

COMMON TERMS AGREEMENT

July 6, 2018

between

AURELIAN ECUADOR S.A.
as Borrower

Arranged by

**THE BANK OF NOVA SCOTIA,
CATERPILLAR FINANCIAL SERVICES LIMITED,
ING CAPITAL LLC,
KFW IPEX-BANK GMBH,
NATIXIS, NEW YORK BRANCH, and
SG AMERICAS SECURITIES, LLC**
as Mandated Lead Arrangers

**ING CAPITAL LLC,
SG AMERICAS SECURITIES, LLC,
THE BANK OF NOVA SCOTIA,
KFW IPEX-BANK GMBH**
as Bookrunners

THE BANK OF NOVA SCOTIA
as Administrative Agent and Intercreditor Agent

– and –

Lenders and other parties party hereto from time to time

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COMMON TERMS AGREEMENT, dated as of July 6, 2018 (this “**Agreement**”), among **AURELIAN ECUADOR S.A.**, a *sociedad anónima*, duly incorporated and validly existing under the laws of Ecuador (the “**Borrower**”); **CATERPILLAR FINANCIAL SERVICES LIMITED** (“**Caterpillar Financial**”), **KfW IPEX-BANK GMBH** (“**KfW IPEX-Bank**”), **ING CAPITAL LLC** (“**ING**”), **THE BANK OF NOVA SCOTIA, NATIXIS, NEW YORK BRANCH** and **SG AMERICAS SECURITIES, LLC**, whether acting individually or together as Mandated Lead Arrangers and each as defined below; **ING, SG AMERICAS SECURITIES, LLC, THE BANK OF NOVA SCOTIA** and **KfW IPEX-Bank**, whether acting individually or together as Bookrunners; **THE BANK OF NOVA SCOTIA**, as Administrative Agent (in such capacity together with its successors and permitted assigns, the “**Administrative Agent**”) and Intercreditor Agent (in such capacity together with its successors and permitted assigns, the “**Intercreditor Agent**”) for and on behalf of the Finance Parties; **THE FINANCIAL INSTITUTIONS listed in Part 1 (Initial Lenders) of Schedule A (Initial Parties) as initial lenders** (each an “**Initial Lender**”) and together the “**Initial Lenders**”); and other parties party hereto from time to time.

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

Article 1 INTERPRETATION

1.1 Definitions.

For the purposes of this Agreement:

“**Abandonment Property**” means any Project Real Property that the Borrower intends to abandon, surrender, relinquish or let lapse, including by way of ceasing to maintain Project Authorizations or the validity of mineral claims, leases or exploration licenses.

“**Acceptable Bank**” means:

- (a) a Senior Lender;
- (b) the Account Bank;
- (c) the Onshore Account Bank;
- (d) any other bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of “A-” or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or “A3” or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognized credit rating agency; or
- (e) any other bank or financial institution approved by the Administrative Agent.

“**Acceptable Letter of Credit**” means a standby letter of credit providing for presentation for payment in New York, New York, United States, and providing for payments in Dollars, and otherwise in form and substance reasonably acceptable to the Administrative Agent, meeting the following requirements:

- (a) amounts available under such letter of credit may be drawn on demand, without presentation of any document other than a drawing certificate, at any time from time to time, in whole or in part, from the issue date thereof until the expiration thereof;
- (b) such letter of credit shall expire not earlier than the first anniversary from the date of its issuance and, if such letter of credit will not be renewed prior to its expiration date, such letter of credit shall provide that the issuer thereof shall notify the beneficiary thereof of such non-renewal at least thirty (30) days prior to the expiration date thereof;

- (c) the Offshore Collateral Agent shall be the sole beneficiary under any such letter of credit;
- (d) such letter of credit shall be issued or confirmed in New York, New York, United States and if not issued or confirmed in New York New York, permitting for electronic drawing by an Acceptable Bank; provided, that such letter of credit shall provide that if the issuer and confirming bank ceases to be an Acceptable Bank and such letter of credit is not replaced with cash or a replacement letter of credit in form and substance satisfactory to the Administrative Agent within fifteen (15) Business Days), such letter of credit shall be drawable in full;
- (e) such letter of credit shall be subject to International Standby Practices 1998 (ISP 98), International Chamber of Commerce Publication No. 590, as amended, modified, or supplemented and in effect from time to time and, to the extent not inconsistent therewith, governed by and construed in accordance with the laws of the State of New York, United States;
- (f) such letter of credit shall be irrevocable and unconditional on the part of the financial institution that issued such letter of credit; and
- (g) such letter of credit shall provide that at any time following delivery of a notice of non-renewal as described in paragraph (b) above, the beneficiary thereof shall be entitled to draw all amounts then available under such letter of credit.

“**Accession Agreement**” has the meaning given to it in the Intercreditor Agreement.

“**Account Bank**” has the meaning given to in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“**Accounts Trust Agreement**” means the *Fideicomiso Mercantil de Flujos FDN*, dated on May 30, 2017, among the Borrower, the Ecuadorian Trustee and the Onshore Collateral Agent.

“**Accretive Investment**” means an Investment or Acquisition.

“**Acquisition**” means, with respect to any Person, any purchase or other acquisition by such Person, regardless of how accomplished or effected (including any such purchase or other acquisition effected by way of amalgamation, merger, arrangement, business combination or other form of corporate reorganization or by way of purchase, lease or other acquisition arrangements), of (a) any other Person (including any purchase or acquisition of such number of the issued and outstanding securities of, or such portion of an equity interest in, such other Person so that such other Person becomes a Subsidiary of the purchaser or of any of its Affiliates) or of all or substantially all of the property of any other Person, or (b) any division, business, project, operation or undertaking of any other Person or of all or substantially all of the property of any division, business, project, operation or undertaking of any other Person.

“**Additional Material Project Documents**” means (a) from and after the date on which such agreements enter into full force and effect, the Power Supply Agreements and any additional exploitation agreement to be entered into in relation to the Colibri 5 concession, and (b) each Contract: (i) involving the potential expenditure by or revenue to any Obligor of more than \$10,000,000 individually, the breach, loss or termination of which would or could reasonably be expected to be material to the development, construction, procurement, engineering or operation of commercial production (including commercial production transactions) of the Project or otherwise result in a Material Adverse Effect relating to the Project; or (ii) involving the potential expenditure by or revenue to any Obligor of more than \$50,000,000 individually.

“**Administrative Agent**” means The Bank of Nova Scotia or such replacement Administrative Agent as may be appointed pursuant to the terms hereof from time to time.

“**Administrative Party**” means any of the Mandated Lead Arranger or an Agent.

“Affiliate” means, with respect to any Person, any other Person which directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person; provided that when used with respect to the Borrower or any other Obligor, no Prepay/Stream Lender or Senior Lender nor any fund managed by any such Prepay/Stream Lender or Senior Lender or their respective Affiliates shall be deemed an Affiliate of the Borrower or any other Obligor.

“Agency Fee Letters” means (a) the Documentation Agency Fee Letter, (b) the Offshore Collateral Agency Fee Letter, (c) the Intercreditor and Administrative Agency Fee Letter, (d) the ECA Agency Fee Letter, (e) the Technical Agency Fee Letter, (f) the Onshore Collateral Agency Fee Letter, (g) the Insurance and Equipment Agency Fee Letter and (h) the Environmental and Social Agency Fee Letter.

“Agent” means any of the Collateral Agents, the Intercreditor Agent, the Facility Agents, the Risk Mitigation Agent, the Environmental and Social Agent, the Documentation Agents, the Technical Agent, the ECA Facility Agent, the Commercial Facility Agent, the ECA Agent and/or the Administrative Agent.

“Amended and Restated Collateral, Agency, Accounts and Security Agreement” means the Collateral, Agency, Accounts and Security Agreement, dated as of May 30, 2017 as amended on or about the date of this Agreement, by and among the Borrower, the Administrative Agent, Prepay/Stream Agents, the Intercreditor Agent, the Offshore Collateral Agent and, after its accession thereto, the Onshore Collateral Agent.

“AML Legislation” means any federal, state, international, foreign or other laws, regulations or government guidance regarding money laundering or terrorist financing, including, without limitation, the USA Patriot Act, the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956 et seq.), the Currency and Foreign Transactions Reporting Act of 1970, the 3rd EU Money Laundering Directive, *Ley de Orgánica de Prevención, Detección y Erradicación del Delito de Lavado de Activos y del Financiamiento de Delitos*, Part II.1 of the Criminal Code, R.S.C. 1985, c.C-46, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, S.C. 2000, c.17 and regulations promulgated pursuant to the Special Measures Act, S.C. 1992, c.17 and the United Nations Act, R.S.C. 1985, c. U-2, and international anti-money laundering principals or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur, all as amended, and any executive order, directive, or regulation pursuant to the authority of any of the foregoing, or any orders or licenses issued thereunder.

“Annual Budget and Forecast Report” means a written report in relation to a calendar year with respect to the Project, to be prepared by or on behalf of the Borrower, including with reasonable detail:

- (a) the amount and a description of planned Operating Costs and Capital Expenditures, including:
 - (i) the amount and a description of planned exploration expenditures, including a breakdown by exploration target;
 - (ii) the amount and a description of planned development and other Capital Expenditures, including a breakdown of the major components thereof; and
 - (iii) a breakdown by sustaining and non-sustaining costs; and
- (b) a forecast, based on the then-current Mine Plan, for such calendar year on a month-by-month basis and over the remaining life of the mine on a year-by-year basis of:
 - (i) the estimated tonnes and grade of Minerals to be mined;
 - (ii) the estimated tonnes and grade of Minerals to be stockpiled; and
 - (iii) the estimated tonnes and grade of Minerals to be processed, and expected recoveries for gold, silver and other types of marketable Minerals.

“Annual Operations Report” means a written report prepared by or on behalf of the Borrower in relation to a calendar year after the Commercial Production Date, which report shall include all material information pertaining to the development and operations of the Project, including the following information for such calendar year:

- (a) the information required to be included in Quarterly Operations Report hereunder, except on an annualized basis for such year or as at the end of such year, as applicable;
- (b) a statement setting out the mineral reserves and mineral resources (by category) prepared in accordance with National Instrument 43-101 (with the assumptions used, including cut-off grade, metal prices and metal recoveries) as of the end of such calendar year;
- (c) a review of the exploration, development and operating activities for such calendar year, including:
 - (i) metallurgical and other similar information, including maps, charts and surveys;
 - (ii) the amount and a description of Operating Costs and Capital Expenditures (excluding exploration expenditures), including a breakdown of the major components thereof, and variances from projected Operating Costs and Capital Expenditures;
 - (iii) a report on any material issues or departures from that contemplated by the Mine Plan, as per the Mine Plan in effect as of the first day of such calendar year; and
 - (iv) any actual or expected materially adverse impact on development or production or recovery of gold, silver or other Minerals whether as to quantity or timing, together with the details of the plans to resolve or mitigate such matters; and
- (d) details of any material health or safety violations and/or material violations of any Applicable Laws, or any material non-compliance with the Environmental and Social Requirements or the Compliance Programs.

The Annual Operations Report shall also contain a report on any Encumbrances placed on the Collateral securing amounts greater than \$5,000,000 in the aggregate, other than the Security.

“Anti-Corruption Laws” means any laws, rules or regulations relating to corruption or bribery, including, the implementing legislation for the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997, the Inter-American Convention Against Corruption of the OAS adopted on March 29, 1996, and including, but not limited to, the U.S. Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1 et seq.), the Corruption of Foreign Public Officials Act (Canada), the United Kingdom Bribery Act 2010, the Ecuadorian Criminal Code (*Código Orgánico Integral Penal*).

“Applicable Law” means any law (including common law and equity), any international or other treaty, any domestic or foreign constitution or any multinational, federal, provincial, territorial, state, municipal, county or local statute, law, ordinance, code, rule, regulation, Order (including any securities laws or requirements of stock exchanges and any consent, decree or administrative Order), or Authorization of a Governmental Body in any case applicable to any specified Person, property, transaction or event, or any such Person’s property or assets (and, in the case of Section 6.3 (*Change in Circumstances*), whether or not having the force of law).

“Applicable Margin” has the meaning given to it in the relevant Facility Agreement.

“Applicable Percentage” means, with respect to any Senior Lender, the percentage of the total principal amount of the Loans advanced by such Senior Lender.

“Applicable Sponsor” means (a) prior to a Permitted Lundin Change of Control, Lundin and (b) from (and including) the date on which a Permitted Lundin Change of Control has occurred in which Lundin is not the surviving entity, the surviving entity.

“Artisanal Miner” means *Minero Artesanal*, being an individual Person, family or a legal entity or association (as defined under Article 2.9 of the *Mining Law*) engaged in exploring for and/or extracting valuable minerals from land with the Authorization to do so under Applicable Law.

“Artisanal Miner Claims” means any claims, assertions or demands, written or oral, whether proven or unproven, made by any Artisanal Miner, or any representatives thereof, in respect of asserted or proven mining rights or interest in, or affecting all or any portion of the Project or the Project Real Property.

“Artisanal Mining Agreements” means any agreements executed with Artisanal Miners for artisanal mining activities on the Project site.

“Associate” has the meaning ascribed to such term in the *Securities Act* (Ontario), as in effect on the date of this Agreement.

“Authorization” means any authorization, approval, consent, concession, exemption, license (including each Environmental License), lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Body having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs (including any zoning approval, mining permit, development permit or building permit) or from any Person in connection with any easements, contractual rights or other matters.

“Availability Period” has the meaning given to it in each Facility Agreement.

“Available Cash Flow” means, without duplication, for any period:

- (a) Revenues (received by the Borrower during such period) other than Revenues constituting:
 - (i) Net Insurance Proceeds; and
 - (ii) any other extraordinary or non-recurring revenues or receipts (which, for the avoidance of doubt, do not include the proceeds of business interruption insurance),
 received or due to be received during such period plus
- (b) any amounts made available under the Finance Documents used to fund Project Costs prior to the Project Completion Date, plus
- (c) any equity contributions used to fund Project Costs prior to the Project Completion Date, plus
- (d) any amounts made available under the Cost Overrun Facility used to fund Project Costs prior to the Project Completion Date, plus
- (e) except in the case of the calculation of the Loan Life Cover Ratio or the Project Life Cover Ratio, to the extent that the Offshore USD Proceeds Account has a balance less than the Senior DSR Required Balance and such shortfall was due to the repayment of Senior Loans in such period, an amount equal to the shortfall due to such repayment of Senior Loans in such period, less
- (f) Project Costs, less
- (g) any principal, interest or financing charge payable in connection with the Prepay/Stream Credit Documents,

in each case on a “cash” rather than an “accruals” basis.

“Available Facilities” means the aggregate at any time of each Senior Lender’s available Commitment in respect of its Facility.

“Available Resources” means, on any date before Project Completion, the aggregate of:

- (a) the Available Facilities;
- (b) the aggregate at any time of the available commitment in respect of the Cost Overrun Facility;
- (c) the amounts standing to the credit of the Project Accounts; and
- (d) any Revenue forecast to be received prior to Project Completion in accordance with the Base Case Financial Model.

“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.

“Base Case Financial Model” means the base case financial projections forecast on the basis of certain assumptions and prepared by the Borrower based on the Development Plan and agreed between the Borrower and the Finance Parties, which details the Project’s cash flow projections, as delivered by the Borrower to the relevant Facility Agent as a condition precedent to the Effective Date and as updated from time to time as agreed to between the parties.

“Biodiversity Action Plan” means the *“Biodiversity Mitigation and Management Plan”* comprising part of the ESMPs.

“Blocked Accounts Agreement” means:

- (a) that certain blocked accounts agreement, dated as of May 30, 2017, by and among the Applicable Account Bank (as such term is defined in the Amended and Restated Collateral, Agency, Accounts and Security Agreement), the Borrower and the Offshore Collateral Agent; and
- (b) from time to time, such other blocked accounts agreements entered into by the Borrower, the Offshore Collateral Agent, and any financial institution, on terms and conditions substantially similar to those set forth in the agreement described in paragraph (a) above, or otherwise satisfactory to the Administrative Agent.

“BMO Commitment Letter” means the commitment letter dated as of March 8, 2018, between the Borrower and The Bank of Montreal as amended by them in a letter dated on or around June 29, 2018.

“Board” means the board of directors of the Borrower.

“Boliden” means Boliden Commercial AB.

“Boliden Offtake Agreement” means the offtake agreement to be entered into between the Borrower and Boliden.

“Boliden Offtake Direct Agreement” the direct agreement between the Borrower, Boliden and the Offshore Collateral Agent with respect to the Boliden Offtake Agreement.

“Boliden Sweep Trigger Event” means if the Boliden Offtake Agreement is terminated or cancelled in whole or in part as a result of Boliden’s breach of its obligations thereunder or otherwise becomes invalid, void, illegal, ineffective or unenforceable and within 730 days of the date of such termination or cancellation, the Lenders and the Borrower have not agreed on arrangements to address such termination or cancellation that are acceptable to the ECA Agent (acting on behalf of the ECA Guarantor).

“Bookrunners” means ING, SG Americas Securities, LLC, The Bank of Nova Scotia and KfW IPEX-Bank.

“Borrower” means Aurelian Ecuador S.A., a company formed under the laws of Ecuador.

“Borrower Environmental Monitoring Report” means each report to be provided by the Borrower in substantially the form set out in Schedule U on a quarterly basis prior to the first anniversary of the Project Completion Date and annually thereafter in accordance with Section 9.5(i).

“Break Costs” has the meaning given to it in the relevant Facility Agreement.

“Business” means the development, construction, procurement, engineering, maintenance and operation of, and extraction, processing and sale of Minerals from, the Project.

“Business Day” means any day, other than a Saturday, Sunday or statutory holiday in any one of Quito, Ecuador, Toronto, Ontario, New York City, New York, Frankfurt, Germany or London, England or a day on which banks are generally closed in any one of those cities.

“Buydown Amount” means any payment received under a Material Project Document (including upon termination thereof), the application of which is not specifically addressed in this Agreement, which constitutes a non-recurring payment (lump sum or otherwise) in compensation for permanently lost future revenues for a period of time, but excluding, for greater certainty, the proceeds of business interruption insurance, delay liquidated damages, or damages in respect of amounts payable to third parties.

“Calculation Date” means each March 31, June 30, September 30 and December 31.

“Canadian Security Documents” means:

- (a) the Canadian Share Pledge;
- (b) the General Security Agreement;
- (c) the Blocked Accounts Agreement;
- (d) the Reinsurance Assignment Agreement;
- (e) any notices or acknowledgments delivered pursuant to a Security Document;
- (f) any other document from time to time evidencing or creating security over any asset of the Borrower to secure or intending to secure the payment and performance of the Obligations of the Obligors to a Secured Party under any Finance Document and any Risk Coverage Document; and
- (g) each other document, instrument or deed as may be designated as such by mutual agreement of the Administrative Agent and the Borrower.

“Canadian Share Pledge” means the Canadian law Pledge Agreement, dated as of May 30, 2017, granted by (a) Aurelian Resources Inc. over its shares in Aurelian Resources Corporation Ltd. and (b) Lundin over its shares in Aurelian Resources Inc., in each case, in favor of the Offshore Collateral Agent.

“Capital Expenditures” means expenditures (including in respect of any Capitalized Lease Obligations) made by (or on behalf of) the Borrower to acquire or construct fixed assets, plant and equipment (including renewals, improvements and replacements, but excluding repairs) during such period computed in accordance with the IFRS applicable to the Borrower (other than (a) such expenditures paid out of Net Insurance Proceeds, (b) replacement property acquired with asset sale proceeds in accordance with the terms of the Finance Documents and (c) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent of any credit granted by the seller of such equipment for the equipment being traded in at such time).

“Capitalized Lease Obligation” means, for any Person, any payment obligation of such Person under an agreement for the lease, license or rental of, or providing such Person with the right to use, property that, in accordance with IFRS, is required to be classified and accounted for as capital leases on a balance sheet of such Person and the amount of such obligation shall be the capitalized amount thereof determined in accordance with IFRS.

“Cash Flow Waterfall” has the meaning given to it in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Cash Sweep Calculation Certificate” means the certificate in the form set out in Q (*Cash Sweep Calculation Certificate*).

“Cash Sweep Period” means, in respect of a Calculation Date, the three (3) month period ending on such Calculation Date.

“Caterpillar Financial” means Caterpillar Financial Services Limited.

“CELEC” means the state-owned CELEC EP Transelectic.

“Change of Control” means:

- (a) the Applicable Sponsor ceases to have control or direction over 100% of the outstanding voting shares of any Obligor (other than any Applicable Sponsor and other than as a result of the grant of security to the Senior Lenders with respect to such Obligors), or otherwise ceases to have the ability to elect a majority of the board of directors of an Obligor (other than Applicable Sponsor);
- (b) the occupation of a majority of the seats (other than vacant seats) on the board of directors of an Obligor (other than any Applicable Sponsor) by an entity which is neither (i) nominated by such board of directors nor (ii) appointed by directors so nominated as of the date hereof;
- (c) any Obligor (other than any Applicable Sponsor) ceases to be a wholly owned direct or indirect Subsidiary of any Applicable Sponsor; or
- (d) any Applicable Sponsor or any of its Subsidiaries, as applicable, takes any actions to effect any of the foregoing.

“Change Order” means any change order or variation order, amendment, supplement or modification to a Material Project Document.

“Claim” means any claim, loss or liability of any nature whatsoever, including but not limited to administrative, regulatory enforcement or judicial or equitable action, claim, suit, or judgment by any other Person or any written notice by any Governmental Body.

“Claims Cooperation Agreement” means the claims cooperation agreement by and among the Risk Mitigation Providers, the ECA Guarantor and Willis Ltd.

“Closure and Rehabilitation Plan” means the “*Closure and Rehabilitation Plan*” for the Project comprising part of the ESMPs and including reference to the areas to be rehabilitated, water management and various other practice aspects together with provision showing (i) progressive restoration of the Mine as the works progress, through a combination of milestones and (ii) reference to the Project cashflow protections from which the Project would be able to source mine closure costs if applicable.

“Code” means the US Internal Revenue Code of 1986, as amended.

“Collateral” means any property of any Obligor upon which a security interest in favor of any of the Collateral Agents, for the benefit of the Senior Lenders, is purported to be granted pursuant to any Security Document.

“Collateral Agents” means the Onshore Collateral Agent and the Offshore Collateral Agent.

“Collateral Assignment Agreement” means the *Acuerdo de Cesión Condicional*, dated on May 30, 2017, between the Borrower and the Onshore Collateral Agent.

“Commercial Facility” means the facility described in Section 2.1(a).

“Commercial Facility Agent” means The Bank of Nova Scotia or such replacement Commercial Facility Agent as may be appointed pursuant to the terms hereof from time to time.

“Commercial Facility Agreement” means the facility agreement entitled “Commercial Facility Agreement” dated on or about the date of this Agreement by and among the Borrower, the Commercial Facility Agent and the Commercial Facility Lenders.

“Commercial Facility Commitment” means:

- (a) in relation to an Initial Lender, the amount set opposite its name under the heading “Commercial Facility Commitments” in Schedule A (*Commitments*) and the amount of any other Commercial Facility Commitment transferred to it under this Agreement; and
- (b) in relation to any other Senior Lender, the amount of any Commercial Facility Commitment transferred to it under this Agreement.

“Commercial Facility Lender” means:

- (a) any Initial Lender under the Commercial Facility; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Finance Party as a Commercial Facility Lender in accordance with Article 12 (*Changes to Parties*),

which in each case has not ceased to be a Finance Party in accordance with the terms of this Agreement.

“Commercial Facility Loan” means a loan made or to be made under the Commercial Facility or the principal amount outstanding for the time being of that loan.

“Commercial Pledge Agreement” means the *Contrato de Prenda Comercial*, dated on May 30, 2017, by and among the Borrower, Lundin, and the Onshore Collateral Agent.

“Commercial Production Date” means the date on which the Borrower provides notice to the Administrative Agent and Technical Agent that tonnes of ore processed during REDACTED [*number of days redacted*] continuous days equaled at least REDACTED [*percentage redacted*] % of planned production for such period as set forth in the Mine Plan and the Construction Plan, Budget and Schedule.

“Commitment” means, in respect of each Senior Lender, the amount specified with respect to such Senior Lender in Schedule A (*Commitments*) (which will be amended in accordance with the terms hereof and distributed to all parties by the Administrative Agent from time to time to reflect any changes thereto), as such amount may be reduced from time to time by such Senior Lender’s Applicable Percentage of the amount of each Loan made hereunder or by the cancellation of any unused portion of the Facility.

“Commitment Fee” means the commitment fee payable to the Senior Lenders in accordance with Section 4.3(a).

“Completion Agreement” means the completion agreement among the Completion Guarantors, each Senior Lender, the Mandated Lead Arrangers, the Bookrunners and Documentation Agents, the Offshore Collateral Agent, the Commercial Facility Agent, the ECA Facility Agent the Administrative Agent and the Intercreditor Agent.

“Completion Guarantors” means, collectively:

- (a) Lundin;
- (b) AurelianEcuador Holding S.A.;
- (c) Ecoaurelian Agrícola S.A.;
- (d) Aurelian Resources Inc.; and
- (e) Aurelian Resources Corporation Ltd.

and **“Completion Guarantor”** means any one of them, as the context may require.

“Compliance Certificate” means a certificate of a senior officer of the Borrower in the form set out in Schedule C (*Compliance Certificate*).

“Compliance Programs” means compliance programs that:

- (a) meet international best practice standards, taking into account the International Organization for Standardization (ISO) 37001:2016 and the “Evaluation of Corporate Compliance Programs” from the U.S. Department of Justice, Criminal Division, Fraud Section, and, with respect to Sanctions, publicly issued OFAC guidelines;
- (b) are designed to detect and prevent Prohibited Practices and ensure compliance with all Anti-Corruption Laws, AML Legislation and all applicable Sanctions;
- (c) provide for the monitoring or supervision of compliance with the terms of such program; and
- (d) cover the Obligors (and in the case of Lundin, the Subsidiaries of Lundin) (other than (i) the Non-Material Affiliates and (ii) any future direct or indirect subsidiaries of Lundin with no direct or indirect interest in the Project), and all directors, officers, employees and third parties acting on behalf of the Obligors (and in the case of Lundin, the Subsidiaries of Lundin) (other than (i) the Non-Material Affiliates and (ii) any future direct or indirect subsidiaries of Lundin with no direct or indirect interest in the Project).

“Concession” means the “La Zarza” Concession (accumulated), Code: 501436, granted by the Acting South Regional Undersecretary of Mining, Zone 7, of Zamora through Resolution No. MM-CZM-S-2015-1294-RM dated December 29, 2015.

“Concessions Guarantee Assignment” means each Contrato de Cesión en Garantía de Derechos Mineros, entered and to be entered into by and between the Borrower and the Onshore Collateral Agent with respect to all mineral claims, mineral leases and other mineral rights, other Related Concessions, concessions and interests required for the Project (other than the Concession) including any additional exploitation agreement to be entered into in relation to the Colibri 5 concession or any of the Related Concessions.

“Condor” means Condor Gold S.A.

“Confidential Information” has the meaning given to it in Section 21.1 (*Confidential Information*).

“Construction Costs” means, without duplication, all costs incurred by the Borrower in connection with the design and construction of the Project until Project Completion including Permitted Capital Expenditures, Operating Costs, taxes (including VAT), Royalties, preservation of patents and insurance premiums payable in respect of the Project and the costs of legal and other advisors, expenses and fees incurred, in each case, in respect of the Project until Project Completion.

“Construction Plan, Budget and Schedule” means the construction plan, budget and schedule for the construction of the Project in accordance with the technical specifications of the Mine Plan and the requirements of Applicable Law (applicable to the Borrower, the Project or the Project Property, and including all Material Project Authorizations) and the Transaction Documents (including the General Work and Investment Plan), delivered by the Borrower on or before the Financial Closing Date as amended or modified from time to time pursuant to Section 9.12(n).

“Contested” or **“Contest”** means, with respect to any matter or claim involving any Person, that such Person is contesting such matter or claim in good faith and by appropriate proceedings timely instituted; provided that the following conditions are satisfied:

- (a) such Person has posted a bond or other security acceptable to the Administrative Agent or has established adequate reserves with respect to the contested items in accordance with IFRS;
- (b) during the period of such contest, the enforcement of any contested item is effectively stayed; and
- (c) such contest and any resultant failure to pay or discharge the claimed or assessed amount does not, and could not reasonably be expected to, result in a Material Adverse Effect or the sale, forfeiture or loss of any material part of the Security.

“Contract” means any agreement, contract, lease, license, concession, option, indenture, mortgage, deed of trust, debenture, note or other instrument, arrangement, understanding or commitment, whether written or oral.

“Control” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power including the ownership of voting securities, by contract or otherwise in respect of both ordinary and extraordinary matters (including reorganization, restructuring and the amendment of any applicable constitutional document). **“Controlled”** shall have the meaning correlative thereto.

“Cooperation Agreement” means the agreement to be entered into between the Borrower and CELEC in relation to the funding for the construction of the Transmission Line and Substation.

“Core Management” means the chairman, the chief executive officer, chief operating officer, chief financial officer, chief legal officer, vice president - projects, vice president – finance, vice president - business sustainability, vice president – exploration, vice president – environmental and social and any other equivalent role or functions, unless such position is vacant, redundant or has ceased to exist.

“Corrective Action Plan” means a written plan from the Borrower to correct and remedy any E&S Non-Compliance Events, which plan shall include:

- (a) the proposed actions to specifically correct, and to remedy damage caused by, such E&S Non-Compliance Event;
- (b) the proposed assignment of primary responsibility for implementing such proposed actions;
- (c) a time schedule for implementing such proposed actions to remedy the Identified E&S Non-Compliance Event, including the start date, the estimated end date and key milestones; and
- (d) an estimated cost for implementing such actions or any other costs arising from the Identified E&S Non-Compliance Event.

“Cost Overrun” means:

- (a) any Construction Cost incurred, or projected to be incurred, which results in the aggregate amount of Construction Costs incurred, or projected to be incurred, in relation to the Project exceeding the aggregate amount of Construction Costs (including all amounts which are included in the Base Case Financial Model as contingencies relating to Construction Costs) referred to in the Base Case Financial Model; plus
- (b) any interest on the Cost Overrun Facility; plus
- (c) any interest in respect of the Loans not otherwise paid in accordance with the Cash Flow Waterfall.

“Cost Overrun Facility” means a facility of the Borrower to pay costs designated as Cost Overruns, which facility shall be in form and substance satisfactory to the Senior Lenders.

“Cost Overrun Loans” means loan made or outstanding under the Cost Overrun Facility.

“Cost Reimbursement Letter” means each cost reimbursement letter by and between the Borrower and each Prepay/Stream Lender party hereto.

“Cost-to-Complete Certificate” means the certificate (substantially in the form set out in Schedule D (*Form of Cost-to-Complete Certificate*)) setting out the amount of Available Resources and Projected Project Costs in connection with determining whether any Cost-to-Complete Shortfall exists.

“Cost-to-Complete Shortfall” means the Available Resources are less than the Projected Project Costs.

“Costs Certificate” means a certificate (substantially in the form set out in Schedule E (*Form of Costs Certificate*)) signed by an authorized signatory of the Borrower and provided by the Borrower to the relevant Facility Agent in relation to each proposed Utilization setting out the eligible Project Costs that:

- (a) are due and payable; and
- (b) will become due for payment within sixty (60) days from the Utilization Date,

in a sufficient level of detail to enable the relevant Facility Agent to verify the accuracy of the eligible Project Costs.

“Cyanide Management Plan” means the “*Cyanide Management and Transportation Plan*” for the Project comprising part of the ESMPs.

“Debt” means, at any time, with respect to any Person:

- (a) all obligations, including by way of overdraft and drafts or orders accepted representing extensions of credit, that would be considered to be indebtedness for borrowed money, and all obligations, whether or not with respect to the borrowing of money, that are evidenced by bonds, debentures, notes or other similar instruments;
- (b) the face amount of all bankers’ acceptances and similar instruments;
- (c) all liabilities upon which interest charges are customarily paid by that Person, other than liabilities for Taxes;
- (d) any capital stock of that Person, or of any Subsidiary of that Person, which capital stock, by its terms or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder, or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part;
- (e) all Capitalized Lease Obligations, synthetic lease obligations, obligations under Sale-Leasebacks and Purchase Money Obligations;
- (f) the amount of all contingent liabilities in respect of letters of credit and similar instruments;
- (g) (i) all obligations in respect of the deferred purchase price of property and (ii) accounts payable and accruals in each case, that are over one hundred twenty (120) days past due (except to the extent being Contested);
- (h) any hedging, swap, forward, option, future or other derivative transaction (it being understood that when calculating the value of any such Debt, only the marked-to-market value shall be considered);
- (i) contingent liabilities in respect of performance bonds, surety bonds and product warranties, and any other contingent liability, in each case only to the extent that the contingent liability is required by IFRS to be treated as a liability on a balance sheet of the Person contingently liable; and
- (j) the amount of the contingent liability under any Guarantee of all or any part of an obligation of another Person of the type included in paragraphs (a) through (i) above.

“Default” means any event or condition which, upon notice, lapse of time, or both, would constitute an Event of Default.

“Development Plan” means a combination of agreed documents detailing the planned development of the Project, consisting of the definitive and updated feasibility studies, the General Work and Investment Plan, the Mine Plan, the Base Case Financial Model, the construction schedule, each EIA and any further EIAs to be delivered in relation to any Material Project Authorizations.

“Direct Agreements” means each of the following direct agreements (in form and substance satisfactory to the Administrative Agent acting on the instructions of the Majority Lenders):

- (a) the Exploitation Agreement and Concessions Direct Agreement; and
- (b) the direct agreement between the Borrower, the MDC Contractor and the Onshore Collateral Agent with respect to the Mine Development Contract;
- (c) the Boliden Offtake Direct Agreement;

- (d) the Gold/Silver Offtake Direct Agreement;
- (e) the direct agreement between the Borrower, G Mining Services Inc., Ecoro Mining Services, Inc. and the Onshore Collateral Agent with respect to the G Mining Services Agreements; and
- (f) each direct agreement to be entered into pursuant to Section 9.4(b).

“Disbursement” means any disbursement of a Loan pursuant to this Agreement.

“Disposition” means any sale, assignment, transfer, conveyance, lease, license, granting of an option or other disposition (or agreement to dispose) of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, but does not include the payment of a dividend, and the verb **“Dispose”** has a correlative meaning.

“Disruption Event” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility which disruption is not caused by, and is beyond the control of, any of the parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems related nature) to the treasury or payments operations of a party preventing that, or any other party from performing its payment obligations under the Finance Documents or the Risk Coverage Documents, and which is not caused by, and is beyond the control of, the party whose operations are disrupted.

“Documentation Agency Fee Letter” means the documentation agency fee letter dated on or around the date of this Agreement, by and among the Borrower, ING and Societe Generale.

“Documentation Agents” means ING and Societe Generale, or such replacement Documentation Agents from time to time.

“E&S Dispute” has the meaning given to such term in Section 9.9(f).

“E&S Non-Compliance Event” has the meaning given to such term in Section 9.9(h).

“ECA Agency Fee Letter” means the ECA agency fee letter dated on or around the date of this Agreement, between the Borrower and KfW IPEX-Bank.

“ECA Agent” means KfW IPEX-Bank or such replacement ECA Agent as may be appointed pursuant to the terms hereof from time to time.

“ECA Facility” means the facility described in Section 2.1(b).

“ECA Facility Agent” means The Bank of Nova Scotia or such replacement ECA Facility Agent as may be appointed pursuant to the terms hereof from time to time.

“ECA Facility Agreement” means the facility agreement entitled “ECA Facility Agreement” dated on or about the date of this Agreement by and among the Borrower, the ECA Facility Agent and the ECA Facility Lenders.

