with the Credit Documents and the Administrative Agent shall, as regards the Lenders, be entitled to assume that the same are valid, effective and genuine, have been signed or sent by the proper parties and are what they purport to be.

#### **14.5 Administrative Agent as Lender**

With respect to those portions of the Credit Facility made available by it, the Administrative Agent shall have the same rights and powers under the Credit Documents as any other Lender and may exercise the same as though it were not the Administrative Agent. The Administrative Agent and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrowers and their Affiliates and Persons doing business with the Borrowers and/or any of their Affiliates as if it were not the Administrative Agent and without any obligation to account to the Lenders therefor.

#### **14.6 Responsibility of Administrative Agent**

The duties and obligations of the Administrative Agent to the Lenders under the Credit Documents are only those expressly set forth herein. The Administrative Agent shall not have any duty to the Lenders to investigate whether a Default or an Event of Default has occurred. The Administrative Agent shall, as regards the Lenders, be entitled to assume that no Default or Event of Default has occurred and is continuing unless the Administrative Agent has actual knowledge or has been notified by a Borrower of such fact or has been notified by a Lender that such Lender considers that a Default or Event of Default has occurred and is continuing, such notification to specify in detail the nature thereof.

#### **14.7 Action by Administrative Agent**

The Administrative Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights which may be vested in it on behalf of the Lenders by and under this agreement; provided, however, that the Administrative Agent shall not exercise any rights under Section 13.1 or under the Guarantees or the Security Documents or expressed to be on behalf of or with the approval of the Majority Lenders without the request, consent or instructions of the Majority Lenders. Furthermore, any rights of the Administrative Agent expressed to be on behalf of or with the approval of the Majority Lenders shall be exercised by the Administrative Agent upon the request or instructions of the Majority Lenders. The Administrative Agent shall incur no liability to the Lenders under or in respect of any of the Credit Documents with respect to anything which it may do or refrain from doing in the reasonable exercise of its judgment or which may seem to it to be necessary or desirable in the circumstances, except for its gross negligence or wilful misconduct. The Administrative Agent shall in all cases be fully protected in acting or refraining from acting under any of the Credit Documents in accordance with the instructions of the Majority Lenders and any action taken or failure to act pursuant to such instructions shall be binding on all Lenders. In respect of any notice by or action taken by the Administrative Agent hereunder, the Borrowers shall at no time be obliged to enquire as to the right or authority of the Administrative Agent to so notify or act.

#### **14.8 Notice of Events of Default**

In the event that the Administrative Agent shall acquire actual knowledge or shall have been notified of any Default or Event of Default, the Administrative Agent shall promptly notify the Lenders and shall take such action and assert such rights under Section 13.1 of this agreement and under the other Credit Documents as the Majority Lenders shall request in writing and the Administrative Agent shall not be subject to any liability by reason of its acting pursuant to any such request. If the Majority Lenders shall fail for five Banking Days after receipt of the notice of any Default or Event of Default to request the Administrative Agent to take such action or to assert such rights under any of the Credit Documents in respect of such Default or Event of Default, the Administrative Agent may, but shall not be required to, and subject to subsequent specific instructions from the Majority Lenders, take such action or assert such rights (other than rights under Section 13.1 of this agreement or under the other Credit Documents and other than giving an express waiver of any Default or any Event of Default) as it deems in its discretion to be advisable for the protection of the Lenders except that, if the Majority Lenders have instructed the Administrative Agent not to take such action or assert such rights, in no event shall the Administrative Agent act contrary to such instructions unless required by law to do so.

#### **14.9 Responsibility Disclaimed**

The Administrative Agent shall be under no liability or responsibility whatsoever as agent hereunder:

- (a) to any Obligor or any other Person as a consequence of any failure or delay in the performance by, or any breach by, any Lender or Lenders of any of its or their obligations under any of the Credit Documents;

- (b) to any Lender or Lenders as a consequence of any failure or delay in performance by, or any breach by, any Obligor of any of its obligations under any of the Credit Documents; or
- (c) to any Lender or Lenders for any statements, representations or warranties in any of the Credit Documents or in any other documents contemplated hereby or thereby or in any other information provided pursuant to any of the Credit Documents or any other documents contemplated hereby or thereby or for the validity, effectiveness, enforceability or sufficiency of any of the Credit Documents or any other document contemplated hereby or thereby.

#### **14.10 Indemnification**

The Lenders agree to indemnify the Administrative Agent (to the extent not reimbursed by the Borrowers) in their respective Pro Rata Shares under the Credit Facility from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in any way relating to or arising out of any of the Credit Documents or any other document contemplated hereby or thereby or any action taken or omitted by the Administrative Agent under any of the Credit Documents or any document contemplated hereby or thereby, except that no Lender shall be liable to the Administrative Agent for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the gross negligence or wilful misconduct of the Administrative Agent.

#### **14.11 Credit Decision**

Each Lender represents and warrants to the Administrative Agent that:

- (a) in making its decision to enter into this agreement and to make its Pro Rata Share of the Credit Facility, available to the Borrowers, it is independently taking whatever steps it considers necessary to evaluate the financial condition and affairs of the Subject Entities and that it has made an independent credit judgment without reliance upon any information furnished by the Administrative Agent; and
- (b) so long as any portion of the Credit Facility is being utilized by the Borrowers, it will continue to make its own independent evaluation of the financial condition and affairs of the Subject Entities.

#### **14.12 Successor Administrative Agent**

Subject to the appointment and acceptance of a successor Administrative Agent as provided below, the Administrative Agent may, with the prior written consent of the Borrowers (which consent shall not be required for so long as a Default has occurred and is continuing), resign at any time by giving 30 days written notice thereof to the Borrowers and the Lenders. Upon any such resignation, the Majority Lenders, with the prior written consent of the Borrowers (which consent shall not be required (x) if the successor Administrative Agent is an Affiliate or

Subsidiary of the Administrative Agent on the date hereof or (y) for so long as a Default has occurred and is continuing), shall have the right to appoint a successor Administrative Agent who shall be one of the Lenders unless none of the Lenders wishes to accept such appointment. If no successor Administrative Agent shall have been so appointed and shall have accepted such appointment by the time of such resignation, then the retiring Administrative Agent may, on behalf of the Lenders and with the prior written consent of the Borrowers (which consent shall not be required for so long as a Default has occurred and is continuing), appoint a successor Administrative Agent which shall be a bank organized under the laws of Canada which has combined capital and reserves in excess of Cdn. \$250,000,000 and has an office in Toronto. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges, duties and obligations of the retiring Administrative Agent (in its capacity as Administrative Agent but not in its capacity as a Lender) and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder (in its capacity as Administrative Agent but not in its capacity as a Lender). After any retiring Administrative Agent's resignation hereunder as the Administrative Agent, provisions of this Article 14 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent.

#### **14.13 Delegation by Administrative Agent**

The Administrative Agent shall have the right to delegate any of its duties or obligations hereunder as Administrative Agent to any Affiliate of the Administrative Agent so long as the Administrative Agent shall not thereby be relieved of such duties or obligations.

#### **14.14 Waivers and Amendments**

- (a) Subject to Sections 14.14(b) - (d) any term, covenant or condition of any of the Credit Documents may only be amended with the prior consent of the Borrowers and the Majority Lenders or compliance therewith may be waived (either generally or in a particular instance and either retroactively or prospectively) by the Majority Lenders and in any such event the failure to observe, perform or discharge any such covenant, condition or obligation, so amended or waived (whether such amendment is executed or such consent or waiver is given before or after such failure), shall not be construed as a breach of such covenant, condition or obligation or as a Default or Event of Default.
- (b) Notwithstanding Section 14.14(a), without the prior written consent of each Lender, no such amendment or waiver shall directly:
  - (i) subject to Section 14.14(g), increase the amount of the Credit Facility or the amount of the Individual Commitment of any Lender with respect to the Credit Facility;
  - (ii) subject to Section 14.14(g), extend the RT Maturity Date other than as provided in Section 9.3 hereof;

- (iii) extend the time for the payment of interest on Loans, forgive any portion of principal thereof, reduce the stated rate of interest thereon or amend the requirement of pro rata application of all amounts received by the Administrative Agent in respect of the Credit Facility;
  - (iv) change the percentage of the Lenders' requirement to constitute the Majority Lenders or otherwise amend the definition of Majority Lenders;
  - (v) reduce the stated amount or postpone the date for payment of any fees or other amount to be paid pursuant to Article 7 or Article 8 of this agreement;
  - (vi) permit any subordination of any of the Secured Obligations;
  - (vii) other than pursuant to Section 14.26, release or discharge any of the Security Documents, the Borrower Guarantee or the Guarantees, in whole or in part; or
  - (viii) alter the terms of this Section 14.14.
- (c) The Borrowers may at any time, by written request to the Administrative Agent (each, a "**Unanimous Lender Request**"), request an amendment or waiver that requires the prior written consent of each Lender pursuant to Section 14.14(b). A copy of the Unanimous Lender Request shall be provided by the Administrative Agent to each of the Lenders in accordance with Section 14.18. Each Lender may in its sole discretion and provided there is any Default outstanding hereunder, by written notice to the Administrative Agent (the "**Unanimous Lender Response Notice**"), within 10 Banking Days of the Administrative Agent's receipt of the Unanimous Lender Request (the "**Unanimous Lender Response Period**"), approve or decline the Unanimous Lender Request. If any Lender does not provide a Unanimous Lender Response Notice within the Unanimous Lender Response Period, such Lender shall be deemed to have declined the Unanimous Lender Request. If Lenders with Individual Commitments that in the aggregate are greater than 30% of the aggregate Individual Commitments of all Lenders under the Credit Facility do not approve the Unanimous Lender Request, the Administrative Agent shall notify the Borrowers and the Lenders that the Unanimous Lender Request has been declined;
- (d) if Lenders with Individual Commitments that in the aggregate are equal to or greater than 70% but less than 100% of the aggregate Individual Commitments of all Lenders under the Credit Facility approve the Unanimous Lender Request within the Unanimous Lender Response Period (the "**Approving Lenders**"), the following shall apply:
- (i) On or before the second Banking Day after the Unanimous Lender Response Period, the Agent shall give written notice (the "**Acquisition Request Notice**") to the Borrowers and each Lender identifying the Approving Lenders and Lender or Lenders that have declined or are

deemed to have declined the Unanimous Lender Request (the “**Declining Lenders**”) and their respective Individual Commitments.