“ECA Facility Commitment” means:

- (a) in relation to an Initial Lender, the amount set opposite its name under the heading “ECA Facility Commitment” in Schedule A (*Commitments*) and the amount of any other ECA Facility Commitment transferred to it under this Agreement; and

- (b) in relation to any other Senior Lender, the amount of any ECA Facility Commitment transferred to it under this Agreement.

“ECA Facility Lender” means:

- (a) any Initial Lender under the ECA Facility; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Finance Party as an ECA Facility Lender in accordance with Section 12.1 (*Assignment by Senior Lenders*),

which in each case has not ceased to be a Finance Party in accordance with the terms of this Agreement.

“ECA Facility Loan” means a loan made or to be made under the ECA Facility or the principal amount outstanding for the time being of that loan.

“ECA Guarantee” means, collectively, the raw material guarantee and the related General Conditions for Raw Material Guarantees dated September 1, 2017 to be issued by Finnvera plc in connection with the financing to be provided under the ECA Facility Agreement.

“ECA Guarantee Termination Event” has the meaning assigned to that term in Section 3.4(d) (*ECA Guarantee Cancellation*).

“ECA Guarantor” means Finnvera plc.

“Economic Assumptions” means the economic assumptions (including, without limitations, the Gold Price Assumption and those relating to interest rates, inflation and rates of taxation (including VAT)) incorporated in the Base Case Financial Model delivered to and approved by the Administrative Agent in accordance with Section 10.1 (*Conditions Precedent to the Effective Date*) as amended from time to time in accordance with this Agreement.

“Ecoro Mining Services Agreement” means the in-country coordination and construction support services contract for the Fruta del Norte Project in Ecuador, dated May 1, 2017 between the Borrower and Ecoro Mining Services Inc.

“Ecuadorian Security Document Amendments” means:

- (a) the amendment to the Accounts Trust Agreement,
- (b) the amendment to the Commercial Pledge Agreement,
- (c) the amendment to the Fiduciary Mandates,
- (d) the amendment to the Guarantee Trust Agreement,
- (e) the amendment to the Guarantee Trust Agreement (Remaining Equity Interest),
- (f) the amendment to each Industrial Pledge Agreement,
- (g) the clarification note to the Mortgages,
- (h) the clarification notice for the Concessions Guarantee Assignments,
- (i) the clarification notice for the Exploitation Agreement and Concession Guarantee Assignment, and
- (j) the clarification notice for the Investment Protection Agreement Conditional Assignment.

“Ecuadorian Security Documents” means:

- (a) the Accounts Trust Agreement,
- (b) the Guarantee Trust Agreement,
- (c) the Guarantee Trust Agreement (Remaining Equity Interest),
- (d) the Mortgages,
- (e) the Commercial Pledge Agreement,
- (f) each Industrial Pledge Agreement,
- (g) the Exploitation Agreement and Concession Guarantee Assignment,
- (h) the Collateral Assignment Agreement,
- (i) the Concessions Guarantee Assignments,
- (j) the Fiduciary Mandates; and
- (k) the Investment Protection Agreement Conditional Assignment.

“Ecuadorian Trustee” means Fideval S.A. Administradora de Fondos y Fideicomisos, in its capacity as trustee under the Guarantee Trust Agreement, the Guarantee Trust Agreement (Remaining Equity Interest), the Accounts Trust Agreement, and the Fiduciary Mandate FDN.

“Ecuadorian Trustee Service Agreement” means the *Contrato de Servicios*, dated May 30, 2017, by and among the Borrower, the Ecuadorian Trustee, and the Onshore Collateral Agent.

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

“Effective Date” means the date on which each Facility Agent has issued to the Administrative Agent a written confirmation that all of the documents and other evidence listed in Part I of Schedule B (*Conditions Precedent*) and delivered to the Administrative Agent are in form and substance satisfactory to it (or have been waived by the relevant Facility Agent in relation to the relevant Facility, as applicable).

“EHS Guidelines” means the World Bank Group Environmental, Health and Safety General Guidelines (April 2007) and Environmental, Health and Safety Guidelines for Mining (December 2007), as amended, supplemented or superseded from time to time.

“EIA” means each environmental impact assessment required under Environmental Laws and carried out, or in the case of (c) and (d) below, to be carried out with respect to:

- (a) the Project for the extraction, processing, smelting and refining phases of metallic minerals in the La Zarza concession (Code 501436) operation area, supplementary infrastructure construction (including the Northern Access Road, River Road and Zamora Bridge) in the Colibri 2 (Code 501389) and Colibri 4 (code 501433) concessions, in addition to the extraction of construction materials in the Colibri 4 (Code 501433) concession dated October 13, 2016;
- (b) the Project Transmission Line dated December 1, 2017;
- (c) the Mountain Pass Quarry (Colibri 5 concession); and
- (d) cyanide transportation,

in each case, as submitted, or to be submitted (in the case of (d) above), to the applicable Governmental Body of the GOE, (or in the case of (c) above, municipality), for purposes of obtaining each of the applicable Environmental Licenses.

“Emergency Event” has the meaning assigned to that term in Section 11.1(o).

“Encumbrance” means any mortgage, debenture, pledge, hypothec, lien, charge, deed of trust, trust arrangement, assignment by way of security, contractual right of set-off, consignment, lease, hypothecation, security interest, including a purchase money security interest, or other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or obligation, and **“Encumbered”**, **“Encumbrancer”** and **“Encumbrances”** shall have corresponding meanings.

“Entitled Person” has the meaning assigned to that term in Section 23.7 (*Judgment Currency*).

“Environment” means all or any of the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers);
- (c) soil and land (including, without limitation, land under water); and
- (d) any ecological systems, animals, plants and all other living organisms supported by these media.

“Environmental and Social Agency Fee Letter” means the environmental and social agency fee letter dated on or around the date of this Agreement, between the Borrower and Societe Generale.

“Environmental and Social Agent” means Societe Generale or such replacement Environmental and Social Agent from time to time.

“Environmental and Social Requirements” means all Environmental Laws, the Performance Standards, applicable Equator Principles, the ESAP, any Corrective Action Plan and any applicable ESMPs.

“Environmental Bond” means each environmental bond to be provided and maintained in accordance with the Environmental Licenses and the Exploitation Agreement.

“Environmental Claim” means any Claim alleging or asserting that, in relation to the Project, the Borrower or any of its Subsidiaries is liable under Environmental and Social Requirements for investigatory costs, cleanup costs, remediation, corrective action, governmental response costs, damage to natural resources (including without limitation wetlands, wildlife, aquatic and terrestrial flora and fauna), damage to the Environment, damage to property, social or community damage, personal injuries, fines or penalties or any other damages or reasonable legal or consultant costs or fees, in each case arising out of, based on or resulting from:

- (a) the presence or Release of Hazardous Substances at any Project associated location whether or not owned by any such Person;
- (b) any breach of the Environmental and Social Requirements; or
- (c) any other matters or rights relating to environmental, human or social issues that have created or could reasonably be expected to create liability or an adverse impact or risk relating to the Project.

“Environmental Laws” means all Applicable Laws of any Governmental Body of the GOE relating to the protection of the Environment, natural resources, human health and safety, Hazardous Substances, the environmental and social impacts of, or the rehabilitation, reclamation and closure of lands used in connection with the Project.

“Environmental License” means each Authorization granted to Borrower or, in respect of (c) and (d) below, to be issued, by the relevant competent environmental authority of the GOE (or, in the case of (c) below, the relevant municipality) to the Borrower with respect to:

- (a) the Project;
- (b) the Project Transmission Line;
- (c) the Mountain Pass Quarry; and
- (d) cyanide transportation.

“Equator Principles” means those principles set out in the paper entitled “A financial industry benchmark for determining, assessing and managing environmental and social risk in projects” dated June 2013 and available at: http://www.equator-principles.com/resources/equator_principles_III.pdf.

“ESAP” means the environmental and social action plan prepared by the Independent Environmental and Social Consultant in consultation with the Borrower to correct and to address (i) any risks and impacts identified as part of the environmental due diligence report of the Independent Environmental and Social Consultant delivered pursuant to Section 6.4 of Part I of Schedule B and (ii) any non-compliance with any Environmental and Social Requirements (save as may be corrected or remedied pursuant to a Corrective Action Plan or otherwise in accordance herewith), as such plan is set out in Schedule V (*Environmental and Social Action Plan*), together with any subsequent amendments, supplements or modifications effected in accordance with Section 9.9(d).

“ESMPs” means the environmental and social impact management plans and procedures delivered in accordance with Section 5.2 of Part II of Schedule B and comprising part of the IFC ESIA including the Emergency and Response Contingency Plan, Spill Prevention and Control Plan, Waste and Effluent Management Plan, Transport Management Plan, Cyanide Management Plan, Erosion and Sedimentation Control Plan, Monitoring Plan, Water Resources Management Plan, ARD Management Plan, Biodiversity Action Plan, Chance Finds Plan, Workforce Management Plan, Stakeholder Engagement Plan, Community Health and Safety Plan, Grievance Resolution Plan, Influx Management Plan, Livelihood Restoration Plan, Closure and Rehabilitation Plan, as such plans (and the names thereof) may be supplemented, amended or modified from time to time in accordance with the frameworks set out therein and herein.

“ESMS” means the environmental and social management system in place for the Project for the implementation of the environmental and social management and monitoring requirements of this Agreement and as set out in the ESMPs.

“EU Anti-Boycott Regulations” means the Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom and section 7 of the German Foreign Trade Regulation (Außenwirtschaftsverordnung or AWW) in connection with the German Foreign Trade Law (Außenwirtschaftsgesetz or AWG).

“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.

“Event of Default” has the meaning ascribed to it in Section 11.1 (*Events of Default*).

“Excess Cash Flow” means Available Cash Flow for such period, less:

- (a) scheduled principal and interest (including mandatory and voluntary prepayments, and break costs and Termination Amounts) and other finance costs, in each case payable under the Senior Finance Documents;
- (b) amounts reserved in the Offshore USD Proceeds Account comprising the Senior DSR Amount;
- (c) amounts due and payable on the Cost Overrun Facility up to the COF Interest Payment Cap during such period; and
- (d) an amount equal to anticipated Operating Costs and Permitted Capital Expenditures over the next 90 days.

“**Excluded Taxes**” has the meaning given to it in the applicable Senior Lender Tax Coverage Letter.

“**Existing Lender**” has the meaning ascribed to it in Section 12.1(b).

“**Exploitation Agreement**” means the Mining Exploitation Agreement (*Contrato de Explotación del Proyecto Fruta del Norte*), entered into on December 14, 2016, between the Ministry of Mines of Ecuador and the Borrower and amended between the parties thereto by way of addendum on August 14, 2017.

“**Exploitation Agreement and Concession Guarantee Assignment**” means the *Contrato de Cesión en Garantía de Derechos Mineros*, dated September 4, 2017 and entered into by and between the Borrower and the Onshore Collateral Agent with respect to the Exploitation Agreement, the Concession, and the other mineral claims, mineral leases and other mineral rights, concessions and interests.

“**Exploitation Agreement and Concessions Direct Agreement**” means the *Contrato Directo*, dated January 5, 2018 and entered into by and between the Onshore Collateral Agent and the Ministry of Mining of Ecuador.

“**Expropriation Event**” means, with respect to any Project Property (including any rights to use the Project Property) or equity interests of the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A., or Subordinated Intercompany Debt issued by the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A., any action or series of actions, omission or series of omissions, that has the effect of:

- (a) a *de jure* or *de facto* taking, seizure, confiscation, requisition, exercise of rights of eminent domain, public improvement, inverse condemnation, condemnation, *expropiación*, *ocupación temporal*, or similar action or proceeding, by a Governmental Body of Ecuador of:
 - (i) all or a material portion of the Project;
 - (ii) all or a material portion of the assets of the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A.; or
 - (iii) the equity interests of or Subordinated Intercompany Debt issued by the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A., provided that (A) insofar as such action relates to a material portion of the Project or the assets of the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A., such action shall cause or reasonably be likely to cause a material adverse impact on deliveries of gold on the terms set forth in the Finance Documents or the ability of such Person to operate the Project in accordance with the Mine Plan in effect prior to such event or perform its obligations under the Finance Documents or the Material Project Documents or (B) such action shall (1) result in a material loss (in each case), irreparable damage to, destruction of any, or diminution in value of the Collateral or otherwise materially and adversely affect (x) the ability of the Secured Parties to access or utilize Collateral or (y) the liens granted in the Collateral pursuant to the Security Documents or (2) impair to any material extent the

validity or priority of any security interest purported to be granted to the Secured Parties under the Security Documents,

except for negotiated expropriations by the government, planned for and agreed upon as part of, and that would not reasonably be expected to result in a material impact on, the expected normal operations of the Project, subject to the approval of the Majority Lenders, such approval not to be unreasonably withheld; or

- (b) any taking or any action by a Governmental Body of Ecuador for the dissolution or disestablishment of the Borrower, AurelianEcuador Holding S.A. or Ecoaurelian Agrícola S.A.;
- (c) actually depriving the Borrower whether *de jure* or *de facto* by the implementation of Applicable Law of Ecuador or actions by Governmental Bodies in Ecuador of its rights necessary to:
 - (i) construct or operate the Project as contemplated in the Exploitation Agreement or the Investment Protection Agreement and any other contract or agreement to which Ecuador or a Governmental Body of Ecuador is a party;
 - (ii) regularly receive and maintain any material proceeds for products produced by the Project or under the Exploitation Agreement or the Investment Protection Agreement in U.S. Dollars;
 - (iii) hold bank accounts and/or bullion accounts outside of Ecuador; or
 - (iv) make any payments required to be made under the Transaction Documents in U.S. Dollars outside of Ecuador;
- (d) causing the Exploitation Agreement or the Investment Protection Agreement to be wholly or partially repudiated, declared void, invalid or unenforceable against any party thereto by a Governmental Body of Ecuador;
- (e) causing the Exploitation Agreement or the Investment Protection Agreement to be abrogated, terminated or cancelled in whole or in part, or unilaterally modified in whole or in part, in each case, by Governmental Bodies in Ecuador;
- (f) resulting in the applicable Governmental Body in Ecuador to be in breach of or otherwise be in default of any material obligation under the Exploitation Agreement or the Investment Protection Agreement and such breach or default shall continue beyond any applicable grace period provided for in the Exploitation Agreement or the Investment Protection Agreement, as applicable, and such applicable Governmental Body in Ecuador has not proposed and implemented a remediation plan acceptable to the Borrower and the Majority Lenders (each acting reasonably); or
- (g) a decision of a judicial or arbitral tribunal with respect to any of the events described in paragraphs (a) through (f) above;

provided that no action described in paragraphs (d), (e), (f) or (if the decision of a judicial tribunal or arbitral tribunal is with respect to the events described in paragraphs (d), (e) or (f)) (g) above shall constitute a Expropriation Event if it is a *bona fide* non-discriminatory measure of general application of a kind that governments normally take for such purposes as ensuring public safety, protecting the environment or regulating economic activities, and, where applicable, adequate compensation has been paid to the affected party and does not have a confiscatory effect.

“**Facility**” means each of the Commercial Facility and the ECA Facility, and “**Facilities**” means both of them.

“Facility Agents” means the Commercial Facility Agent and the ECA Facility Agent.

“Facility Agreements” means:

- (a) the Commercial Facility Agreement; and
- (b) the ECA Facility Agreement.

“FATCA” means:

- (a) Sections 1471 through 1474 of the Code, or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any Governmental Body or taxation authority in any other jurisdiction.

“FATCA Application Date” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the United States), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“FATCA Deduction” means a deduction or withholding from a payment under a Finance Document or a Risk Coverage Document required by FATCA.

“FATCA Exempt Party” means a Finance Party that is entitled to receive payments free from any FATCA Deduction.

“Fee Letters” means any letter entered into by reference to this Agreement between one or more of the Finance Parties and the Borrower setting out the amount of any fees referred to in this Agreement, including, without limitation: (a) the BMO Commitment Letter, (b) the Natixis Commitment Letter, (c) the Upfront Fee Letters, (d) the Agency Fee Letters and (e) the amended and restated structuring fee letter dated as of the date hereof among the Borrower, the Bookrunners and Caterpillar Financial.

“Fiduciary Mandate FDN” means the *Encargo Fiduciario FDN*, dated May 30, 2017, among the Borrower, Ecoaurelian Agrícola S.A., Lundin, Aurelian Resources Inc., Aurelian Resources Corporation Ltd., the Ecuadorian Trustee, and the Onshore Collateral Agent.

“Fiduciary Mandates” means the Fiduciary Mandate FDN and the Onshore Collateral Agent Fiduciary Mandate.

“Final Maturity Date” has the meaning given to it in each Facility Agreement.

“Finance Documents” means:

- (a) this Agreement;
- (b) each Facility Agreement;
- (c) the Intercreditor Agreement;
- (d) the Completion Agreement;
- (e) each Senior Lender Tax Coverage Letter;
- (f) any Hedge Agreements;
- (g) the Security Documents;
- (h) the Ecuadorian Trustee Service Agreement;
- (i) the Fee Letters; and
- (j) any Transfer Certificate,

and all other agreements, instruments and documents from time to time (both before and after the date of this Agreement) delivered to the Secured Parties in connection with this Agreement or the other Finance Documents.

“Finance Party” means each Senior Lender and/or Administrative Party.

“Financial Closing Date” means the date on which all of the conditions precedent set forth in Section 10.2 (*Conditions Precedent to the First Utilization*) and Section 10.3 (*Conditions Precedent to All Utilizations*) are satisfied or waived by the Senior Lenders.

“Financial Statements” means the financial statements delivered on the Financial Closing Date and those required to be delivered pursuant to Sections 9.7(b) and Section 9.8(a).

“Fiscal Quarter” means each calendar quarter ending on March 31, June 30, September 30 and December 31 of each year.

“Fiscal Year” means the period of January 1 to December 31 of each year.

“Fundamental Event of Default” means each of the events of default set out in Sections 11.1(a), 11.1(c), 11.1(f), 11.1(g), 11.1(h) and 11.1(i), 11.1(k) and 11.1(t).

“G Mining Services Agreements” means (a) the engineering and project development services contract for the Fruta del Norte Project in Ecuador, dated August 26, 2017, between the Borrower and G Mining Services Inc.; and (b) the Ecoro Mining Services Agreement.

“General Security Agreement” means the Canadian law Omnibus General Security Agreement, dated as of May 30, 2017, by and among the Borrower, Aurelian Resources Inc., Aurelian Resources Corporation Ltd. and the Offshore Collateral Agent.

“General Work and Investment Plan” means the General Work and Investment Plan scheduled as annex B to the Exploitation Agreement as may be amended from time to time.

“GOE” means the Government of Ecuador.

“Gold/Silver Offtake Agreement” means the offtake agreement dated May 30, 2017 among the purchasers thereunder and the Borrower.

“Gold/Silver Offtake Direct Agreement” means the direct agreement among the purchasers under the Gold/Silver Offtake Agreement, the Offshore Collateral Agent and the Borrower.

“Gold Prepay Agent” means Orion CO-V PTE LTD in its capacity as “Administrative Agent” under the Gold Prepay Credit Agreement together with its successors and permitted assigns that may become the administrative agent under the Gold Prepay Credit Agreement and in accordance with its terms.

“Gold Prepay Commercial Production Date” means “Commercial Production Date” under and as defined in the Gold Prepay Credit Agreement.

“Gold Prepay Credit Agreement” means that certain Gold Prepay Credit Facility Agreement, dated as of May 30, 2017, among the Borrower, the Gold Prepay Agent and the Gold Prepay Lenders.

“Gold Prepay Deferral/Extension Right” means the “Deferral/Extension Right” under and as defined in the Gold Prepay Credit Agreement.

“Gold Prepay Equitization Right” has the meaning assigned to such term in the Intercreditor Agreement.

“Gold Prepay Lenders” means “Lenders” (as defined in the Gold Prepay Credit Agreement) that may become party to the Gold Prepay Credit Agreement from time to time.

“Gold Prepay Payment Default” has the meaning assigned to such term in the Intercreditor Agreement.

“Gold Prepay Quarterly Payment Date” has the meaning assigned to such term in the Intercreditor Agreement.

“Gold Price Assumption” means REDACTED *[gold price redacted]* per ounce as set out in the Base Case Financial Model; provided that in each case when the Base Case Financial Model is to be updated such price shall be the lesser of:

- (a) REDACTED *[gold price redacted]* per ounce; and
- (b) the forward spot price obtained from Bloomberg L.P. and its affiliates which reflects the market closing levels as of the end of the most recent Fiscal Quarter.

“Good Industry Practice” means, in relation to any decision, undertaking, practice, method or act, the exercise of that degree of diligence, skill, care, prudence, oversight, economy and stewardship which is commonly observed or would reasonably be expected to be observed by skilled and experienced professionals in the Ecuadorian and North American mining industries engaged in the same type of decision, undertaking, practice, method or act, as the case may be, under, and with the same or similar circumstances and/or degree of complexity to accomplish the desired result in a manner consistent with applicable standards, equipment manufacturing recommendations, good business practice, reliability, safety, dependability, efficiency, environmental protection and Applicable Law.

“Governmental Body” means the government of Ecuador, the United States or Canada or any other nation, or of any political subdivision thereof, whether state, provincial or local, and any agency, authority, instrumentality, regulatory body, court, arbitrator or arbitrators, tribunal, central bank or enterprise that is owned, sponsored, or controlled by any government, or any other entity exercising executive, legislative, judicial or arbitral, taxing, regulatory or administrative powers or functions or pertaining to government (including any applicable stock exchange and supra-national bodies such as the European Union or the European Central Bank) and in each case having jurisdiction over an Obligor, the Project, the Project Property or the Transaction Documents, as the context may require.

“Guarantee” means, with respect to any Person, any direct or indirect liability, contingent or otherwise, of such Person with respect to any indebtedness, letter of credit, lease, dividend or other obligation of another, including any such obligation directly or indirectly guaranteed, endorsed (otherwise than for collection or deposit in the ordinary course of business) or discounted or sold with recourse by such Person, or in respect of which such Person is otherwise directly or indirectly liable, including any such obligation in effect guaranteed by such Person through any agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), or to maintain the solvency or any balance sheet or other financial condition of the obligor of such obligation (including keep-well covenants), or to make payment for any products, materials or supplies or for any transportation or services regardless of the non-delivery or non-furnishing thereof, in any such case if the purpose or intent of such agreement is to provide assurance that such obligation will be paid or discharged, or that any agreements relating thereto will be complied with, or that the lender of such obligation will be protected against loss in respect thereof. The amount of any guarantee shall be equal to the outstanding principal amount of the obligation guaranteed or such lesser amount to which the maximum exposure of the guarantor shall have been specifically limited.

“Guarantee Trust Agreement” means the *Fideicomiso Mercantil de Garantía FDN 1*, dated on May 30, 2017, among the Borrower, the Ecuadorian Trustee, the Onshore Collateral Agent, Lundin, Aurelian Resources Inc., Aurelian Resources Corporation Ltd., AurelianEcuador Holding S.A., and Ecoaurelian Agrícola S.A.

“Guarantee Trust Agreement (Remaining Equity Interest)” means the *Fideicomiso Mercantile en Garantía FDN 2*, dated on May 30, 2017, among the Borrower, the Ecuadorian Trustee, the Onshore Collateral Agent, Aurelian Resources Inc., and AurelianEcuador Holding S.A.

“Guaranty Agreement” means the guaranty, dated as of May 30, 2017, among the Completion Guarantors, the Borrower and the Offshore Collateral Agent with respect to the obligations of the Obligor under the Prepay/Stream Credit Documents.

“Hazardous Substances” means any substance, material or waste defined or listed in, or regulated, or prohibited, by the applicable Environmental and Social Requirements, including pollutants; contaminants; chemicals; deleterious substances; dangerous goods; hazardous or industrial toxic materials; wastes or substances; tailings; wasterock; wastewater; radioactive materials; flammable substances; explosives; radon; petroleum and petroleum products; polychlorinated biphenyls; chlorinated solvents and asbestos or asbestos-containing materials.

“Hedge Agreements” means any agreement or instrument relating to hedging of interest rate exposure (including a swap, option, cap, collar or floor).

“Hedge Termination Value” means, in respect of any Hedge Agreement, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreement:

- (a) for any date on or after the date such Hedge Agreement has been closed out and termination value determined in accordance therewith, such termination value; and
- (b) for any date prior to the date referenced in paragraph (a) above, the amount determined as the mark-to-market value for such Hedge Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreement.

“Historic Debt Service Cover Ratio” means, as of any date, the ratio of **A** to **B** where:

- (a) **A** is the aggregate of Available Cash Flow; and
- (b) **B** is the aggregate of (i) all principal and expensed interest in respect of Loans required to be paid by the Borrower under the Finance Documents and (ii) any amounts payable by the Borrower to

the Risk Mitigation Group in respect of the Risk Coverage Documents required to be paid by the Borrower under the Finance Documents,

in each case during the applicable Historic DSCR Measurement Periods.

“Historic DSCR Measurement Period” means for each applicable Calculation Date, the immediately preceding twelve (12)-month period ending on such date.

“HSEC Policy” means the integrated health, safety, environmental and community policies and operating guidelines for the Project adopted by the Board and delivered to the Administrative Agent pursuant to Section 7.1(v), as amended from time to time in accordance with Section 9.9(a).

“Identification” means identification by the Independent Environmental and Social Consultant, including through the review by the Independent Environmental and Social Consultant of a Borrower Environmental Monitoring Report or on a site visit or any notification by the Borrower pursuant to Section 9.3 of this Common Terms Agreement and **“Identified”** shall have a corresponding meaning.

“IESC Environmental Monitoring Report” means each environmental and social due diligence report relating to the assessment of the Project, prepared by the Independent Environmental and Social Consultant in consultation with the Environmental and Social Agent (and in form and substance satisfactory to the Senior Lenders and the ECA Guarantor), which shall document compliance or non-compliance with the Environmental and Social Requirements and shall be provided to the Senior Lenders and the ECA Guarantor on a quarterly basis prior to the first anniversary of the Project Completion Date and annually thereafter in accordance with Section 9.5(i).

“IFC Environmental, Health and Safety Guidelines” means the following guidelines:

- (a) IFC General Environmental, Health and Safety Guidelines (2007);
- (b) IFC Environmental, Health and Safety Guidelines for Mining (2007);
- (c) IFC Environmental, Health and Safety Guidelines for Electric Power Transmission and Distribution (2007);
- (d) IFC Environmental, Health and Safety Guidelines for Water and Sanitation (2007);
- (e) IFC Environmental, Health and Safety Guidelines for Waste Management Facilities (2007); and
- (f) IFC Environmental, Health and Safety Guidelines for Construction Materials Extraction (2007).

“IFC ESIA” means the environmental and social impact assessment to be completed by Cardno Entrix for the Project in accordance with the Performance Standards.

“IFRS” means the International Financial Reporting Standards adopted by the International Accounting Standards Board from time to time.

“Indemnified Party” has the meaning ascribed to such term in Section 6.5(a).

“Independent Consultants” means the Independent Technical Consultant, the Independent Insurance Consultant, the Independent Environmental and Social Consultant, the Independent Model Auditor and any replacement thereof appointed from time to time in accordance with Article 14 (*Consultants*).

“Independent Environmental and Social Consultant” means EcoAnalysts Inc. or any other firm of environmental and social advisors or any replacement thereof in each case appointed in accordance with Article 14 (*Consultants*), including any other environmental and social consultant from time to time appointed by the Administrative Agent to act as the independent environmental and social advisor to the

Senior Lenders and the ECA Guarantor, such consultant owing a duty of care to the Senior Lenders and the ECA Guarantors only, for the purposes of verifying or monitoring compliance of the Borrower, its Subsidiaries, or otherwise, the Project, with the Environmental and Social Requirements (including the Biodiversity Action Plan and the Closure and Rehabilitation Plan).

“Independent Insurance Consultant” means JLT Specialty Limited or such replacement insurance consultant as appointed in accordance with Article 14 (*Consultants*).

“Independent Model Auditor” means Ernst & Young LLP.

“Independent Technical Consultant” means AMC Mining Consultants (Canada) Ltd. or any replacement engineer appointed in accordance with Article 14 (*Consultants*).

“Indigenous Claims” means any claims, assertions or demands, written or oral, whether proven or unproven, made by any Indigenous Peoples, or any representatives thereof, in respect of asserted or proven Indigenous Peoples’ rights, Indigenous Peoples’ title, treaty rights or any other Indigenous Peoples’ interest in, to or affecting all or any portion of the Project or the Project Real Property or any actions taken by any employee of the Borrower (or its Affiliates) when performing services or duties or any Material Project Party (or any subcontractor thereof) in connection with the performance of its obligations under any applicable Material Project Document, in each case in connection with the Project.

“Indigenous Information” means any and all written and material oral communications and documentation, including electronic or other form related to any Indigenous Claims, or any Governmental Body of Ecuador, or representatives thereof, in respect of any matter, including the issuance of required permits, licenses and other governmental authorizations, involving any Indigenous Claims or Indigenous Peoples in relation to the Project or the Project Real Property.

“Indigenous Peoples” means any indigenous tribe(s) and/or band(s).

“Industrial Pledge Agreement” means each *Contrato de Prenda Industrial* between the Borrower and the Onshore Collateral Agent set forth on Schedule X (*Industrial Pledges*).

“ING” means ING Capital LLC.

“Initial Repayment Date” means the earlier to occur of (a) six (6) months after the Project Completion Date and (b) December 30, 2020.

“Insurance and Equipment Agency Fee Letter” means the insurance and equipment agency fee letter dated on or around the date of this Agreement, between the Borrower and Caterpillar Financial.

“Interconnection Agreement” means the interconnection agreement to be entered into between the Borrower and CELEC in relation to the connection of the Borrower into the Transmission Lines and Substation.

“Intercreditor Agent” means The Bank of Nova Scotia or such replacement Intercreditor Agent as may be appointed pursuant to the terms of the Amended and Restated Collateral Agency, Accounts and Security Agreement.

“Intercreditor Agreement” means the intercreditor agreement entered into by and among the Secured Parties and the secured parties under the Prepay/Stream Credit Documents dated on or about the date of this Agreement.

“Intercreditor and Administrative Agency Fee Letter” means the intercreditor and administrative agency fee letter dated on or around the date of this Agreement, between the Borrower and The Bank of Nova Scotia.

“**Interest Payment Date**” has the meaning given to it in each Facility Agreement.

“**Interest Period**” has the meaning given to it in each Facility Agreement.

“**International Cyanide Management Code**” means the Principles and Standards of Practice provisions of the International Cyanide Management Code, dated February 2018, provided that the Verification and Certification provisions thereof are excluded.

“**Investment**” means, with respect to any Person, the making by such Person of:

- (a) any direct or indirect investment in or purchase or other acquisition of the securities of or an equity interest in any other Person;
- (b) any loan or advance to, or arrangement for the purpose of providing funds or credit to (excluding extensions of trade credit in the ordinary course of business in accordance with customary commercial terms), any other Person; or
- (c) any capital contribution to (whether by means of a transfer of cash or other property or any payment for property or services for the account or use of) any other Person; provided that, for greater certainty, an Acquisition shall not be treated as an Investment.

“**Investment Protection Agreement**” means the Investment Protection Agreement (*Contrato de Inversión*), dated on December 19, 2016, between the Republic of Ecuador and the Borrower.

“**Investment Protection Agreement Conditional Assignment**” means the *Contrato de Cesión en Garantía del Contrato de Inversión*, dated September 4, 2017 by and between the Borrower and the Onshore Collateral Agent with respect to the Investment Protection Agreement.

“**Judgment Currency**” has the meaning assigned to that term in Section 23.7 (*Judgment Currency*).

“**KfW IPEX-Bank**” means KfW IPEX-Bank GmbH.

“**Loan Life Cover Ratio**” means, as of any date, the ratio of **A** to **B** where:

- (a) **A** is the net present value of the projected Available Cash Flow (as reflected in the then current Base Case Financial Model) until the Final Maturity Date of the Loans under the Facility with the longest tenor, discounted by the greater of (i) 7% and (ii) the weighted average cost of the Loans and amounts payable in connection with the Risk Coverage Documents; and
- (b) **B** is the amount of the outstanding Loans on the date of calculation less the amounts then standing to the credit of the Offshore USD Proceeds Account comprising the Senior DSR Amount.

In calculating the Loan Life Cover Ratio it shall be assumed that all payment and all transfers between Project Accounts due to be made are in fact made.

“**Loans**” means an ECA Facility Loan and a Commercial Facility Loan.

“**Lundin**” means Lundin Gold Inc., a corporation existing under the laws of Canada.

“**Majority Lenders**” means, at any time, one or more Senior Lenders holding more than sixty-six and two-thirds percent (66 2/3%) of the Commitments or, if the Loans available under the Facility have been made or the Commitments have otherwise been terminated or expired, of outstanding principal amount of the Loans.

“Mandated Lead Arrangers” means Caterpillar Financial, KfW IPEX-Bank, ING, SG Americas Securities, LLC, Natixis, New York Branch and The Bank of Nova Scotia.

“Material Adverse Effect” means, individually or in the aggregate, any event, change or effect that could reasonably be expected to impair to a material extent:

- (a) the business, affairs, capitalization, assets, liabilities, results of operations, condition (financial or otherwise) of the Borrower, Ecoaurelian Agrícola S.A. or, taken as a whole, the Completion Guarantors;
- (b) the development, construction, procurement, engineering or operation or economic viability of the Project, substantially as contemplated in the Material Project Documents, by the Mine Plan and the Construction Plan, Budget and Schedule (in each case, as in effect as of the date hereof) or to operate the Project facilities as contemplated therein, or the ability of the Borrower or any Obligor to pursue the foregoing;
- (c) the ability of the Borrower, any Material Project Party or any other Obligor to consummate the transactions contemplated by the Transaction Documents or to perform their respective obligations under the Transaction Documents in accordance with their respective terms;
- (d) the validity, legality or enforceability of any Finance Document or any Risk Coverage Document;
- (e) the ability of the Borrower to achieve the Commercial Production Date by the Project Completion Longstop Date;
- (f) the rights and remedies of the Administrative Agent or Senior Lenders under the Transaction Documents; or
- (g) the validity or priority of any security interest purported to be granted to any Secured Party under any of the Security Documents.

“Material Adverse Environmental and Social Effect” means, with respect to any health, safety, environmental, community and related operational matters, any New Event or, with respect to Section 6.5(a)(iv), any event as follows:

- (a) (i) any fatality, (ii) any multiple major disability or (iii) major irreversible health impairment directly attributable to the Project;
- (b) any significant Indigenous Peoples, community or worker-related protest, action or challenge to the Project resulting in a period of shutdown of operations of at least a week without any substantive action being undertaken to rectify or remedy such protest, action or challenge; or
- (c) any material irreversible or continuing damage to the Environment that requires measures to remediate or restore the Environment or causes irreparable damage to critical habitats or endangered species.

“Material Project Authorizations” means: (a) the Project Authorizations for the Project (including each Environmental License) listed in Schedule F (*Material Project Authorizations*), and (b) any other Project Authorization, the breach, loss, modification or termination of which, or failure to obtain, could reasonably be expected to have a material adverse effect on the development, construction, procurement, engineering or operation of commercial production (including commercial production transactions) of the Project in accordance with the Mine Plan and the Construction Plan, Budget and Schedule.

“Material Project Documents” means (a) the Contracts listed in Schedule G (*Material Project Documents*), (b) each Additional Material Project Document and (c) each other Material Project Document

designated by the Administrative Agent and the Borrower as a Material Project Document, and, in each case, by replacement of any such Contract.

“Material Project Party” means each Person party to a Material Project Document other than the Borrower.