- (ii) Any Approving Lender may, at its option, acquire all or any portion of the rights and obligations of the Declining Lenders under the Credit Documents (all of such rights and obligations being herein called the “**Available Amount**”) by giving written notice to the Administrative Agent (an “**Acquisition Notice**”) of the portion of the Available Amount which it is prepared to acquire (the “**Desired Acquisition Amount**”). Such Acquisition Notice shall be given within 10 days following the giving of the Acquisition Request Notice (such deadline being herein called the “**Acquisition Deadline**”). If only one Approving Lender gives an Acquisition Notice to the Administrative Agent or if more than one Approving Lender gives an Acquisition Notice to the Administrative Agent but the aggregate of their Desired Acquisition Amounts is less than or equal to the Available Amount, then each such Approving Lender shall be entitled to acquire its Desired Acquisition Amount of the rights and obligations of the Declining Lenders under the Credit Documents. If more than one Approving Lender gives an Acquisition Notice to the Administrative Agent and the aggregate of the Desired Acquisition Amounts is greater than the Available Amount, then each such Approving Lender shall be entitled to acquire a pro rata share of the rights and obligations of the Declining Lenders under the Credit Documents, such pro rata share being determined based on the relative Desired Acquisition Amount of each such Approving Lender. On or before the second Banking Day following the Acquisition Deadline, the Administrative Agent shall give to the Borrowers and each Lender a written notice identifying the Available Amount of each Declining Lender and the portion thereof to be acquired by each Approving Lender. Each of such acquisitions shall be completed on the date which is fifteen days following the Acquisition Deadline in accordance with the procedures set out in Section 15.5(d). If the Available Amount is not completely acquired by the Approving Lenders, the Borrowers may locate other Persons (“**Substitute Lenders**”) who qualify as Lenders, are satisfactory to the Administrative Agent, acting reasonably, and who acquire all or a portion of the balance of the rights and obligations of the Declining Lenders under the Credit Documents on the date which is fifteen days following the Acquisition Deadline in accordance with the procedures set out in Section 15.5(d). Any outstanding credit extended by the Declining Lenders to the Borrowers under the Credit Facility which is not so acquired by Approving Lenders or Substitute Lenders shall be repaid and the Individual Commitments of the Declining Lenders not so acquired shall be cancelled on the date which is fifteen days following the Acquisition Deadline and the amount of the Credit Facility shall thereupon be reduced by the aggregate of the Individual Commitments so cancelled. The Borrowers shall comply with Section 8.4 in connection with any such prepayment. As concerns any Bankers’ Acceptances or BA Rate Loans

that otherwise would be subject to prepayment pursuant to this Section 14.14(d), the Borrowers shall forthwith pay to the Administrative Agent an amount equal to the aggregate of the aggregate face amount of such Bankers' Acceptances and the aggregate principal amount of such BA Rate Loans, such amount to be held by the Administrative Agent against any amount owing by the Borrowers to such Declining Lenders in respect of such Bankers' Acceptances and BA Rate Loans. Any such amount paid to the Administrative Agent shall be held on deposit by the Administrative Agent until the maturity date of such Bankers' Acceptances or BA Rate Loans, at which time it shall be applied against the indebtedness of the Borrowers to such Declining Lenders thereunder. While on deposit with the Administrative Agent, such amount shall bear interest at the rate applicable to short term deposits. As concerns any Letter that otherwise would be subject to prepayment pursuant to this Section 14.14(d), the Borrowers shall forthwith pay to the Issuing Lender an amount equal to the aggregate contingent liability of the relevant Declining Lenders under such Letter, such amount to be held by the Issuing Lender subject to Section 13.2. For certainty, upon the acquisition of the Available Amount by the Approving Lenders and/or the Substitute Lenders and, if applicable, repayment of outstanding credit extended by the Declining Lenders to the Borrowers under the Credit Facility which is not so acquired, the Unanimous Lender Request shall be deemed to have been consented to by all of the Lenders.

- (e) No amendment to or waiver of any provision hereof to the extent it affects the rights or obligations of the Administrative Agent or the Issuing Lender shall be effective without the prior written consent of the Administrative Agent or the Issuing Lender, as the case may be.
- (f) Notwithstanding any other provision hereof, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that, without the consent of such Defaulting Lender, (i) the Individual Commitment of such Defaulting Lender may not be increased or extended and (ii) the time for the payment of interest or fees on Bankers' Acceptances, Letters and Loans shall not be extended, the principal thereof shall not be forgiven, the stated rate of interest or fees thereon shall not be reduced and the requirement of pro rata application of all amounts received by the Administrative Agent in respect thereof shall not be amended.
- (g) Each of the parties hereto acknowledges that unless an Obligor acquires real property located in the United States after the date hereof, no increase, extension or renewal of the Credit Facility shall be subject to or conditioned upon: (1) the prior delivery of flood hazard determination certifications, acknowledgments and evidence of flood insurance and other flood-related documentation with respect to any real property located in the United States on which improvements are located (and which are subject to Flood Insurance Laws) in which any Liens have been granted to the Administrative Agent in any of the Security Documents as required

by Flood Insurance Laws and as otherwise reasonably required by the Administrative Agent nor (2) on the basis of flood insurance due diligence or flood insurance compliance have not been completed by the Majority Lenders.

#### **14.15 Determination by Administrative Agent Conclusive and Binding**

Any determination to be made by the Administrative Agent on behalf of or with the approval of the Lenders or the Majority Lenders under this agreement shall be made by the Administrative Agent in good faith and, if so made, shall be binding on all parties, absent manifest error.

#### **14.16 Adjustments among Lenders after Acceleration**

- (a) The Lenders agree that, at any time after all indebtedness of the Borrowers to the Lenders pursuant hereto has become immediately due and payable pursuant to Section 13.1 or after the cancellation or termination of the Credit Facility , they will at any time or from time to time upon the request of any Lender through the Administrative Agent purchase portions of the availments made available by the other Lenders which remain outstanding, and make any other adjustments which may be necessary or appropriate, in order that the amounts of the availments made available by the respective Lenders which remain outstanding, as adjusted pursuant to this Section 14.16, will be in the same proportions as their respective Pro Rata Shares thereof with respect to the Credit Facility immediately prior to such acceleration, cancellation or termination.
- (b) The Lenders agree that, at any time after all indebtedness of the Borrowers to the Lenders pursuant hereto has become immediately due and payable pursuant to Section 13.1 or after the cancellation or termination of the Credit Facility , the amount of any repayment made by the Borrowers under this agreement, and the amount of any proceeds of the exercise of any rights or remedies of the Lenders under the Credit Documents, which are to be applied against amounts owing hereunder as principal, will be so applied in a manner such that to the extent possible, the availments made available by the respective Lenders which remain outstanding, after giving effect to such application, will be in the same proportions as their respective Pro Rata Shares thereof with respect to the Credit Facility immediately prior to such acceleration, cancellation or termination.
- (c) For greater certainty, the Lenders acknowledge and agree that without limiting the generality of the provisions of Section 14.16(a) and (b), such provisions will have application if and whenever any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, compensation, or otherwise) on account of any monies owing or payable by the Borrowers to it under the Credit Documents in excess of its pro rata share of payments on account of monies owing by the Borrowers to all the Finance Parties thereunder.

- (d) Each Borrower agrees to be bound by and to do all things necessary or appropriate to give effect to any and all purchases and other adjustments made by and between the Lenders pursuant to this Section 14.16.

#### **14.17        Redistribution of Payment**

If a Lender shall receive payment of a portion of the aggregate amount of principal and interest due to it hereunder which is greater than the proportion received by any other Lender in respect of the aggregate amount of principal and interest due in respect of the Credit Facility (having regard to the respective Individual Commitments of the Lenders under the Credit Facility), the Lender receiving such proportionately greater payment shall purchase a participation (which shall be deemed to have been done simultaneously with receipt of such payment) in that portion of the aggregate outstanding credit of the other Lender or Lenders under the Credit Facility so that the respective receipts shall be pro rata to their respective participation in the credits; provided, however, that if all or part of such proportionately greater payment received by such purchasing Lender shall be recovered from the relevant Borrower, such purchase shall be rescinded and the purchase price paid for such participation shall be returned by such selling Lender or Lenders to the extent of such recovery, but without interest.