“MDC Contractor” means Consorcio SME.

“Mine Closure Estimate” means the annual, detailed cost estimate for the decommissioning and closure works and restorative activities in respect of temporary closure, early closure and closure in accordance with the Mine Plan (which shall include reforestation, control of acid rock drainage and other restorative activities) that has been prepared by the Borrower in accordance with Good Industry Practice and in compliance with the Environmental and Social Requirements (including the Closure and Rehabilitation Plan).

“Mine Development Contract” means the mining development contract with respect to the decline of the mine dated March 30, 2017 between the Borrower as principal, the MDC Contractor and Sevilla y Martínez Ingenieros C.A. (Semaica) and Ingeniería y Construcciones Mas Errazuriz Limitada y Filiales, each as parent guarantors, as amended by that certain First Amendment dated as of May 6, 2017, that certain Second Amendment dated as of May 30, 2017, that certain Third Amendment dated as of July 25, 2017 and that certain Fourth Amendment dated as of November 19, 2017 and as further amended from time to time.

“Mine Plan” means the life of mine plan to establish, among other things, the expected, production levels over the life of the mine (based on the mineral reserves which have been estimated for the Project) estimated cash and full costs of production, as updated from time to time in accordance with Section 9.5 (*Project Reporting – Construction Plan, Budget and Schedule, Material Project Documents, Material Project Authorizations and Mine Plan*).

“Minerals” means any and all marketable metal bearing material in whatever form or state that is mined, produced, extracted or otherwise recovered from the Project Real Property, and including any such material derived from any processing or reprocessing of any tailings, waste rock or other waste products originally derived from the Project Real Property, and including ore and any other products resulting from the further milling, processing or other beneficiation of Minerals, including doré.

“Minimum Capacity Concentrates Agreement” has the meaning assigned to it in Section 9.1(v).

“Mining Registry” means the *Agencia de Regulación y Control Minero* (ARCOM) in Ecuador.

“Minor Non-Compliance Event” means an Identified event of non-compliance with Environmental and Social Requirements which the Independent Environmental and Social Consultant reasonably believes is an event not representing immediate or severe social or environmental risk.

“Monthly Construction Progress Report” means a construction progress report to be provided by the Borrower on a monthly basis to the Administrative Agent and the Senior Lenders, which shall include, but is not limited to, (a) an estimate of the anticipated Project Completion Date, (b) a description of physical progress and expenditures of Project Costs during such month; (c) a description of cumulative and physical progress and expenditure through the end of such month, together with a comparison of the same against the then-applicable Construction Plan, Budget and Schedule, including a description of any material variance or inconsistency and the Borrower’s proposal to remedy any such material variance or inconsistency; and (d) with respect to its audit of the GOE’s involvement in the Exploitation Agreement and Investment Protection Agreement, a summary of any material notifications from the comptroller delivered in advance of the final audit.

“Monthly Operations Report” means a monthly operating report that is consistent with generally accepted operational reporting standards common in the mining industry and confirmed by the Independent Technical Consultant.

“Mortgages” means each of the *Contrato de Hipoteca*, dated May 30, 2017, between the Borrower, Ecoaurelian Agrícola S.A. and the Onshore Collateral Agent as set forth in Schedule T (*List of Mortgages*).

“National Instrument 43-101” means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects* of the Canadian Securities Administrators and the companion policy thereto (or any successor instrument, rule or policy).

“Natixis” means Natixis, New York Branch.

“Natixis Commitment Letter” means the commitment letter dated as of April 12, 2018, between the Borrower and Natixis as amended by them in a letter dated on or around June 29, 2018.

“Net Disposition Proceeds” shall mean, with respect to any disposition of assets or Expropriation Event, the aggregate amount of cash payments and to the extent that consideration for the asset disposed includes non-cash consideration, the fair market value of any such non-cash consideration net of (a) the amount of any costs, expenses, commissions and fees paid or payable by or on behalf of the Borrower in connection with such disposition (as evidenced by supporting documentation provided to the Senior Lenders upon request), and (b) any Taxes imposed on and payable or reasonably estimated to be payable by the Borrower as a result of such disposition.

“Net Insurance Proceeds” means the aggregate cash proceeds of (a) business interruption insurance to the extent the Project is being abandoned or suspended and (b) insurance received by the Borrower in respect of any loss, damage to or destruction of any of the Collateral, in each case, after deducting therefrom all reasonable fees, costs and expenses (including legal and accounting fees) incurred in connection with the collection of such proceeds (as evidenced by supporting documentation provided to the Senior Lenders upon request), without deduction for any insurance premiums or similar payments; provided, however, that insurance proceeds arising from third-party liability insurance shall not constitute Net Insurance Proceeds.

“New Event” means:

- (a) an event not already described in an EIA, Corrective Action Plan, ESAP, ESMPs or Authorizations (including Environmental Licenses) or;
- (b) an event described in any of the preceding documents, which is the subject of a material negative change in circumstances which has been Identified.

“Non-Material Affiliate” means each of Aurelian Menor Inc., Aurelian Exploration Inc. and Aurelianmenor S.A., and any Subsidiary or Affiliate thereof, to the extent such Person, Subsidiary or Affiliate does not have a direct or indirect interest in the Project or the Project Property.

“Note” means each of the promissory notes (*pagaré*) executed by the Borrower and each Completion Guarantor (*por aval*) (as applicable), which shall be governed by Ecuadorian law and shall comply with all requirements for the validity and enforceability under the Applicable Law of Ecuador, and shall be in the form set out in Schedule H (*Form of Note*).

“Obligations” means all indebtedness, liabilities, indemnities and other obligations owed by any Obligor to any Secured Party hereunder, under any other Finance Document or under any Risk Coverage Document (pursuant to the terms of the Finance Documents), whether actual or contingent, direct or indirect, matured or not, now existing or hereafter arising (including any fees or premia payable to any Risk Mitigation Group under the Risk Coverage Documents).

“Obligor” means each of the Borrower and the Completion Guarantors.

“OFAC” means the Office of Foreign Assets Control of the US Department of the Treasury.

“Officer’s Certificate” means a certificate in form satisfactory to the Administrative Agent, acting reasonably, (a) in the case of any such certificate of the Borrower, signed by the *gerente general* and (b) in all other cases, of the applicable Person required to provide such certificate signed by the President or a Vice-President of such Person or by such other of its senior officers, managers or directors as may be acceptable to the Administrative Agent.

“Offshore Collateral Accounts” has the meaning given to it in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Offshore Collateral Agency Fee Letter” means the amended and restated offshore collateral agency fee letter dated on or about the date of this Agreement, between the Borrower and The Bank of Nova Scotia.

“Offshore Collateral Agent” means The Bank of Nova Scotia, in its capacity as offshore collateral agent for the Senior Lenders hereunder, as appointed pursuant to the Amended and Restated Collateral, Agency, Accounts and Security Agreement, or any successor Offshore Collateral Agent appointed thereunder.

“Offshore USD Proceeds Account” has the meaning ascribed to such term in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Offtake Agreement” means:

- (a) the Boliden Offtake Agreement,
- (b) the Gold/Silver Offtake Agreement; and
- (c) any other offtake arrangements entered into by the Borrower for the sale of gold, silver or other Minerals from the Project.

“Onshore Account Bank” means Banco Pichincha.

“Onshore Collateral Accounts” has the meaning given to it in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Onshore Collateral Agency Fee Letter” means the onshore collateral agency fee letter dated as of May 13, 2017, between the Borrower and the Onshore Collateral Agent.

“Onshore Collateral Agent” means Anefi S.A. Administradora de Fondos y Fideicomisos, in its capacity as onshore collateral agent for the Senior Lenders hereunder, as appointed pursuant to the Amended and Restated Collateral, Agency, Accounts and Security Agreement, or any successor Onshore Collateral Agent appointed thereunder.

“Onshore Collateral Agent Fiduciary Mandate” means the *Encargo Agente Colateral FDN*, dated May 30, 2017, among the Offshore Collateral Agent and the Onshore Collateral Agent.

“Onshore Operating Collateral Account” has the meaning given to it in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Onshore Trust Account” has the meaning given to it in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Operating Costs” means, in relation to any period (without duplication):

- (a) the costs and expenses incurred in connection with the ownership, operation and maintenance of the Project (including Permitted Capital Expenditures to be incurred following Project Completion

in accordance with the Mine Plan), including payments to the counterparties under the Project Documents to which the Borrower is a party in accordance with the terms thereof (including Royalties and preservation patents), costs, expenses and fees attendant to obtaining and maintaining in effect any permit, payments under any parts agreement, payments for spare parts, equipment, materials, utilities, repair and routine maintenance services and reasonable general and administrative expenses, including expenditures incurred to keep the Collateral free and clear of all Encumbrances (other than Permitted Encumbrances),

- (b) all Taxes imposed on and payable by the Borrower,
- (c) insurance costs payable during the applicable calculation period,
- (d) legal, accounting and other professional fees attendant to any of the foregoing items,
- (e) working capital costs,

provided, that all of the foregoing costs and expenses shall be determined on a cash basis and shall not include depreciation, amortization and other non-cash items; and

- (f) payments due and payable during the applicable calculation period in respect of Permitted Debt specified in paragraphs (f) and (g) of the definition thereof;

provided, further, that all the foregoing operating costs and expenses shall not include:

- (i) payments of any kind with respect to Restricted Payments; or
- (ii) payment of any Capital Expenditures.

“Order” means any order, directive, decree, judgment, ruling, award, injunction, direction or request of any Governmental Body or other decision-making authority.

“Other Rights” means all licenses, approvals, authorizations, consents, rights (including surface rights, access rights and rights of way), privileges, concessions or franchises held by the Borrower or required to be obtained from any Person (other than a Governmental Body) for the development, construction, procurement, engineering and operation of the Project, as contemplated by the current or then applicable Mine Plan.

“Participant” has the meaning ascribed to such term in Section 12.1(i).

“Participant Register” has the meaning ascribed to such term in Section 12.1(j).

“Performance Standards” means (i) each of the eight (8) IFC Performance Standards on Environmental and Social Sustainability (January 2012) and (ii) the IFC Environmental, Health and Safety Guidelines.

“Permitted Asset Disposition” means, as at any particular time, a sale, transfer or other Disposition of:

- (a) inventory in the ordinary course of business;
- (b) provided the Borrower has complied with all the environmental audits required by Applicable Law prior to such transfer or renouncement, the transfer or renouncement to the GOE prior to the termination of the relevant Related Concession by the GOE following the expiry of the exploration phase without proceeding to exploitation phase of the Colibri 2, Colibri 4, Rio Zarza 2, Valle del Inca 2 and Condesa, Related Concessions (other than Colibri 5);
- (c) tangible personal property that is obsolete, or worn out property no longer required in the conduct of the Business;

- (d) minerals pursuant to this Agreement, the Stream Credit Facility Agreement, the Offtake Agreements, the Royalty Agreements or otherwise in the ordinary course of business in compliance with the terms of this Agreement excluding in each case any such sale, transfer or other disposition of minerals to another Obligor;
- (e) negotiated expropriations by the government, planned for and agreed upon as part of, and that would not reasonably be expected to have a material impact on, the expected normal operations of the Project, subject to the approval of the Majority Lenders, such approval not to be unreasonably withheld; and
- (f) Abandonment Property as permitted under the Stream Credit Facility Agreement;

provided, that, the Senior Lenders shall have determined, acting in a commercially reasonable manner, that it is not economical to mine Minerals from the Abandonment Property; provided, further, notwithstanding anything to the contrary in this definition, no sale, transfer or other Disposition to a Non-Material Affiliate shall be permitted.

“Permitted Capital Expenditures” means Capital Expenditures that are:

- (a) in accordance with the Construction Plan, Budget and Schedule approved pursuant to Section 9.5(d)(i) or the Annual Budget and Forecast Report;
- (b) Capital Expenditures required to be made pursuant to any Applicable Law or any Environmental Law or to comply with any Project Authorization, in each case, that have been approved by the Majority Lenders;
- (c) Capital Expenditures required in order to prevent or mitigate an unforeseeable event or circumstance that poses (in the Borrower’s good-faith judgment) actual or imminent and material risk of
 - (i) physical injury to any Person; or
 - (ii) material financial loss in respect of, or physical damage to, the Project or any property of any third Person; provided, that the amount of any such Capital Expenditures shall not exceed \$5,000,000 in the aggregate;
- (d) Capital Expenditures required in order to prevent or mitigate an unforeseeable event or circumstance that poses (in the Borrower’s good-faith judgment and in accordance with Good Industry Practice) actual or imminent and material risk of:
 - (i) death to any Person; or
 - (ii) significant environmental harm;
- (e) Capital Expenditures made with cash available to be transferred from the Restricted Payments Account pursuant to section 3.8 of the Amended and Restated Collateral, Agency, Accounts and Security Agreement, funded from additional voluntary equity contributions made to the Borrower by or on behalf of Lundin or proceeds of any Project Authorization; or
- (f) Capital Expenditures funded with Permitted Debt.

“Permitted Debt” means:

- (a) the Obligations;
- (b) the obligations under the Prepay/Stream Credit Documents;

- (c) Debt incurred under the Cost Overrun Facility;
- (d) Debt of the Borrower secured by Encumbrances permitted pursuant to paragraph (i) of the definition of Permitted Encumbrances;
- (e) Subordinated Intercompany Debt;
- (f) any trade or other similar Debt in each case that is incurred in the ordinary course of the Borrower's business (to the extent that it does not involve advance or deferred payment for a period of more than six (6) months after incurrence thereof) that is not more than one hundred eighty (180) days past due or is being Contested; provided, that the aggregate principal amount of all such Debt pursuant to this paragraph (f) incurred by the Borrower and Ecoaurelian Agrícola S.A. shall not exceed \$10,000,000; and
- (g) unsecured Debt in respect of surety or completion bonds, standby letters of credit or letters of guarantee securing mine closure, asset retirement and environmental reclamation obligations of the Borrower to the extent required by Applicable Laws or a Governmental Body; provided, that the aggregate principal amount of all such Debt pursuant to this paragraph (g) incurred by the Borrower and Ecoaurelian Agrícola S.A. and that remains outstanding at any time shall not at any time exceed \$30,000,000.

"Permitted Encumbrances" means, in respect of any Collateral, any of the following:

- (a) any Encumbrances created in favor of the Secured Parties or the Gold Prepay Parties under or pursuant to the terms of the Security Documents;
- (b) the Encumbrances securing: (i) the Obligations; (ii) the obligations under the Prepay/Stream Credit Documents; (iii) any obligations under any Subordinated Intercompany Debt; and (iv) any obligations under the Cost Overrun Facility; provided, that, in each case, such Encumbrances are subject to the Intercreditor Agreement;
- (c) any Encumbrances arising from any tax, assessment or other governmental charge or other Encumbrances arising by operation of law, in each case if the obligation underlying any such Encumbrances is timely paid, not yet due or, if due, is being Contested.
- (d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Encumbrances arising in the ordinary course of business which are not overdue for a period of more than thirty (30) days or which are subject to Contest and, where Contested, individually or together with all other Permitted Encumbrances outstanding on any date of determination do not materially adversely affect the use of the property to which they relate;
- (e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Encumbrances imposed by ERISA (*The Employee Retirement Income Security Act of 1974* of the United States and the rules and regulations promulgated thereunder, together with any successors) or which interferes with the ordinary conduct of business of the Project;
- (f) deposits to secure the performance of bids, trade contracts and leases (other than Debt), statutory obligations, performance bonds and other obligations of a like nature incurred in the ordinary course of business;
- (g) easements, rights of way restriction and other similar encumbrances affecting real property which, in the aggregate, are not substantial in the amount, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Borrower;

- (h) Encumbrances securing judgments for the payment of money not constituting an Event of Default hereunder or securing appeal or other surety bonds related to such judgments; and
- (i) Encumbrances securing (i) Permitted Debt or (ii) Purchase Money Obligations and Capitalized Lease Obligations relating solely to the acquisition of mobile equipment necessary for the development, construction or operation of the Project; provided, that, in each case, the aggregate of the Debt outstanding at any time in respect of the Permitted Debt or the Purchase Money Obligations and Capitalized Lease Obligations referred to in this paragraph (i) of the Borrower and Ecoaurelian Agrícola S.A. shall not exceed \$10,000,000; and
- (j) any statutory liens having priority under mandatory provisions of Ecuadorian law.

“Permitted Equity Transferee” means any Person that:

- (a) is not a Sanctions Target (and that is not an Affiliate of any Person that is a Sanctions Target),
- (b) is not now, nor within the last 5 years was not, the subject of an investigation or proceeding relating to any Sanctions, Anti-Corruption Laws or AML Legislation, and
- (c) is not now, or within the past 5 years was not, the subject of negative action or censure by any Governmental Body, or the subject of reasonably credible negative reports in mainstream local or international media relating to actions of any Governmental Body in respect of such Person, concerning its treatment of Indigenous Peoples, its community relations record or its failure to comply with environmental, health and safety Applicable Laws.

“Permitted Hedging Arrangements” means any Hedge Agreement the Borrower is required to enter pursuant to and in accordance with any hedging strategy which may be agreed between the Borrower and Senior Lenders.

“Permitted Investment” means:

- (a) any cash equivalent investments including:
 - (i) deposits (including certificates of deposit) maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
 - (ii) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, Canada, the Netherlands, Germany or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
 - (iii) commercial paper not convertible or exchangeable to any other security:
 - (A) for which a recognized trading market exists;
 - (B) issued by an issuer incorporated in the United States of America, the United Kingdom, Canada, the Netherlands or Germany;
 - (C) which matures within 1 year after the relevant date of calculation; and
 - (D) which has a credit rating of either A-2 or higher by Standard & Poor's Rating Services or F2 or higher by Fitch Ratings Ltd or P-2 or higher by Moody's Investor Services Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

- (iv) any investment in money market funds which:
 - (A) have a credit rating of either A-2 or higher by Standard & Poor's Rating Services or F2 or higher by Fitch Ratings Ltd or P-2 or higher by Moody's Investor Services Limited;
 - (B) invest substantially all their assets in securities of the types described in paragraphs (i) to (iv) above; and
 - (C) can be turned into cash on not more than 30 days' notice; or
- (v) any other debt security approved by the Majority Lenders,

in each case denominated in Dollars (or any other currency acceptable to the Administrative Agent) and to which the Borrower is alone entitled at that time and which is not issued or guaranteed by any Obligor or any Affiliate of any Obligor or subject to any Security (other than any Security arising under the Security Documents);

- (b) deferred consideration in the event of any Permitted Asset Disposition; and
- (c) with respect to any Offshore Collateral Account, any deposit necessary as a matter of regulation in respect of any reclamation or rehabilitation bonds,

and with respect to all Project Accounts, other than the Restricted Payments Account, a debt instrument or deposit (of a type which the Account Bank can accommodate) which is otherwise approved by the Majority Lenders in consultation with the Account Bank.

“Permitted Lundin Change of Control” means in connection with a Change of Control

- (a) with respect to Lundin, at any time prior to Project Completion, if each of the following conditions has been satisfied:
 - (i) each transferee shall be a Permitted Equity Transferee;
 - (ii) the board of directors of Lundin has unanimously voted in favor of such transfer;
 - (iii) no less than 80% of Core Management of Lundin shall be retained in equivalent positions at Lundin;
 - (iv) each Permitted Equity Transferee shall be:
 - (A) an entity actively involved in the mining industry with control of existing mining operations that are not located in any of the “Designated Countries” (and EU member states that do not fall under the definition of “Designated Countries”), as defined under the Equator Principles; and
 - (B) a public company listed on a major recognized stock exchange (including TSX, the London Stock Exchange, Australian Securities Exchange, New York Stock Exchange and the AIM sub-market of the London Stock Exchange;
 - (v) each Permitted Equity Transferee shall have a long-term unsecured unenhanced senior debt rating (or if such Permitted Equity Transferee does not have such rating, such Permitted Equity Transferee’s implied long-term unsecured debt rating) equal to or higher than Lundin’s long-term unsecured unenhanced senior debt rating (or if Lundin does not have such rating, Lundin’s implied long-term unsecured debt rating);

- (vi) the Tangible Net Worth of each Permitted Equity Transferee, shall be equal to or higher than \$350,000,000 (or its equivalent in any other currency) prior to the consummation of the applicable share transfer or merger and \$500,000,000 (or its equivalent in any other currency) after the consummation of the applicable share transfer or merger;
 - (vii) the Permitted Equity Transferee is not involved, in a material adverse manner, in any litigation or arbitration proceedings against any Senior Lender, unless only one Senior Lender is involved in such proceedings, and the Borrower requires such Senior Lender to transfer its commitment (if any is remaining) and participations in the Facilities to another Senior Lender or a new Senior Lender nominated by the Borrower and acceptable to the Majority Lenders (acting reasonably); and
 - (viii) the business operations of the Permitted Equity Transferee would not violate the board approved and published global policies of any Senior Lender in effect on the date of signing the definitive documentation of the applicable share transfer or merger, unless the violation is in respect of only one Senior Lender's policies, and the Borrower requires such Senior Lender to transfer its commitment (if any is remaining) and participations in the Facilities to another Senior Lender or a new Senior Lender nominated by the Borrower and acceptable to the Majority Lenders (acting reasonably);
- (b) with respect to Lundin, at any time after Project Completion, if each of the following conditions shall have been satisfied:
- (i) each transferee shall be a Permitted Equity Transferee;
 - (ii) each Permitted Equity Transferee shall be an entity actively involved in the mining industry with control of existing mining operations or advanced mining developments that are not located in any of the "Designated Countries" (and EU member states that do not fall under the definition of "Designated Countries"), as defined under the Equator Principles; and
 - (iii) the Tangible Net Worth of each Permitted Equity Transferee, shall be equal to or higher than \$350,000,000 (or its equivalent in any other currency) prior to the consummation of the applicable share transfer or merger.
- (c) at any time after Project Completion, if each of the following conditions has been satisfied:
- (i) Lundin continues to have control or direction, directly or indirectly, over at least 51% of the outstanding voting shares of each Obligor;
 - (ii) each transferee Person shall be a Permitted Equity Transferee; and
 - (iii) no Default or Event of Default has occurred and is continuing or would occur as a result of the consummation of such Change of Control,
- and to the extent applicable to each of paragraphs (a) and (b) above, and this paragraph (c), each Permitted Equity Transferee shall have executed and delivered each document required to: (A) cause the liens created in favor of the Secured Parties pursuant to the Security Documents to continue to constitute valid and fully perfected liens granting, a first priority security interest (subject to permitted liens to be agreed) in the Collateral for the benefit of the Secured Parties pursuant to the Security Documents and (B) assume (to the extent of its ownership), without condition or qualification, the obligations of Lundin under the Finance Documents; and
- (d) with respect to Zebra Holdings S.à.r.l, Nemesia S.à.r.l. and Lorito Holdings S.à.r.l (the "**Lundin Family Trusts**"):

- (i) at all times prior to the Project Completion Date, if, after any relevant transfer, the Lundin Family Trusts continue to hold no less than REDACTED *[percentage redacted]* % of the outstanding voting shares of Lundin (subject to share dilution, the issuance of new shares or any other action causing the voting shares of the Lundin Family Trust to be reduced);
- (ii) at all times prior to the earlier to occur of:
 - (A) the Project Completion Date; and
 - (B) the Project Completion Longstop Date if after any transfer, the Lundin Family Trusts continue to hold, directly or indirectly, on a combined basis, no less than REDACTED *[number of shares redacted]* shares in Lundin; and
- (iii) at all times after Project Completion there shall be no restrictions on Lundin Family Trusts' ability to transfer outstanding voting shares of Lundin.

“Permitted Restoration” means with respect to a particular condemnation or casualty event relating to the Project, the completion, repair, restoration or rebuilding of the Project or any portion thereof that is condemned or damaged.

“Permitted Transferee” means (a) any Senior Lender or any Affiliate of any Senior Lender, (b) any other lending, bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purposes of making, purchasing or investing in loan, securities or other financial assets (other than a Gold Prepay Lender, a Stream Lender or any of their respective Affiliates); provided that for the purposes of Section 15.6 of the Intercreditor Agreement any Gold Prepay Lender, Stream Lender or any of their respective Affiliates shall be deemed Permitted Transferees) and (c) the ECA Guarantor.

“Person” means and includes individuals, corporations, bodies corporate, limited or general partnerships, joint stock companies, limited liability companies, joint ventures, associations, companies, trusts, banks, trust companies, funds, Governmental Bodies or any other type of organization or entity, whether or not a legal entity.

“Physical Completion Date” means the date on which the Borrower delivers to the Administrative Agent the Physical Facilities Certificate fully executed by the Borrower and the Independent Technical Consultant.

“Physical Facilities Certificate” means the certificate (substantially in the form set out in the Completion Agreement) to be delivered in connection with the Physical Completion Date.

“Pledge Agreements” means the Industrial Pledge Agreement and the Commercial Pledge Agreement.

“Potential E&S Non-Compliance Event” means, in relation to the Project:

- (a) intentional disregard by the Borrower and its Subsidiaries of any Environmental and Social Requirements;
- (b) (i) an event or condition that has had, or could reasonably be expected to have, a Material Adverse Environmental and Social Effect or (ii) non-compliance by the Borrower or its Subsidiaries with the Environmental and Social Requirements that has either resulted in significant environmental or social damage or is reasonably expected by the Independent Environmental and Social Consultant to result in severe impending damage to the Environment; or
- (c) a Minor Non-Compliance Event or a series of Minor Non-Compliance Events,

where any of the events in (a) to (c) above is a New Event.

“Power Supply Agreements” means (a) the Cooperation Agreement and (b) the Interconnection Agreement.

“Process Plant” means the process plant to be completed in connection with the Project, substantially as contemplated in the Mine Plan, and used to process Minerals into doré or gold-silver bearing concentrate.

“Prepay/Stream Agents” means any (or both) of the Gold Prepay Agent and/or the Stream Agent, as the context may require.

“Prepay/Stream Credit Documents” means:

- (a) the Gold Prepay Credit Agreement;
- (b) the Guaranty Agreement;
- (c) the Stream Credit Facility Agreement;
- (d) each Tax Coverage Letter;
- (e) each Cost Reimbursement Letter,
- (f) the Prepay/Stream Fee Letters; and
- (g) the Gold/Silver Offtake Agreement.

“Prepay/Stream Fee Letters” means:

- (a) the fee letter dated as of May 30, 2017 between the Borrower and the Offshore Collateral Agent;
- (b) the fee letter dated as of May 30, 2017, among the Borrower, the Offshore Collateral Agent and the Onshore Collateral Agent;
- (c) the Ecuadorian Trustee Service Agreement insofar as fees are concerned; and
- (d) the fee letter dated as of May 30, 2017 between the Borrower, Orion Co-V Pte Ltd and GRYPHUS PTE Ltd.

“Prepay/Stream Lenders” means any (or both) of the Gold Prepay Lenders and/or the Stream Lenders, as the context may require.

“Prepay/Stream Parties” means the parties to, in their respective capacities under, the Prepay/Stream Credit Documents (other than the Obligors).

“Prohibited Payment” means:

- (a) any direct or indirect payment, gift, offer or promise of anything of value (including authorization of any of the foregoing) to or for the benefit of any official or employee of a Governmental Body (including any official or employee of any government-owned or controlled entity or of a public international organization) or any political party or official thereof or any candidate for political office or any other person (including any “foreign official” (as such term is defined in the U.S. Foreign Corrupt Practices Act)); and
- (b) any other payment, gift, offer or promise of anything of value (or authorization of any of the foregoing), in each case, that constitutes a violation of any Anti-Corruption Laws.

“Prohibited Practice” means any direct or indirect acts of bribery, corruption, money laundering, public procurement fraud or other illicit conduct (including the making or authorization of any Prohibited Payment), in each case constituting a violation of any Anti-Corruption Laws or AML Legislation.

“Project” means the Fruta del Norte gold-silver mining project, which comprises together the Concessions and the Related Concessions, each as registered in the Mining Registry of Ecuador, and covers an area of approximately 5,000 hectares and located approximately 9 km northeast of San Antonio in Zamora-Chinchipe province, Ecuador, and including the mining, exploration, construction and development operations thereon, and the mines, infrastructure (including, unless the subject of a Permitted Asset Disposition, the Northern Access Road, River Road and Zamora Bridge) and the Process Plant constructed or used therein.

“Project Accounts” means the Offshore Collateral Accounts and the Onshore Collateral Accounts.

“Project Authorization” means an Authorization or Other Right (including an environmental Authorization) necessary for the development, construction, procurement, engineering and operation of the Project in accordance with the Construction Plan, Budget and Schedule, the Mine Plan and the Material Project Documents.

“Project Completion” means the date by which all of the following requirements have been achieved (or waived by the Specified Majority Lenders in consultation with the Independent Technical Consultant):

- (a) the satisfaction of the tests contained in the Project Completion Certificates and the delivery to the Administrative Agent of the Project Completion Certificates; and
- (b) the occurrence of the Physical Completion Date.

“Project Completion Certificates” means the Project Completion Certificates listed in section 2.01 of the Completion Agreement.

“Project Completion Date” means the date on which Project Completion occurs.

“Project Completion Longstop Date” means December 31, 2021.

“Project Costs” means all Construction Costs and Operating Costs.

“Project Documents” means, individually or collectively, as the context may require, the following:

- (a) each Material Project Document;
- (b) any performance bond, advanced payment bond, guarantee or other credit support provided to the Borrower pursuant to any agreement referred to in this definition of “Project Documents”; and
- (c) any other Contract to which the Borrower or its Subsidiaries are a party from time to time in relation to the Project (including any replacement of an existing Project Document) other than a Finance Document.

“Project Life Cover Ratio” means, as of any date, the ratio of A to B where:

- (a) **A** is the net present value of the projected Available Cash Flow (as reflected in the then current Base Case Financial Model) until the end of the then-existing Mine Plan, discounted by the greater of: (i) 7% and (ii) the weighted average cost of the Loans and amounts payable in connection with the Risk Coverage Documents; and
- (b) **B** is the amount of the outstanding Loans less the amounts then standing to the credit of the Offshore USD Proceeds Account comprising the Debt Service Reserve Amount.

“Project Property” means all of the property, assets, undertaking, approvals, licenses, permits and rights of the Obligors in and relating to the Project, whether now owned or existing or hereafter acquired or arising, including real property, personal property and mineral interests, and specifically including, but not limited to:

- (a) the Project Real Property and Minerals;
- (b) all accounts, instruments, chattel paper, deposit accounts, documents, intangibles, goods (including inventory, equipment and fixtures), money, letter of credit rights, supporting obligations, claims, causes of action and other legal rights and investment property in each case relating to the Project;
- (c) all products, proceeds (including proceeds of proceeds), rents and profits of the foregoing; and
- (d) all books and records of the Obligors related to any of the foregoing.

“Project Real Property” means all real property interests, all mineral claims, mineral leases and other mineral rights, concessions and interests, and all surface access rights held by any Obligor relating to the Project (which as of the date hereof, are as set forth in Schedule I (*Project Real Property*), and all buildings, structures, improvements, appurtenances and fixtures thereon or attached thereto, whether created privately or by the action of any Governmental Body. **“Project Real Property”** shall also include any term extension, renewal, replacement, conversion or substitution of any such real property interests, mineral claims, mineral leases, mineral rights, concessions or interests, and surface access rights, owned or in respect of which an interest is held, directly or indirectly, by any Obligor at any time during the term of this Agreement, whether or not such ownership or interest is held continuously.

“Project Termination Date” means the date specified in the then-current Mine Plan as being the date on which the commercial mining and production of gold, silver or other Minerals (based on mineral reserves) at the Project is expected to cease.

“Projected Debt Service Cover Ratio” means, as of any date, the ratio of **A** to **B** where:

- (a) **A** is the aggregate of Available Cash Flow; and
- (b) **B** is the aggregate of (i) all principal and expensed interest in respect of Loans required to be paid by the Borrower under the Finance Documents and (ii) any amounts payable by the Borrower to the Risk Mitigation Group in respect of the Risk Coverage Documents required to be paid by the Borrower under the Finance Documents.

in each case during the period of calculation.

“Projected Project Costs” means, on any date, the sum of:

- (a) the aggregate amount of all Project Costs and other costs incurred by the Borrower and which, in each case have fallen due for payment but have not yet been paid;
- (b) the aggregate amount of Project Costs and any other costs to be incurred by the Borrower which, in each case, are projected to fall due for payment prior to the date on which Project Completion is expected to occur pursuant to the Construction, Budget, Schedule and Plan; and
- (c) the aggregate amount of principal and interest under the Finance Documents, the Prepay/Stream Credit Documents and the Cost Overrun Facility that are projected to fall due for payment prior to the date on which Project Completion is expected to occur pursuant to the Construction Budget, Schedule and Plan.

“Purchase Money Obligations” means the outstanding balance of the purchase price of real and/or personal property, title to which has been acquired or will be acquired upon payment of such purchase price, or indebtedness to non-vendor third parties incurred to finance the acquisition of such new and not replacement real and/or personal property, or any refinancing of such indebtedness or outstanding balance.

“Qualified Buyer” means (a) any of the purchasers listed on Schedule W (*List of Qualified Buyers*) or (b) any of the purchasers under the Gold/Silver Offtake Agreement or (c) any other purchaser of gold, silver or any other Minerals from the Project under any Offtake Agreement, as agreed between the Administrative Agent (acting on the instruction of the Majority Lenders) and the Borrower.

“Quarterly Date” means March 31, June 30, September 30 and December 31 of each calendar year.

“Quarterly Operations Report” means a written report prepared by or on behalf of the Borrower in relation to the immediately preceding calendar quarter, which report shall include all material information pertaining to the development, production or operations of the Project, including the following information for such quarter:

- (a) a review of the exploration, development (including remaining construction, if any, and sustaining capital) and operating activities for the quarter and a report on any material issues, departures from, or contemplated or potential changes to the Mine Plan, as applicable;
- (b) details of any new material environmental, social, health or safety activities including material violations of any Applicable Laws, or any material non-compliance with the Environmental and Social Requirements or the Compliance Programs;
- (c) the estimated tonnes and grade of Minerals mined during such quarter;
- (d) the estimated tonnes and grade of Minerals stockpiled during such quarter (and the total stockpile at the end of such quarter);
- (e) the estimated tonnes and grade of Minerals processed during such quarter and recoveries for gold, doré, silver, and other types of marketable minerals;
- (f) the estimated tonnes and grade of gold-silver bearing concentrate produced during such quarter;
- (g) the estimated tonnes of gold-silver bearing concentrate sold to a Smelter;
- (h) the number of ounces of gold, doré, silver or other Minerals outturned by the Refinery during such quarter;
- (i) the estimated number of ounces of gold, doré or silver contained in Minerals processed as of the end of such quarter that have not yet been delivered to or outturned by the Refinery;
- (j) the aggregate number of ounces of refined gold and refined silver used to determine the monthly payment amount under in the Stream Credit Facility Agreement up to the end of such quarter;
- (k) such other information regarding the performance of the Borrower’s obligations under the Finance Documents as the Administrative Agent may request;
- (l) a report on actual versus budgeted operating expenditure and sustaining capital expenditure (together with an explanation of the reasons for any material variance); and
- (m) details of planned or actual material maintenance.

The Quarterly Operations Report shall also contain a report on any Encumbrances placed on the Collateral securing amounts greater than \$5,000,000 in the aggregate, other than the Security.

“Real Property” means the Project Real Property and all other real property interests, mineral claims, mineral leases and other mineral rights concessions and interests, and all surface access rights held by any Obligor and all buildings, structures, improvements, appurtenances and fixtures thereon or attached thereto, whether created privately or by the action of any Governmental Body (which, as of the date hereof, to the extent not constituting Project Real Property, are as set forth in Schedule I (*Project Real Property*)).