#### **14.18        Distribution of Notices**

Except as otherwise expressly provided herein, promptly after receipt by the Administrative Agent of any notice or other document which is delivered to the Administrative Agent hereunder on behalf of the Lenders, the Administrative Agent shall provide a copy of such notice or other document to each of the Lenders.

#### **14.19        Determination of Exposures**

Prior to any distribution of Cash Proceeds of Realization to the Lenders, the Administrative Agent shall request each Lender to provide to the Administrative Agent a written calculation of such Lender's Exposure, each such calculation to be certified true and correct by the Lender providing same. Each Lender shall so provide such calculation within two Banking Days following the request of the Administrative Agent. Any such calculation provided by a particular Lender which is approved by the Administrative Agent shall, absent manifest error, constitute *prima facie* evidence of such Lender's Exposure at such time. If the Administrative Agent does not approve any such calculation provided by a particular Lender, the Administrative Agent and such Lender shall, expeditiously and in good faith, make a determination of such Lender's Exposure which the Administrative Agent approves. With respect to each determination of the Exposure of the Lenders, the Administrative Agent shall promptly notify the Lenders. For the purposes of determining a particular Lender's Exposure as of a particular date:

- (a) the Exposure of a Lender under this agreement and the Security Documents shall be the aggregate amount (expressed in United States dollars) owing to such Lender thereunder on such date; and
- (b) the Exposure of a Lender in respect of Secured Risk Management Agreements shall be measured as the net exposure of such Lender under all Secured Risk Management Agreements with the Borrowers to which such Lender is a party,

being the aggregate exposure of such Lender thereunder less the aggregate exposure of the Borrowers thereunder; the exposure of party to a Secured Risk Management Agreement shall be, in the case of a Secured Risk Management Agreement which has not been terminated as of such date, the total amount which such party would be obligated to pay to the other party under such Secured Risk Management Agreement in the event of the early termination by such other party as of such date of such Secured Risk Management Agreement as a result of the occurrence of a default or event of default (however specified or designated) with respect to such party thereunder or, in the case of a Secured Risk Management Agreement which has been terminated as of such date, the total amount which such party is obligated to pay to the other party under such Secured Risk Management Agreements in each case expressed in United States dollars.

#### **14.20 Decision to Enforce Security**

The Security shall become enforceable as provided in Article 13. Upon the Security becoming enforceable as aforesaid, the Administrative Agent shall promptly so notify each of the Lenders. Any Lender may thereafter provide the Administrative Agent with a written request to enforce the Security. Forthwith after the receipt of such a request, the Administrative Agent shall seek the instructions of the Majority Lenders as to whether the Security should be enforced and the manner in which the Security should be enforced. In seeking such instructions, the Administrative Agent shall submit a specific proposal to the Lenders. The Administrative Agent shall promptly notify the Lenders of all instructions and approvals of the Majority Lenders.

#### **14.21 Enforcement**

The Administrative Agent reserves the sole right to enforce, or otherwise deal with, the Security and to deal with the Obligors in connection therewith; provided, however, that the Administrative Agent shall so enforce, or otherwise deal with, the Security as the Majority Lenders shall instruct.

#### **14.22 Application of Cash Proceeds of Realization**

- (a) All Proceeds of Realization not in the form of cash shall be forthwith delivered to the Administrative Agent and disposed of, or realized upon, by the Administrative Agent in such manner as the Majority Lenders may approve so as to produce Cash Proceeds of Realization.
- (b) Subject to the claims, if any, of secured creditors of the Obligors whose security ranks in priority to the Security, all Cash Proceeds of Realization shall be applied and distributed, and the claims of the Lenders shall be deemed to have the relative priorities which would result in the Cash Proceeds of Realization being applied and distributed, as follows:
  - (i) firstly, to the payment of all reasonable costs and expenses incurred by or on behalf of the Administrative Agent (including, without limitation, all legal fees and disbursements) in the exercise of all or any of the powers

granted to it hereunder or under the Security Documents or the Guarantees and in payment of all of the remuneration of any Receiver and all costs and expenses properly incurred by such Receiver (including, without limitation, all legal fees and disbursements) in the exercise of all or any powers granted to it under the Security Documents;

- (ii) secondly, in payment of all amounts of money borrowed or advanced by the Administrative Agent or such Receiver pursuant to the Security Documents and any interest thereon;
- (iii) thirdly, to the payment or prepayment of the Secured Obligations (including holding as cash collateral to be applied against Secured Obligations which have not then matured) to the Finance Parties pro rata in accordance with their relative Exposures; and
- (iv) the balance, if any, to the Borrowers or otherwise in accordance with Applicable Law.

#### **14.23 Security Documents**

As continuing collateral security for the Secured Obligations, the Borrowers shall, and shall cause the Guarantors to, execute and deliver the Guarantees and the Security Documents. The Guarantees and the Security Documents shall be entered into in favour of the Administrative Agent for the rateable benefit of the Finance Parties. The Administrative Agent declares that it shall hold the Security, the Secured Assets charged by the Security Documents and the rights granted to it under the Credit Documents for its own benefit and in its capacity as agent for the rateable benefit of each Finance Party.

#### **14.24 Survival**

The provisions of this Article 14 and all other provisions of this agreement which are necessary to give effect to each of the provisions of this Article 14 shall survive repayment in full of all credit outstanding under the Credit Facility and the termination of the commitments of the Lenders thereunder until such time as all Secured Obligations have been permanently repaid in full and all commitments of the Finance Parties thereunder have been terminated.

#### **14.25 Entering into Contracts**

Each Lender hereby irrevocably authorizes the Administrative Agent to enter into the Guarantees as agent for and on behalf of such Lender and the Borrowers hereby expressly acknowledge the authority of the Administrative Agent to enter into the Guarantees.

#### **14.26 Discharge of Security**

- (a) To the extent a sale or other disposition of the Secured Assets is permitted pursuant to Section 11.2(d) or in connection with any Permitted Corporate Reorganization, the Lenders hereby authorize the Administrative Agent, at the cost and expense of the Borrowers, to execute such discharges and other

instruments which are necessary for the purposes of releasing and discharging the security interest of the Finance Parties therein or for the purposes of recording the provisions or effect thereof in any office where the Security Documents may be registered or recorded or for the purpose of more fully and effectively carrying out the provisions of this Section 14.26. Notwithstanding any disposition permitted pursuant to Section 11.2(d), no Guarantee or Security Document will be released and/or discharged until all of the Shares of the subject Guarantor have been sold with the exception that the Lien in favour of the Administrative Agent over Shares of any Pledged Subsidiary that are disposed of in accordance with Section 11.2(d) shall be released and discharged at the time of such disposition. The Lenders hereby authorize the Administrative Agent, upon request of a Borrower and provided no Default or Event of Default has occurred and is continuing, to terminate and discharge, at the sole expense of the Borrowers, (i) any Guarantees and Security Documents executed by a Non-Operating Subsidiary and (ii) any Guarantee of a direct or indirect holder of the Shares of a Non-Operating Subsidiary, other than a holder who also holds, directly or indirectly, any Shares in any other Subject Entity (such included holder, a “**Qualifying Holder**”) and any Security Documents executed by such Qualifying Holder; and

- (b) The Lenders and the Administrative Agent hereby release and discharge any security interest granted to them by the Parent pursuant to the general security agreement dated as of March 6, 2009 between the Parent and the Administrative Agent in and to (i) the Shares of LMC Bermuda Ltd. and (ii) any proceeds from the Shares of LMC Bermuda Ltd. and the Lenders hereby authorize and instruct the Administrative Agent, at the cost of the Borrowers, to execute such discharges, waivers and other instruments which are necessary for the purposes giving effect to such release and discharge.

## **ARTICLE 15 MISCELLANEOUS**

### **15.1 Notices**

All notices and other communications provided for herein shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee or sent by telefacsimile, charges prepaid, at or to the applicable addresses or telefacsimile numbers, as the case may be, set out opposite the parties name on the signature page hereof or at or to such other address or addresses, telefacsimile number or numbers as any party hereto may from time to time designate to the other parties in such manner. Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Banking Day and such delivery was received before 4:00 p.m. (Toronto time); otherwise, it shall be deemed to have been validly and effectively given on the Banking Day next following such date of delivery. Any communication which is transmitted by telefacsimile as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a Banking Day and such transmission was received before 4:00 p.m. (Toronto time); otherwise, it shall be deemed to have been validly and effectively given on the Banking Day next following such date of transmission.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender of Loans to be made if such Lender has notified the Administrative Agent that it is incapable of receiving notices under this Section 15.1 by electronic communication. The Administrative Agent or either Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Banking Day, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing subsection (i) of notification that such notice or communication is available and identifying the website address therefor.

## **15.2 Severability**

Any provision hereof which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

## **15.3 Counterparts**

This agreement may be executed and delivered in one or more original or faxed signed 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.

## **15.4 Successors and Assigns**

This agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns.