“Recovered Amount” has the meaning ascribed to such term in Section 16.1 (*Payments to Finance Parties*).

“Recovering Finance Party” has the meaning ascribed to such term in Section 16.1 (*Payments to Finance Parties*).

“Redistributed Amount” has the meaning ascribed to such term in Section 16.4(a) (*Reversal of Redistribution*).

“Refined Gold” means marketable metal bearing material in the form of gold bars or coins that is refined to standards meeting or exceeding 995 parts per 1,000 fine gold, and otherwise conforming to the London Bullion Market Association specifications for good delivery.

“Refinery” means any smelter or refinery chosen by the Borrower from time to time that is recognized by the London Bullion Market Association at the relevant time as producing silver and/or gold bars conforming to the London Bullion Market Association specifications for good delivery.

“Register” has the meaning ascribed to such term in Section 12.1(g).

“Reinsurance Assignment Agreement” means the reinsurance assignment agreement dated as of June 12, 2017 among Ecuatoriano Suiza Compañía de Seguros, the Borrower and the Offshore Collateral Agent.

“Related Concessions” means each of the Colibri 2 (code: 501389) and Colibri 4 (code: 501433) concessions granted by the Acting South Regional Undersecretary of Mining, Zone 7, of Zamora dated June 17, 2013 and December 11, 2015, respectively, Colibri 5 (code: 50001075) granted by the Acting South Regional Undersecretary of Mining, Zone 7, of Zamora dated June 7, 2017, Rio Zarza 2 (code: 50001028) originally granted as Rio Zarza by the Acting South Regional Undersecretary of Mining, Zone 7, of Zamora on April 29, 2010, and Valle del Inca 2 (code: 5001027) originally granted as Valle del Inca 1 by the Acting South Regional Undersecretary of Mining, Zone 7, of Zamora on April 29, 2010 that comprise part of the ‘Related Area’ for the purposes of the Exploitation Agreement, Condesa (Code: 5000086) granted by the Undersecretary of Mining, Zone 7, of Zamora on May.4, 2017.

“Related Party” means, with respect to any Person (the **“first named Person”**), any Person that does not deal at arm’s length with the first named Person or is an Associate of the first named Person and, in the case of any Obligor, includes:

- (a) any director, officer, employee or Associate of Lundin or any of its Affiliates;
- (b) any Person that does not deal at arm’s length with Lundin or any of its Affiliates; and
- (c) any Person that does not deal at arm’s length with, or is an Associate of, a director, officer, employee or Associate of Lundin or any of its Affiliates.

“Release” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration of Hazardous Substances into the indoor or outdoor environment,

including the movement of such Hazardous Substances through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

“Repayment Date” means Initial Repayment Date; and each subsequent Quarterly Date thereafter.

“Repayment Installment” means each installment of principal that is scheduled to fall due under the Facilities.

“Repeating Representations” means each representation and warranty in Section 7.1 (*Representations and Warranties of the Borrower*) other than the representations and warranties set forth in Section 7.1(s) (*Sanctions*), Section 7.1(aa) (*Taxes*), Section 7.1(mm) (*No Default*) and Section 7.1(nn) (*Disclosure*).

“Reserve Tail Ratio” means, as of any date of determination, the ratio of **A** to **B** where:

- (a) **A** is the then-current forecasted production of gold from the Project from the scheduled Final Maturity Date through the remainder of the life of the mine as set forth in the updated Base Case Financial Model; and
- (b) **B** is the gold originally forecasted to be produced from the Project for the life of the mine in the initial Base Case Financial Model utilizing the proven and probable reserves verified and accepted by the Independent Technical Consultant.

“Resolution Authority” means anybody which has authority to exercise any Write-down and Conversion Powers.

“Residual Risk” has the meaning ascribed to such term in the ECA Facility Agreement.

“Restricted Lenders” means a Senior Lender established or incorporated in the Federal Republic of Germany.

“Restricted Payment” means any payment by such Person to:

- (a) any other Person, of dividends or other distribution (whether in cash or in kind) and any bonus issue or any return of capital including any payment in respect, or on the redemption, of any share capital whether at a premium or otherwise;
- (b) any other Person on account of any payment of interest, principal or any other amount in respect of any shareholder loans or loan notes or in respect of any financial indebtedness owed by the Borrower to any of its direct or indirect shareholders or other affiliates, including any purchase by the Borrower of any shareholder loans or such financial indebtedness in each case including Subordinated Intercompany Debt;
- (c) any other Person of any payment or discharge by way of set-off, counterclaim or otherwise in respect of indebtedness made by the Borrower to any of its direct or indirect shareholders or other affiliates or in respect of shareholder loans; and
- (d) any other Person of any payment of any management, administration, advisory, consultancy or other similar type of fees or expenses made by the Borrower to any of its Affiliates (but excluding any amount paid by the Borrower to its Affiliates in reimbursement of costs and expenses incurred by such affiliate on behalf of the Borrower, in each case to the extent included in the Base Case Financial Model or as otherwise approved by any Facility Agent).

provided that, for the avoidance of doubt, (i) a payments under Gold Prepay Equitization Right, (ii) payments under any Permitted Debt financing document (other than Permitted Debt subject to a Subordination Agreement) and (iii) payments under the Gold/Silver Offtake Agreement, shall not be deemed a Restricted Payment.

“Restricted Payments Account” has the meaning assigned to that term in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Revenues” means, in relation to any period, all amounts paid to or received by the Borrower (excluding, for the avoidance of doubt, any amounts made available under the Finance Documents (other than the Hedge Agreements to the extent set out in paragraph (b) below) and any equity contributions), in respect of:

- (a) all amounts received under the Project Documents;
- (b) all amounts received under any Hedge Agreements in effect on the relevant date of calculation;
- (c) interest and income in respect of the Project Accounts and Permitted Investments, but only if the amount does not form part of the balance required to be maintained in a Project Account in accordance with the Finance Documents;
- (d) Net Insurance Proceeds paid to the Borrower;
- (e) delay liquidated damages paid to the Borrower;
- (f) Tax refunds (including VAT);
- (g) all amounts received from the sale of gold, doré, silver or other Minerals produced from the Project; and
- (h) any other amount agreed between the Borrower and the Majority Lenders from time to time,

in each case as determined on a "cash" rather than an "accruals" basis.

“Risk Coverage Documents” means the Risk Mitigation Instrument, the ECA Guarantee and the Claims Cooperation Agreement as in effect on the date of this Agreement without giving effect to any waiver, order, modification or supplement, or termination of it after the date of this Agreement.

“Risk Event” means the occurrence of an “Insured Event” under and as defined in the Risk Mitigation Instrument or a “Political Risk” under and as defined in the ECA Guarantee or any analogous covered risk under any replacement in either of the foregoing.

“Risk Mitigation Agent” means Caterpillar Financial or such replacement Risk Mitigation Agent as may be appointed pursuant to the terms hereof from time to time.

“Risk Mitigation Group” means the Risk Mitigation Providers and the ECA Guarantor.

“Risk Mitigation Instruments” means collectively or individually, as the context may require, the (a) the Risk Mitigation Instrument which covers the 100% of the Borrower’s Obligations under the Commercial Facility Agreement, and (b) the Risk Mitigation Instrument which covers the Residual Risk under the ECA Facility Agreement.

“Risk Mitigation Providers” means the providers of the Risk Mitigation Instruments.

“Royalties” means those royalties for which the Borrower is liable, including:

- (a) pursuant to the Royalty Agreement with Condor, the Borrower has agreed to pay Condor a 2% net revenue royalty payable quarterly in perpetuity on production of metallic minerals from the concessions acquired from Condor;

- (b) pursuant to the Exploitation Agreement, the Borrower has agreed to pay the GOE a 5% net smelter royalty from production. In accordance with the Exploitation Agreement, an advance royalty payment of \$25,000,000 was paid upon signing of the Exploitation Agreement. This payment will be followed by two subsequent advance royalty payments of \$20,000,000 on the first and second anniversaries of the execution of the Exploitation Agreement. The advance royalty payments totaling \$65,000,000 are deductible against future royalties payable at a rate equal to the lesser of 50% of the actual future royalties payable in a six-month period or 10% of the total advance royalty payment;
- (c) a 1% net revenue royalty is payable in perpetuity on production from the Concession and Colibri 5, under the Royalty Agreement with Keith Barron and Patrick Anderson; and
- (d) the 3% royalty applicable to the non-metallic concession Colibri 5, payable to the GOE pursuant to the Ecuadorian mining and relevant municipal regulations.

“Royalty Agreement” means each of: (a) the net smelter royalty agreement, entered into on November 16, 2007, as replicated pursuant to Ecuadorian legal requirement, on July 22, 2008, by and among Aurelian Resources Inc., Aurelian Resources Corporation Ltd., the Borrower, Keith M. Barron and Patrick F. N. Anderson, and (b) the net smelter royalty agreement entered into on August 3, 2017, by and among Condor and the Borrower relating to the Rio Zarza 2 and Valle del Inca 2 concessions.

“Sale-Leaseback” means an arrangement under which title to any property or an interest therein is transferred by or on the direction of a Person (“X”) to another Person which leases or otherwise grants the right to use such property, asset or interest (or other property, which X intends to use for the same or a similar purpose) to X (or nominee of X), whether or not in connection therewith X also acquires a right or is subject to an obligation to acquire the property, asset or interest, and regardless of the accounting treatment of such arrangement.

“Sanctioned Jurisdiction” means, at any time, a country, territory or geographical region which is itself the subject or target of any comprehensive territorial-based Sanctions (currently including, without limitation, Cuba, Iran, North Korea, Crimea and Syria).

“Sanctions” means any laws, rules, regulations and requirements relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any U.S. Governmental Body (including, but not limited to, OFAC and the U.S. Department of State), the United Nations Security Council, the European Union and each of its member states, Her Majesty’s Treasury of the United Kingdom, any Governmental Body of Ecuador, any Governmental Body of Canada (including, but not limited to, Global Affairs Canada and Public Safety Canada) or any other relevant Governmental Body.

“Sanctions Target” means any Person:

- (a) identified on any Sanctions-related list of designated Persons, including, without limitation, the Specially Designated Nationals and Blocked Persons List maintained by OFAC, the Consolidated United Nations Security Council Sanctions List, the consolidated list of persons, groups and entities subject to EU financial sanctions maintained by the European Union and the Consolidated List of Financial Sanctions Targets in the UK maintained by Her Majesty’s Treasury of the United Kingdom;
- (b) located, organized or resident in, or the government or any agency or instrumentality of the government of, any Sanctioned Jurisdiction;
- (c) owned or controlled by one or more Persons described in the foregoing paragraph (a) or (b);
- (d) otherwise the subject or target of any Sanctions.

“Secured Parties” means, collectively, the Agents and the Senior Lenders.

“Securities Laws” means all applicable securities laws and the respective regulations made thereunder, together with applicable published fee schedules, prescribed forms, policy statements, notices, orders, blanket rulings and other regulatory instruments of the Securities Regulators, and all rules and policies of the TSX and any other stock exchange on which securities of Lundin are traded.

“Securities Regulators” means, collectively, the securities regulators or other securities regulatory authorities in each of the provinces and territories of Canada in which Lundin is a reporting issuer, and in any other jurisdictions whose Securities Laws are applicable to Lundin.

“Security” means the Encumbrances granted in favor of the Collateral Agents pursuant to the Security Documents.

“Security Documents” means:

- (a) the Ecuadorian Security Documents,
- (b) the Canadian Security Documents,
- (c) the Amended and Restated Collateral, Agency, Accounts and Security Agreement,
- (d) the Intercreditor Agreement,
- (e) any Subordination Agreement, and
- (f) each Direct Agreement,

and any other security documents held from time to time by either Collateral Agent and/or the Ecuadorian Trustee securing or intended to secure payment and performance of the Obligations.

“SEDAR” means the System for Electronic Document Analysis and Retrieval of the Canadian Securities Administrators.

“Senior DSR Amount” means, as of any date of determination, the amount on deposit in the Offshore USD Proceeds Account designated by the Offshore Account Bank as the “Senior DSR Amount” in accordance with Section 3.6(b) of the Amended and Restated Collateral Agency, Accounts and Security Agreement.

“Senior DSR Required Balance” has the meaning given to such term in the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

“Senior Lenders” means each Person that is a party on the date hereof to this Agreement as an “Initial Lender” and each other lender party hereto from time to time pursuant to Section 12.1 (*Assignment by Senior Lenders*), and their respective permitted successors and assigns.

“Senior Lender Tax Coverage Letter” means each tax coverage letter entered into by the Borrower and each Senior Lender.

“Serious E&S Non-Compliance Event” means an Identified event of critical non-compliance with Environmental & Social Requirements by the Borrower or its Subsidiaries or with respect to the Project which the Borrower or the Independent Environmental and Social Consultant reasonably believes is an event representing significant environmental or social damage which would necessitate an emergency shutdown of the Project, or would be reasonably likely to result in very severe damage.

“Shareholders” means Lundin, AurelianEcuador Holding S.A., Aurelian Resources Inc., and Aurelian Resources Corporation Ltd.

“Sharing Finance Parties” has the meaning ascribed to such term in Section 16.2 (*Redistribution of Payments*).

“Sharing Payment” has the meaning ascribed to such term in Section 16.1(c).

“Smelter” means any smelter (other than a smelter forming part of the Process Plant or a smelter that is a Refinery) that processes Minerals in the form of gold-silver bearing concentrate into doré or other beneficiated form of gold suitable for delivery to a Refinery.

“Specified Majority Lenders” means, at any time, one or more Senior Lenders holding more than seventy five percent (75%) of the Commitments or, if the Loans available under the Facility have been made or the Commitments have otherwise been terminated or expired, of outstanding principal amount of the Loans.

“Stream Agent” means Orion CO-V PTE LTD in its capacity as “Administrative Agent” under the Stream Credit Facility Agreement, together with its successors and permitted assigns that may become the administrative agent under the Stream Credit Facility Agreement and in accordance with its terms.

“Stream Credit Facility Agreement” means the Stream Credit Facility Agreement dated May 30, 2017 among the Borrower, the Stream Agent and the Stream Lenders.

“Stream Lenders” means any “Lenders” (as defined in the Stream Credit Facility Agreement) that may become party to the Stream Credit Facility Agreement from time to time.

“Subordinated Intercompany Debt” means any debts, liabilities or obligations owing by an Obligor to any other Obligor (other than under the Cost Overrun Facility), on any account and in any capacity, subordinated in accordance with the provisions of the Subordination Agreement.

“Subordination Agreement” means a Subordination Agreement in favor of the Offshore Collateral Agent in respect of Subordinated Intercompany Debt substantially in the form of Schedule S (*Terms of Subordination*) to this Agreement.

“Subsidiary” means with respect to any Person, any other Person which is Controlled directly or indirectly by that Person, and **“Subsidiaries”** means all of such other Persons.

“Supermajority Lenders” means, at any time, one or more Senior Lenders holding more than eighty percent (80%) of the Commitments or, if the Loans available under the Facility have been made or the Commitments have otherwise been terminated or expired, of outstanding principal amount of the Loans.

“Tangible Net Worth” means, at any particular time, the amount of Shareholders' equity in accordance with the most recent audited financial statements prepared in accordance with IFRS at such time less (without duplication) the aggregate of the amounts included in Shareholders' equity, at such time, which would, in accordance with IFRS, be classified upon the consolidated balance sheet of the Borrower as goodwill, deferred expenses, and other intangible assets and fair value adjustments for financial instruments.

“Target Commercial Production Date” means May 31, 2020.

“Tax Coverage Letter” means each tax coverage letter by and between the Borrower and each lender under the Prepay/Stream Credit Documents.

“Tax Deduction” means a deduction or withholding for or on account of Tax from a payment under a Finance Document or Risk Coverage Document, other than a FATCA Deduction.

“Tax Payment” means either the increase in a payment made by the Borrower to a Finance Party under paragraph 1 (*Payments Free of Taxes*) or a payment under paragraph 8 (*Indemnification by Obligors*) of the Senior Lender Tax Coverage Letter.

“Tax Returns” means all returns, declarations, reports, estimates, information returns and statements required to be filed in respect of any Taxes, including any schedule or attachment thereto or amendment thereof.

“Taxes” means all present and future taxes (including, for certainty, real property taxes), levies, imposts, stamp taxes, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Body, including any interest, additions to tax or penalties applicable thereto, and **“Tax”** shall have a corresponding meaning.

“Technical Agency Fee Letter” means the technical agency fee letter dated on or around the date of this Agreement, between the Borrower and The Bank of Nova Scotia.

“Technical Agent” means The Bank of Nova Scotia or such replacement Technical Agent as may be appointed pursuant to the terms hereof from time to time.

“Technical Assumptions” means the technical assumptions incorporated in the Base Case Financial Model delivered to and approved by the Administrative Agent in accordance with Section 10.2 (*Conditions Precedent to the First Utilization*), as amended from time to time in accordance with this Agreement.

“Technical Report” means the technical report NI 43-101 Technical Report on Feasibility Study dated April 30, 2016.

“Termination Amounts” means the Hedge Termination Value described in paragraph (a) of the definition thereof payable by the Borrower in connection with an early termination (whether as a result of the occurrence of an event of default thereunder or other termination event) of any Hedge Agreement in accordance with the terms thereof; provided, that, for the avoidance of doubt, “Termination Amounts” shall not include any regularly scheduled payments due under any Hedge Agreement from time to time, calculated in accordance with the terms of such Hedge Agreement, including all cash settlement payments due in connection with interest rate swaptions and forward-starting interest rate swaps due under any such Hedge Agreement

“Threshold Amount” means:

- (a) with respect to the Borrower, \$5,000,000;
- (b) with respect to Lundin, \$10,000,000; and
- (c) with respect to any other Completion Guarantors, \$5,000,000.

“Total Commitments” means:

- (a) the Commercial Facility Commitment; and
- (b) the ECA Facility Commitment.

“Transaction Documents” means the Finance Documents and the Material Project Documents.

“Transfer Certificate” means a certificate substantially in the form set out in Schedule P (*Form of Transfer Certificate*) with any amendments which the Administrative Agent may approve or reasonably require or any other form agreed between the Administrative Agent and the Borrower.

“Transfer Date” means the Transfer Date as indicated on the Transfer Certificate delivered pursuant to Section 12.1(c).

“Transmission Lines and Substation” means (a) the 230 kV single circuit transmission line from the Bomboiza substation to the Project, owned and operated by the Borrower and (b) the Taday- Bomboiza transmission line, owned and operated by CELEC.

“Trust Accounts” means:

- (a) the onshore account trust in the name of Fideicomiso de Cuentas FDN (the accounts trust) held at Banco Pichincha currently for the purpose of holding the second and third disbursements under the Gold Prepay Credit Agreement and the Stream Credit Facility Agreement; and
- (b) the onshore guarantee trust account in the name of Fideicomiso Local FDN 1 (the guarantee trust) held at Banco Pichincha for the purpose of receiving the proceeds of insurances. Withdrawals may be made from the Trust Accounts to transfer to the Onshore Operating Collateral Account.

“TSX” means the Toronto Stock Exchange.

“Unpaid Sum” means any sum due and payable but unpaid by an Obligor under the Finance Documents and the Risk Coverage Documents (pursuant to the terms of the Finance Documents).

“Upfront Fee Letters” means the (a) upfront fee letter dated as of the date hereof between the Borrower and the Senior Lenders and (b) the upfront fee letter dated as of the date hereof between the Borrower and Natixis.

“USA PATRIOT ACT” means the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“Utilization” means a Loan.

“Utilization Date” means the date of a Utilization, being the date on which the relevant Loan is made or is to be made.

“Utilization Request” means:

- (a) in the case of the ECA Facility, a notice substantially in the form set out in schedule A of the ECA Facility Agreement;
- (b) in the case of the Commercial Facility, a notice substantially in the form set out in exhibit A of the Commercial Facility Agreement;

“VAT” means any Ecuadorian value-added tax.

“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.

1.2 Certain Rules of Interpretation.

In this Agreement, unless otherwise specifically provided or unless the context otherwise requires:

- (a) the terms “Agreement,” “this Agreement,” “the Agreement,” “hereto,” “hereof,” “herein,” “hereby,” “hereunder” and similar expressions refer to this Agreement in its entirety and not to any particular Article, Section, Schedule, or other portion hereof or thereof;

- (b) references to a “paragraph,” “Section” or “Article” followed by a number or letter refer to the specified paragraph, Section or Article of this Agreement;
- (c) the division of this Agreement into articles, sections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) words importing the singular shall include the plural and *vice versa*, and words importing gender shall include all genders;
- (e) the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”;
- (f) the terms “party” and “the parties” refer to a party or the parties to this Agreement, and references to a Person in this Agreement means such Person or its successors or permitted assigns;
- (g) the term “continuing,” when used in relation to a Default or Event of Default, means that such Default or Event of Default is continuing unremedied or unwaived in accordance with the terms of the Finance Documents;
- (h) the term “repay” (or any derivative form thereof) shall, subject to any contrary indication, be construed to include “prepay” (or, as the case may be, the corresponding derivative form thereof);
- (i) the words “will” and “shall” are to be treated as synonymous;
- (j) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent such amendments and other modifications are not prohibited by the terms of this Agreement;
- (k) references to statutes or regulations are to be construed as including all statutory and regulatory provisions consolidating, amending, supplementing, interpreting or replacing the statute or regulation referred to;
- (l) except as otherwise specifically provided herein, where any payment is required to be made or any other action is required to be taken on a particular day and such day is not a Business Day and, as a result, such payment cannot be made or action cannot be taken on such day, then this Agreement shall be deemed to provide that such payment shall be made or such action shall be taken on the next Business Day in the same calendar month (if there is one) or the immediately preceding Business Day (if there is not); provided, that any Repayment Date which would otherwise end after the Final Maturity Date shall end on the Final Maturity Date (and if the Final Maturity Date is not a Business Day, the immediately preceding Business Day);
- (m) an amendment includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and amended will be construed accordingly; and
- (n) a law or provision of law is a reference to that law or provision as amended and includes any subordinate legislation.

1.3 Currency.

Any reference in this Agreement to currency, “Dollar”, “U.S. Dollar” or to “\$”, unless otherwise expressly indicated, shall be to the lawful currency of the United States of America, being referred to herein as United States dollars. Any amounts to be advanced, paid, prepaid, or repaid shall be made in United States dollars.

1.4 Time of Essence.

Time shall be of the essence of this Agreement.

1.5 Knowledge.

Where any representation or warranty contained in this Agreement is expressly qualified by reference to the “knowledge” of a Person, it shall be deemed to refer to the actual knowledge of any Chief Executive Officer, Chief Financial Officer or any Vice President (or Person performing any role of substantially the same scope and responsibility of any of the foregoing) of such Person and all information which ought to have been known by any of them after conducting a reasonable inquiry into the matters in question, whether or not any such inquiry was actually made.

1.6 No Subordination.

The use of the term “Permitted Encumbrances” to describe any interests and Encumbrances permitted hereunder shall mean that they are permitted to exist (whether in priority to, *pari passu* with or subordinated to the Security, as determined by Applicable Law or agreed in the Intercreditor Agreement), and shall not be interpreted as meaning that such interests and Encumbrances are entitled to priority over the Security.

1.7 Conflict.

- (a) As between the Senior Lenders and the Prepay/Stream Lenders, in the event of any inconsistency between the terms of the Intercreditor Agreement and the terms of any other Finance Document, the terms of the Intercreditor Agreement shall prevail.
- (b) In the event of any inconsistency between the terms of the Amended and Restated Collateral, Agency, Accounts and Security Agreement and the terms of any other Finance Document (other than the Intercreditor Agreement), the terms of the Amended and Restated Collateral, Agency, Accounts and Security Agreement shall prevail.
- (c) In the case of any inconsistency between the terms of this Agreement and any Facility Agreement, such Facility Agreement shall prevail as between the parties to such Facility Agreement.
- (d) In the case of any inconsistency between the terms of this Agreement and any other Finance Document (other than the Intercreditor Agreement, the Amended and Restated Collateral, Agency, Accounts and Security Agreement), this Agreement shall prevail.

Article 2 FACILITY

2.1 Facility.

- (a) Subject to the terms of this Agreement and the Commercial Facility Agreement, the Commercial Facility Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the Commercial Facility Commitment.
- (b) Subject to the terms of this Agreement and the ECA Facility Agreement, the ECA Facility Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the ECA Facility Commitment.

2.2 Finance Parties’ Rights and Obligations.

- (a) The obligations of each Finance Party under the Finance Documents are several. Each Senior Lender is severally liable for its Commitment and the Senior Lenders are not jointly liable or jointly and severally liable. No Senior Lender shall be responsible for the failure of any other Senior Lender to so make its Loans.
- (b) Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Finance Party under the Finance Documents.
- (c) No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (d) The rights of each Finance Party under, or in connection with, the Finance Documents are separate and independent rights.
- (e) Any debt arising under the Finance Documents to a Finance Party from the Borrower is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with this paragraph (e). The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to an Agent on its behalf) is a debt owing to that Finance Party by the Borrower.

2.3 Purpose and Use of Proceeds.

The Borrower shall apply the proceeds of each Utilization under each Facility in accordance with the relevant Facility Agreements.

2.4 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to any Finance Document.

2.5 Utilization

- (a) The Borrower may utilize a Facility in accordance with the terms of the relevant Facility Agreement.
- (b) The Facilities shall be disbursed on a *pro rata* basis.

Article 3 REPAYMENT, PREPAYMENT AND CANCELLATION

3.1 Repayments

The Borrower shall repay the Utilizations made to it under a Facility in accordance with the terms of the relevant Facility Agreement, this Agreement, the Amended and Restated Collateral, Agency, Accounts and Security Agreement and the Intercreditor Agreement.

3.2 Mandatory Prepayments.

The Borrower shall apply each of the following to a mandatory prepayment in accordance with Section 3.9 (*Application*) and the terms of the Intercreditor Agreement and the Amended and Restated Collateral, Agency, Accounts and Security Agreement:

- (a) **Net Insurance Proceeds over \$50,000,000.** Net Insurance Proceeds, received by the Borrower which are greater than (or reasonably expected to be greater than) \$50,000,000 in aggregate in

any Fiscal Year shall be deposited or caused to be deposited and remain on deposit in the Onshore Trust Account and be applied by the applicable Collateral Agent as directed by the Majority Lenders on the next Interest Payment Date.

- (b) **Other Net Insurance Proceeds.** If any Net Insurance Proceeds in a Fiscal Year have not been applied as provided in Section 3.2(a) (*Net Insurance Proceeds over \$50,000,000*) above or Section 3.3 (*Net Insurance Proceeds*), any such Net Insurance Proceeds (other than any insurance proceeds in respect of third-party liability insurance where such proceeds are to be paid to third parties), on the next Interest Payment Date;
- (c) **Liquidated Damages.** If the Borrower receives or is entitled to offset any liquidated or delay damages for any reason under any Material Project Document, 100% of such proceeds in excess of such amounts certified by an authorized officer of the Borrower (as evidenced to the satisfaction of the Independent Technical Consultant) as necessary to complete performance under the scope of work contemplated in such Material Project Document to consummate the purpose of such Material Project Document, on the earlier of: (i) ten (10) Business Days after delivery of such Officer's Certificate; and (ii) five (5) Business Days of the receipt of such liquidated damages;
- (d) **Expropriation Net Disposition Proceeds.** If the Borrower receives any Net Disposition Proceeds from an Expropriation Event, 100% of such proceeds within ten (10) Business Days after receipt thereof;
- (e) **Buydown Amount.** If the Borrower receives any Buydown Amounts or any other amounts paid to such Person upon the termination of a Material Project Document in excess of such amounts certified by an authorized officer of the Borrower (as evidenced to the satisfaction of the Independent Technical Consultant) as necessary to complete performance under the scope of work contemplated in such Material Project Document to consummate the purpose of such Material Project Document, 100% of such proceeds on the earlier of: (i) ten (10) Business Days after delivery of such Officer's Certificate; (ii) and five (5) Business Days of the receipt of such Buydown Amounts or other amounts paid upon termination of a Material Project Document; and
- (f) **Other Net Disposition Proceeds.** If any Net Disposition Proceeds from any disposition of assets in a Fiscal Year which are not reinvested in the Project within 180 days of receipt of such proceeds, as evidenced by the Borrower to the satisfaction of the Independent Technical Consultant, 100% of such Net Disposition Proceeds within the next ten (10) Business Days after expiration of such 180 day period.

3.3 Net Insurance Proceeds

Subject to Sections 3.2(a) (*Net Insurance Proceeds over \$50,000,000*) and 3.2(b) (*Other Net Insurance Proceeds*), to the extent the Borrower receives Net Insurance Proceeds, and:

- (a) the amount of such Net Insurance Proceeds received by the Borrower that is less than \$5,000,000 in aggregate in any Fiscal Year shall either:
 - (i) be used by the Borrower to repair and/or replace the property that is the subject of such Net Insurance Proceeds, or
 - (ii) to the extent not so used to repair and/or replace property within the period set forth in or agreed pursuant to section 3.4 of the Amended and Restated Collateral, Agency, Accounts and Security Agreement, shall (subject to the Intercreditor Agreement) be applied by the Offshore Collateral Agent, as directed by the Majority Lenders, in the manner contemplated in Section 3.2(a) (*Net Insurance Proceeds over \$50,000,000*),
- (b) Net Insurance Proceeds received by the Borrower that are equal or more than \$5,000,000 but less than (or reasonably expected to be less than) \$50,000,000 in aggregate in any Fiscal Year

shall be held in the Onshore Trust Account and applied by the applicable Collateral Agent, in accordance with section 3.4 of the Amended and Restated Collateral, Agency, Accounts and Security Agreement such that:

- (i) if the Administrative Agent and the Borrower have agreed to a Permitted Restoration and plan therefor (in accordance with section 3.4(b) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement), such Net Insurance Proceeds shall be applied to the Permitted Restoration and plan therefor, or
- (ii) if:
 - (A) the Administrative Agent does not provide its written consent to such Permitted Restoration;
 - (B) the Administrative Agent provides its written consent to such Permitted Restoration but the Borrower elects not to proceed with such Permitted Restoration; or
 - (C) the Borrower elects to proceed with such Permitted Restoration but is not able to complete such Permitted Restoration within the period agreed pursuant to in section 3.4 of the Amended and Restated Collateral, Agency, Accounts and Security Agreement,

such funds shall, subject to the Intercreditor Agreement, be applied by the applicable Collateral Agent as directed by the Majority Lenders (subject to the terms of the Intercreditor Agreement), in the manner contemplated in Section 3.2(a) (*Net Insurance Proceeds over \$50,000,000*).

3.4 Mandatory Prepayment - Cash Sweep

- (a) **Partial Cash Sweep.** The Borrower shall within fifteen (15) Business Days of each Calculation Date following the Project Completion Date deliver a Cash Sweep Calculation Certificate to the Facility Agents and make a mandatory prepayment of:
 - (i) Loans outstanding on such Calculation Date in an amount equal to:
 - (A) prior to the occurrence of the Boliden Sweep Trigger Event, 30% of the Excess Cash Flow for the relevant Cash Sweep Period; and
 - (B) after the occurrence of the Boliden Sweep Trigger Event, 80% of Excess Cash Flow; and
 - (ii) from the remaining balance of Excess Cash Flow for the relevant Cash Sweep Period, after the partial cash sweep in paragraph (a)(i) above has been applied and so long as no mandatory prepayments are otherwise payable by the Borrower pursuant to this Section 3.4, Cost Overrun Loans outstanding on such Calculation Date in an amount equal to 50% of such remaining balance of Excess Cash Flow, which shall be applied in accordance with section 3.02(b)(i) (*Onshore Operating Collateral Account*) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement it being understood that if the provider of the Cost Overrun Facility holds any direct or indirect equity interest in the Borrower, such prepayment as referenced in this section shall be made at the tenth level in accordance with section 3.2(b) of the Amended and Restated Collateral Agency, Accounts and Security Agreement,

in each case, as set out in the relevant Cash Sweep Calculation Certificate which the Administrative Agent (in consultation with the Senior Lenders) has confirmed is satisfactory; and any remaining balance of Excess Cash Flow for the relevant Cash Sweep Period after the partial

cash sweeps in this paragraph (a) have been applied, shall be applied in accordance with section 3.02(b)(i) (*Onshore Operating Collateral Account*) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

- (b) **Event of Default.** If on any Calculation Date:
- (i) a Fundamental Event of Default has occurred and is continuing, the Borrower shall not be permitted to withdraw any amount of Excess Cash Flow from the Offshore Collateral Accounts or the Onshore Collateral Accounts (or Trust Account as the case may be), such Excess Cash Flow shall immediately be applied in prepayment of the Facilities, unless the Administrative Agent advises otherwise; and
 - (ii) any other Event of Default has occurred and is continuing, the Borrower shall not be permitted to withdraw any amount of Excess Cash Flow from the Offshore Collateral Accounts or the Onshore Collateral Accounts (or Trust Account as the case may be), and such Excess Cash Flow shall be applied in prepayment of the Facilities on the immediately following Calculation Date unless the Administrative Agent advises otherwise.
- (c) **Boliden Offtake Agreement Cancellation.** Subject to Section 3.2(b)(i) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement, if the Boliden Offtake Agreement is terminated or cancelled in whole or in part as a result of the Borrower's breach of its obligations thereunder, and without limitation to any other remedies available to the Senior Lenders as a result of any Event of Default triggered by such breach, 100% of Excess Cash Flow on each Calculation Date, occurring thereafter until the Utilizations are repaid in full; provided, that, if the provider of the Cost Overrun Facility holds any direct or indirect equity interest in the Borrower, such prepayment as referenced in this section shall be made ahead of any payment of interest, principal or other financing costs that may be due and payable under the Cost Overrun Facility in accordance with section 3.02(b)(i) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement.
- (d) **ECA Guarantee Cancellation.** If (i) it is or becomes unlawful for the ECA Guarantor to perform or comply with its payment obligations pursuant to the ECA Guarantee, (ii) the ECA Guarantee ceases to be valid, binding or in full force and effect, or (iii) the ECA Guarantee is being terminated, cancelled, revoked or suspended by the ECA Guarantor, unless, in each of the foregoing cases, caused by gross negligence or willful misconduct of the ECA Agent (each an "**ECA Guarantee Termination Event**"), and without limitation to any other remedies available to the Senior Lenders as a result of any Event of Default triggered by such breach, within thirty (30) days after the ECA Guarantee Termination Event, the Borrower shall repay in full all amounts outstanding under the ECA Facility Agreement.

3.5 Voluntary Cancellation

Subject to the other terms of this Agreement, the Borrower may at any time cancel all or any part of an Available Facility, provided, that:

- (a) it has given not less than five (5) days' prior written notice to each Facility Agent (with a copy to the Administrative Agent);
- (b) if such cancellation is for part only of any Available Facility:
 - (i) each other Available Facility is simultaneously cancelled on a pro rata basis;
 - (ii) such cancellation shall be in a minimum amount of \$10,000,000 and an integral multiple of \$1,000,000; and

- (iii) such cancellation will reduce the Commitment of each Senior Lender under that Facility *pro rata*; and
- (c) if such cancellation is of all of any Available Facility, all Available Facilities are cancelled in full simultaneously.

3.6 Voluntary Prepayment

Subject to the other terms of this Agreement and following the end of the Availability Period, the Borrower may prepay all or any part of the Loans, provided, that:

- (a) the Borrower has given not less than ten (10) days' notice to each Facility Agent (with a copy to the Administrative Agent);
- (b) subject to Section 3.10(b), the Borrower simultaneously pays all accrued interest on the amount prepaid, together with all costs and expenses, fees, losses and all other amounts then due and payable under the Finance Documents and under the Risk Coverage Documents (if any), including Break Costs (if any);
- (c) if such a prepayment is of all of the Loans then outstanding, they are all repaid or prepaid simultaneously in full;
- (d) if such a prepayment is a partial prepayment of the Loans then outstanding:
 - (i) such prepayment shall be in a minimum amount of \$10,000,000 and an integral multiple of \$1,000,000;
 - (ii) such prepayment will be applied on a *pro rata* basis across the Facilities then outstanding, and the Borrower shall ensure that such amounts are repaid or prepaid simultaneously; and
- (e) such a prepayment shall not cause or result in a Default or Event of Default immediately prior to and immediately following such a prepayment.

3.7 Automatic Cancellation

Each Senior Lender's unutilized Commitments under either Facility will be automatically cancelled at 5:00 pm New York time on the last day of the applicable Availability Period.

3.8 Right of Cancellation and Repayment in Relation to a Single Senior Lender

- (a) The Borrower may at any time cancel any available Commitments of any Senior Lender or repay any participations or any individual Senior Lender in the Utilizations (together with any other accrued and unpaid amounts owing to such Senior Lender under the Finance Documents) if:
 - (i) any sum payable to any Senior Lender by the Borrower is required to be increased as contemplated under paragraph 1 (*Payments Free of Taxes*) of the Senior Lender Tax Coverage Letter; or
 - (ii) any Senior Lender claims indemnification from the Borrower under paragraph 8 (*Indemnification by Obligors*) of the Senior Lender Tax Coverage Letter or any amount under Section 6.3 (*Change in Circumstances*), the Borrower may, while the circumstances giving rise to the requirement for that increase or indemnification continue, give notice to the relevant Facility Agent, as applicable (with a copy to the Administrative Agent) of cancellation of the Commitment(s) of such Senior Lender and its intention to procure the repayment of such Senior Lender's participation in the Utilizations;

- (b) On receipt of a notice referred to in Section 3.8(a) in relation to a Senior Lender, the Commitments of such Senior Lender will immediately be reduced to zero.
- (c) On the last day of the Interest Period in which the Borrower has given notice under Section 3.8(a) in relation to a Senior Lender (or, if earlier, the date specified by the Borrower in the notice under Section 3.8(a)), the Borrower will repay such Senior Lender's participation in the Utilizations, together with all interest and other amounts accrued under the Finance Documents and under the Risk Coverage Documents (if any).

3.9 Application

- (a) Except in the case of a prepayment or repayment under Section 6.2 (*Illegality*) or Section 3.8 (*Right of Cancellation and Repayment in Relation to a Single Lender*):
 - (i) any cancellation pursuant to this Article 3 (*Repayment, Prepayment and Cancellation*) shall:
 - (A) be applied *pro rata* between each Facility; and
 - (B) if in part, reduce the Commitment of each Senior Lender under that Facility *pro rata*; and
 - (ii) any prepayment pursuant to this Article 3 shall be applied *pro rata* between each Facility.
- (b) If any Loan is prepaid in accordance with Section 3.2 (*Mandatory Prepayments*), Section 3.4 (*Mandatory Prepayment – Cash Sweep*) or Section 3.6 (*Voluntary Prepayment*), the amount of the Repayment Installment for each Repayment Date under the relevant Facility falling after that prepayment will reduce in inverse chronological order by the amount of such Loan prepaid.

3.10 Miscellaneous

- (a) Any notice of cancellation or prepayment under this Article 3:
 - (i) is irrevocable; and
 - (ii) unless a contrary indication appears in this Agreement, shall specify:
 - (A) the date upon which the relevant cancellation or prepayment is to be made; and
 - (B) the amount of that cancellation or prepayment.
- (b) Subject to the requirements of any Facility Agreement and the other provisions of this Article 3, any prepayment under this Agreement is without premium or penalty other than:
 - (i) a two (2) percent prepayment fee payable in respect of, and on, any amounts applied in prepayment of the Facilities in accordance with Sections 3.5 (*Voluntary Cancellation*) and 3.6 (*Voluntary Prepayment*) occurring prior to the second anniversary of the Initial Repayment Date; and
 - (ii) Break Costs to the extent that the prepayment is made on a date other than an Interest Payment Date.
- (c) Any prepayment under this Agreement shall be made together with accrued and unpaid interest as of such date.
- (d) The Borrower may not reborrow any part of a Facility that is prepaid.

- (e) The Borrower may not exercise any right of voluntary prepayment or voluntary cancellation before the Project Completion Date unless it has received confirmation from the Administrative Agent on behalf of the Majority Lenders (in consultation with the Independent Technical Consultant) that the Administrative Agent is satisfied that, after such prepayment or cancellation, no Cost-to-Complete Shortfall will exist.
- (f) No prepayment, repayment or cancellation is allowed except at the times and in the manner expressly provided for in this Agreement and the relevant Facility Agreement.
- (g) No amount of the Commitments cancelled under this Agreement and a relevant Facility Agreement may be subsequently reinstated.
- (h) If a Facility Agent receives a notice under this Article 3, it shall promptly forward a copy of that notice to the Borrower, the Administrative Agent and, in the case of each Facility Agent, the affected Senior Lender(s) under its Facility, as appropriate.
- (i) If all or part of any Senior Lender's participation in a Utilization under a Facility is repaid or prepaid and is not available for re-Utilization, an equivalent amount of such Senior Lender's Commitment in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation under this paragraph (i) will reduce the Commitments of the Senior Lenders under that Facility *pro rata*.

Article 4
INTEREST AND FEES

4.1 Payment of Interest.

The Borrower shall pay accrued interest on each Loan at such times and in accordance with the terms of the relevant Facility Agreement.

4.2 Default Interest.

Except as otherwise provided in either Facility Agreement:

- (a) if the Borrower fails to pay any amount payable by it under any Finance Document or under any Risk Coverage Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two (2) percent per annum higher than the Applicable Margin. Any interest accruing under this Section 4.2 shall be immediately payable by the Borrower on demand by the relevant Agent or Senior Lender;
- (b) if any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan;
 - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two (2) percent per annum higher than the rate which would have applied if the overdue amount had not become due; and
- (c) default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.
- (d) No accrued interest shall become due and payable other than in accordance with the provisions of Section 4.1 (*Payment of Interest*) or this Section 4.2.

4.3 Fees

- (a) **Loan Commitment Fee.** The Borrower shall pay to each Facility Agent (for the account of each relevant Senior Lender) a Commitment Fee in the amount and manner agreed in the relevant Facility Agreement.
- (b) **Upfront Fee.** The Borrower shall pay an upfront fee to each Senior Lender (for its own account) in the amounts and manner agreed in the Fee Letters.
- (c) **Structuring Fee.** The Borrower shall pay a structuring fee to each Mandated Lead Arranger (for its own account) in the amount and manner agreed in the Upfront Fee Letter.
- (d) **Intercreditor and Administrative Agent's Fee.** The Borrower shall pay to the Intercreditor Agent and to the Administrative Agent (for their own account) agency fees in the amounts and manner agreed in the Intercreditor and Administrative Agency Fee Letter.

- (e) **Offshore Collateral Agent Fee.** The Borrower shall pay to the Offshore Collateral Agent (for its own account) trustee fees in the amounts and manner agreed in the Offshore Collateral Agency Fee Letter.
- (f) **Onshore Collateral Agent Fee.** The Borrower shall pay to the Onshore Collateral Agent (for its own account) trustee fees in the amounts and manner agreed in the Onshore Collateral Agency Fee Letter.
- (g) **ECA Agent Fee.** The Borrower shall pay to the ECA Agent (for its own account) agency fees in the amounts and manner agreed in the ECA Agency Fee Letter.
- (h) **Technical Agent Fee.** The Borrower shall pay to the Technical Agent (for its own account) agency fees in the amounts and manner agreed in the Technical Agency Fee Letter.
- (i) **Documentation Agent Fee.** The Borrower shall pay to the Documentation Agents (for each of their own accounts) agency fees in the amounts and manner agreed in the Documentation Agency Fee Letter.
- (j) **Insurance and Equipment Agency Fee Letter.** The Borrower shall pay to Caterpillar Financial (for its own account) agency fees in the amounts and manner agreed in the Insurance and Equipment Agency Fee Letter.
- (k) **Environmental and Social Fee Letter.** The Borrower shall pay to the Environmental and Social Agent agency fees in the amounts and manner agreed in the Environmental and Social Agency Fee Letter.
- (l) **Other Fees.** The Borrower shall pay such other fees in the amounts and manner agreed between any Finance Party and the Borrower in any Fee Letter.

Article 5 STAMP TAXES AND FATCA PROVISIONS

5.1 Stamp Taxes

The Borrower shall pay and indemnify (within three (3) Business Days of demand by the relevant Facility Agent or the Administrative Agent) each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, stamp duty land tax, registration or other similar Tax payable in respect of any Finance Document or any Risk Coverage Document except for any such Tax payable in connection with entering into a Transfer Certificate.

5.2 FATCA Information

- (a) Subject to paragraph (c) below, each Finance Party shall, within ten (10) Business Days of a reasonable request by another Finance Party:
 - (i) confirm to that other Finance Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Finance Party such forms, documentation and other information relating to its status under FATCA as that other Finance Party reasonably requests for the purposes of that other Finance Party's compliance with FATCA; and

- (iii) supply to that other Finance Party such forms, documentation and other information relating to its status as that other Finance Party reasonably requests for the purposes of that other Finance Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Finance Party confirms to another Finance Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Finance Party shall notify that other Finance Party reasonably promptly.
- (c) Paragraph (a) above shall not obligate any Finance Party to do anything, and paragraph (a)(iii) above shall not obligate any other Finance Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Finance Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Finance Party shall be treated for the purposes of the Finance Documents and the Risk Coverage Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Finance Party in question provides the requested confirmation, forms, documentation or other information.

5.3 FATCA Deduction

- (a) Each Finance Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Finance Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Finance Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Finance Party to whom it is making the payment and, in addition, shall notify the Borrower and the Administrative Agent and the Administrative Agent shall notify the other Finance Parties.

Article 6 OTHER PROVISIONS RELATING TO THE FACILITY

6.1 Payments Generally.

- (a) The Borrower shall make each payment required to be made by it under this Agreement on the date when due, in immediately available funds, without defense, deduction, recoupment, set-off or counterclaim.
- (b) Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon.
- (c) All such payments shall be made to the Administrative Agent at its offices at 40 King Street West, 55th floor, Toronto, Ontario, Canada M5H 1H1, except that payments pursuant to Sections 6.3

(*Change in Circumstances*), 6.4 (*Payment of Costs and Expenses*) and 6.5 (*Indemnities*) shall be made directly to the Persons entitled thereto.

- (d) The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof.
- (e) All payments under this Agreement shall be made in Dollars.

6.2 Illegality.

If any Applicable Law comes into force after the Effective Date, or if any change in any existing Applicable Law or in the interpretation or application thereof by any court or Governmental Body now or hereafter makes it unlawful for a Senior Lender to have advanced or acquired an interest in any of the Loans or to fund or otherwise maintain any of the Loans or to give effect to its obligations in respect thereof, such Senior Lender may, by written notice thereof to the Borrower, declare its obligations under this Agreement to be terminated, and the Borrower shall immediately cancel any available Commitments of such Senior Lender and prepay, within the time required by such law, the Loans and any other amounts owing under this Agreement (including accrued and unpaid interest) as may be applicable to the date of such payment. If any such event shall, in the opinion of such Senior Lender, only affect part of its obligations under this Agreement, the remainder of this Agreement shall be unaffected and the obligations of the Borrower and the other Obligors under the Finance Documents shall continue. Each Senior Lender agrees to use commercially reasonable efforts to designate a different lending office if such designation will avoid the need for such notice and will not, in the judgment of such Senior Lender, acting reasonably, otherwise be materially disadvantageous to such Senior Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender in connection with any such designation or assignment.

6.3 Change in Circumstances.

- (a) If the introduction of or any change in any Applicable Law relating to a Senior Lender or any change in the interpretation or application thereof by any Governmental Body or compliance by a Senior Lender with any request or direction of any Governmental Body:
 - (i) subjects such Senior Lender or causes the withdrawal or termination of a previously granted exemption with respect to any Taxes or changes the basis of taxation of payments due to such Senior Lender or increases any existing Taxes on payments of amounts owing to such Senior Lender (other than Excluded Taxes (as defined in the applicable Senior Lender Tax Coverage Letter));
 - (ii) imposes, modifies or deems applicable any reserve, liquidity, cash margin, capital, special deposit, deposit insurance or assessment, or any other regulatory or similar requirement against assets held by, or deposits in or for the account of, or loans by, or any other acquisition of funds for loans by, such Senior Lender or any direct or indirect holding company of such Senior Lender;
 - (iii) imposes on such Senior Lender or any direct or indirect holding company of such Senior Lender or requires there to be maintained by such Senior Lender any capital adequacy, liquidity or additional liquidity capital requirement (including, without limitation, a requirement which affects such Senior Lender's or such holding company's allocation of capital resources to its obligations) in respect of such Senior Lender's obligations hereunder; or
 - (iv) imposes on such Senior Lender any other condition or requirement with respect to this Agreement (other than Excluded Taxes (as defined in the applicable Senior Lender Tax Coverage Letter));
- (b) and subject to paragraph (c) below, such occurrence has the effect of:

- (i) increasing the cost to such Senior Lender of agreeing to make or making, maintaining or funding the Facility, the Loan or any portion thereof;
- (ii) reducing the amount of the Obligations owing to such Senior Lender;
- (iii) directly or indirectly reducing the effective return to such Senior Lender under this Agreement or on its overall capital as a result of entering into this Agreement or as a result of any of the transactions or obligations contemplated by this Agreement; or
- (iv) causing such Senior Lender to make any payment or to forego any interest, fees or other return on or calculated by reference to any sum received or receivable by such Senior Lender under this Agreement;

then, upon request of such Senior Lender, the Borrower will pay to such Senior Lender such additional amount or amounts as will compensate such Senior Lender for such additional costs incurred or reduction suffered. A certificate of a Senior Lender setting forth the amount or amounts necessary to compensate such Senior Lender and delivered to the Borrower, shall be conclusive absent manifest error. The Borrower shall pay such Senior Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

For purposes of the foregoing, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof and (ii) all requests, rules, regulations, guidelines or directives whether concerning capital adequacy or liquidity 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, in each case pursuant to Basel III, shall, in each case, be deemed a "change in Applicable Law" regardless of the date enacted, adopted, applied or issued.

- (c) Section 6.3(a) does not apply to the extent any of the effects listed in Section 6.3(a)(i) through (iv) are:
 - (i) discharged for pursuant to the Senior Lender Tax Coverage Letter;
 - (ii) attributable to a Tax Deduction required by law to be made by the Borrower;
 - (iii) attributable to a FATCA Deduction required to be made by a Finance Party;
 - (iv) compensated for by paragraph 8 (*Indemnification by Obligors*) of the applicable Senior Lender Tax Coverage;
 - (v) attributable to the willful breach by the relevant Finance Party (or any of its Affiliates) of any law or regulation applicable to the Finance Documents to which it is a party.

6.4 Payment of Costs and Expenses.

The Borrower shall pay to the Administrative Agent and the Senior Lenders on demand all reasonable costs and expenses (other than in the case of Section 6.4(f) below, in which case the Borrower shall pay the Administrative Agent and the Senior Lenders on demand all costs and expenses) of the Agents and the Senior Lenders and their agents, counsel, and any receiver or receiver-manager appointed by them or by a court (including, without limitation, all reasonable fees, properly invoiced and documented expenses and disbursements of legal counsel) in connection with this Agreement, the other Finance Documents and the Risk Coverage Documents, including, without limitation:

- (a) the preparation, negotiation, and completion of the Finance Documents, and the Risk Coverage Documents or any actual or proposed amendment or modification thereof or any waiver thereunder and all instruments supplemental or ancillary thereto;
- (b) fees and expenses of the Senior Lenders incurred as part of the Senior Lenders' due diligence;
- (c) the reasonable and properly invoiced and documented fees and expenses of the Senior Lenders' Independent Consultants, including any such fees and expenses incurred as part of the Senior Lenders' due diligence or, subject to Section 9.1(d), ongoing monitoring, investigation or information gathering in respect of the Borrower and the Project;
- (d) the registration, maintenance and/or discharge of any of the Security in any public record office;
- (e) obtaining advice as any Agent's or the Senior Lenders' rights and responsibilities under this Agreement, the other Finance Documents or the Risk Coverage Documents; and
- (f) the defense, establishment, protection or enforcement of any of the rights or remedies of the Senior Lenders under this Agreement or any of the other Finance Documents or the Risk Coverage Documents, including all costs and expenses of establishing the validity and enforceability of, or of collection of amounts owing under, any of the Security Documents or any enforcement of the Security, or otherwise due from the Borrower or any Completion Guarantor under this Agreement or the Guaranty Agreement.

6.5 Indemnities.

- (a) The Borrower shall indemnify and hold harmless each Agent, each Senior Lender and the ECA Guarantor and their Affiliates, officers, directors and employees (each, an **"Indemnified Party"**) from all Claims (including the reasonable and properly invoiced and documented fees, expenses and disbursements of one outside legal counsel to the Senior Lenders and the ECA Guarantor per applicable jurisdiction and, in the case of an actual or perceived conflict of interest where the party to be indemnified affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of one other firm of counsel for such affected party but in no case more than one such other affected party, but excluding consequential special, exemplary, indirect, incidental or punitive damages or loss of profits or opportunity), which may be incurred by any Indemnified Party as a consequence of or in respect of:
 - (i) default by the Borrower in the payment when due of any Obligation or any other Default or Event of Default hereunder which is continuing;
 - (ii) the entering into by the relevant Agents and the Senior Lenders of this Agreement and any amendment, waiver or consent relating hereto, and the performance by such Agents and the Senior Lenders of their obligations under this Agreement;
 - (iii) failure of the Borrower to comply with any Anti-Corruption Laws, AML Legislation or Sanctions, any Applicable Law, or any Environmental and Social Requirement with respect to the Project;
 - (iv) any Material Adverse Environmental and Social Effect with respect to the Project;
 - (v) the application by the Borrower of the proceeds of the Facility; or
 - (vi) the development, construction, procurement, engineering and operation of the Project, except for any such any Claim that a final and non-appealable court of competent jurisdiction determined arose primarily on account of the relevant Indemnified Party's gross negligence or willful misconduct.

- (b) In connection with any Claim described in Section 6.5(a) above, the applicable Indemnified Party shall deliver a certificate of an officer of the Administrative Agent or the applicable Senior Lender as to:
- (i) any such Claim; and
 - (ii) containing reasonable details of the calculation (which calculation shall be, absent manifest error, prima facie evidence of the calculation of the amount of such Claim).

Article 7 REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Borrower

To induce each Senior Lender to enter into this Agreement and the other Finance Documents to which each such Senior Lender is a party, and to induce each Senior Lender to make available the Loans under this Agreement and the other Finance Documents to which it is a party, the Borrower makes the representations and warranties set forth below to each Senior Lender as of the Effective Date and the Financial Closing Date.

- (a) **Organization and Powers.** The Borrower:
- (i) has been duly incorporated or formed and is validly existing under the laws of its incorporation or formation, as applicable;
 - (ii) has all requisite corporate power and authority to own and lease its property and assets and to carry on its business;
 - (iii) has all requisite corporate power and authority to enter into and deliver each of the Transaction Documents, and the transactions contemplated thereby, to which it is or will become a party, and to take all necessary action to perform its obligations thereunder (including the power and authority to grant the Security pursuant to the Security Documents and to perform the obligations set forth therein); and
 - (iv) is duly qualified, licensed or registered to do business in each jurisdiction in which the nature of its business or the property or assets owned or leased by it make such qualification, licensing or registration necessary. No proceeding has been instituted or, to the knowledge of the Borrower, threatened in any such jurisdiction revoking, limiting or curtailing, or seeking to revoke, limit or curtail, such power and authority or qualification, licensing or registration. The Borrower is up-to-date in all of its corporate filings in all material respects and is (if applicable) in good standing under Applicable Laws.
- (b) **Authorization; No Conflict.** The execution and delivery by the Borrower of the Transaction Documents to which it is a party, and the performance by it of its obligations hereunder and thereunder, have been duly authorized by all necessary corporate or other action on its part and do not and will not:
- (i) contravene any provision of its constitutional documents (or the constitutional documents of any of its Subsidiaries), including, without limitation, any unanimous shareholder agreements or declarations, as applicable, or any resolution of its shareholders, partners or directors (or any committee thereof);
 - (ii) conflict with, result in a breach of, or constitute a default or an event creating rights of acceleration, termination, modification or cancellation or a loss of rights under (with or without the giving of notice or lapse of time or both), any Material Project Document,

Prepay/Stream Credit Document or any material Contract to which any of its Subsidiaries is a party;

- (iii) violate any Applicable Law; or
 - (iv) other than as contemplated by the Finance Documents, result in, or require, the creation or imposition of any Encumbrance on any property or assets of the Borrower.
- (c) **Execution; Binding Obligation.** Each Transaction Document to which the Borrower is or will become a party:
- (i) has been, or when delivered under or in connection with this Agreement will be, duly executed and delivered by the Borrower; and
 - (ii) constitutes, or when delivered under or in connection with this Agreement will constitute, a legal, valid and binding agreement of the Borrower, in full force and effect and enforceable against the Borrower in accordance with its terms and admissible into evidence in the courts of Ecuador, except to the extent enforcement may be affected by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Applicable Laws affecting creditors' rights generally and subject to generally applicable principles of equity.
- (d) **Consents.** The Borrower and its Subsidiaries are not required to give any notice to, make any filing with or obtain any Authorization, Order or other consent or approval of any Person in connection with the execution or delivery of or performance of its obligations under any Transaction Document to which they are a party, or the consummation of the transactions contemplated herein and therein, other than:
- (i) those that have already been obtained and copies of which have been provided to the Administrative Agent, including the conditional approval of the TSX of the transactions contemplated by the Transaction Documents that require such approval,
 - (ii) filings required to be made on or following the Effective Date or the Financial Closing Date, as applicable, pursuant to such conditional approval, and
 - (iii) those Authorizations set out as to be obtained following the Effective Date in Schedule F (*Material Project Authorizations*).
- (e) **Corporate Structure; Subsidiaries.**
- (i) Part A of Schedule K (*Corporate Organization Chart*) sets forth the true and complete list of all Subsidiaries of the Borrower, including the type and number of issued and outstanding shares or other equity interests of each such Subsidiary and the Person in whose name such shares or equity interests are registered.
 - (ii) Except as set out in Part A of Schedule K (*Corporate Organization Chart*) no Person has any option, warrant, right (pre-emptive, contractual or otherwise) or other security or conversion privilege of any kind that is exercisable or convertible into, or exchangeable for, or otherwise carries the right of the holder to purchase or otherwise acquire (whether or not subject to conditions) common shares or other equity interests of the Borrower.
 - (iii) The Borrower is not engaged in any joint purchasing arrangement, joint venture, partnership and other joint enterprise with any other Person.

- (iv) No Person has a direct or indirect ownership interest in the Borrower, except as set out in Part A of Schedule K (*Corporate Organization Chart*), or the Project Property or is otherwise involved in any manner in the operation of the Project.
- (v) To the Borrower's knowledge and belief, no funds invested in the shares of the Borrower are of illicit origin.
- (f) **Principal Place of Business and Other Locations.** The jurisdiction of incorporation, principal place of business, location of corporate records, and location of tangible assets (except for inventory which is in transit) of the Borrower as of the date hereof is Ecuador.
- (g) **Residence for Tax Purposes.** For tax purposes, the Borrower is resident of Ecuador (and no other jurisdiction).
- (h) **Solvency.** The Borrower and its Subsidiaries are not and could not reasonably be expected to become insolvent within the meaning of the Applicable Law of Ecuador.
- (i) **No Defaults; Material Project Documents.** No event has occurred or circumstance exists that (with or without the giving of notice or lapse of time or both) has contravened, conflicted with or resulted in, or may contravene, conflict with or result in, a violation or breach of, or give the Borrower or any other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any Material Project Document, Material Project Authorization or Order to which it is a party or by which it or its properties and assets may be bound, and, to the knowledge of the Borrower, each other Person that is party thereto is in compliance in all material respects with the terms and requirements thereof. Without limiting the generality of the foregoing:
 - (i) all Material Project Documents are set out in Schedule G (*Material Project Documents*) (or if such Schedule is replaced in accordance with this Agreement, such replacement Schedule), and true and complete copies thereof have been made available to the Administrative Agent;
 - (ii) neither the Borrower, nor, to the knowledge of the Borrower, any other Person, is in default or breach in the observance or performance of any term, covenant or obligation to be performed by the Borrower or such Person under any Material Project Document to which the Borrower or such Person is a party or by which it is otherwise bound (including its property and assets) and each such Material Project Document is in good standing, constitutes a valid and binding agreement of each of the parties thereto, is in full force and effect and is enforceable in accordance with its terms, except to the extent enforcement may be affected by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Applicable Laws of Ecuador affecting creditors' rights generally and subject to generally applicable principles of equity; and
 - (iii) the Borrower has no knowledge of the invalidity of or grounds for rescission, avoidance or repudiation of any such Material Project Document and the Borrower has not received notice of any sanctioning procedure by a Governmental Body or notice of any intention to terminate any such Material Project Document or repudiate or disclaim any transaction contemplated thereby.
- (j) **Title to Real Property.** Schedule I (*Project Real Property*) and Schedule J (*Other Real Property*) (or if such Schedules are replaced in accordance with this Agreement, such replacement Schedules) set out a complete and accurate list of the Real Property in which the Borrower and its Subsidiaries have a right, title or interest. The Borrower, subject to Permitted Encumbrances:
 - (i) has valid and subsisting leasehold title to all leases of real property and mineral interests included within the Real Property;

- (ii) has valid possessory and record title to all mineral interests included within the Real Property, except such mineral interests that are leased to the Borrower and are covered under paragraph (j)(i) above; and
- (iii) has good and marketable title to such other real property interests included within the Real Property and not otherwise included under paragraphs (j)(i) and (j)(ii).

Such Real Property is free and clear of all Encumbrances other than Permitted Encumbrances. The Borrower and its Subsidiaries do not hold any other freehold, leasehold or other real property interests or rights (including licenses from landholders permitting the use of land, leases, rights of way, occupancy rights, surface rights and easements).

- (k) **Other Collateral.** The Borrower has good and valid title to, or leasehold interest in, all other Collateral that is not Real Property, free and clear of all Encumbrances other than Permitted Encumbrances.
- (l) **Project Property.** Without limiting the generality of Section 7.1(j) and Section 7.1(k):
 - (i) the Borrower and its Subsidiaries own or otherwise have valid rights to use all of, and do not own any material properties or assets other than, the Project Property, and no Person other than the Borrower and its Subsidiaries (as the case may be) (or otherwise contemplated in the Exploitation Agreement as of the date hereof), has any rights to participate in the Project Real Property or operate the Project;
 - (ii) the Project Real Property constitutes all real property, mineral, surface interests and ancillary rights (including rights of access) necessary for the development and mining operations of the Project, in accordance with the Mine Plan;
 - (iii) other than the Royalties, the Exploitation Agreement, the Offtake Agreements, the Gold Prepay Credit Agreement, the Stream Credit Facility Agreement and this Agreement, none of the Project Real Property or any Minerals produced therefrom are subject to an option, right of first refusal or right, title, interest, reservation, claim, rent, royalty, or payment in the nature of rent or royalty, or right capable of becoming an agreement, option, right of first refusal or right, title, interest, reservation, claim, rent, royalty, or payment in the nature of rent or royalty; and
 - (iv) other than pursuant to Applicable Laws, there are no restrictions on the ability of the Borrower to exploit the Project Real Property.
- (m) **Maintenance of Project Property.** All mining concession, maintenance fees, recording fees, preservation patents and Taxes and all other amounts have been paid when due and payable and all other actions and all other obligations as are required to maintain the Project Property in good standing, have been taken and complied with in all material respects.
- (n) **No Expropriation.** No Expropriation Event has occurred nor has any notice been given or proceeding commenced by a Governmental Body or Person in respect thereof nor, to the knowledge of the Borrower, is there any intent or proposal to give any such notice or commence with respect to an Expropriation Event.
- (o) **Insurance.** The Collateral and the businesses and operations of the Borrower are or will be (as applicable) insured in accordance with Section 9.1(e). The Borrower has not breached the terms and conditions of any insurance policies it is required to obtain and maintain in accordance with Section 9.1(e) in any material respect nor failed to promptly give any notice or present any material claim thereunder. There are no material claims under any such policy as to which any insurer is denying liability or defending under a reservation of rights clause.

(p) **Status of Authorizations.**

- (i) The Authorizations and Other Rights specified in Schedule F (*Material Project Authorizations*) (as such Schedule may be supplemented in writing to the Administrative Agent from time to time by the Borrower) are all Material Project Authorizations (other than such Authorizations as are routine in nature and reasonably anticipated to be issued in the ordinary course of business;
- (ii) as of the date of this Agreement, all Material Project Authorizations specified in Part A of Schedule F (*Material Project Authorizations*):
 - (A) have been duly obtained, taken, given or made;
 - (B) are valid and in full force and effect and admissible into evidence in the courts of Ecuador;
 - (C) are not subject to appeal or similar proceeding by or before any Governmental Body; and
 - (D) are free from conditions or requirements that have not been met or complied with where the failure to so satisfy may allow for the material modification or revocation thereof.
- (iii) on any date on which this representation is made or deemed made from and after the Financial Closing Date:
 - (A) any Material Project Authorizations specified in Schedule F (*Material Project Authorizations*) that are required by Applicable Law to be in effect as of the date on which such representation is made or deemed to have been made:
 - (I) have been duly obtained, taken, given or made;
 - (II) are valid and in full force and effect and admissible into evidence in the courts of Ecuador;
 - (III) are not subject to appeal or similar proceeding by or before any Governmental Body; and
 - (IV) are free from conditions or requirements that have not been met or complied with where the failure to so satisfy may allow the material modification or revocation thereof; and
 - (B) with respect to any Material Project Authorization specified in Schedule F (*Material Project Authorizations*) that is not required under Applicable Law to be in effect as of the date on which such representation is made or deemed to be made, the Borrower has applied (or will apply) for all such Material Project Authorizations and has no reason to believe that it will not obtain those Material Project Authorizations by the date on which such Material Project Authorization is required (x) to develop, construct, own, finance or operate the Project or (y) to perform any obligations under any Transaction Document or that those Material Project Authorizations will be subject to any conditions or requirements that cannot be met or complied with;

except for rights that can reasonably be expected to be obtained on commercially reasonable terms at the time required, the Material Project Documents contain all rights that are necessary for the conduct of the Business of the Borrower as contemplated by the Transaction Documents.

- (iv) as of the Financial Closing Date, each Authorization and Other Right that is necessary under the laws governing any Security Document to which it is a party or otherwise applicable given the location of the Project Property subject to such Security Document for the Secured Parties' exercise of any rights of foreclosure, transfer, sale, assignment or set-off in respect of any of the Security pledged by it for the benefit of the Secured Parties pursuant to such Security Document are set forth on Schedule F (*Material Project Authorizations*).
- (v) the Project, if constructed in accordance with the Construction Plan, Budget and Schedule, the Mine Plan and otherwise developed as contemplated by the Material Project Documents, will conform and comply with all covenants, conditions, restrictions and reservations of any such Authorizations and Other Rights and all Applicable Laws.
- (q) **Bank Accounts.** The Borrower has no other bank accounts other than the Project Accounts set out in Schedule L (*Bank Accounts*) (or if such Schedule is replaced in accordance with this Agreement, such replacement Schedule).
- (r) **Applicable Laws; Conduct of Operations.** The Borrower, and its Subsidiaries, including in the conduct of operations at the Project and the performance of their obligations under the Prepay/Stream Credit Documents, is and has been in compliance in all material respects with all Applicable Laws and, without limiting the generality of the foregoing, all exploration, development and mining operations in respect of the Real Property have been conducted in accordance with Good Industry Practice and all material workers' compensation and health and safety regulations have been complied with. There is no pending or, to the knowledge of the Borrower, proposed changes to Applicable Laws that would render illegal or materially restrict the development of the Project or the conduct of operations at the Project, or that could otherwise reasonably be expected to result in a Material Adverse Effect.
- (s) **Sanctions.**
 - (i) (A) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors or officers or, to the knowledge of the Borrower, employees, agents or Affiliates is a Sanctions Target; or (B) neither the Borrower nor any of its Subsidiaries nor any of their respective directors or officers or, to the knowledge of the Borrower, employees, agents or Affiliates, has engaged in the past five (5) years (and during such five (5) year period, at all times prior to December 2014, solely to the knowledge of the Borrower), or intends to engage in the future in any dealings, with, involving or for the benefit of a Sanctions Target;
 - (ii) The Borrower and its Subsidiaries and, to the knowledge of the Borrower, their respective directors, officers, employees and agents (acting in their official capacities in connection with the Project), are in compliance with Sanctions;
 - (iii) The Borrower and its Subsidiaries have implemented and maintain policies and procedures designed to promote and achieve compliance with Sanctions;
 - (iv) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors, officers, employees or agents (acting in their official capacities in connection with the Project) is or has been, in the past five (5) years (and during such five (5) year period, at all times prior to December 2014, solely to the knowledge of the Borrower), subject to any action, litigation, claim, investigation or proceeding with regard to any actual or alleged violation of Sanctions; and
 - (v) The Borrower will not, directly or indirectly, use any part of any proceeds of the Loans (A) to fund or facilitate any activities or business of, with or involving any Sanctioned Person or (B) in any manner that would constitute or give rise to a violation of Sanctions by any Person, including any Senior Lender, provided, that in relation to each Restricted Lender,

such provision shall only apply for the benefit of that Restricted Lender to the extent that it would not result in any violation of the EU Anti-Boycott Regulations. For the avoidance of doubt, OFAC shall not apply to the Restricted Lenders.

(t) **Anti-Corruption Laws.**

- (i) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors or officers or, to the knowledge of the Borrower, Affiliates, agents, employees (acting in their official capacities in connection with the Project) or other Persons acting on behalf of the Borrower or its Subsidiaries have made any Prohibited Payment or taken any action or failed to take any action, directly or indirectly, that would result in a violation by such Persons of the Anti-Corruption Laws;
- (ii) The Borrower and its Subsidiaries have implemented and maintain policies and procedures designed to promote and achieve compliance with Anti-Corruption Laws;
- (iii) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors, officers, employees or agents (acting in their official capacities in connection with the Project) is or has been, in the past five (5) years (and during such five (5) year period, at all times prior to December 2014, solely to the knowledge of the Borrower), subject to any action, litigation, claim, investigation or proceeding with regard to any actual or alleged violation of Anti-Corruption Laws; and
- (iv) The Borrower will not, directly or indirectly, use any part of any proceeds of the loans for any Prohibited Payment or Prohibited Practice, provided, that in relation to each Restricted Lender, such provision shall only apply for the benefit of that Restricted Lender to the extent that it would not result in any violation of the EU Anti-Boycott Regulations. For the avoidance of doubt, OFAC shall not apply to the Restricted Lenders.

(u) **AML Legislation.**

- (i) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors or officers or, to the knowledge of the Borrower, Affiliates, agents, employees (acting in their official capacities in connection with the Project) or other Persons acting on behalf of the Borrower or its Subsidiaries has taken any action, directly or indirectly, that would constitute or give rise to a violation by such Persons of AML Legislation;
- (ii) The Borrower and its Subsidiaries have implemented and maintain policies and procedures designed to promote and achieve compliance with AML Legislation;
- (iii) Neither the Borrower nor any of its Subsidiaries nor any of their respective directors, officers, employees or agents (acting in their official capacities in connection with the Project) is or has been, in the past five (5) years (and during such five (5) year period, at all times prior to December 2014, solely to the knowledge of the Borrower), subject to any action, litigation, claim, investigation or proceeding with regard to any actual or alleged violation of AML Legislation; and
- (iv) The Borrower will not, directly or indirectly, use any part of any proceeds of the Loans for any activity that would constitute or give rise to violation of applicable AML Legislation provided, that in relation to each Restricted Lender, such provision shall only apply for the benefit of that Restricted Lender to the extent that it would not result in any violation of the EU Anti-Boycott Regulations. For the avoidance of doubt, OFAC shall not apply to the Restricted Lenders.