## **15.5 Assignment**

- (a) Neither the Credit Documents nor the benefit thereof may be assigned by either Borrower.
- (b) A Borrower may require any Lender upon which U.S. federal withholding taxes pursuant to FATCA are imposed (or imposed upon any financial institution through which any payment is made to such Lender) to assign its entire participating interest as per 15.5(d).

- (c) A Lender may at any time sell to one or more other Persons (“**Participants**”) participating interests in any credit outstanding hereunder, any commitment of the Lender hereunder or any other interest of the Lender hereunder. In the event of any such sale by a Lender of a participating interest to a Participant, the Lender’s obligations under this agreement to each Borrower shall remain unchanged, the Lender shall remain solely responsible for the performance thereof and each Borrower shall continue to be obligated to the Lender in connection with the Lender’s rights under this agreement. Each Borrower agrees that if amounts outstanding under this agreement are due and unpaid, or shall have been declared to be or shall have become due and payable upon the occurrence of an Event of Default, or any Default which might mature into an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this agreement to the same extent as if the amount of its participating interest were owing directly to it as the relevant Lender under this agreement. Each Borrower also agrees that each Participant shall be entitled to the benefits of Article 8 with respect to its participation hereunder and for the purposes of Article 8 such Participant shall be deemed to be a Lender to the extent of such participation; provided, that, no Participant shall be entitled to receive any greater amount pursuant to such Article than the relevant Lender would have been entitled to receive in respect of the amount of the participation transferred by such Lender to such Participant had no such transfer occurred.
- (d) With the prior written consent of, (x) the Issuing Lender and (y) the Administrative Agent, a Lender may at any time sell all or any part of its rights and obligations under the Credit Documents to one or more Persons (“**Purchasing Lenders**”). No consent shall be required in the case of the sale by a Lender to its Affiliates, provided, at any time no Event of Default has occurred and is continuing, such sale would not result in any increased cost to the Borrowers including pursuant to Section 8.6. For certainty, no consent of any party hereto shall be required for any Lender to assign its rights hereunder to any central bank or the Federal Reserve Bank. Upon such sale, the Lender shall, to the extent of such sale, be released from its obligations under the Credit Documents and each of the Purchasing Lenders shall become a party to the Credit Documents to the extent of the interest so purchased; provided, however, no Lender that is a Defaulting Lender shall be released from any obligation in respect of damages arising in connection with it being or becoming a Defaulting Lender. Any such assignment shall be for equal percentage interests of the assigning Lender’s Individual Commitments with respect to the Credit Facility, shall be for Individual Commitments aggregating at least U.S.\$10,000,000 under the Credit Facility and, following such assignment, the Lender shall either retain Individual Commitments aggregating at least U.S.\$10,000,000 under the Credit Facility or have assigned the entirety of its Individual Commitments under the Credit Facility. Any such assignment by a Lender shall not be effective unless and until such Lender has paid to the Administrative Agent an assignment fee in the amount of U.S.\$3,500 for each Purchasing Lender, unless and until the Purchasing Lender has executed an instrument substantially in the form of

Schedule C hereto whereby the Purchasing Lender has agreed to be bound by the terms of the Credit Documents as a Lender and has agreed to specific Individual Commitments with respect to the Credit Facility and a specific address and telefacsimile number for the purpose of notices as provided in Section 15.1 and unless and until the requisite consents to such assignment have been obtained, unless and until a copy of a fully executed copy of such instrument has been delivered to each of the Administrative Agent, the Issuing Lender and the Borrowers. Upon any such assignment becoming effective, Schedule A hereto shall be deemed to be amended to include the Purchasing Lender as a RT Lender with the specific Individual Commitment with respect to the Credit Facility, address and telefacsimile number as aforesaid and the Individual Commitment of the Lender under the Credit Facility making such assignment shall be deemed to be reduced by the amount of the Individual Commitment of the Purchasing Lender with respect to the Credit Facility. For certainty, no Lender may sell all or any part of its rights and obligations under the Credit Documents to the Parent or any of its Subsidiaries.

- (e) Each Borrower authorizes the Administrative Agent and the Lenders to disclose to any Participant or Purchasing Lender (each, a “**Transferee**”) and any prospective Transferee and authorizes each of the Lenders to disclose to any other Lender any and all financial information in their possession concerning the Subject Entities which has been delivered to them by or on behalf of the Borrowers pursuant to this agreement or which has been delivered to them by or on behalf of the Borrowers in connection with their credit evaluation of the Subject Entities prior to becoming a party to this agreement, so long as any such Transferee agrees not to disclose any confidential, non-public information to any Person other than its non-brokerage affiliates, employees, regulators, accountants or legal counsel on a need-to-know basis, unless required by law or regulation.

## **15.6 Entire Agreement**

This agreement and the agreements referred to herein and delivered pursuant hereto constitute the entire agreement between the parties hereto and supersede any prior agreements, undertakings, declarations, representations and understandings, both written and verbal, in respect of the subject matter hereof.

## **15.7 Further Assurances**

Each Borrower shall, and shall cause the Guarantors to, from time to time and at all times hereafter, upon every reasonable request of the Administrative Agent, make, do, execute, and deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be necessary in the opinion of the Administrative Agent for more effectually implementing and carrying out the true intent and meaning of the Credit Documents or any agreement delivered pursuant hereto or thereto and such additional security, legal opinions, consents, approvals, acknowledgements, undertakings, non-disturbance agreements, directions and negotiable documents of title in connection with the Secured Assets, in form and substance satisfactory to the Administrative Agent, as the Administrative Agent may

from time to time request, to ensure (i) that all Secured Assets are subject to a Lien in favour of the Administrative Agent and (ii) the intended first ranking priority of such Liens.

## 15.8 Judgment Currency

- (a) If, for the purpose of obtaining or enforcing judgment against a Borrower in any court in any jurisdiction, it becomes necessary to convert into a particular currency (such currency being hereinafter in this Section 15.8 referred to as the “**Judgment Currency**”) an amount due in another currency (such other currency being hereinafter in this Section 15.8 referred to as the “**Indebtedness Currency**”) under this agreement, the conversion shall be made at the rate of exchange prevailing on the Banking Day immediately preceding:
- (i) the date of actual payment of the amount due, in the case of any proceeding in the courts of the Province of Ontario or in the courts of any other jurisdiction that will give effect to such conversion being made on such date; or
  - (ii) the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the date as of which such conversion is made pursuant to this Section 15.8(a)(ii) being hereinafter in this Section 15.8 referred to as the “**Judgment Conversion Date**”).
- (b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 15.8(a)(ii), there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual payment of the amount due, the relevant Borrower shall pay to the appropriate judgment creditor or creditors such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Indebtedness Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date.
- (c) Any amount due from a Borrower under the provisions of Section 15.8(b) shall be due to the appropriate judgment creditor or creditors as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of this agreement.
- (d) The term “rate of exchange” in this Section 15.8 means the noon spot rate of exchange for Canadian interbank transactions applied in converting the Indebtedness Currency into the Judgment Currency published by the Bank of Canada for the day in question.

## 15.9 Pledged Subsidiaries

Notwithstanding any other provision herein or in any Security Document, no Obligor shall be in default of any covenant in any Pledge Agreement solely as a result of a

change in directors of any Pledged Subsidiary if, within 30 days of the Parent becoming aware of such default, such default is cured or waived.

### **15.10 No Fiduciary Duty**

Each Lender and its Affiliates (collectively, solely for purposes of this Section 15.10, the “**Banks**”), may have economic interests that conflict with those of the Borrowers, their shareholders and/or their Affiliates. The Borrowers acknowledges and agree that (i) the transactions contemplated by the Credit Documents (the “**Credit Document Transactions**”) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Borrowers, on the other, and (ii) in connection with the Credit Document Transactions and with the process leading thereto, (x) no Bank has assumed an advisory or fiduciary responsibility in favor of either Borrower, its shareholders or its Affiliates with respect to the Credit Document Transactions or the process leading thereto (irrespective of whether any Bank has advised, is currently advising or will advise either Borrower, its shareholders or its Affiliates on other matters) or any other obligation to the Borrowers except the obligations expressly set forth in the Credit Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of the Borrowers, their management, shareholders, creditors or any other Person in respect of the Credit Document Transactions except as otherwise expressly set forth in the Credit Documents. Each Borrower acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to the Credit Document Transactions and the process leading thereto. Each Borrowers agrees that it will not claim that any Bank has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Borrower, in connection with the Credit Document Transactions except as otherwise expressly set forth in the Credit Documents.

### **15.11 Confidentiality**

Each of the Finance Parties shall maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to each of their Affiliates, directors, officers, employees, agents and advisors, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required by any Official Body, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) while an Event of Default has occurred and is continuing, in connection with the exercise of any remedies under any Credit Document or any suit, action or proceeding relating to any Credit Document or the enforcement of rights thereunder, (f) to their auditors in connection with any audit (provided that such disclosure is limited solely to the existence of this Agreement and the obligations of the relevant Lender hereunder), (g) with the consent of the Borrowers, or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 15.11, or (ii) becomes available to the Finance Parties on a non-confidential basis from a source other than the Borrowers. For the purposes of this Section 15.11, “**Information**” means all information received from any Obligor relating to any Obligor, any of their Subsidiaries or Affiliates, or their respective business, other than any such information that is available to the Finance Parties on a non-confidential basis prior to disclosure

by such Obligor. Any Person required to maintain the confidentiality of Information as provided in this Section 15.11 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Notwithstanding the foregoing, parties hereto agree that Fasken Martineau DuMoulin LLP and Cassels Brock & Blackwell LLP may inform league table services, such as Thomson Financial and Bloomberg, and make mention in its promotional publications and the media generally of its representation of the Finance Parties or Obligors, as applicable, with respect to the transactions contemplated by the Finance Documents.