(v) **Environmental Compliance.** Without limiting the generality of Sections 7.1(p) and 7.1(r):

- (i) the Borrower:

- (A) conducted each EIA in accordance with the Environmental Laws of Ecuador;
 - (B) conducted the IFC ESIA delivered in accordance with Section 5.2 of Part II of Schedule B in compliance with the Performance Standards and, to the knowledge of the Borrower and its Subsidiaries, the Equator Principles; and
 - (C) provided each EIA and, once delivered, the IFC ESIA to the Senior Lenders and the ECA Guarantor;
- (ii) the Borrower and its Subsidiaries, and to the knowledge of the Borrower and its Subsidiaries, the conduct of the construction and operations at the Project in the manner in which the Business is then currently being conducted) are in compliance:
- (A) in all material respects with all Environmental and Social Requirements, save in respect of the Environmental Laws; and
 - (B) with all Environmental Laws, save to the extent that such non-compliance constitutes a Minor Non-Compliance Event and save to the extent such non-compliance is the subject of corrective actions under the Serious E&S Non-Compliance Event regime or a Corrective Action Plan in accordance with Sections 9.9(g) and 9.9(h) respectively,
- in each case and, as applicable, in accordance in all material respects with the actions and time schedules established in the ESAP and any Corrective Action Plan;
- (iii) the Borrower and its Subsidiaries have obtained, and maintained in full force and effect, all material Authorizations any of them are currently required to hold under the Environmental Laws of Ecuador (including the Environmental Licenses) necessary to develop and operate the Project or to conduct any other exploration, development, drilling or mining operations currently being conducted by it;
- (iv) no Hazardous Substances have been generated, used, treated, recycled, stored on or transported to or from, or Released on, or to the knowledge of the Borrower are migrating from or are present on all or any portion of the Real Property or the Project except to the extent any such Hazardous Substance could not reasonably be expected to result in an Environmental Claim (save to the extent that such Environmental Claim would constitute a Minor Non-Compliance Event and otherwise where any Environmental Claim has been notified in accordance with Sections 9.3(a) and 9.3(b)) against the Borrower, any of its Subsidiaries or with respect to the Project;
- (v) none of the Borrower, its Subsidiaries nor any of the Real Property, is subject to any pending or, to the knowledge of the Borrower, threatened material Environmental Claim (save where any Environmental Claim has been notified in accordance with Sections 9.3(a) and 9.3(b), (and, to the knowledge of the Borrower or its Subsidiaries, there is no basis for any such material Environmental Claim) (save where any Environmental Claim has been notified in accordance with Sections 9.3(a) and 9.3(b), including any:
- (A) material claim, notice, complaint, allegation, investigation, order, each in writing, that relates to the Environment, natural resources, Hazardous Substances, human health or safety matters or any other matter covered by the Environmental and Social Requirements (including the Biodiversity Action Plan and the Closure and Rehabilitation Plan), and which would reasonably require or result in any material work, repairs, rehabilitation, reclamation, remediation, construction, obligations, liabilities or expenditures; or
 - (B) material demand, Order, notice from or prosecution by or before a Governmental Body with respect to any matter covered by the Environmental and Social

Requirements (including the Biodiversity Action Plan and the Closure and Rehabilitation Plan), including any other Applicable Laws of Ecuador, respecting the use, Release, storage, treatment, transportation, rehabilitation, reclamation, remediation or disposition of, or exposure to, any Hazardous Substance from the Real Property;

- (vi) save to the extent such audits, assessments, studies or tests are the subject of contractual non-disclosure obligations, the Borrower has made available to the Administrative Agent a true and complete copy of each material environmental and social audit, assessment, study or test of which it possesses or has custody or control over relating to the Project, including any environmental and social impact assessment study reports and any other material environmental or social information;
 - (vii) the Borrower has provided to the Administrative Agent a true and complete copy of the HSEC Policy in effect as of the date hereof. The HSEC Policy addresses the matters covered by the Performance Standards and Good Industry Practice as it pertains to health, safety, environmental, community and related operational matters;
 - (viii) there are no material environmental liabilities in respect of the operations at the Project other than those identified in the Material Project Authorizations, Authorizations (including Environmental Licenses), Corrective Action Plan, ESMPs, and ESAP; and
 - (ix) (ix) to the knowledge of the Borrower, there are no pending or, proposed (in writing) changes to the Environmental Laws or environmental Authorizations referred to in Section 7.1(p)(iii)(A) above that would render illegal or materially restrict the conduct of operations at the Project, or that could otherwise reasonably be expected to result in a Material Adverse Effect.
- (w) **Community Matters.**
- (i) The Borrower's and the Subsidiaries' consultation and dealing with any community, Indigenous Peoples and/or Artisanal Miner and other persons and groups located on the Project Real Property affected by the Project regarding the proposed exploration, development, operating, closure and rehabilitation of the Project Property (and with which the Project is required to consult, in accordance with the Applicable Law of Ecuador and the applicable Performance Standards) and the Project has been conducted in a structured and culturally appropriate manner as envisaged by the Performance Standards and the HSEC Policy.
 - (ii) Neither the Borrower nor its Subsidiaries have received notice that the Project Real Property or the Project is subject to any Indigenous Claims that are individually, or in the aggregate, material or material Artisanal Miner Claims, and, to the knowledge of the Borrower or its Subsidiaries, there are no such current or pending Indigenous Claims or Artisanal Miner Claims materially affecting the Project Real Property or the Project. Neither the Borrower nor its Subsidiaries have received notice of any claim or assertion, written or oral, whether proven or unproven, from any other such affected persons or groups, or Persons acting on their behalf, with respect to any title (including collective title), rights or other interests which could reasonably be expected to conflict with the Project if such claim or assertion were valid.
 - (iii) The Borrower has disclosed to the Senior Lenders all Communities and Indigenous Information, all Artisanal Mining Agreements and all other material correspondence, notices and other documents from or involving such other affected persons or groups, or Persons acting on their behalf, of which it has knowledge other than as disclosed in Schedule M (*Community Matters*).

- (iv) The Borrower has not entered into any Artisanal Mining Agreements, written or oral agreements with any Indigenous Peoples, Artisanal Miner or other such affected persons or groups to provide benefits, pecuniary or otherwise, with respect to the Project at any stage of development and the Borrower has not offered any Indigenous Peoples, Artisanal Miner or other such affected persons or groups any benefits with respect to the Project at any stage of development, other than as disclosed in Schedule M (Community Matters).
- (x) **Employee and Labor Matters.** The Borrower is in material compliance with all Applicable Laws of Ecuador and Performance Standards in respect of employment and employment practices, terms and conditions of employment, pay equity and wages; there is not currently any labor disruption or conflict involving the Borrower, its Subsidiaries or directly affecting the Project. Neither the Borrower nor its Subsidiaries are a party to a collective bargaining agreement.
- (y) **Security.** The Borrower has implemented security practices and procedures at the Project in accordance with Applicable Laws of Ecuador and consistent with the Performance Standards, the Equator Principles, the HSEC Policy and Good Industry Practice.
- (z) **Employee Benefit Plans.** Each Employee Benefit Plan mandated by a Governmental Body that is intended to qualify for special tax treatment meets all of the requirements for such treatment and has obtained all necessary approvals of all relevant Governmental Bodies. No Employee Benefit Plan has any unfunded liabilities, determined in accordance with IFRS, that have not been fully accrued on the Financial Statements or that will not be fully offset by insurance. All Employee Benefit Plans are registered where required by, and are in good standing under, all Applicable Laws of Ecuador. For purposes of this Section 7.1(z), “**Employee Benefit Plan**” means any employee benefit plan, pension plan, program, policy or arrangement sponsored, maintained or contributed to by the Borrower or with respect to which the Borrower has any liability or obligation.
- (aa) **Taxes.**
 - (i) All material Taxes due and payable by the Borrower (whether or not shown due on any Tax Returns and whether or not assessed (or reassessed) by the appropriate Governmental Body) have been timely paid when due except for any such Taxes the payment of which is being Contested and that there are no material disputes pending or threatened with any government tax authority in Ecuador.
 - (ii) All assessments and reassessments received by the Borrower in respect of material Taxes have been paid when due.
 - (iii) All Tax Returns required by Applicable Law to be filed by or with respect to the Borrower have been properly prepared and timely filed when due and all such Tax Returns (including information provided therewith or with respect thereto) are true, complete and correct in all material respects, and no material fact or facts have been omitted therefrom which would make any such Tax Returns misleading in any respect.
 - (iv) There are no outstanding agreements, waivers, objections or arrangements extending the statutory period of limitations applicable to any claim for Taxes due from or with respect to the Borrower or any taxable period, nor has any such agreement, waiver, objection or arrangement been requested.
 - (v) No filing or stamp Taxes are required to be paid by Applicable Law in connection with the execution of the Finance Documents and the Risk Coverage Documents or any payments to be made pursuant thereto (other than any filing or registration fees in connection with the execution of the Transaction Documents, which shall be paid promptly after the execution of each such Finance Document and Risk Coverage Document.

- (bb) **Intellectual Property.** The Borrower owns, licenses or otherwise has the right to use all material licenses, Authorizations, patents, patent applications, trademarks, trademark applications, service marks, trade names, copyrights, copyright applications, franchises, authorizations and other intellectual property rights that are necessary for the operation of its business, without infringement upon or conflict with the rights of any other Person with respect thereto (other than any intellectual property the absence of which or any such infringement upon or conflict with respect to which would not have a material impact on the Borrower's ability to develop or operate the Project and carry on the Business). No slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower infringes upon or conflicts with any rights owned by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Borrower, threatened.
- (cc) **Books and Records.** The minute books and corporate records of the Borrower are true and correct in all material respects and contain all minutes of all meetings and all resolutions of the shareholders or directors (or any committee thereof), as applicable, of the Borrower (and true and correct copies thereof have been provided by the Borrower to the Administrative Agent).
- (dd) **Financial Statements and Financial Model.**
- (i) The Borrower's Financial Statements have been prepared in accordance with IFRS applied on a consistent basis throughout and complied, as of their date of filing, and such Financial Statements present fairly, in all material respects, the financial condition of the Borrower, as at the date specified therein and for the period then ended, except for, as of the date hereof, a qualification therein in connection with Ecoaurelian Agrícola S.A. relating to the valuation of certain real estate assets and the depreciation thereon, of which the Lenders have been made aware. The Borrower does not intend to correct or restate, nor, to the knowledge of the Borrower, is there any basis for any correction or restatement of, any aspect of its Financial Statements.
 - (ii) There are no off-balance sheet transactions, arrangements, obligations (including contingent obligations) or other relationships of the Borrower or any of its Subsidiaries with unconsolidated entities or other Persons.
 - (iii) PriceWaterhouseCoopers has been the auditor of the Borrower since 2016.
 - (iv) The Base Case Financial Model has been prepared based on assumptions believed in good faith by the Borrower to be reasonable in light of the circumstances in which they were made.
- (ee) **Absence of Change.** Except as disclosed in the Financial Statements, since December 31, 2017, there has been no event, change or effect which, individually or in the aggregate, has had, or could reasonably be expected to have, a Material Adverse Effect.
- (ff) **Related-Party Transactions.** Except as disclosed in the Borrower's annual audited Financial Statements as at December 31, 2017 and as otherwise disclosed in Schedule N (*Related-Party Transactions*) or in writing by the Borrower to the Administrative Agent prior to the date hereof or as permitted by this Agreement after the date hereof, the Borrower has not: (i) made any payment or loan to, or borrowed any moneys from or otherwise been indebted to, any Related Party thereof; or (ii) been a party to any Contract with any Related Party thereof, other than independent contractor or indemnification agreements entered into with officers or directors of the Borrower which, in the case of subparagraph (i) or (ii) hereof, remains in effect on the date hereof.
- (gg) **Other Contracts.** No Obligor has entered in any material Contracts relating to the Project (other than the Transaction Documents) that have not been disclosed in writing to the Finance Parties.

- (hh) **No Liabilities.** The Borrower has no material liabilities, contingent or otherwise, other than those reflected in the Financial Statements.
- (ii) **Litigation.** There are no Orders which remain unsatisfied against the Borrower or consent decrees or injunctions to which the Borrower is subject. There are no material investigations, actions, suits or proceedings at law or in equity or by any Person by or before any Governmental Body pending or, to the knowledge of the Borrower, threatened against or directly affecting the Borrower (or any of its properties or assets) or otherwise having a material impact on the ability of the Borrower to develop or operate the Project and, to the knowledge of the Borrower, there is no ground on which any such action, suit or proceeding might be commenced.
- (jj) **Debt Instruments.** The Borrower does not have any Debt other than Permitted Debt.
- (kk) **No Subordination.** There is no Contract to which the Borrower is a party or by which it or any of its properties or assets may be bound that requires the subordination in right of payment of any of the Obligations under the Finance Documents and the Risk Coverage Documents to any other obligation of it.
- (ll) **Technical Report.** The estimated measured, indicated and inferred mineral resources and proven and probable mineral reserves set out in the Technical Report for the Project have been prepared in accordance with accepted mining industry practices and National Instrument 43-101. The Borrower does not have any knowledge that the mineral resources or mineral reserves (or any other material aspect of the Technical Report) are inaccurate in any material respect.
- (mm) **No Default.** No Default or Event of Default has occurred and is continuing, or is occurring, under, or as a result of entering into, any Transaction Document.
- (nn) **Disclosure.** All information which has been prepared by or on behalf of the Borrower relating to the Obligors and their Subsidiaries and/or in connection with the Project or its financing (including in connection with the Prepay/Stream Credit Documents), and disclosed in writing to the Finance Parties or any one of them, is, as of the date of such information, true, complete and accurate in all material respects.
- (oo) **Foreign Controls.** The execution, delivery and performance of the Finance Documents by the Borrower are, under applicable foreign exchange control regulations or metals control regulations of Ecuador, not subject to any notification or authorization except:
- (i) such as have been made or obtained; or
- (ii) such as cannot be made or obtained until a later date,
- (provided, that, any notification or authorization described in paragraph (oo)(ii) shall be made or obtained as soon as is reasonably practicable and, to the knowledge of the Borrower, there is no reason that any such authorizations will not be obtained in the ordinary course).
- (pp) **Rank of Debt.** The obligations of the Borrower and each Obligor under the Finance Documents to which it is a party to pay the Loans and any and all other amounts due thereunder constitute direct and unconditional senior obligations of the Borrower and each Obligor and will at all times, subject to the Intercreditor Agreement, rank at least equal in right of payment with all other present and future indebtedness and other obligations of the Borrower and each Obligor, except for any obligations which have priority under the laws of Ecuador.
- (qq) **No Immunity; Proper Legal Form; No Need to Qualify Under Ecuadorian or Other Applicable Law.**
- (i) Neither the Borrower nor any of their properties have any immunity from the jurisdiction of any court or from any legal process (whether through service or notice, attachment prior

to judgment, attachment in aid of execution, execution or otherwise) under the laws of the United States, Canada, Ecuador or other relevant jurisdiction in respect of its obligations under the Finance Documents. To ensure the legality, validity, enforceability or admissibility into evidence in Canada and Ecuador of the Finance Documents, it is not necessary that the Finance Documents or any other document be filed or recorded with any Governmental Body in Canada or Ecuador (except, in the case of Ecuador, for the translation into Spanish of the Finance Documents by an approved translator).

- (ii) Each of the Finance Documents is in proper legal form under the Applicable Laws of Ecuador for the enforcement thereof against the Borrower under such Applicable Laws; provided that, in the event of enforcement of this Agreement in the courts of Ecuador a translation of this Agreement into Spanish, prepared by a court-approved translator or other official translator shall be required. Each Note, when duly executed and delivered, constitutes a *título ejecutivo* under the Applicable Laws of Ecuador. The submission to jurisdiction, appointment of the process agent, consents and waivers by the Borrower in Section 23.10 (*Governing Law; Jurisdiction*) of this Agreement are valid and irrevocable.
- (iii) It is not necessary in order for the Administrative Agent or any Senior Lender to enforce any rights or remedies under the Finance Documents or solely by reason of the execution, delivery and performance by the Borrower of the Finance Documents that the Administrative Agent or any Senior Lender be licensed or qualified with any Governmental Body in Ecuador, or be entitled to carry on business in Ecuador.
- (rr) **Development Plan.** The Development Plan contains summary descriptions of the Project Property and the development and operation of the Project as proposed to be conducted throughout the life of the mine.
- (ss) **ESMPs.** The ESMPs contain summary descriptions of the environmental aspects of the Project Property and the development and operation of the Project as now conducted and as currently proposed to be conducted until the Final Maturity Date.
- (tt) **Cyanide Management Plan.** Except as of the Effective Date but at least thirty (30) days prior to the use, storage, management or transport of cyanide, the Cyanide Management Plan is consistent in all relevant respects with the International Cyanide Management Code.
- (uu) **Valid Security Interests.** The security interests created by the Security Documents constitute legal, valid, binding and enforceable security interests.
- (vv) **Investment Company Act of 1940.** The Borrower is not, and after giving effect to the transactions contemplated hereby, will not be, subject to registration as an “investment company” or “controlled” by a company subject to registration as an “investment company,” within the meaning of the United States Investment Company Act of 1940, as amended.
- (ww) **Margin Regulations.** The Borrower is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying any “margin stock” (as defined in Regulation U of the Board of Governors of the Federal Reserve System of the United States) or to extend credit to others for such purpose and no part of the proceeds of any Loan will be used for the purpose whether immediate, incidental or ultimate, of buying or carrying any “margin stock” (as defined in Regulation U of the Board of Governors of the Federal Reserve System of the United States) or to extend credit to others for such purpose. No part of the proceeds of any Loan will be used, whether directly or indirectly and whether immediately, incidentally or ultimately, for any purpose which entails a violation of or which is inconsistent with Regulation G, T, U or X promulgated by the Board (12 C.F.R. Sections 207, 220, 221 and 224, respectively).
- (xx) **Use of Proceeds.** The **proceeds** of all Utilizations have been used in accordance with the terms and conditions of this Agreement and all applicable Finance Documents.

- (yy) **Prepay/Stream Credit Documents.** No event has occurred or circumstance exists that (with or without the giving of notice or lapse of time or both) has contravened, conflicted with or resulted in, or may contravene, conflict with or result in, a violation or breach of, or give the Borrower or to the knowledge of the Borrower, any other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any Prepay/Stream Credit Document to which it is a party or by which it or its properties and assets may be bound, and, to the knowledge of the Borrower, each other Person that is party thereto is in compliance in all material respects with the terms and requirements thereof. Without limiting the generality of the foregoing:
- (i) neither the Borrower, nor, to the knowledge of the Borrower, any other Person, is in default or breach in the observance or performance of any term, covenant or obligation to be performed by the Borrower or such Person under any Prepay/Stream Credit Document and each such Prepay/Stream Credit Document is in good standing, constitutes a valid and binding agreement of each of the parties thereto, is in full force and effect and is enforceable in accordance with its terms, except to the extent enforcement may be affected by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Applicable Laws of Ecuador affecting creditors' rights generally and subject to generally applicable principles of equity; and
 - (ii) the Borrower has no knowledge of the invalidity of or grounds for rescission, avoidance or repudiation of any such Prepay/Stream Credit Document and the Borrower has not received notice of any sanctioning procedure by a Governmental Body or notice of any intention to terminate any such Prepay/Stream Credit Document or repudiate or disclaim any transaction contemplated thereby.
- (zz) **Transfer of Concessions.** Following the expiration of the exploration phase of the following Related Concessions and if such Related Concessions did not proceed to the exploitation phase, the transfer or renouncement to the GOE of the Colibri 2, Colibri 4, Rio Zarza 2, Valle del Inca 2 and Condesa Related Concessions will not impact the Project.

7.2 Survival of Representations and Warranties.

- (a) The representations and warranties made in this Agreement are made by the Borrower on the date of this Agreement.
- (b) The Repeating Representations are deemed to be made to each Finance Party by reference to the fact and circumstances then existing on each Utilization Date notwithstanding any investigation made at any time by or on behalf of the Administrative Agent or the Senior Lenders.

Article 8 SECURITY

8.1 Security Documents.

- (a) As security for the due and punctual payment of all of the Obligations, the Borrower shall on or prior to the Financial Closing Date, grant, or cause to be granted, a continuing security interest and legal, valid and perfected Encumbrances (to the extent of Applicable Laws) in favor of the relevant Collateral Agent over all of the Collateral (subject only to Permitted Encumbrances), and in furtherance thereof shall deliver or cause to be delivered to the relevant Collateral Agent, for the benefit of the Senior Lenders, in form and substance satisfactory to Senior Lenders' counsel, acting reasonably:
 - (i) the Ecuadorian Security Documents;
 - (ii) the Canadian Security Documents;

- (iii) the Amended and Restated Collateral, Agency, Accounts and Security Agreement;
 - (iv) the Intercreditor Agreement;
 - (v) any Subordination Agreement; and
 - (vi) each Direct Agreement
- (b) As security for the due and punctual payment of all of the Obligations, the Borrower shall on or prior to the Financial Closing Date:
- (i) grant, or cause to be granted, a continuing security interest and an Encumbrance in favor of the relevant Collateral Agent over all of the Collateral (subject only to Permitted Encumbrances), and in furtherance thereof shall deliver or cause to be delivered to the relevant Collateral Agent, for the benefit of the Senior Lenders, in form and substance satisfactory to Senior Lenders' counsel, acting reasonably, the Ecuadorian Security Documents;
 - (ii) perfect, or cause the perfection of, the continuing security interest and any Encumbrances created under the Ecuadorian Security Documents (other than the Investment Protection Agreement Conditional Assignment which has been duly notified to the Government of Ecuador and which the Borrower shall use commercially reasonable efforts to obtain an acknowledgement from the Ministry of Foreign Commerce and Investments pursuant to the Fourth Transitory Provision of Executive Decree 252);
 - (iii) file for registration with the competent public registry each Industrial Pledge Agreement, the Commercial Pledge Agreement and the Mortgages; and
 - (iv) to the extent not so granted or perfected in accordance with Section 8.1(b)(i) or 8.1(b)(ii) above, on or prior to the Financial Closing Date, provide evidence of each of the foregoing to the Administrative Agent and each Collateral Agent.

8.2 Further Assurances - Security.

The Borrower shall take, or cause to be taken, such action and execute and deliver or cause to be executed and delivered to the Collateral Agents such agreements, documents and instruments as the Administrative Agent or the Collateral Agents shall reasonably request pursuant to article VI of the Amended and Restated Collateral, Agency, Accounts and Security Agreement.

8.3 Security Effective Notwithstanding Date of the Loans.

The Security shall be effective and the undertakings in this Agreement and the other Finance Documents with respect thereto shall be continuing, whether the monies hereby or thereby secured or any part thereof shall be advanced before or after or at the same time as the creation of any such Security or before or after or upon the date of execution of this Agreement. The Security shall not be affected by any payments under this Agreement or any of the other Finance Documents, but shall constitute continuing security interests to and in favor of the applicable Collateral Agent for the benefit of the Senior Lenders for the Obligations from time to time.

8.4 No Merger.

The Security shall not merge in any other security interests. No judgment obtained by or on behalf of the Senior Lenders shall in any way affect any of the provisions of this Agreement, the other Finance Documents, Risk Coverage Documents or the Security. For greater certainty, no judgment obtained by or on behalf of the Senior Lenders shall in any way affect the obligation of the Borrower to pay interest or to pay other amounts at the rates, times and in the manner provided in this Agreement.

8.5 Stockpiling.

If the Borrower intends to stockpile, store, warehouse or otherwise place Minerals or other minerals forming part of the Collateral with a value in excess of \$10,000,000 off the Project Real Property, before doing so, the Borrower shall obtain from the property owner, operator or both, as applicable, where such stockpiling, storage, warehousing or other placement occurs, to provide in favor of the Collateral Agents a written acknowledgement in form and substance satisfactory to the Administrative Agent, acting reasonably, which provides that the Borrower's and/or its Affiliates', as applicable, rights to the Minerals or other minerals forming part of the Collateral shall be preserved and which acknowledges the Senior Lenders' Encumbrances thereon and provides the Collateral Agents with a right of access in the event of enforcement by the Collateral Agents of the Security.

Article 9 COVENANTS

9.1 Affirmative Covenants.

The Borrower shall:

- (a) duly and punctually pay the Obligations at the times and places and in the manner required by the terms of the Finance Documents;
- (b) maintain its corporate existence; keep proper books of account and records; maintain its good standing status (if applicable) at all times in all jurisdictions where it carries on business; keep proper books of account and records; and operate its business and construct and operate the Project in accordance with Good Industry Practice and in compliance, in all material respects, with the Mine Plan, Construction Plan, Budget and Schedule, Applicable Law, Project Authorizations, Other Rights, Material Project Documents, and the Compliance Programs and solely with respect to Applicable Law, comply with Applicable Law in all material respects unless the Borrower has Contested the applicability of any Applicable Law or the Borrower's necessity to comply with it;
- (c) except as otherwise permitted by this Agreement, maintain the Project Real Property in good standing, performing or causing to be performed all required assessment work thereon, paying or causing to be paid all concession, permit and license maintenances fees in respect thereof, paying or causing to be paid all rents and other payments in respect of leased properties forming a part thereof and otherwise maintaining the Project Real Property in compliance, in all material respects, with Applicable Law and Good Industry Practice, except where the failure to make such payment (or cause such payment to be made) or to so own or maintain such Project Real Property would not reasonably be expected to materially and adversely affect the ownership, operation or safety of the Project;
- (d) subject to applicable health and safety procedures maintained by the Borrower in accordance with Good Industry Practice and the Environmental and Social Requirements:
 - (i) prior to the Commercial Production Date, semi-annually and, on and after the Commercial Production Date, once annually, in each case, during its business hours and upon reasonable prior written notice from the Administrative Agent, the Collateral Agents, a Senior Lender or the ECA Agent on behalf of the ECA Guarantor; and
 - (ii) at all times and without notice if:
 - (A) an Event of Default shall have occurred and be continuing; or
 - (B) an Emergency Event shall have occurred and be continuing,

permit four representatives from among the Administrative Agent, the Collateral Agents, the Technical Agent, the Senior Lenders, the ECA Guarantor and the Risk Mitigation Providers (including their consultants, the assignees and/or the Independent Consultants), at the cost and expense of the Borrower, to enter into or onto its property, to conduct inspections and testing, to inspect any of the Collateral and to examine its financial books, accounts and records and to discuss its financial condition with its senior officers and its auditors upon reasonable advance notice in writing and in each case during normal business hours, in a manner that does not unreasonably disrupt the operation of the Project, and (solely in the case of paragraph (d)(i) above) at the expense and risk of the applicable Finance Party (or its designee), provided, that:

- (I) the Risk Mitigation Agent shall be entitled to visit the Project site once each Fiscal Year;
- (II) the Risk Mitigation Providers and the Independent Insurance Consultant shall each be entitled to visit the Project site once;
- (III) the Independent Technical Consultant and the Technical Agent shall be entitled to visit the Project site up to (x) once per Fiscal Quarter until the Project Completion Date; and (y) once per Fiscal Year after the Project Completion Date, in each case at the cost and expense of the Borrower;
- (IV) the Independent Environmental and Social Consultant and the Environmental and Social Agent (at the request of the Majority Lenders) shall be entitled to visit the Project site up to (x) two times per Fiscal Year prior to the first anniversary of the Project Completion Date of the Project and (y) at least one time per Fiscal Year thereafter, in each case, at the cost and expense of the Borrower;
- (V) the Independent Consultants may otherwise visit the Project site as many times as the Majority Lenders may request for the purpose of determining whether Project Completion has occurred, in each case at the Borrower's expense; and
- (VI) the ECA Guarantor shall be entitled to visit the Project site once each Fiscal Year at the cost and expense of the Borrower;

provided, that the Administrative Agent, the Collateral Agents, the Technical Agent, the Senior Lenders, the ECA Guarantor and the Risk Mitigation Providers and the Independent Consultants shall coordinate their visits to the Project site to the extent reasonably practicable so to do.

- (e) keep insured with financially sound and reputable insurance and reinsurance companies all of its Collateral (including the Project Property) in amounts and against losses or damages on a basis consistent with Good Industry Practice, Applicable Law, the requirements of the Exploitation Agreement and as set forth in and in accordance with Schedule O and cause:
 - (i) the policies of insurance referred to above to contain customary endorsements for the benefit of the Senior Lenders;
 - (ii) the policies of reinsurance to be assigned to the Offshore Collateral Agent for the benefit of the Senior Lenders and each participating reinsurer to acknowledge such assignment, all in a form acceptable to the Administrative Agent acting reasonably, and include a provision that such policies will not be cancelled without thirty (30) days' prior written notice being given to the Administrative Agent by the issuers thereof or be amended in any manner which is prejudicial to the Senior Lenders; or

- (iii) the Collateral Agents, the Administrative Agent and the Senior Lenders to be named as an additional insured with respect to public liability insurance; and
 - (iv) the Onshore Collateral Agent to be named as loss payee of all indemnification proceeds under all insurance policies (other than those insurance policies covering liabilities to third parties, that are payable directly to such third parties);
- (f) provide the Administrative Agent as soon as reasonably practicable with such evidence of insurance as the Administrative Agent may from time to time reasonably require;
- (g) subject to Section 9.1(r), obtain, as and when required, and preserve, maintain, and comply with, all Material Project Authorizations which are required to permit the Borrower to:
- (i) build, develop and operate the Project as contemplated by the Mine Plan, the Construction Plan, Budget and Schedule, and carry out the Business; and
 - (ii) perform its obligations under the Transaction Documents to which it is a party;
- (h) timely file, or cause to be timely filed, all Tax Returns required to be filed by it and pay, or cause to be paid, all Taxes due and payable by it, whether shown to be due and payable on such Tax Returns or on any assessment received by it or otherwise, except to the extent any such Taxes are being Contested, unless payment any such Tax that is being Contested is required under Applicable Law;
- (i) conduct environmental remedial activities which a Person acting in accordance with Good Industry Practice and with the Environmental and Social Requirements (including the Biodiversity Action Plan and the Closure and Rehabilitation Plan) would perform in similar circumstances to meet its environmental responsibilities (including pursuant to the Environmental Licenses, the ESAP and any Corrective Action Plan) and conduct and pay for any environmental investigations, assessments or remedial activities with respect to any of the Real Property owned or leased by them that the Administrative Agent or the Collateral Agents may reasonably request, in each case as required by the Environmental Laws, Project Authorizations, Other Rights, the Performance Standards, or by any Governmental Body;
- (j) comply in all material respects with the ESMPs, the ESAP and in all respects with any Corrective Action Plan;
- (k) promptly (i) implement corrective actions agreed with the Independent Environmental and Social Consultant in accordance with Section 9.9(e) or pursuant to the dispute resolution mechanism in respect of an E&S Dispute in accordance with Section 9.9(f), (ii) implement any action required pursuant to, and comply with, any Corrective Action Plan required in accordance with Section 9.9(h), and (iii) notify the Environmental and Social Agent (who may consult with the Independent Environmental and Social Consultant) upon implementation and completion thereof and, if applicable, amend the ESMPs accordingly;
- (l) (i) ensure that, other than mining by Artisanal Miners, the only mining activities taking place on the Project Real Property are those under the control and direction of the Borrower in furtherance of the Project, (ii) permit Artisanal Miners to operate on the Project Property if required to do so in accordance with Applicable Law and (iii) build, develop and operate the Project in compliance with the requirements of any environmental permit, Order or other Authorization in respect of the Project;
- (m) warrant and defend the right, title and interest of the Borrower in and to any of the Collateral, and every part thereof, against the claims of any Person, subject only to Permitted Encumbrances;
- (n) cause the design, construction, completion and operation of the Project (including any work not currently contemplated by the Mine Plan but approved in accordance with this Agreement) to be

carried out and completed with diligence and continuity and in all material respects in accordance with Applicable Law, the Environmental and Social Requirements, the plans and specifications set forth in the Development Plan, the Construction Plan, Budget and Schedule and the Good Industry Practice;

- (o) obtain, and provide evidence reasonably satisfactory to the Administrative Agent of, the registration of each Disbursement with the Central Bank of Ecuador for the purpose of registering the Loan disbursed pursuant to such Disbursement and to enable interest payments under the Loans disbursed pursuant to such Utilization to be capable of qualifying for the exemption on remittance Tax under the laws of Ecuador promptly after the date of each Utilization, but in no event later than forty-five (45) days after the date of relevant Utilization;
- (p) maintain at all times the necessary power supply required for the Project to achieve Project Completion and to ensure ongoing compliance with the Mine Plan;
- (q) perform all such acts and execute all such documents as are reasonably required by the Finance Parties to perfect and maintain the Security in the Collateral created pursuant to the Security Documents;
- (r) maintain all of its and its Subsidiaries' ownership, lease, use, license and other interests in the Project assets as are necessary for it to be able to operate the Project in accordance with Good Industry Practice;
- (s) comply with all Sanctions, Anti-Corruption Laws, and AML Legislation, provided, that, in relation to each Restricted Lender, such laws shall only apply for the benefit of that Restricted Lender to the extent that it would not result in any violation of EU Anti-Boycott Regulations. For the avoidance of doubt, OFAC shall not apply to the Restricted Lenders. Sanctions imposed by the Federal Republic of Germany, the European Union and the Security Council of the United Nations shall be deemed to not violate the EU Anti-Boycott Regulations; and maintain in effect and comply with, and enforce, the Compliance Programs;
- (t)
 - (i) comply:
 - (A) with all Environmental Laws (including all Environmental Licenses) unless the Borrower has Contested the applicability of any Environmental Law or Environmental License to the Project, the need for the Borrower to comply with it or the relevant non-compliance constitutes a Minor Non-Compliance Event; and
 - (B) in all material respects with all other Environmental and Social Requirements,

unless any action is being taken in connection with a Potential E&S Non-Compliance Event in accordance with Section 9.9(e) and (f) or any E&S Non-Compliance Event occurs for which a Corrective Action Plan is being, or has been, put in place in accordance with Section 9.9(e); and

 - (ii) shall obtain, as and when required, and preserve, maintain and comply with all requisite environmental Authorizations (including the Environmental Licenses);
- (u) use the proceeds of the Loans solely for the purpose set out in each Facility Agreement;
- (v) (i) comply with the minimum required volumes, as specified by the purchase under such agreements and (ii) shall at all times following the Project Completion Date, be a party as a seller to one or more Offtake Agreements (which shall, for these purposes, not include the Gold/Silver Offtake Agreement) with one or more Qualified Buyers for the export of gold-silver concentrates in Dollars or other freely convertible currencies payable to the Offshore Collateral Account; which

shall provide for the annual sale of, when considered together with contracted volumes under the Boliden Offtake Agreement, not less than 75% of the gold-silver bearing concentrates (such agreements, other than the Boliden Offtake Agreement, the “**Minimum Capacity Concentrates Agreements**”) and provided that each Minimum Capacity Concentrate Agreement shall have a tenor of at least three (3) years;

- (w) refrain from amending, suspending, waiving or repudiating any portion of, an environmental or social permit or a Material Project Authorization that would result in a Material Adverse Effect, without prior written consent of Finance Parties;
- (x) as soon as practicable following receipt thereof and prior to the date on which it is required by the relevant Governmental Body of the GOE, deliver to the Independent Environmental and Social Consultant, the Lenders and ECA Guarantor a certified copy of the applicable Environmental License pertaining to cyanide transportation and the EIA submitted to the relevant GOE authority (or, in the case of cyanide transportation, the relevant municipality) to obtain such license;
- (y) provide the Environmental and Social Agent (acting in consultation with the Independent Environmental and Social Consultant and the Independent Technical Consultant) with an updated Mine Closure Estimate and Closure and Rehabilitation Plan (in form reasonably satisfactory to the Independent Environmental and Social Consultant taking into account the Environmental and Social Requirements) on an annual basis and no later than ninety (90) days following the end of the Fiscal Year for its review and make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, things, agreements, documents and instruments in connection with this financing, the Finance Documents and the Risk Coverage Documents as the Administrative Agent may reasonably request from time to time for the purpose of giving effect to the terms of the Finance Documents and the Risk Coverage Documents including, for the purpose of facilitating the enforcement of the Security, all upon the request of the Administrative Agent;
- (z) if the Borrower transfers or renounces any of the Related Concessions ((z) other than Colibri 2 and Colibri 4) constituting a Permitted Asset Disposition as described in paragraph (b) of such definition, the Borrower shall promptly obtain and implement, if required to operate the Project as contemplated in the General Work and Investment Plan and the then current Mine Plan, rights of use to such concession (other than Colibri 2 and Colibri 4) and, if not so required, provide the Administrative Agent with a written explanation for such view;
- (aa) maintain the Environmental Bonds in full force and effect; and
- (bb) on or before the date that falls 60 days after the Effective Date, deliver or cause to be delivered to the Administrative Agent, for the benefit of the Senior Lenders, in each case in form and substance satisfactory to Senior Lenders’ counsel, acting reasonably, the Ecuadorian Security Document Amendments.