### **15.12 Anti-Money Laundering Legislation**

The Borrowers acknowledge that, pursuant to Anti-Money Laundering Legislation, the Finance Parties may be required to obtain, verify and record information regarding each Obligor, their respective directors, authorized signing officers, direct or indirect shareholders or other persons in Control of such Obligor, and the transactions contemplated by the Finance Documents, and disclose such information to Official Bodies. Each Borrower consents to such information being obtained, verified, recorded and disclosed to Official Bodies and agrees to promptly provide to the Finance Parties all such information, including supporting documentation and other evidence, as may be reasonably requested by a Finance Party, in each case as required to comply with Anti-Money Laundering Legislation.

### **15.13 Contractual Recognition of Bail-In and No Fiduciary Duty**

Notwithstanding any other term of any Credit Document or any other agreement, arrangement or understanding between the parties hereto, each party to this agreement acknowledges and accepts that any liability of any EEA Financial Institution arising under or in connection with the Credit Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Credit Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

### **15.14 Parallel Debt**

- (a) In this Section 15.14:

- (i) “**Secured Party Claim**” means any amount which a Dutch Obligor owes to a Finance Party under or in connection with the Finance Documents after an acceleration or enforcement action is taken pursuant to Section 13.1; and
  - (ii) Administrative Agent Claim has the meaning given to it in paragraph (b) below.
- (b) Each Dutch Obligor must pay the Administrative Agent as an independent and separate creditor, an amount equal to each Secured Party Claim on the due date (the “**Administrative Agent Claims**”);
- (c) Each Administrative Agent Claim is created on the understanding that the Administrative Agent must:
  - (i) share the proceeds of each Administrative Agent Claim with the other Finance Parties; and
  - (ii) pay those proceeds to the Finance Parties in accordance with their respective interests in the amounts outstanding under the Finance Documents.
- (d) The Administrative Agent may enforce performance of any Administrative Agent Claim in its own name as an independent and separate right. This includes any suit execution enforcement of security recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.
- (e) Each Finance Party must at the request of the Administrative Agent perform any act required in connection with the enforcement of any Administrative Agent Claim. This includes joining in any proceeding as co-claimant with the Administrative Agent.
- (f) Unless the Administrative Agent fails to enforce an Administrative Agent Claim within a reasonable time after its due date a Finance Party may not take any action to enforce the corresponding Secured Party Claim unless it is requested to do so by the Administrative Agent.
- (g) Each Borrower, for and on behalf of itself and each Dutch Obligor, irrevocably and unconditionally waives any right it may have to require a Finance Party to join in any proceedings as co-claimed with the Administrative Agent in respect of any Administrative Agent Claim.
- (h) Discharge by a Dutch Obligor of a Secured Party Claim will discharge the corresponding Administrative Agent Claim in the same amount.
- (i) Discharge by a Dutch Obligor of an Administrative Agent Claim will discharge the corresponding Secured Party Claim in the same amount.

- (j) The aggregate amount of the Administrative Agent Claims will never exceed the aggregate amount of Secured Party Claims.
- (k) A defect affecting an Administrative Agent Claim against a Dutch Obligor will not affect any Secured Party Claim.
- (l) If the Administrative Agent returns to any Dutch Obligor whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Finance Party that Finance Party must repay an amount equal to that recovery to the Administrative Agent.

### 15.15 Acknowledgement Regarding Any Supported QFCs

To the extent that the Finance Documents provide support, through a guarantee or otherwise, for any Secured Risk Management Agreements or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**”, and each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Finance Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

- (a) In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Finance Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Finance Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.
- (b) As used in this Section 15.15, the following terms have the following meanings:

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

*[The remainder of this page is intentionally left blank.]*

**IN WITNESS WHEREOF** the parties hereto have executed and delivered this agreement on the date first written above.

Lundin Mining Corporation  
150 King Street West, Suite 2200  
Toronto, Ontario M5H 1J9

Attention: Chief Financial Officer  
Telefax: (416) 348.0303

**LUNDIN MINING CORPORATION**

By: (signed) *Authorized Signatory*  
Name: Authorized Signatory  
Title: Authorized Signatory

Lundin Mining AB  
c/o Lundin Mining Corporation  
150 King Street West, Suite 2200  
Toronto, Ontario M5H 1J9

Attention: Chief Financial Officer  
Telefax: (416) 348.0303

**LUNDIN MINING AB**

By: (signed) *Authorized Signatory*  
Name: Authorized Signatory  
Title: Authorized Signatory

The Bank of Nova Scotia  
Global Loan Syndications Canada  
40 King St. West – 62<sup>nd</sup> Floor  
Toronto, Ontario M5W 2X6

**THE BANK OF NOVA SCOTIA, as  
Administrative Agent**

Attention: Director, Head Agency Services By: (signed) *Authorized Signatory*  
Telefax: (416) 866-3329 Name: Authorized Signatory  
Title: Authorized Signatory

with a copy to:

Attention: Managing Director By: (signed) *Authorized Signatory*  
Telefax: (416) 866-3329 Name: Authorized Signatory  
Title: Authorized Signatory

The Bank of Nova Scotia  
Global Banking and Markets  
Scotia Plaza, 62<sup>nd</sup> Floor  
40 King Street West  
Toronto, Ontario M5W 2X6

Attention: Managing Director  
Telefax: (416) 866-2009

**THE BANK OF NOVA SCOTIA, as Lender**

By: (signed) *Authorized Signatory* \_\_\_\_\_

Name: Authorized Signatory

Title: Authorized Signatory

By: (signed) *Authorized Signatory* \_\_\_\_\_

Name: Authorized Signatory

Title: Authorized Signatory

Bank of Montreal  
100 King Street West  
4<sup>th</sup> Floor  
Toronto, Ontario M5X 1H3

Attention: Robert Wright  
Fax: 416.359.7796

**BANK OF MONTREAL**

By: (signed) *Authorized Signatory* \_\_\_\_\_  
Name: Authorized Signatory  
Title: Authorized Signatory

By: \_\_\_\_\_  
Name:  
Title:

ING Capital LLC  
1325 Avenue of the Americas  
New York, NY, 10019

Attention: Peter Van Bemmelen  
Fax: +1 646 424 7484

**ING CAPITAL LLC**

By: (signed) *Authorized Signatory*  
Name: Authorized Signatory  
Title: Authorized Signatory

By: (signed) *Authorized Signatory*  
Name: Authorized Signatory  
Title: Authorized Signatory

The Toronto-Dominion Bank  
66 Wellington Street W.  
TD Bank Tower 9th Floor  
Toronto Ontario M5K 1A2

Attention: Liza Straker  
Fax: 416-982-8619

**THE TORONTO-DOMINION BANK**

By: (signed) *Authorized Signatory*

Name: Authorized Signatory

Title: Authorized Signatory

By: (signed) *Authorized Signatory*

Name: Authorized Signatory

Title: Authorized Signatory

Bank of America, N.A., Canada Branch  
Bow Valley Square III, Suite 2620  
255 - 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 3G6

Attention: James Campbell, Director  
Fax: 403.237.7372

**BANK OF AMERICA, N.A., CANADA  
BRANCH**

By: (signed) *Authorized Signatory*  
Name: Authorized Signatory  
Title: Authorized Signatory

By: \_\_\_\_\_  
Name:  
Title:

Skandinaviska Enskilda Banken AB  
Kungsträdgårdsgatan  
Stockholm, Sweden 106 40

**SKANDINAVISKA ENSKILDA BANKEN  
AB (publ)**

Attention: Svein Erik Larsen, Client Executive

By: (signed) *Authorized Signatory*

Name: Authorized Signatory

Title: Authorized Signatory

By: (signed) *Authorized Signatory*

Name: Authorized Signatory

Title: Authorized Signatory

Royal Bank of Canada  
Royal Bank Plaza  
P.O. Box 50, 200 Bay Street  
5th Floor, South Tower  
Toronto, Ontario M5J 2W7

Attention: Managing Director  
Fax: (416) 842-5320

**ROYAL BANK OF CANADA**

By: (signed) *Authorized Signatory* \_\_\_\_\_

Name: Authorized Signatory

Title: Authorized Signatory

**SCHEDULE A  
LENDERS AND INDIVIDUAL COMMITMENTS**

<b>Lenders</b>		<b>Individual Commitment</b>
The Bank of Nova Scotia		[REDACTED]
ING Capital LLC		[REDACTED]
Bank of Montreal		[REDACTED]
The Toronto-Dominion Bank		[REDACTED]
Bank of America N.A., Canada Branch		[REDACTED]
Skandinaviska Enskilda Banken AB (publ)		[REDACTED]
Royal Bank of Canada		[REDACTED]

**SCHEDULE B  
COMPLIANCE CERTIFICATE**

**TO: THE BANK OF NOVA SCOTIA**

**The Bank of Nova Scotia**

**Global Loan Syndications Canada**

**40 King St. West – 62nd Floor**

**Toronto, Ontario M5W 2X6**

**Attention: Director, Head Agency Services**

I, \_\_\_\_\_, the [senior financial officer] of Lundin Mining AB, hereby certify that:

I am the duly appointed [<@>] of Lundin Mining Corporation, a Borrower named in the third amended and restated credit agreement made as of August 28, 2019 (as amended to the date hereof, the “**Credit Agreement**”) between, Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders and as such I am providing this Certificate for and on behalf of Lundin Mining AB pursuant to the Credit Agreement.