9.2 Financial Covenants.

- (a) The Borrower shall ensure that from June 30, 2021, and on each Calculation Date thereafter:
 - (i) the Historic Debt Service Cover Ratio for the applicable Historic DSCR Measurement Period is no less than 1.10:1;
 - (ii) the Loan Life Cover Ratio as calculated on such date until the Final Maturity Date is no less than 1.20:1;
 - (iii) the Project Life Cover Ratio as calculated on such date until the Project Termination Date is not less than 1.75:1; or
 - (iv) the Reserve Tail Ratio calculated on each such date is no less than 30%.

- (b) the financial covenants set out in Section 9.2(a) above shall be calculated tested by reference to each of the Financial Statements delivered pursuant to Section 9.7 (*Quarterly Financial Reporting*), each Compliance Certificate delivered pursuant to Section 9.7(b)(ii) and Section 9.8(a)(ii) and/or calculated in accordance with the then-current Base Case Financial Model.

9.3 Notifications to the Senior Lenders.

Until the Final Maturity Date, the Borrower shall:

- (a) Promptly notify the Senior Lenders of any of the following (but in any event no later than three (3) days from the Borrower's discovery thereof):
- (i) any Default or Event of Default upon becoming aware of its occurrence;
 - (ii) any Change of Control upon becoming aware of its occurrence;
 - (iii) any material default by any party under or termination or threatened termination or termination right arising under any Material Project Document, of which it becomes aware;
 - (iv) the loss of or material non-compliance with the terms of, or any threat (whether or not in writing) by a Governmental Body of Ecuador to revoke or suspend or modify, any Material Project Authorization;
 - (v) all material actions, suits and proceedings (including arbitral and administrative proceedings), for damages in excess of \$20,000,000, or which, if adversely determined, would be likely to have a Material Adverse Effect, before any Governmental Body of Ecuador or arbitrator pending, or to the knowledge of the Borrower, threatened, against or directly affecting the Borrower, the Project or any Material Project Documents, including any actions, suits, claims, notices of violation, hearings, investigations or proceedings pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower or in any material respect, in relation to the ownership, development, construction, use, maintenance and operation of the Project;
 - (vi) any violation of any Applicable Law by the Borrower in any material respect;
 - (vii) any material damage to the Project, and whether the Borrower has made, or plans to make, any insurance claims with respect thereto with respect to such damage;
 - (viii) Any;
 - (A) Serious E&S Non-Compliance Event; and
 - (B) material non-compliance by the Borrower or its Subsidiaries with the Environmental and Social Requirements,
 that constitutes with respect to paragraph (b) only, an E&S Non-Compliance Event which is a New Event requiring a Corrective Action Plan;
 - (ix) any Indigenous Claims and any other material disputes or disturbances pertaining to the Project involving local communities, including, without limitation, any Artisanal Miner and any Indigenous Peoples;
 - (x) any application made by the Borrower to request the application of correction factors under the Exploitation Agreement together with any information supplied in support thereof (including, but not limited to, any reports or studies on economic impact or

imbalance) and prompt updates on the outcome of the negotiation process in respect thereof;

- (xi) the acquisition of any of the Material Project Authorizations together with copies thereof including updates on the GOE approval process for any EIAs in respect thereof;
- (xii) the completion of the Transmission Lines and Substation for the Project or notification of any delays in respect thereof which could have, or could reasonably be expected to have, a Material Adverse Effect;
- (xiii) in relation to the Gold/Silver Offtake Agreement, the Boliden Offtake Agreement and any additional Offtake Agreements entered into compliance with Section 9.1(v):
 - (A) any deferral elections made in respect of deliveries thereunder; and
 - (B) any contracts entered into for Refinery and Smelter purposes in fulfillment of the obligations thereunder;
- (xiv) any material labor disruption involving the workforce at the Project;
- (xv) (A) any event, circumstance or fact that could reasonably be expected to give rise to a "Default" or an "Event of Default" as defined in the Gold Prepay Credit Agreement, a "Default" or an "Event of Default" under and as defined in, the Stream Credit Facility Agreement or a default under any Offtake Agreement, or (B) any event or condition which, upon notice, lapse of time, or both, would constitute a "Default" or an "Event of Default" as defined under the Gold Prepay Credit Agreement, the Stream Credit Facility Agreement or a default under any Offtake Agreement, or (C) a "Default" or an "Event of Default" as defined in any other agreement in respect of Debt of the Borrower in a principal amount of \$5,000,000 or more without giving effect to any amendments or waivers from the creditor party thereunder;
- (xvi) any material change in operational planning that requires additional studies or EIAs (and all relevant information related thereto pursuant to the Environmental and Social Requirements, Applicable Law or Good Industry Practice); and
- (xvii) any rejection or request for additional information from any public registry or Governmental Body in respect of the actions being taken to perfect the security interest in the Collateral pursuant to Article 8 (*Security*).

in each case, accompanied by an Officer's Certificate of the Borrower setting forth details of the occurrence referred to therein.

- (b) Promptly notify the Senior Lenders, including in the notification the intended action to be taken by them, upon:
 - (i) any written threat of any action or public announcement of any intended action or series of actions that would reasonably be construed or expected to result in an Expropriation Event or a Material Adverse Effect;
 - (ii) any material claim, complaint, notice or order under, or any violations of, any Environmental Laws, Sanctions, Anti-Corruption Laws, and AML Legislation, affecting any of the Borrower, its Subsidiaries or the Project;
 - (iii) learning of the existence of Hazardous Substances located on, above or below the surface of any land which the Borrower occupies or controls, except those being stored, used or otherwise handled in compliance with Environmental Laws, or contained in the

soil or water constituting such land, in each case which could reasonably be expected to have a material cost or material impact on the Borrower's ability to carry on the Business and to develop or operate the Project;

- (iv) the occurrence of any Release of Hazardous Substances that has occurred on or from such land which could reasonably be expected to have a material cost or material impact on the Borrower's ability to carry on the Business and to develop or operate the Project or which could reasonably be expected to have a Material Adverse Environmental and Social Effect;
- (v) the occurrence of any change in business activity conducted by it which involves the storage, use or handling of Hazardous Substances or wastes or increases its environmental liability in any material manner; and
- (vi) any proposed change in the use or occupation of the Project Real Property which may have a material cost or material impact on the Borrower's ability to carry on the Business or develop and operate the Project,
- (vii) any other notice given or received by the Borrower with respect to the occurrence of any force majeure or delay event (howsoever described) under any Project Document.

provided, that, in the event any action set forth in Section 9.3(b)(i) is notified to the Senior Lenders, the Borrower shall promptly consult with the Senior Lenders to determine appropriate steps to mitigate against or otherwise negotiate the resolution of the action or series of actions that may otherwise result in an Expropriation Event.

- (c) Promptly (but in any event no less than thirty (30) days prior to such change) notify the Senior Lenders upon becoming aware of any proposed change or change in name or jurisdiction of incorporation or principal place of business of the Borrower.
- (d) The Borrower shall promptly notify the Senior Lenders of (and shall provide a true and complete copy, where applicable):
 - (i) the acquisition by the Borrower or its Subsidiaries of any real property (including mineral rights) with an individual value of more than \$1,000,000 or which is material to the Project, whether owned or leased;
 - (ii) any new locations of tangible assets of the Borrower or its Subsidiaries (other than inventory in transit);
 - (iii) any new Material Project Documents or any amendment or revision to any existing Material Project Document (provided, that, any amendment or revision and any new Material Project Document shall be subject to Section 9.12(j)); and
 - (iv) any new Material Project Authorization or any amendment, revision, reissuance or replacement of any existing Material Project Authorization.

- (e) The Borrower shall:
- (i) promptly notify the Administrative Agent of a suspension (by the Borrower or any Material Project Party) or failure to maintain development, construction or mining or processing operations at the Project consistent with the Material Project Documents (as applicable) and accompany such notice with an Officer's Certificate of the Borrower setting forth details of the occurrence referred to therein;
 - (ii) provide access and otherwise allow representatives of the Senior Lenders and its advisors to discuss with the Borrower's senior officers and technical advisors such event; and
 - (iii) provide the Administrative Agent with such other information with respect to such event or the Borrower's remedial plans with respect thereto as the Administrative Agent reasonably requests.
- (f) Notwithstanding the Borrower's obligation set forth in Section 9.3(e), on the first Business Day of each calendar quarter, the Borrower shall notify the Administrative Agent of:
- (i) the acquisition by the Borrower and its Subsidiaries of all real property (including mineral rights and including any request by the Borrower for approval to enter into any exploitation agreement with respect to any Related Concessions) during the immediately prior calendar quarter (or a certification that no such acquisition was made);
 - (ii) evidence, satisfactory to the Administrative Agent, that a valid and fully perfected Encumbrance granting a security interest over such after-acquired real property has been created in accordance with Section 8.1(b); and
 - (iii) the proposed amended and restated Schedule I (*Project Real Property*) and Schedule J (*Other Real Property*) to reflect the acquisition of such real property which, upon to the approval of the Administrative Agent, shall be and shall be deemed to constitute Schedule I (*Project Real Property*) and Schedule J (*Other Real Property*) hereunder.
- (g) The Borrower shall provide details of any other information reasonably requested with reasonable notice by the Finance Parties in respect of the financial condition, business and/or operations of the Borrower or the Project.

9.4 Other Reports; Certain Direct Agreements

- (a) The Borrower shall promptly deliver or furnish, or cause to be delivered or furnished, to the Senior Lenders a copy of any material reports, certificates, documents and notices relating to the Project which are delivered by or to the Borrower under the Material Project Documents to the extent not already delivered to the Senior Lenders under the Finance Documents, which, in relation to the Exploitation Agreement shall include the Annual Work and Investment Plan (as defined therein), the Annual Environmental Program and Budget (as defined therein) and the semi-annual production reports submitted for approval by ARCOM (as defined therein).
- (b) The Borrower shall use reasonable efforts to cause any Material Project Party to an Additional Material Project Document, (and other than a Direct Agreement with the GOE, if reasonably required by the Senior Lenders, in consultation with the Borrower, taking into account the size of the applicable Material Project Document and the relative impact of such Material Project Document on the Project such that no such Direct Agreement shall, unless such obligations reflect customary cure and standstill periods or step-in rights, alter or increase the contractual obligations of the applicable Material Project Party) to enter into a Direct Agreement.

9.5 Project Reporting – Construction Plan, Budget and Schedule, Material Project Documents, Material Project Authorizations and Mine Plan.

The Borrower shall promptly deliver or furnish, or cause to be delivered or furnished, to the Administrative Agent a copy or copies of:

- (a) **New Material Project Documents.** Any new Material Project Document or any amendment or revision to any existing Material Project Document (provided that any new Material Project Document or any amendment or revision shall be subject to Section 9.12(j)), together, in the case of new Material Project Documents, with a proposed amended and restated Schedule G (*Material Project Documents*) to reflect the new Material Project Documents which, upon the approval of the Administrative Agent, shall be and shall be deemed to constitute Schedule G (*Material Project Documents*) under this Agreement;
- (b) **New Material Project Authorization.** Any new Material Project Authorization or any amendment, revision, reissuance or replacement of any existing Material Project Authorization, together, in the case of new Material Project Authorizations, a proposed amended and restated Schedule F (*Material Project Authorizations*) to reflect the new Material Project Authorizations which, upon the approval of the Administrative Agent, shall be and shall be deemed to constitute Schedule F (*Material Project Authorizations*) under this Agreement;
- (c) **Mine Plan Amendments.** Any amendment, update, revision or supplement to or replacement of the Mine Plan in effect and approved by the management or board of the Borrower (provided that any such amendment, revision, supplement or replacement shall be subject to Section 9.12(n)), together with an updated Base Case Financial Model to reflect material changes to the Project as they occur;
- (d) **Amendments to Project Plans and Budgets.** Any amendment, revision or supplement to or replacement in effect and approved by the management or board of the Borrower of:
 - (i) the Construction Plan, Budget and Schedule (provided that any such amendment, revision, supplement or replacement shall be subject to Section 9.12(n) and shall remain consistent with the then-applicable General Work and Investment Plan); or
 - (ii) any Monthly Construction Progress Report and operating report (provided that any such amendment, revision, supplement or replacement shall provide details on any variances from budgeted amounts);
- (e) **Technical Reports.** Any new revised and approved technical reports or updated mineral reserve and mineral resource estimates produced that pertain to the Project Real Property, or any material revised engineering or technical studies relating to the Project;
- (f) **Monthly Construction Progress Reports.** Monthly Construction Progress Reports up to and including the Commercial Production Date, to be provided on or before the 25th calendar day after the end of each month with respect to which such report relates, as currently being prepared in the ordinary course of business.
- (g) **Monthly and Quarterly Operations Reports.** Operations reports in a form reasonably satisfactory to the Independent Technical Consultant, in consultation with the Technical Agent, and the Independent Environmental and Social Consultant, in consultation with the Environmental and Social Agent, as follows:
 - (i) Monthly Operations Reports on or before the 25th calendar day after the end of each month; and
 - (ii) the Quarterly Operations Reports on or before 25th calendar day after each Fiscal Quarter (including material variations from the prior quarter).

- (h) **Annual Operations Report.** By Project Completion Date, as soon as available and in any event by no later than March 15 of each calendar year, an Annual Operations Report in respect of the immediately preceding calendar year.
- (i) **Environmental Monitoring Reports.** (i) a quarterly Borrower Environmental Monitoring Report to be delivered not less than 60 days after the end of each quarter in each Fiscal Year prior to the first anniversary of Project Completion Date, and (ii) an annual Borrower Environmental Monitoring Report to be delivered on each anniversary of the Project Completion Date from the first anniversary thereof, in each case containing such additional information as is reasonably requested by the Independent Environmental and Social Consultant to enable the Independent Environmental and Social Consultant to produce the IESC Environmental Monitoring Report.
- (j) **Updated Mine Plans and Reserves Statements.** Updated Mine Plans (including any updates to the reserves statements contained therein and any relevant updates to the Base Case Financial Model) no later than (x) March 15 of each calendar year and (y) not more than 120 days prior to the Project Completion Date, or in either case, if no amendments have been made thereto since the most recently delivered Mine Plan, a certificate from the Borrower stating that such Mine Plan continues to be complete and in full force and effect, and as soon as reasonably practicable following the making of any update to the then applicable Mine Plan.
- (k) **IFC ESIA Summary of Project.** In accordance with Equator Principle 10, the Borrower shall, at all times following its delivery in accordance with Section 5.2 of Part II of Schedule B, make available at <https://www.lundingold.com> a summary of the IFC ESIA.
- (l) **Emissions Report.** If disclosure is required under Annex A of the Equator Principles due to the amount of emissions from the Project, the Borrower will publish and maintain on its website at <https://www.lundingold.com> at all times information with respect to greenhouse gas emissions in the substance and form required by Annex A of the Equator Principles. The Senior Lenders will have the right to publish information required under Annex B of the Equator Principles and Borrower hereby consents to the publishing thereof.

9.6 Base Case Financial Model

- (a) **Base Case Financial Model and Assumptions.** The Borrower and the Administrative Agent shall each retain a copy of the Base Case Financial Model for use in producing and verifying its calculations, the forecasts, the financial ratio testing and the Compliance Certificates.
- (b) **Notification of updates to Base Case Financial Model.** The Borrower shall notify the Administrative Agent, the Technical Agent, the Independent Technical Consultant and the relevant Facility Agent of:
 - (i) any proposed material updates to the Base Case Financial Model (including in connection with any updates to the Mine Plan pursuant to Section 9.5(c));
 - (ii) the Technical Assumptions to be used as of such Calculation Date; and
 - (iii) the figures to be used for the Economic Assumptions as of such Calculation Date,
 each of which will be determined in accordance with this Section 9.6.
- (c) **Gold Price Assumptions.** The Gold Price Assumption is fixed in the Base Case Financial Model at REDACTED *[gold price redacted]* per ounce, provided that in each case when the Base Case Financial Model is to be updated as required by this Agreement, such price shall be the lesser of: (i) REDACTED *[gold price redacted]* per ounce and (ii) the forward spot price obtained from Bloomberg L.P. and its affiliates which reflects the market closing level as of the end of the most recent Fiscal Quarter.

- (d) **Other Assumptions.** All assumptions, other than the Gold Price Assumption and the other figures to be used for Economic Assumptions, shall be as set out in the Base Case Financial Model; provided, that, each of the Borrower and the Technical Agent (acting on the instructions of the Majority Lenders) shall have the right, following any material change in circumstance or any material change in projections, to propose revisions to:
- (i) the Technical Assumptions; and
 - (ii) the figures to be used for the Economic Assumptions (other than the Gold Price Assumption, which shall only be modified in accordance with paragraph (c) above),
- to be used for any subsequent Base Case Financial Model, Cost-to-Complete Certificate or Compliance Certificate to be delivered in accordance with this Agreement.
- (e) Each of the Technical Agent (acting on the instructions of the Majority Lenders) and the Borrower may propose changes to the Base Case Financial Model which it believes in good faith are required in order to correct any historical data known to be inaccurate or to correct any manifest error in the Base Case Financial Model.
- (f) The Borrower and the Technical Agent (acting on the instructions of the Majority Lenders) will:
- (i) make any such proposals in relation to the Base Case Financial Model in accordance with paragraph (e) above or the Gold Price Assumptions in accordance with paragraph (c) above to each other, with a copy to the relevant Facility Agent;
 - (ii) make any such proposals in good faith after careful consideration and enquiry and such proposals will genuinely reflect views which it believes in good faith to be reasonable in the circumstances and will be consistent with the provisions of the Transaction Documents in all material respects; and
 - (iii) provide written reasons for its proposed revisions.
- (g) **Disputes over Updates to Base Case Financial and Assumption.** If the Administrative Agent and the Borrower are unable to agree on any change proposed in accordance with this Section 9.6, within twenty (20) Business Days from the date on which the change is proposed, other than in respect of the Gold Price Assumption, the Finance Parties agree that any disputes related to the Base Case Financial Model shall be settled with final effect by an independent expert appointed by the Borrower and the Administrative Agent for this purpose (or if the Borrower and the Administrative Agent cannot agree on the identity of that expert, an independent expert nominated by the President from time to time of the Canadian Institute of Chartered Accountants or any successor body thereof).
- (h) **Effect of Updates.** Any changes to the Base Case Financial Model (including the Economic Assumptions and Technical Assumptions) shall take effect and be binding on the Finance Parties on and from the date such changes are agreed or determined in accordance with this Section 9.6, and shall be incorporated into an updated Base Case Financial Model.

9.7 Quarterly Financial Reporting.

- (a) The Borrower shall provide to the Administrative Agent for each bank account of the Borrower access to the relevant bank statements via the relevant bank's online service.
- (b) As soon as available and in any event within forty-five (45) days after the end of each of the first three Fiscal Quarters of each Fiscal Year, the Borrower shall deliver to the Administrative Agent:

- (i) a copy of each Obligors' (other than Lundin's) quarterly unaudited financial statements for such Fiscal Quarter and of Lundin's quarterly unaudited consolidated financial statements for such Fiscal Quarter;
- (ii) a Compliance Certificate; and
- (iii) a description of the material variances for the currently applicable Construction Plan, Budget and Schedule or, as the case may be, the Annual Budget and Forecast Report and the Annual Operations Report.

9.8 Annual Financial Reporting.

- (a) As soon as available and in any event within ninety (90) days after the end of each Fiscal Year, the Borrower shall deliver to the Administrative Agent:
 - (i) a copy of: (A) the Borrower's and Ecoaurelian Agricola S.A's audited annual financial statements for such Fiscal Year; (B) Lundin's audited annual consolidated financial statements for such Fiscal Year; and (C) AurelianHoldings S.A, Aurelian Resources Inc. and Aurelian Resources Corporation Ltd. unaudited annual financial statements for such Fiscal Year; and
 - (ii) a Compliance Certificate.
- (b) On or prior to the date that is forty-five (45) days prior to the Target Commercial Production Date, and no later than December 15 of each calendar year thereafter, the Borrower shall deliver to the Administrative Agent (i) an Annual Budget and Forecast Report in respect of the upcoming calendar year and (ii) a copy of the then-current Base Case Financial Model; provided, however, that if the content of such report is dependent on information to be provided by third parties and such third parties have not provided such information within a reasonable period prior to December 31, the Borrower shall use its commercially reasonable efforts to provide such report as soon as possible after December 15, but shall, in any event, provide such report by December 31. Each Annual Budget and Forecast Report shall be accompanied by an Officer's Certificate stating that the budget is a reasonable estimate for the period covered thereby and is in compliance with the requirements of this Section 9.8(b).
- (c) No later than thirty (30) days after the receipt of any Annual Budget and Forecast Report, the Administrative Agent (acting at the direction of the Majority Lenders, acting reasonably and in consultation with the Independent Technical Consultant), shall approve the amount of Operating Costs and Capital Expenditures set forth in such Annual Budget and Forecast Report or shall advise the Borrower of any material inconsistencies requiring revision in accordance with the Base Case Financial Model and the Mine Plan that it has previously approved.
- (d) If, on the first day of the relevant calendar year, the proposed amount of Operating Costs and Capital Expenditures has not been approved pursuant to this Section 9.8(b), the then-current amount of Operating Costs and Capital Expenditures shall remain in effect until the parties can reach an agreement with respect to the amount of Operating Costs and Capital Expenditures for such year.

9.9 Corporate Policies.

The Borrower shall:

- (a) at all times maintain the HSEC Policy and shall periodically review and update the HSEC Policy to ensure that it is materially consistent with the Environmental and Social Requirements and Good Industry Practice as it pertains to health, safety, environmental, community and related operational matters;

- (b) ensure that all operations in respect of the Project comply in all material respects with the Environmental and Social Requirements;
- (c) keep, or cause its Subsidiaries to keep, all relevant documentation in order for the Senior Lenders to verify such compliance; and
- (d) not amend the ESAP, either on its own initiation or following the recommendation of the Independent Environmental and Social Consultant, (and replace Schedule V (*Environmental and Social Action Plan*) with such amended ESAP) without the prior consent of the Majority Lenders and the ECA Guarantor, which consent shall not be unreasonably withheld, delayed or conditioned;
- (e) subject to Section 9.9(f): if any Potential E&S Non-Compliance Event, other than a Serious E&S Non-Compliance Event, is Identified, (i) the Independent Environmental and Social Consultant may make recommendations to the Borrower for resolution of the applicable Potential E&S Non-Compliance Event (other than a Serious E&S Non-Compliance Event); and (ii) the Borrower shall, in a timely manner, implement such recommendations to the satisfaction of the Independent Environmental and Social Consultant.
- (f) If agreement on a resolution to any Potential E&S Non-Compliance Event (other than a Serious E&S Non-Compliance Event) cannot be reached between the Borrower and the Independent Environmental and Social Consultant (an “**E&S Dispute**”), the Borrower shall serve a notice (“**E&S Dispute Notice**”) on the Environmental and Social Agent or the Environmental and Social Agent (acting in consultation with the Independent Environmental and Social Consultant) shall serve a notice on the Borrower (for the purposes of this Section 9.9(f) the Borrower and the Environmental and Social Agent each a “**Dispute Party**”). Upon any Dispute Party serving any E&S Dispute Notice to the other Dispute Party, each Dispute Party shall within 10 Business Days of the service of such E&S Dispute Notice prepare a memorandum or other form of statement setting out its position on the matter or matters in dispute and its reasons for adopting that position. Each such memorandum shall be considered by the chairman or chief executive of each Dispute Party (or such other senior executive director as is nominated in writing by either Dispute Party to the other) who shall together endeavour to resolve the dispute within 20 Business Days. If such persons agree on a resolution of the matter, they shall sign a statement setting out their resolution, and the Borrower shall fully and promptly carry such resolution into effect. If such persons do not agree upon a resolution of the matter, then the provisions of Section 9.9(g) shall apply.
- (g) Other than with respect to any individual Minor Non-Compliance Event, if (i) the Independent Environmental and Social Consultant determines that its recommendations as agreed with the Borrower in accordance with Section 9.9 (v) are not being implemented in a reasonable timeframe by the Borrower, (ii) a Serious E&S Non-Compliance Event has occurred, (iii) or an agreement cannot be reached on an E&S Dispute, the event will become an “**E&S Non-Compliance Event**” which will require the Borrower:
 - (i) to notify the Senior Lenders in accordance with clause 9.3(a); and
 - (ii) to, and to cause its Subsidiaries to, (A) prepare, and provide the Administrative Agent with a copy of, a Corrective Action Plan to set forth the proposed actions to correct or to remedy damage and adverse consequences caused by such E&S Non-Compliance Event, including timeframes for the implementation of such actions, (B) conduct all such actions within such timeframes and (C) where relevant, upon the request of the Administrative Agent, acting reasonably, provide the Administrative Agent with any information relating to measures or monitoring undertaken by or on behalf of its Subsidiary consistent with the Environmental and Social Requirements (including the Biodiversity Action Plan and the Closure and Rehabilitation Plan) or under any Corrective Action Plan.

- (h) If a Serious E&S Non-Compliance Event occurs, the Borrower and its Subsidiaries shall take such immediate action as is necessary to rectify such Serious E&S Non-Compliance Event prior to the development and implementation of any Corrective Action Plan.

9.10 Changes to Accounting Policies.

If there is any material change in a period to the accounting policies, practices and calculation methods used by the Borrower in preparing its Financial Statements or components thereof as compared to any previous period, the Borrower shall provide the Senior Lenders reasonable advance notice of the proposed material change including with it, all information which the Senior Lenders may reasonably require relating to the impact of any such material change on the comparability of the reports provided to the Senior Lenders after any such material change to previous reports. Until the Administrative Agent has approved such material change in writing, the Borrower shall continue to prepare and provide any reports to the Senior Lenders hereunder in accordance with the accounting policies, practices and calculation methods in effect prior to such material change.

9.11 Know Your Customer Documentation.

- (a) The Borrower shall promptly, upon the request of any Senior Lender, supply to such Senior Lender any documentation or evidence that is reasonably required by such Senior Lender (whether for itself or on behalf of any person to whom such Senior Lender may, or may intend to, transfer any of its rights or obligations under this Agreement) to enable such Senior Lender to:
- (i) carry out and be satisfied that it has complied with all necessary “know your customer” requirements that such Senior Lender is obliged to carry out under all Applicable Laws (including AML Legislation and the USA Patriot Act) contemplated under this Agreement; and
 - (ii) comply with its obligations under all Applicable Laws to prevent money laundering and corruption and to conduct ongoing monitoring of the business relationship with the Borrower.
- (b) Upon request, the Borrower will promptly notify the relevant Senior Lenders of any changes in any information supplied by it relating to any matter referred to in paragraph (a) above such as:
- (i) a change in the Borrower’s board of directors;
 - (ii) a change in the legal or beneficial ownership of 25% or more of the Borrower’s issued share capital, as well as information about a Person acquiring a legal or beneficial interest in 25% or more of the Borrower’s issued share capital; and
 - (iii) a change in the nature of the Borrower’s business from the date of this Agreement, as well as information about the Borrower starting or ceasing business operations in a country other than Ecuador.

9.12 Negative Covenants

- (a) Neither the Borrower nor its Subsidiaries shall:
- (i) (A) use, or authorize the use of, any corporate funds or the proceeds of the Loans, directly or indirectly for any Prohibited Payment or Prohibited Practice; (B) use any part of the loan proceeds, directly or indirectly, to fund or facilitate any activities or business of, with or involving any Sanctions Target or in any manner that would constitute or give rise to a violation of Sanctions by any Person, including any Senior Lender; or (C) violate any applicable AML Legislation, Anti-Corruption Laws or Sanctions, provided, that, in relation to each Restricted Lender, such provision shall only apply for the benefit of that

Restricted Lender to the extent that it would not result in any violation of the EU Anti-Boycott Regulations; provided, further, OFAC shall not apply to the Restricted Lenders;

- (ii) dispose of all or any part of the Borrower or its Subsidiaries', as applicable, present or future assets except on arm's-length terms in the ordinary course of trade (including equity interests in Ecoaurelian Agrícola S.A.) or the Project Property including any portion of any mining concessions (or other mineral interest) or the Collateral, except pursuant to a Permitted Asset Disposition;
 - (iii) make any payment of royalties in respect of Minerals from the Project Real Property other than the amounts required by the Royalties, or enter into any royalty, stream financing or similar agreement with any other Person in relation to the Project Real Property other than the Royalties, the Stream Credit Facility Agreement, any Offtake Agreement and the Royalty Agreements;
 - (iv) create, incur, assume or suffer to exist any Encumbrance upon all or any part of the Collateral, whether now owned or hereafter acquired, other than Permitted Encumbrances;
- (b) The Borrower shall not be entitled to make a Restricted Payment unless:
- (i) The first scheduled Repayment Installment has been paid (or is being paid on the date of the relevant Restricted Payment);
 - (ii) The Project Completion Date has occurred;
 - (iii) No Event of Default under this Agreement or the Facility Agreements has occurred and is continuing and no Default or Event of Default would result from the proposed Restricted Payment;
 - (iv) The Senior DSR Amount on deposit in the Offshore USD Proceeds Account is at least equal to the Senior DSR Required Balance and any cash sweep payment required pursuant to Section 3.4 (*Mandatory Prepayment – Cash Sweep*) and relevant to that period is made prior to or simultaneously with the Restricted Payment;
 - (v) The Borrower has complied with its obligations under Sections 3.2 (*Mandatory Prepayments*), 3.3 (*Net Insurance Proceeds*) and 3.4 (*Mandatory Prepayment – Cash Sweep*) in advance of, or simultaneously with the making of the relevant Restricted Payment or transfer in accordance with the Cash Flow Waterfall.
 - (vi) The Borrower certifies (and such certification is confirmed promptly by the Senior Lenders) that:
 - (A) on the relevant Repayment Date the Historic Debt Service Cover Ratio for the twelve-month period immediately prior to the date of the Restricted Payment is not less than 1.40:1;
 - (B) the Loan Life Cover Ratio for the period beginning on the day after the date of the Restricted Payment until the Final Maturity Date is not less than 1.50:1;
 - (C) Project Life Cover Ratio for the period beginning on the day after the date of the Restricted Payment until the Project Termination Date is not less than 2.0:1;
 - (D) the Projected Debt Service Cover Ratio for the twelve-month period immediately following the date of the Restricted Payment is not less than 1.40:1; or

- (E) Reserve Tail Ratio, as calculated on the date of such Restricted Payment, is not less than 35%.
- (vii) Immediately after giving effect to such Restricted Payment, the credit balance in the Offshore Collateral Accounts (other than the Senior DSR Required Balance on deposit in the Offshore USD Proceeds Account) the Onshore Collateral Accounts and the Onshore Trust Account will not be less than the aggregate of anticipated Operating Costs based on the then-current Annual Budget and Forecast Report for the next 60 days.
- (c) Neither the Borrower nor its Subsidiaries shall (i) except for the Finance Documents and the Prepay/Stream Credit Documents, enter into any agreement or arrangement or take any action which restricts or purports to restrict the ability of the Borrower, its Subsidiaries, the Borrower's shareholders or any of their Affiliates (other than the Non-Material Affiliates and any future direct or indirect subsidiaries of Lundin with no interest in the Project) to pay dividends, or make any other distributions to, or repay Debt, in each case, owing to the Borrower, its Subsidiaries, the Borrower's shareholders or any of their Affiliates, or (ii) enter into any agreement or arrangement or take any action which restricts or purports to restrict the ability of the Borrower or any of its Affiliates (other than the Non-Material Affiliates) to deliver Minerals or perform its other obligations under the Finance Documents, the Boliden Offtake Agreement or the Prepay/Stream Credit Documents.
- (d) Neither the Borrower nor its Subsidiaries shall create, incur, assume, or otherwise become directly or indirectly liable upon or in respect of, or suffer to exist, any Debt other than Permitted Debt;
- (e) Neither the Borrower nor its Subsidiaries shall enter into any hedge instrument or incur any hedge obligations unless such hedge obligations are pursuant to Permitted Hedging Arrangements;
- (f) Neither the Borrower nor its Subsidiaries shall change its jurisdiction of incorporation or any material respect of the nature of its business or operations from the Business, or engage directly or indirectly in any material business activity, or purchase or otherwise acquire any material property, in either case, not related to or in furtherance of the conduct of the Business, or as reasonably required to perform its obligations under the Finance Documents;
- (g) Neither the Borrower nor its Subsidiaries shall have any material liabilities other than pursuant to the Finance Documents or Permitted Debt;
- (h) Neither the Borrower nor its Subsidiaries shall issue any guarantees or indemnities, other than to the extent permitted in the Finance Documents (including by the endorsement of negotiable instruments for deposit or collection (or similar) in the ordinary course of business, guarantees of obligations of employees, guarantees of obligations of suppliers in the ordinary course of business and guarantees provided in connection with the granting of performance bonds in favor of contractors/government authorities in the ordinary course of business and the granting of any guarantees over Subordinated Intercompany Debt.
- (i) Neither the Borrower nor its Subsidiaries shall make any Accretive Investment, except:
- (i) Short-term Investments in money market instruments with remaining maturities of twelve (12) months or less at the date of purchase including securities issued by government agencies, and term deposits and bank accounts with financial institutions; provided that such short-term Investments are readily convertible to cash;
 - (ii) investments in AurelianEcuador Holding S.A. and Ecoaurelian Agrícola S.A.; and
 - (iii) accretive Investment with a value up to \$5,000,000 in the aggregate with respect to the Borrower and the Completion Guarantors (other than Lundin); provided that in no event shall the Borrower make any Acquisition from a Non-Material Affiliate.