1. I am familiar with and have examined the provisions of the Credit Agreement including, without limitation, those of Article 10, Article 11 and Article 13 therein.
2. To the best of my knowledge, information and belief and after due inquiry, no Default has occurred and is continuing.
3. As at or for the relevant period ending \_\_\_\_\_, the amounts and financial ratios as contained in Sections 11.1(o), (q) and (r), of the Credit Agreement are as follows and detailed calculations thereof are attached hereto:

	<b>Actual Amount or Ratio</b>	<b>Required Amount or Ratio</b>
(a) Tangible Net Worth	_____	U.S. \$<@>
(b) Leverage Ratio		<3.0:1
(c) EBITDA/Interest Expenses Ratio	_____	>2.50:1

4. As at the last day of the Fiscal Quarter ending <@>, <@>, the Material Subsidiaries are as follows:

**Material Subsidiary**

<@>

<@>

<@>

<@>

5. Attached hereto is a revised updated Schedule G of the Credit Agreement.
6. Unless the context otherwise requires, capitalized terms in the Credit Agreement which appear herein without definitions shall have the meanings ascribed thereto in the Credit Agreement.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name - please print)

\_\_\_\_\_  
(Title of Senior Financial Officer)

## CALCULATION WORKSHEET

### Tangible Net Worth

*Actual:*

	Equity as of financial statements dated [ ]	U.S.\$
	Less:	
	Goodwill and other Intangible Assets	U.S.\$( )
	<sup>1</sup> Tangible Net Worth	U.S.\$ (A)

*Minimum Required:*

		U.S.\$2,062,200,000
	Plus:	
	(i) 50% of equity issued after June 30, 2013; and	U.S.\$<@>
	(ii) 50% of paid Net Income for each Fiscal Year from and including the Fiscal Year ended December 31, 2013	U.S.\$<@>
	Minimum Level	U.S.\$<@>

*Compliance [Yes]/[No]*

### Leverage Ratio

Total Debt		U.S.\$ _____ (B)
Mine Closure, Asset	U.S. \$ _____ (C)	
Retirement and Environmental Reclamation Obligations (to extent not fully defeased by cash collateral)	U.S. \$ _____ (D)	
Non-Recourse Indebtedness		
Total Debt (B + C) - D	U.S.\$ _____ (E)	
Cash held by Acceptable Financial Institutions in Permitted Jurisdictions	U.S.\$ _____ (F)	
Net Total Debt (E-F)	U.S. \$ _____ (G)	

<sup>1</sup> Without adjustment for any currency translation adjustments or any unrealized gains or losses in respect of Risk Management Agreements.

Rolling EBITDA U.S. \$ \_\_\_\_\_ (H)  
Leverage Ratio (Actual) \_\_\_\_\_ (G:H)

EBITDA/Interest Expenses Ratio:

Rolling EBITDA U.S. \$ \_\_\_\_\_ (I)  
Rolling Interest Expenses U.S. \$ \_\_\_\_\_ (J)  
EBITDA/Interest Expenses Ratio (Actual) U.S. \$ \_\_\_\_\_ (I:J)

**SCHEDULE C**  
**FORM OF ASSIGNMENT**

Dated \_\_\_\_\_, 20\_\_\_\_

Reference is made to the third amended and restated credit agreement made as of August 28, 2019 (as amended to the date hereof, the “**Credit Agreement**”), between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders (in that capacity, the “**Administrative Agent**”). Terms defined in the Credit Agreement are used herein as therein defined.

\_\_\_\_\_ (the “**Assignor**”) and \_\_\_\_\_ (the “**Assignee**”) agree as follows:

- (i) The Assignor hereby sells and assigns to the Assignee, and the Assignee hereby purchases and assumes from the Assignor, a \_\_\_\_\_% interest in and to all of the Assignor’s rights and obligations under the Credit Agreement as of the Effective Date (as defined below) (including, without limitation, such percentage interest in the Assignor’s Individual Commitment with respect the RT Facility as in effect on the Effective Date, the credit extended by the Assignor under the Credit Facility and outstanding on the Effective Date and the corresponding rights and obligations of the Assignor under all of the Credit Documents).
- (ii) The Assignor (i) represents and warrants that as of the date hereof its Individual Commitment with respect to the RT Facility is U.S. \$ \_\_\_\_\_ (without giving effect to assignments thereof which have not yet become effective, including, but not limited to, the assignment contemplated hereby), and the aggregate outstanding amount of credit extended by it under such Facility is U.S. \$ \_\_\_\_\_ (without giving effect to assignments thereof which have not yet become effective, including, but not limited to, the assignment contemplated hereby); (ii) represents and warrants that it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; (iii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any other instrument or document furnished pursuant thereto; (iv) makes no representation or warranty and assumes no responsibility with respect to the financial condition of any of the Subject Entities or the performance or observance by the Obligors of any of their obligations under the Credit Documents or any other instrument or document furnished pursuant thereto; and (v) gives notice to the Administrative Agent, the Issuing Lender and the Borrowers of the assignment to the Assignee hereunder.

- (iii) The effective date of this Assignment (the “**Effective Date**”) shall be the later of \_\_\_\_\_ and the date on which a copy of a fully executed copy of this Assignment has been delivered to the Borrowers, the Administrative Agent and the Issuing Lender in accordance with Section 15.5(d) of the Credit Agreement.
- (iv) The Assignee hereby agrees to the specific Individual Commitment of U.S. \$ \_\_\_\_\_ with respect to the RT Facility and to the address and telefacsimile number set out after its name on the signature page hereof for the purpose of notices as provided in Section 15.1 of the Credit Agreement.
- (v) As of the Effective Date (i) the Assignee shall, in addition to any rights and obligations under the Credit Documents held by it immediately prior to the Effective Date, have the rights and obligations under the Credit Documents that have been assigned to it pursuant to this Assignment and (ii) the Assignor shall, to the extent provided in this Assignment, relinquish its rights and be released from its obligations under the Credit Documents.
- (vi) The Assignor and Assignee shall make all appropriate adjustments in payments under the Credit Documents for periods prior to the Effective Date directly between themselves.

This Assignment shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

**[ASSIGNOR]**

By: \_\_\_\_\_  
 Title: \_\_\_\_\_

**[ASSIGNEE]**

By: \_\_\_\_\_  
 Title: \_\_\_\_\_

Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Attention: \_\_\_\_\_

Telefax: \_\_\_\_\_

Acknowledged and agreed to as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**THE BANK OF NOVA SCOTIA, as  
Administrative Agent**

By: \_\_\_\_\_

Name:

Title:

Acknowledged and agreed to as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**THE BANK OF NOVA SCOTIA, as  
Issuing Lender**

By: \_\_\_\_\_

Name:

Title:

**SKANDINAVISKA ENSKILDA  
BANKEN AB (publ), as Issuing  
Lender**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE D  
FORM OF DRAWDOWN NOTICE**

**TO:** The Bank of Nova Scotia, as Agent  
  
Global Wholesale Services Loan Operations and Agency Services  
  
2<sup>nd</sup> Floor, 720 King Street  
Toronto, Ontario M5V 2T3  
Att: Director  
Facsimile: (416) 866-5991

**RE:** Third amended and restated credit agreement made as of August 28, 2019 as amended, modified, supplemented or replaced from time to time (the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders

Pursuant to the terms of the Credit Agreement, the undersigned hereby irrevocably notifies you that it wishes to draw down under the RT Facility on **[date of drawdown]** as follows:

Availment Option: \_\_\_\_\_

Amount: \_\_\_\_\_

If LIBOR Loan, Interest Period: \_\_\_\_\_

If Bankers’ Acceptance, term: \_\_\_\_\_

If Letter, (a copy being attached hereto):

Type of Letter: \_\_\_\_\_

If issued on behalf of a Subsidiary as well as on behalf of the undersigned, the name of such Subsidiary: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Named Beneficiary: \_\_\_\_\_

Maturity Date: \_\_\_\_\_

Amount: \_\_\_\_\_

Other Terms: \_\_\_\_\_

[You are hereby irrevocably authorized and directed to pay the proceeds of the drawdown to \_\_\_\_\_ and this shall be your good and sufficient authority for so doing.]

All capitalized terms defined in the Credit Agreement and used herein shall have the meanings ascribed thereto in the Credit Agreement.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[LUNDIN MINING CORPORATION/  
LUNDIN MINING AB]**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE E  
FORM OF ROLLOVER NOTICE**

**TO:** The Bank of Nova Scotia, as Agent

Global Wholesale Services Loan Operations and Agency Services  
2nd Floor, 720 King Street  
Toronto, Ontario M5V 2T3  
Att: Director  
Facsimile: (416) 866-5991

**RE:** Third amended and restated credit agreement made as of August 28, 2019 as amended, modified, supplemented or replaced from time to time (the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders

Pursuant to the terms of the Credit Agreement, the undersigned hereby irrevocably requests a rollover of outstanding credit under the RT Facility on **[date of rollover]** as follows:

**Bankers’ Acceptances**

Maturity Date of Maturing Bankers’ Acceptances	_____
Aggregate Face Amount of Maturing Bankers’ Acceptances	\$ _____
Portion Thereof to be Replaced	\$ _____
Term of New Bankers’ Acceptances	_____

**LIBOR Loans**

Type of Maturing LIBOR Loan	_____
Maturity Date of Maturing LIBOR Loan	_____
Principal Amount of Maturing LIBOR Loan	_____
Portion Thereof to be Replaced	_____
Interest Period of New LIBOR Loan	_____ months

All capitalized terms defined in the Credit Agreement and used herein shall have the meaning ascribed thereto in the Credit Agreement.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[LUNDIN MINING CORPORATION/LUNDIN  
MINING AB]**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE F  
FORM OF CONVERSION NOTICE**

**TO:** The Bank of Nova Scotia, as Agent

Global Wholesale Services Loan Operations and Agency Services  
2nd Floor, 720 King Street  
Toronto, Ontario M5V 2T3  
Att: Director  
Facsimile: (416) 866-5991

**RE:** Third amended and restated credit agreement made as of August 28, 2019 as amended, modified, supplemented or replaced from time to time (the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders

Pursuant to the terms of the Credit Agreement, the undersigned hereby irrevocably requests a conversion of outstanding credit under the RT Facility on **[date of conversion]** as follows:

**[Choose as appropriate]**

**Converting From  
Bankers’ Acceptances**

Maturity of Bankers’ Acceptances  
to be converted \_\_\_\_\_  
Aggregate  
Face Amount \$ \_\_\_\_\_  
of said Bankers’  
Acceptances  
Portion Thereof \$ \_\_\_\_\_  
to be converted

**Prime Rate Loans**

Principal Amount \$ \_\_\_\_\_  
of Prime Rate Loan  
to be converted  
  
Portion Thereof \$ \_\_\_\_\_  
to be converted

**Converting Into  
Bankers’ Acceptance**

Aggregate Face Amount \$ \_\_\_\_\_  
of New Bankers’ Acceptances  
Term of New \_\_\_\_\_ days  
Bankers’ Acceptances

**Prime Rate Loans**

Principal \$ \_\_\_\_\_  
Amount of  
New Prime Rate  
Loan

**Converting From**

**Converting Into**

**LIBOR Loans**

Type of New LIBOR Loan \_\_\_\_\_  
Principal \_\_\_\_\_  
Amount of  
New LIBOR Loan  
Interest \_\_\_\_\_ months  
Period of  
New LIBOR Loan

**LIBOR Loans**

Type of Maturing LIBOR Loan \_\_\_\_\_  
Maturity Date of \_\_\_\_\_  
Maturing LIBOR Loan  
Principal Amount of \_\_\_\_\_  
Maturing LIBOR Loan  
Portion Thereof to \_\_\_\_\_  
be converted

**Base Rate Canada Loan**

**Base Rate Canada Loans**

Principal Amount U.S.\$ \_\_\_\_\_  
of Base Rate  
Canada Loan  
to be converted  
Portion Thereof U.S.\$ \_\_\_\_\_  
to be converted

Principal U.S.\$ \_\_\_\_\_  
Amount of  
New Base Rate  
Canada Loan

All capitalized terms defined in the Credit Agreement and used herein shall have the meaning ascribed thereto in the Credit Agreement.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[LUNDIN MINING CORPORATION/LUNDIN  
MINING AB]**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE G  
CORPORATE CHART**

**See attached.**

**[REDACTED]**

**SCHEDULE H  
REIMBURSEMENT INSTRUMENT**

**TO:** The Bank of Nova Scotia (the “**Issuing Lender**”)

**RE:** Third amended and restated credit agreement made as of August 28, 2019 as amended, modified, supplemented or replaced from time to time (the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as administrative agent of the Lenders

For good and valuable consideration, the undersigned hereby agrees to immediately reimburse the Issuing Lender the amount of each and any demand or other request for payment presented to and paid by the Issuing Lender in accordance with each Letter (as defined in the Credit Agreement) issued by the Issuing Lender on behalf of the undersigned (even if, under laws applicable to the rights of the beneficiary of such Letter, a demand or other request for payment is validly presented after expiry of such Letter).

DATED as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**[NAME OF SUBSIDIARY]**

By: \_\_\_\_\_

By: \_\_\_\_\_

**SCHEDULE I  
APPLICABLE RATES**

<b>Level</b>	<b>Leverage Ratio</b>	<b>Prime Rate Loan and Base Rate Canada Loan Interest Rate Margin per annum</b>	<b>Acceptance Fee Rate, LIBOR Loan Rate and Financial Letter Issuance Fee per annum</b>	<b>Non-Financial Letter Issuance Fee per annum</b>	<b>Standby Fee per annum</b>
I	< 1.0:1	0.75%	1.75%	1.1550%	0.3938%
II	≥ 1.0:1 and <2.0:1	1.00%	2.00%	1.320%	0.4500%
III	≥ 2.0:1 and <3.0:1	1.25%	2.25%	1.485%	0.5063%
IV	≥ 3.0:1	1.75%	2.75%	1.815%	0.6188%

**SCHEDULE J  
CAPITAL OF PLEDGED SUBSIDIARIES**

<b><u>Pledged Subsidiary</u></b>	<b><u>Authorized Capital</u></b>	<b><u>Issued Capital</u></b>	<b><u>Owner of Record</u></b>
Lundin AB	[REDACTED]	[REDACTED]	Parent
Zinkgruvan	[REDACTED]	[REDACTED]	Lundin AB
Barinas	[REDACTED]	[REDACTED]	Lundin Mining Holding
Lundin Mining Delaware	[REDACTED]	[REDACTED]	Lundin Mining US
Humboldt	[REDACTED]	[REDACTED]	Eagle Mine
Eagle Mine	[REDACTED]	[REDACTED]	Lundin Mining Delaware
LMC Brazil	[REDACTED]	[REDACTED]	LMC Netherlands
Chapada	[REDACTED]	[REDACTED]	LMC Brazil

## **SCHEDULE K SECURITY DOCUMENTS**

### **Guarantors**

1. Guarantee governed by the laws of the Province of Ontario dated May 28, 2007 entered into by the Parent in favour of the Administrative Agent.
2. Guarantee governed by the laws of Cyprus dated May 28, 2007 entered into by Barinas in favour of the Administrative Agent.
3. Guarantee governed by the laws of Sweden dated May 28, 2007 entered into by Zinkgruvan in favour of the Administrative Agent.
4. Guarantee governed by the laws of Sweden dated June 1, 2007 entered into by Lundin Mining Holding in favour of the Administrative Agent.
5. US Subsidiary Guaranty governed by the laws of the State of Michigan dated October 7, 2013 entered into by Lundin Delaware, Eagle Mine and Humboldt in favour of the Administrative Agent.
6. US Limited Recourse Guaranty governed by the laws of the State of Michigan dated October 7, 2013 entered into by Lundin Mining US in favour of the Administrative Agent.
7. Guarantee governed by the laws of Chile dated August 28, 2019 entered into by Lundin Mining South America SpA in favour of the Administrative Agent.
8. Guarantee governed by the laws of Chile dated August 28, 2019 entered into by LMC Chile SpA in favour of the Administrative Agent.
9. Guarantee governed by the laws of Chile dated August 28, 2019 entered into by LMC Candaleria in favour of the Administrative Agent.
10. Guarantee governed by the laws of Chile dated August 28, 2019 entered into by LMC Ojos in favour of the Administrative Agent.
11. Letter of Full Recourse Guaranty governed by the laws of Brazil dated August 28, 2019 entered into by Chapada in favour of the Administrative Agent.
12. Limited Recourse Guaranty governed by the laws of the Netherlands dated August 28, 2019 entered into by LMC Netherlands in favour of the Administrative Agent.
13. Full Recourse Guaranty governed by the laws of the Netherlands dated August 28, 2019 entered into by LMC Brazil in favour of the Administrative Agent.

## Security Documents

1. Pledge Agreement governed by the laws of Sweden dated as of May 28, 2007 entered into by the Parent and the Administrative Agent (re: Shares of Lundin AB).
2. Pledge Agreement governed by the laws of Sweden dated as of May 28, 2007 entered into by the Lundin AB and the Administrative Agent (re: Shares of Zinkgruvan).
3. General Security Agreement governed by the laws of the Province of Ontario dated as of March 6, 2009 entered into by the Parent and the Administrative Agent;
4. Security Agreement governed by the laws of the State of Michigan dated October 7, 2013 entered into by Lundin Delaware, Eagle Mine and Humboldt in favour of the Administrative Agent.
5. Pledge Agreement governed by the laws of the State of Michigan dated October 7, 2013 entered into by Lundin Mining US, Lundin Delaware and Eagle Mine in favour of the Administrative Agent.
6. Mortgage, Assignment of Production, Security Agreement, Financing Statement and Fixture Filing (the “**US Mortgage Agreement**”) governed by the laws of the State of Michigan dated October 7, 2013 entered into by Eagle Mine and Humboldt in favour of the Administrative Agent.
7. Amendment to the US Mortgage Agreement governed by the laws of the State of Michigan dated August 28, 2019 entered into by Eagle Mine and Humboldt in favour of the Administrative Agent.
9. Deed of Pledge governed by the laws of Cyprus dated as of August 28, 2019 entered into by Lundin Mining Holding and the Administrative Agent (re: Shares of Barinas).
10. Share Pledge Agreement governed by the laws of Brazil dated August 28, 2019 entered into by LMC Brazil in favour of the Administrative Agent and acknowledged by Chapada.
11. Deed of Pledge of Registered Shares governed by the laws of the Netherlands dated August 28, 2019 entered into by LMC Netherlands in favour of the Administrative Agent (re: Shares of LMC Brazil).

**SCHEDULE L**  
**[INTENTIONALLY DELETED]**

## SCHEDULE M REPLACEMENT LENDER AGREEMENT

Reference is made to the third amended and restated credit agreement dated as of August 28, 2019 (as such agreement may be amended, supplemented, amended and restated, novated or otherwise modified and in effect from time to time, the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the respective meanings assigned in the Credit Agreement.

### RECITALS:

Pursuant to Section 8.3(d) of the Credit Agreement, the Borrowers wish to designate the Replacement Lender defined below as a Lender under the Credit Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Borrowers, the Lenders, the Administrative Agent, the Issuing Lenders and  (the “**Replacement Lender**”), hereby agree as follows:

1. The Credit Agreement shall, henceforth from the date of the execution and delivery of this Replacement Lender Agreement but subject always to Section 8.3(f) of the Credit Agreement, be read and construed as if the Replacement Lender were party to the Credit Agreement having all the rights and obligations of a Lender under the Credit Agreement having the Individual Commitment set out in paragraph 2 below. Accordingly all references in any Credit Documents to (a) any “Lender” shall be treated as including a reference to the Replacement Lender and (b) the Credit Agreement shall be treated as a reference to the Credit Agreement as supplemented by this Replacement Lender Agreement to the intent that this Replacement Lender Agreement and the Credit Agreement shall be read and construed together as one single agreement.
2. The Individual Commitment under the Credit Facility, as applicable, of the Replacement Lender, and the address and the telefacsimile number for the purposes of notices as provided in Section 15.1 of the Credit Agreement, are set out in the attached revised Schedule A.
3. The Replacement Lender represents and warrants to each of the other parties to the Credit Agreement that it has been provided with a copy of the Credit Agreement.
4. The Replacement Lender irrevocably authorizes and directs the Administrative Agent, as its attorney and agent, with full power of substitution and delegation, to complete, execute and deliver on behalf of the Replacement Lender each Credit Document to be executed by it or on its behalf and each agreement, document and instrument to be executed by it or on its behalf pursuant to each Credit Document, and to take such action on its behalf as may be authorized or directed pursuant to any such Credit Document.
5. This Replacement Lender Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and

delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Transmission of an executed signature page of this Replacement Lender Agreement by facsimile transmission or by e-mail in pdf format shall be effected as delivery if a manually executed counterpart hereof.

- 6. This Replacement Lender Agreement shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF, the parties hereto have caused this Replacement Lender Agreement to be executed and delivered by their respective officers thereunto duly authorized as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**LUNDIN MINING CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_ as Replacement Lender  
Title: \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_

**LUNDIN MINING AB**

By: \_\_\_\_\_  
Name: \_\_\_\_\_ as Replacement Lender  
Title: \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_

<sup>2</sup>**THE BANK OF NOVA SCOTIA**  
as Administrative Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_

**THE BANK OF NOVA SCOTIA**  
as Issuing Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

**SKANDINAVISKA ENSKILDA  
BANKEN AB (publ)**  
as Issuing Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

---

<sup>2</sup> Applicable if related to new Lender.

**SCHEDULE N**  
**[INTENTIONALLY DELETED]**

**SCHEDULE O**  
**[INTENTIONALLY DELETED]**

**SCHEDULE 10.1(e)  
LITIGATION DISCLOSURE**

Nil.

**SCHEDULE 10.1(f)**  
**[REDACTED]**

**SCHEDULE 10.1(g)**  
**[REDACTED]**

**SCHEDULE 10.1(i)**  
**[REDACTED]**

**SCHEDULE P**  
**QUALIFIED RISK MANAGEMENT AFFILIATE INSTRUMENT OF ADHESION**

**TO:           The Bank of Nova Scotia, as Administrative Agent**

**AND TO:    THE OTHER PARTIES TO THE CREDIT AGREEMENT REFERRED TO BELOW**

Reference is made to the third amended and restated credit agreement dated as of August 28, 2019 (as amended to the date hereof, the “**Credit Agreement**”) between, *inter alia*, Lundin Mining Corporation and Lundin Mining AB, as borrowers, the Lenders named therein and The Bank of Nova Scotia, as Administrative Agent of the Finance Parties (in that capacity, the “**Administrative Agent**”). Terms defined in the Credit Agreement are used herein as therein defined.

WHEREAS the Credit Agreement provides that an Affiliate of a Lender may become a Qualified Risk Management Affiliate under the Credit Agreement if it executes this instrument and delivers it to the Administrative Agent;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the undersigned, the undersigned hereby represents, warrants and covenants as follows:

1. By executing this instrument, the undersigned hereby covenants and agrees to be bound by the terms and conditions of the Credit Agreement as a Qualified Risk Management Affiliate, including all amendments, supplements and additions thereto, deletions therefrom and restatements thereof, solely as relates to the terms and conditions set forth in Article 14 of the Credit Agreement.
2. The undersigned hereby acknowledges that it has been provided with a copy of the Credit Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**[INSERT NAME OF QUALIFIED  
AFFILIATE]**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE Q**  
**FORM OF ACCORDION AGREEMENT**

Reference is made to the third amended and restated credit agreement dated as of August 28, 2019 (as such agreement may be amended, supplemented, amended and restated, novated or otherwise modified and in effect from time to time, the “**Credit Agreement**”) between Lundin Mining Corporation and Lundin Mining AB, as Borrowers, the Lenders named therein and The Bank of Nova Scotia, as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the respective meanings assigned in the Credit Agreement.

**RECITALS:**

Pursuant to Section 2.5(d) of the Credit Agreement, the Borrowers wish to designate the Accordion Lender defined below as a Lender under the Credit Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Borrowers, the Lenders, the Administrative Agent, the Issuing Lenders and <@> (the “**Accordion Lender**”), hereby agree as follows:

1. The Credit Agreement shall, henceforth from the date of the execution and delivery of this Accordion Agreement but subject always to Section 2.5(f) of the Credit Agreement, be read and construed as if the Accordion Lender were party to the Credit Agreement having all the rights and obligations of a Lender under the Credit Agreement having the Individual Commitment with respect to the RT Facility set out in paragraph 2 below. Accordingly all references in any Credit Documents to (a) any “Lender” shall be treated as including a reference to the Accordion Lender and (b) the Credit Agreement shall be treated as a reference to the Credit Agreement as supplemented by this Accordion Agreement to the intent that this Accordion Agreement and the Credit Agreement shall be read and construed together as one single agreement.
2. The Individual Commitment of the Accordion Lender with respect to the RT Facility, and the address and the telefacsimile number for the purposes of notices as provided in Section 15.1 of the Credit Agreement, are set out in the attached Schedule A.
3. The Accordion Lender represents and warrants to each of the other parties to the Credit Agreement that it has been provided with a copy of the Credit Agreement.
4. The Accordion Lender irrevocably authorizes and directs the Administrative Agent, as its attorney and agent, with full power of substitution and delegation, to complete, execute and deliver on behalf of the Accordion Lender each Credit Document to be executed by it or on its behalf and each agreement, document and instrument to be executed by it or on its behalf pursuant to each Credit Document, and to take such action on its behalf as may be authorized or directed pursuant to any such Credit Document.
5. This Accordion Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and

delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Transmission of an executed signature page of this Accordion Agreement by facsimile transmission or by e-mail in pdf format shall be effected as delivery if a manually executed counterpart hereof.

- 6. This Accordion Agreement shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**IN WITNESS WHEREOF**, the parties hereto have caused this Accordion Agreement to be executed and delivered by their respective officers thereunto duly authorized as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**LUNDIN MINING CORPORATION**

as Borrower

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_ as Accordion Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

**LUNDIN MINING AB**

as Borrower

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**THE BANK OF NOVA SCOTIA**  
as Administrative Agent and Issuing Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

**SKADINAVISKA ENSKILDA BANKEN  
AB**  
as Issuing Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ING CAPITAL LLC**  
as Issuing Lender

By: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE A  
INDIVIDUAL COMMITMENTS**

**Name and Address of Lender**

**Individual Commitment  
RT Facility \$<@>**

<@>  
<@>  
<@>

Attention: <@>  
Telefax: <@>