- (j) The Borrower shall not:
- (i) enter into any Additional Material Project Documents without the approval of the Majority Lenders, such approval not to be unreasonably withheld; or
 - (ii) amend in any material respect or waive any material provision of or suspend, terminate or assign or transfer or give notice of suspension, termination or assignment or transfer of:
 - (A) (I) any Material Project Document (except the Boliden Offtake Agreement) without Majority Lender consent; or (II) the General Work and Investment Plan in a manner which would have a material impact on the Project Costs or the ability to achieve Project Completion by the Project Completion Longstop Date without Majority Lender consent, provided that in all cases any amendments thereto shall be acceptable to the Independent Technical Consultant including in respect of the tests contained in the Project Completion Certificates and provided further that any voting under this paragraph (j)(ii)(A) shall be without limitation to the voting rights of the Senior Lenders under and pursuant to the Completion Agreement;
 - (B) Enter into any Change Order (x) which, together with all other Change Orders entered into after the Financial Closing Date, gives rise to additional Project Costs in excess of an aggregate of US\$20,000,000 (y) amend, supplement or modify in any material respect, any provision of a Material Project Document relating to the payment of liquidated damages, warranties, liabilities, performance tests, amount or timing of posting or content of performance bonds or guarantees or the payment schedule, or materially amends supplements or modifies the technical specifications of the Project, without Majority Lender consent;
 - (C) the Boliden Offtake Agreement without the ECA Guarantor's consent; or
 - (D) any other Offtake Agreement which constitutes a Material Project Document without Majority Lender consent unless:
 - (I) the Borrower is diligently pursuing the execution of an acceptable replacement Offtake Agreement with a reasonable prospect of success; or
 - (II) aggregate amount of Obligations outstanding is less than 25% of the aggregate amount of Commitments as of the date hereof; and
 - (iii) settle any dispute or claim under a Material Project Document or compromise or settle any liability, in either case that results in payments in excess of \$5,000,000 becoming due from the Borrower;
- (k) Neither the Borrower nor its Subsidiaries shall make any Capital Expenditures other than Permitted Capital Expenditures or incur additional expenditures in any Fiscal Year, in the aggregate, of more than 10% over the budgeted amounts set forth in the Operating Costs and Capital Expenditures section of the Annual Budget and Forecast Report approved pursuant to Section 9.8(c) for such Fiscal Year with such allowable variances noted for the benefit of the Administrative Agent in the periodic reporting obligations in accordance with Section 9.5(g);
- (l) The Borrower shall not subject to Section 9.12(j), directly or indirectly, enter into, or amend, any transaction or agreement with or for the benefit of any Affiliate of the Borrower (other than as listed on Schedule N (*Related-Party Transactions*) or to the extent constituting a Permitted Asset Disposition) except in the ordinary course of business and upon terms and conditions at least as favorable to the Borrower as would be obtainable by the Borrower at the time in a comparable

arm's-length transaction with a Person that is not an Affiliate of the Borrower; provided, that, notwithstanding the foregoing, the Borrower may not enter into or amend any transaction or agreement with or for the benefit of any Non-Material Affiliate (other than a Permitted Asset Disposition and legal, accounting or other professional services in connection with the Project);

- (m) The Borrower shall not transfer or assign any Debt owed to it or consent to the assignment of any Debt owed by it to any Obligor;
- (n) The Borrower shall not amend, revise, supplement or replace the Mine Plan or the Construction Plan, Budget and Schedule in any material respect without the prior written consent of the Majority Lenders, not to be unreasonably withheld, conditioned or delayed;
- (o) Neither the Borrower nor its Subsidiaries shall, other than as permitted under the Finance Documents, directly or indirectly purchase, acquire or lease any property from, or sell, transfer or otherwise Dispose of any property to, or otherwise deal or enter into any agreement with, any Related Party (other than an Obligor or, to the extent constituting a Permitted Asset Disposition, a Non-Material Affiliate), unless such transaction is undertaken on fair and commercially reasonable terms and conditions no less favorable to the Borrower than would have been obtained in a comparable fair market transaction with a person who is not an affiliate of the Borrower;
- (p) Neither the Borrower nor its Subsidiaries shall enter into any transaction to change or reorganize its capital structure or materially amend its articles, by laws or any other corporate documents in a manner that prejudices the Senior Lenders;
- (q) Neither the Borrower nor its Subsidiaries shall undertake or permit any merger, spin-off, consolidation, reorganization or other fundamental corporate transaction;
- (r) Neither the Borrower nor its Subsidiaries shall establish or acquire any subsidiary, other than the Borrower's Subsidiaries disclosed to the Administrative Agent, without the prior consent of the Senior Lenders (such consent not to be unreasonably withheld or delayed);
- (s) The Borrower shall not maintain any deposit or security accounts or any bullion account other than:
 - (i) the accounts listed in Schedule L (*Bank Accounts*); and
 - (ii) no more than the amount necessary or advisable to maintain on deposit in or credited to the Onshore Collateral Accounts (as defined in the Amended and Restated Collateral, Agency, Accounts and Security Agreement) to pay the amounts permitted under section 3.1 (Use of Proceeds) of each Facility Agreement, in each case, becoming due and payable or expected to become due and payable in the next calendar month in excess of any capital contributions made or expected to be made to the Borrower during such period (but without taking into account balances required for the purposes of Article 3 (*Repayment, Prepayment and Cancellation*) or permitted to be transferred in accordance with section 3.1(b)(i)(C) of the Amended and Restated Collateral Agency, Accounts and Security Agreement;
- (t) The Borrower shall not take any action that would make it impractical or impossible for the Borrower to deliver Refined Gold at the time and in the quantities required pursuant to the Offtake Agreements or the Stream Credit Facility Agreement; or
- (u) The Borrower shall not make any material amendments or modifications to the Base Case Financial Model (including the Economic Assumptions or Technical Assumptions) unless such amendment or modification is: (i) agreed by the Administrative Agent (acting on the instruction of all of the Senior Lenders) and the Borrower, acting reasonably and otherwise in accordance with

Section 9.6 (*Base Case Financial Model*) or (ii) not material, or are required to be made under Applicable Law.

9.13 Gold Prepay Credit Agreement

- (a) If the Borrower has not achieved the Gold Prepay Commercial Production Date on or prior to December 31, 2020 (i) then the Borrower shall provide, no later than two (2) Business Days prior the next succeeding Gold Prepay Quarterly Payment Date, evidence reasonably acceptable to the Administrative Agent that it has exercised its Gold Prepay Deferral/Extension Right under Section 2.7 of the Gold Prepay Credit Agreement and (ii) after such initial exercise of its Gold Prepay Deferral/Extension Right, with respect to each Quarterly Date occurring thereafter during which the Borrower's Gold Prepay Deferral/Extension Right remains outstanding, if the Borrower has not achieved the Gold Prepay Commercial Production Date prior to the next succeeding Gold Prepay Quarterly Payment Date, then the Borrower shall provide, no later than two (2) Business Days prior the next succeeding Gold Prepay Quarterly Payment Date, evidence reasonably acceptable to the Administrative Agent that it has exercised its Gold Prepay Deferral/Extension Right under Section 2.7 of the Gold Prepay Credit Agreement.
- (b) The Borrower shall, on or prior to any Gold Prepay Quarterly Payment Date on which a Gold Prepay Payment Default is expected to occur or has occurred, provide evidence to the Administrative Agent that it has exercised its Gold Prepay Equitization Right in accordance with section 2.7.2 of the Gold Prepay Credit Agreement.

Article 10 CONDITIONS PRECEDENT

10.1 Conditions Precedent to the Effective Date.

The obligations of the Parties should not become effective until each of the conditions precedent set forth in Part I of Schedule B (*Conditions Precedent*) have been satisfied in a manner reasonably acceptable to the Senior Lenders.

10.2 Conditions Precedent to the First Utilization.

No Senior Lender will be obligated to make available the first Loan (or any part thereof) or make the first Utilization under its Facility unless no later than the date falling three (3) Business Days prior to the proposed first Utilization Date, each of the conditions applicable to the proposed Utilization under that Facility set out in the relevant Facility Agreement and each of the following conditions has been fulfilled, in each case in form and substance satisfactory to the Facility Agent under the relevant Facility, as applicable (or have been waived by such Facility Agent in relation to that Facility, as applicable):

- (a) each Facility Agent has issued to the Administrative Agent a written confirmation that all of the documents and other evidence listed in Part II of Schedule B (*Conditions Precedent*) and delivered to the Administrative Agent are in form and substance satisfactory to it (or have been waived by the relevant Facility Agent in relation to the relevant Facility, as applicable);
- (b) the Administrative Agent has issued to each Facility Agent and the Borrower a written confirmation of the satisfaction of the conditions set out in Section 10.2(a) (the "**Initial Conditions Precedent Confirmation**"), which Initial Conditions Precedent Confirmation the Administrative Agent shall issue promptly upon receipt of all confirmations referred to in Section 10.2(a); and
- (c) each of the conditions listed in Section 10.3 (*Conditions Precedent to All Utilizations*) below shall have been fulfilled.

10.3 Conditions Precedent to All Utilizations.

No Senior Lender will be obligated to make available any Loan (or any part thereof) or make any Utilization under its Facility unless on the date falling three (3) Business Days prior to the proposed Utilization Date and on the proposed Utilization Date for that Utilization, each of the conditions applicable to the proposed Utilization under that Facility set out in the relevant Facility Agreement and each of the following conditions has been fulfilled, in each case in form and substance satisfactory to the Facility Agent under the relevant Facility, as applicable (or have been waived by such Facility Agent in relation to that Facility, as applicable):

- (a) all of conditions listed in Part III of Schedule B (*Conditions Precedent*) shall have been satisfied (or waived with the unanimous consent of the Senior Lenders);
- (b) the Financial Closing Date shall have occurred (or will occur concurrently with the satisfaction of the other conditions set forth in this Section 10.3);
- (c) the Administrative Agent shall have received from each Facility Agent, a Utilization Request accompanied by a Costs Certificate and a Cost-to-Complete Certificate (which shall be approved by the Independent Technical Consultant no later than the date falling three (3) Business Days prior to the proposed Utilization Date, prior to proposed Utilization Date);
- (d) no Default or Event of Default shall have occurred and be continuing nor shall there be any such Default or Event of Default after giving effect to the Utilization; and
- (e) all Repeating Representations of the Obligors made in or pursuant to the Finance Documents shall be true and correct on the Utilization Date.

10.4 Waiver of Conditions Precedent.

Each Facility Agent, in accordance with the provisions of the Intercreditor Agreement and the relevant Facility Agreement to which it is party, shall be entitled to make available a Loan under such Facility and permit the Borrower to make a Utilization under such Facility notwithstanding failure by the Borrower to satisfy one or more of the conditions referred to in Section 10.1 (*Conditions Precedent to the Effective Date*) Section 10.2 (*Conditions Precedent to the First Utilization*) or Section 10.3 (*Conditions Precedent to All Utilizations*) in respect of such Facility Agreement.

Article 11 EVENTS OF DEFAULT AND REMEDIES

11.1 Events of Default.

The occurrence of any of the following events, including, the lapse of any cure period (if any) set forth below, or the issuance of notice (if any) in respect thereof, shall constitute an “**Event of Default**”:

- (a) if:
 - (i) the Borrower fails to pay on or before the due date, any amount due to the Finance Parties, ECA Agent under the ECA Facility Agreement in connection with the ECA Guarantee or the Risk Mitigation Agent on behalf of the Risk Mitigation Providers under a Finance Document (or Risk Coverage Document); or
 - (ii) any Completion Guarantor fails to make a payment on or before its due date under the Completion Agreement;

unless, in each case, the failure to pay is caused by an administrative or technical error or a Disruption Event which is remedied within three (3) Business Days;

- (b) except as set forth in paragraph (a)(ii) above, any of the Completion Guarantors shall default in the due performance or observance of any term, covenant or agreement contained in Article 6 of the Completion Agreement and such breach remains unremedied for a period of thirty (30) days after the earlier of: (i) written notice by the Administrative Agent to the applicable Completion Guarantor, and (ii) any of the Obligor's becoming aware of such breach;
- (c) the Borrower shall default in the due performance or observance of any term, condition or provision of this Agreement, not otherwise specified in this Section 11.1 and, other than in the case of any breach of Section 9.3(a)(i) (for which no cure period shall apply) or Section 9.12(t) (for which a seven (7) day cure period shall apply) and any breach of Section 9.12 (*Negative Covenants*) (for which a fifteen (15) day cure period shall apply) other than Sections 9.12(a), 9.12(b), 9.12(d), 9.12(e), 9.12(f), 9.12(g), 9.12(h), 9.12(i), 9.12(k), 9.12(m), 9.12(p), 9.12(q), 9.12(r) or 9.12(s) (for which no cure period shall apply), such breach remains unremedied for a period of thirty (30) days after the earlier of: (i) written notice by the Administrative Agent to the Borrower, and (ii) any of the Obligor's becoming aware of such breach; provided, that in connection with the delivery of Compliance Certificate that evidences a breach of Section 9.2 (*Financial Covenants*), such breach of Section 9.2 (*Financial Covenants*) shall not constitute an Event of Default hereunder to the extent the Borrower has exercised its Gold Prepay Equitization Right in connection with any Gold Prepay Payment Default caused by the same factors giving rise to such breach of Section 9.2 (*Financial Covenants*);
- (d) the Borrower makes any representation or warranty under any Finance Document, or in any certificate, Financial Statement or other document furnished to any Secured Party, to which it is a party which is incorrect or incomplete when made or deemed to be made (except to the extent any such representation or warranty expressly relates to an earlier date, and in such case, shall be true and correct on and as of such earlier date) or, to the extent such representation or warranty is not already qualified by materiality, such representation or warrant is incorrect or incomplete in any material respect when made or deemed to be made and in each case the circumstances so misrepresented are not corrected within thirty (30) days after notice from the Administrative Agent to the Borrower specifying such breach and requiring the underlying circumstances to be rectified;
- (e) the Borrower admits its inability, or fails, to pay its debts generally as they become due;
- (f) any Obligor (i) fails to make any payment when such payment is due and payable to any Person in relation to any Debt (other than Debt incurred under the Finance Documents) having a principal amount in excess of the applicable Threshold Amount, and any applicable grace period in relation thereto as provided for under the applicable instrument or agreement evidencing such Debt has expired (without giving effect to any waivers, amendments, modifications or extensions thereunder), unless such non-payment is the subject of a cure by way of exercise of its Gold Prepay Equitization Right in accordance with the Gold Prepay Credit Agreement; or (ii) defaults in the observance or performance of any other agreement or condition in relation to any such Debt or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs or condition exists, the effect of which default or other condition, if not remedied within any applicable grace period, would be to cause, or to permit the holder of such Debt to declare such Debt to become due prior to its stated maturity date, in each case;
- (g) the Borrower shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization, insolvency or other relief under any bankruptcy, insolvency, receivership or similar law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in paragraph (h) below, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

- (h) an involuntary proceeding shall be commenced or involuntary petition shall be filed seeking
 - (i) liquidation, reorganization, insolvency or other relief under any bankruptcy, insolvency, receivership or similar law in respect of the Borrower, or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower and, in any such case, such proceeding or petition shall continue undismissed and unstayed for a period of forty-five (45) or more days or an order or decree approving or ordering any of the foregoing shall be entered unless such proceeding is without merit and remains undismissed for a period of 180 days;
- (i) an order is made or a resolution is passed for the winding up, liquidation or dissolution of the Borrower;
- (j) the occurrence of:
 - (i) any event which with the giving of notice or the lapse of time or both would be or become an "Event of Default" as defined in the Gold Prepay Credit Agreement or Stream Credit Facility Agreement or a default under the Gold/Silver Offtake Agreement, without giving effect to any amendments or waivers from the Prepay/Stream Lenders under Gold Prepay Credit Agreement or the Stream Credit Facility Agreement, as applicable, thereunder (other than amendments and waivers permitted pursuant to the Intercreditor Agreement); or
 - (ii) any Event of Default, as set forth under any Facility Agreement;
- (k) any Finance Document or any Risk Coverage Document is repudiated, contested or disaffirmed by any Obligor in whole or in part, ceases to be in full force and effect, or is invalidated, becomes unlawful, or rendered unenforceable by any act, regulation or governmental action or is determined to be invalid or unenforceable by a court or other judicial entity or if any Obligor has ceased to perform its obligations under any Finance Document and such repudiation is not waived or remedied within eighty (80) days of such action or not cured within eighty (80) days from the date of the entry of such judgement;
- (l) an adverse final judgment, order, writ of execution, garnishment, attachment, arbitral award or similar process that is not capable of further appeal, for an amount in excess of the applicable Threshold Amount, is issued or levied against any Obligor or any the Collateral; provided that to the extent that any such action or process is appealable or contestable, such judgment, order, writ of execution, garnishment, attachment, arbitral award or similar process remains unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of sixty (60) days after the right of appeal or contest arises;
- (m) all or any portion of the Collateral is attached, sold, transferred, Encumbered or assigned by a person other than the Secured Parties or without the consent of the Senior Lenders (other than pursuant to a Permitted Asset Disposition or Permitted Encumbrance, as applicable) and in the case of such attachment shall remain unlifted, unstayed or undischarged for a period of 60 days;
- (n) an Encumbrancer or any other Person, other than the Secured Parties, legally takes possession of a (i) any Offshore Collateral Account or (ii) any portion of the Collateral with a value in excess of \$5,000,000 by appointment of a receiver, receiver and manager, or otherwise;
- (o) the Borrower ceases or takes any action to:
 - (i) abandon all or any material portion of the Collateral;
 - (ii) put the Project on care and maintenance; or
 - (iii) otherwise suspend or fails to maintain development, construction or mining or processing operations at the Project in each case, as each such activity is applicable to the stage of

development of the Project (which, prior to the Commercial Production Date, means the development and construction of the Project and after the Commercial Production Date, the achievement of Project Completion and the conduct of mining and processing operations to produce for export and sale of doré and concentrate bearing gold, silver and other Minerals in accordance with the Mine Plan),

provided, that, no Event of Default shall be deemed to have occurred under paragraph (o)(iii) above if: (A) such suspension is for sound operational reasons in accordance with Good Industry Practice, (B) such suspension would not reasonably be expected to last more than thirty (30) days), (C) the Borrower has notified the Administrative Agent of such suspension and is otherwise in compliance with Section 9.3(e) (an “**Emergency Event**”) and (D) the Project and its operations are restored and operating substantially as at the time prior to such suspension not later than ninety (90) days after the commencement of such suspension;

(p)

(i) any Governmental Body of Ecuador imposes or enforces: (A) formal or de facto exchange or currency controls or (B) restrictions on export of gold, doré or silver or any other Minerals; such that, in the case of clauses (A) and (B), the Borrower is, or could be, unable to timely effect the transfer of payments to the Administrative Agent or the Senior Lenders assuming such payments are at such time immediately due or as such payments are due under the Finance Documents or the Risk Coverage Documents; or

(ii) any other factor or circumstance (except a Disruption Event) occurs which in any such case, in the opinion of the Administrative Agent (acting on the instruction of all Senior Lenders, acting reasonably), makes it materially impractical or impossible for the Borrower to make the required payments under this Agreement (including mandatory prepayments) to the Administrative Agent or the Senior Lenders or to perform its obligations under the Finance Documents or the Risk Coverage Documents;

(q) the Borrower fails to obtain, or loses the right to, or benefit of, a Material Project Authorization, or any Authorization in respect of the transactions contemplated by the Transaction Documents is modified in a manner adverse in a material respect to the Borrower or the Senior Lenders; provided that the foregoing shall not constitute the occurrence of an Event of Default if such circumstance is capable of being remedied and the Borrower is diligently pursuing and obtains a replacement of such Material Project Authorization within forty-five (45) days after failing to obtain or losing the right to, or benefit of, a Material Project Authorization;

(r) a Change of Control occurs other than a Permitted Lundin Change of Control;

(s) a material default occurs and is continuing under any Material Project Document or any Material Project Document is terminated other than at scheduled maturity or with the prior written consent of the Majority Lenders, acting reasonably or otherwise becomes invalid, illegal or otherwise ceases to be in full force and effect; provided, that, in respect of the Exploitation Agreement, the Concession, and the Investment Protection Agreement, no cure period shall apply, and provided, further that in the case of the other Material Project Documents the foregoing shall not constitute the occurrence of an Event of Default if:

(i) in the case of the Power Supply Agreements, the Majority Lenders (acting in consultation with the Independent Technical Consultant) have, acting reasonably, determined that such Power Supply Agreements are capable of replacement; and

(ii) in all cases, the Borrower is diligently pursuing and obtains a replacement of such Material Project Document on terms and conditions reasonably satisfactory to the Majority Lenders (acting in consultation with the Independent Technical Consultant) within forty-five (45) days after such material default, termination, invalidity, illegality or other cessation to be in full force and effect, provided, that such forty five (45) day period

shall only apply if in the reasonable judgment of the Majority Lenders, such Material Project Document is capable of being replaced;

- (t) (i) any Obligor, or any director or officer of any Obligor, has breached, or, to the knowledge of the Borrower, or is the subject of any investigation or proceeding relating to any violation of any AML Legislation, any Anti-Corruption Laws or any Sanctions, or (ii) any employee or agent of any Obligor has breached or, to the knowledge of the Borrower, is the subject of any investigation or proceeding relating to any violation of any AML Legislation, any Anti-Corruption Laws or any Sanctions, unless such Obligor takes action to remedy such violation as may be acceptable to the Administrative Agent within ten (10) days of acquiring actual knowledge of such violation and thereafter continues to take such action as may be acceptable to the Administrative Agent;
- (u) the occurrence of an Expropriation Event which is continuing for 90 days or more; provided, that, such cure period shall apply only if the Obligors are actively and diligently pursuing a resolution to regain ownership and control over the Project substantially as held prior to such event;
- (v) any act or acts of insurrection, civil strife or terrorism in Ecuador shall have occurred that has or have a material adverse effect on the Borrower's ability to construct or operate the Project as contemplated, and such act or acts result in the material cessation of construction or operations for a period of sixty (60) consecutive days; provided, that, such cure period shall apply only if the Obligors are actively and diligently pursuing a resolution to continue constructing or operating the Project and otherwise regain ownership and control over the Project substantially as held prior to such event;
- (w) a Cost-to-Complete Certificate evidences:
 - (i) a Cost-to-Complete Shortfall and such Cost-to-Complete Shortfall is continuing for 180 days; or
 - (ii) the Project is not capable of achieving Project Completion by the Project Completion Longstop Date;
- (x) failure to achieve Project Completion by the Project Completion Longstop Date; or
- (y) at any time following Project Completion, the Senior DSR Required Balance shall fail to be on deposit in the Offshore USD Proceeds Account on two consecutive Calculation Dates.

11.2 Remedies Upon Default.

- (a) Upon the occurrence of an Event of Default:
 - (i) the Administrative Agent acting on the instruction of the Majority Lenders may direct, and instruct the Collateral Agents to ensure that, no withdrawals may be made from any Project Account or any Onshore Trust Account and otherwise in accordance with the terms of the Amended and Restated Collateral, Agency, Accounts and Security Agreement;
 - (ii) under Section 11.1(e), Section 11.1(f), Section 11.1(g) or Section 11.1(i) to the extent permitted by Applicable Law, the Obligations shall automatically and immediately become due and payable and the Administrative Agent shall take the actions set forth in paragraph (b) below (other than paragraph (b)(i));
 - (iii) the Senior Lenders may charge default interest in accordance with Section 4.2 (*Default Interest*).
- (b) Upon the occurrence, and during the continuance, of any other Event of Default, the Majority Lenders or the Administrative Agent as instructed by the Majority Lenders may, by notice given to the Borrower, take any of the following actions:

- (i) declare all Obligations to be immediately due and payable; and/or
- (ii) to the extent permitted by Applicable Law and by the Intercreditor Agreement:
 - (A) direct the Collateral Agents to realize upon all or any part of the Security;
 - (B) take such actions and commence such proceedings (or direct the Collateral Agents to take such actions or commence such proceedings) as may be permitted at law or in equity (whether or not provided for herein or in the Security Documents) at such times and in such manner as the Administrative Agent, in its sole discretion, may consider expedient; and
 - (C) cancel any or all undrawn Commitments,

and all of the foregoing without any additional notice, presentment, demand, protest, notice of protest, dishonor or any other action except as required by law. The rights and remedies of the Administrative Agent, the Senior Lenders and the Collateral Agents hereunder are cumulative and are in addition to and not in substitution for any other rights or remedies provided by Applicable Law or by any of the other Finance Documents and Risk Coverage Documents.

- (c) The Administrative Agent, acting on the instruction of the Intercreditor Agent, shall promptly notify the Borrower, each Collateral Agent and each Senior Lender upon its satisfaction as to the cessation of an Event of Default. Upon delivery of a notice, an Event of Default to which such notice relates shall no longer be deemed to be continuing.

11.3 Set-Off upon Event of Default.

Upon the occurrence and during the continuance of an Event of Default, the Senior Lenders may, without notice to the Borrower or to any other Person, and subject to the Intercreditor Agreement, combine, consolidate and merge all or any of the Borrower's accounts with, and liabilities to, the Senior Lenders and set off, any indebtedness and liability of the Senior Lenders to the Borrower, matured or unmatured, against and on account of the Obligations when due.

11.4 Application of Proceeds.

The proceeds received by the Administrative Agent in respect of any sale of, collection from or other realization upon all or any part of the Collateral pursuant to the exercise by the Collateral Agent of its remedies, and any other funds realized by Administrative Agent during the continuance of an Event of Default, shall be applied, subject in all respects to the Intercreditor Agreement and to Applicable Law, in full or in part, together with any other sums then held by the Administrative Agent pursuant to this Agreement and pro rata across all Facilities, promptly by the Administrative Agent as follows:

- (a) *first*, to the payment of all reasonable costs and expenses, fees, commissions and taxes of such sale, collection or other realization including compensation to the Agents (acting on behalf of the Senior Lenders) and its agents and counsel, and all expenses, liabilities and advances made or incurred by the Agents in connection therewith and all amounts for which the relevant Agent is entitled to indemnification pursuant to the provisions of any Finance Document and any Risk Coverage Document, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;
- (b) *second*, to the payment in full in cash of all amounts owing in respect of interest and fees under this Agreement;
- (c) *third*, to the payment in full in cash, *pro rata*, of the principal and other remaining obligations hereunder and all other Obligations, in each case equally and ratably in accordance with the respective amounts thereof then due and owing; and

- (d) *fourth*, the balance, if any, to the Person lawfully entitled thereto (including the Obligors) or as a final and non-appealable judgment of a court may direct.

11.5 Subrogation.

Subject to section 4.1(b) of the Intercreditor Agreement, the Borrower, the Administrative Agent and the Senior Lenders acknowledge and agree that in the event that any Risk Mitigation Group shall have paid an Obligation to any Senior Lender pursuant to any Risk Coverage Document, such Risk Mitigation Group shall be subrogated to the rights of such Senior Lender in respect thereof under this Agreement, each other Finance Document and each other Risk Coverage Document and shall be a Senior Lender for all purposes hereunder and thereunder to the extent of such payment, and the obligations of the Borrower to the Risk Mitigation Group as a subrogee shall constitute unpaid Obligations and an Event of Default under Section 11.1(a) hereof shall be continuing until such Obligations shall be paid in full.

Article 12 CHANGES TO PARTIES

12.1 Assignment by Senior Lenders.

- (a) This Agreement, the other Finance Documents shall enure to the benefit of and be binding upon the parties hereto and thereto, their respective successors and any permitted assignee of some or all of the parties' rights or obligations under this Agreement, the other Finance Documents as permitted under this Section 12.1.
- (b) A Senior Lender (the "**Existing Lender**") may assign or transfer all or any part of its rights in respect of the Obligations, this Agreement and any of the other Finance Documents to or in favor of any Permitted Transferee without the consent of the Borrower and have its corresponding obligations hereunder and thereunder assumed by such Person; provided that:
- (i) except with respect to an assignment or transfer to any Senior Lender or Affiliate of any Senior Lender, no Senior Lender shall be permitted to make a partial assignment or transfer of Loans in a principal amount of less than \$1,000,000;
 - (ii) the Borrower's consent to assignment shall be required (which consent shall not be unreasonably withheld, delayed or conditioned) for any assignment of a Person other than a Permitted Transferee; unless an Event of Default has occurred and is continuing and in such case a Senior Lender may make an assignment or transfer to any Person and such transfer or assignment shall not require the consent of the Borrower and shall not be subject to any restriction (including those set forth in this Section 12.1); and
 - (iii) a Note and all or any part of the Senior Lenders' rights in respect of the Obligations, this Agreement and any of the other Finance Documents shall be assigned or transferred together.
 - (iv) in the case of any assignment of any ECA Facility Loan, the consent of the ECA Agent acting on behalf of the ECA Guarantor shall be required.
- (c) Any assignment made hereunder shall become effective when the Borrower has been notified thereof by the Administrative Agent and:
- (i) the Administrative Agent executes a duly completed and executed Transfer Certificate signed by the relevant Facility Agent which is delivered by the Existing Lender and the Permitted Transferee;
 - (ii) the Administrative Agent executes an otherwise duly completed Accession Agreement delivered by the Permitted Transferee; and

- (iii) any documents required by local counsel and requested by the Administrative Agent to ensure the assignee Senior Lender receives the benefit of the Security (including in the case of Security Documents governed by the laws of Ecuador, an agreement from the assignee Senior Lender to become a party thereto), and

any such assignee shall be treated as a party to this Agreement for all purposes of this Agreement and the other Finance Documents and shall be entitled to the full benefit hereof and thereof and shall be subject to the obligations of the Senior Lenders to the same extent as if it were an initial party in respect of the rights assigned to it and obligations assumed by it and the Senior Lender making such assignment shall be released and discharged accordingly.

- (d) If the consent of the Borrower is required for any assignment, the Administrative Agent and relevant Facility Agent shall not be obligated to enter into a Transfer Certificate if the Borrower withholds its consent.
- (e) If:
 - (i) A Senior Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its lending office; and
 - (ii) As a result of circumstances existing at the date of the assignment, transfer or change occurs, the Borrower would be obligated to pay a Tax Payment or a payment relating to increased costs,

then the Borrower need only pay that Tax Payment or a payment relating to the increased costs to the same extent it would have been obligated to pay if the assignment, transfer or change had not occurred.

- (f) The Senior Lenders may provide to any permitted assignee or transferee such information, including Confidential Information, concerning this Agreement, the other Finance Documents, the Risk Coverage Documents and the financial position and the operations of the Obligors as, in the reasonable opinion of the Senior Lenders, may be relevant or useful in connection with this Agreement, the other Finance Documents or any portion thereof proposed to be acquired by such assignee or transferee; provided, that, each recipient of such information agrees not to disclose such information to any other Person except as permitted pursuant to Section 21.1(d).
- (g) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in 40 King Street West, 55th floor, Toronto, Ontario, Canada M5H 1H1 a copy of each assignment delivered to it and a register for the recordation of the names and addresses of the Senior Lenders, and the Commitments of, and principal amounts of (and stated interest on) the Loans owing to, each Senior Lender pursuant to the terms hereof from time to time (the “**Register**”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Senior Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Senior Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Senior Lender, at any reasonable time and from time to time upon reasonable prior notice.
- (h) Each new Senior Lender, by executing the relevant Transfer Certificate, confirms that each of the relevant Facility Agent and the Administrative Agent, has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Senior Lenders in accordance with the relevant Facility Agreement or this Agreement before the date the transfer becomes effective.
- (i) Any Senior Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a

natural Person, or the Obligors or any of the Obligors' Affiliates or Subsidiaries or a Person who is not a Permitted Transferee; provided, further, if an Event of Default has occurred and is continuing then a Senior Lender may sell participations to a Person that is not a Permitted Transferee) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Senior Lender's obligations under this Agreement shall remain unchanged, (ii) such Senior Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (iii) the Borrower, the Administrative Agent and Senior Lenders shall continue to deal solely and directly with such Senior Lender in connection with such Senior Lender's rights and obligations under this Agreement.

- (j) Any agreement or instrument pursuant to which a Senior Lender sells such a participation shall provide that such Senior Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Senior Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver of Section 23.3 (*Remedies and Waivers*) that affects such Participant and that require the consent of each Senior Lender. The Borrower agrees that each Participant shall be entitled to the benefits of the Senior Lender Tax Coverage Letter and Section 6.3 (*Change in Circumstances*) to the same extent as if it were a Senior Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 12.1. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.3 (*Set-Off upon Event of Default*) as though it were a Senior Lender; provided that such Participant agrees to be subject to Section 13.19 (*Payments*) as though it were a Senior Lender. Each Senior Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts of (and stated interest on) each Participant's interest in the Loans or other obligations under the Finance Documents (the "**Participant Register**"); provided that no Senior Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Finance Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under section 5f.103-1(c) of the United States Treasury Regulations and Section 1.163-5(b) of the Proposed United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Senior Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.
- (k) Any Senior Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Senior Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; provided that no such pledge or assignment shall release such Senior Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Senior Lender as a party hereto.
- (l) In connection with any assignment, participation or pledge made pursuant to this Section 12.1, the Borrower agrees to:
- (i) enter into such documents as may reasonably be required by a Senior Lender to evidence such assignment, participation or pledge; and
 - (ii) a Senior Lender Tax Coverage Letter with the assigned substantially similar to the Senior Lender Tax Coverage Letter executed and delivered by such Senior Lender as of the Financial Closing Date.

- (m) In case of any assignment of any Loan (or portion thereof) pursuant to the terms set forth herein, the Borrower shall promptly, upon the request of the Administrative Agent or any Senior Lender, execute and deliver a new Note executed and delivered by the Borrower as issuer, and endorsed by each Completion Guarantor (*por aval*) with respect to such assignment.

12.2 Assignment by Borrower.

The Borrower shall not assign all or any part of its rights, benefits or obligations under this Agreement or any of the other Finance Documents to which it is a party without the prior written consent of the Senior Lenders, which may be unreasonably withheld.

12.3 Assignment to Prepay/Stream Lenders.

Without limitation to any rights or remedies of the Senior Lenders under this Agreement, upon the occurrence of an Event of Default and in accordance with section 15.6 of the Intercreditor Agreement, the Prepay/Stream Lenders shall have the right to purchase (i) all Senior Loans outstanding under the Commercial Facility Agreement and the ECA Facility Agreement from the Senior Lenders and (ii) all Hedge Agreements from the Hedge Banks, at par, by entering into an assignment agreement in the form attached as Annex 2 to the Intercreditor Agreement. The Prepay/Stream Lenders and Senior Lenders acknowledge that the ECA Guarantee shall terminate upon such a purchase of Senior Loans.

Article 13 ADMINISTRATIVE PARTIES

13.1 Appointment of the Administrative Agent.

- (a) Each Finance Party party hereto (other than the Administrative Agent and the Collateral Agents) hereby irrevocably appoints and authorizes the Administrative Agent to act on its behalf as its agent under and in connection with the Finance Documents. By its signature below, the Administrative Agent (or any successor thereto pursuant to this Article 13) accepts such appointment.
- (b) Each Finance Party (other than the Administrative Agent and the Collateral Agents) irrevocably authorizes the Administrative Agent in such capacity to:
- (i) take such actions, perform the duties and to exercise the rights, powers, authorities and discretions that are specifically delegated to the Administrative Agent under or in connection with the Finance Documents, together with any other incidental rights, powers, authorities and discretions as are reasonably incidental thereto; and
 - (ii) enter into and deliver each Finance Document expressed to be entered into by the Administrative Agent.
- (c) Each Finance Party (other than the Administrative Agent, the Collateral Agents and the Intercreditor Agent) hereby irrevocably authorizes the Administrative Agent to appoint The Bank of Nova Scotia as Intercreditor Agent on behalf of the Finance Parties in respect of the Collateral under the Intercreditor Agreement, The Bank of Nova Scotia as Offshore Collateral Agent on behalf of the Finance Parties under the Security Documents to which it is a party. The Onshore Collateral Agent on behalf of the Finance Parties in respect of the Collateral is hereby appointed by the Offshore Collateral Agent under the Onshore Collateral Agent Fiduciary Mandate.
- (d) The provisions of this Article 13 are solely for the benefit of the Finance Parties and the Borrower shall not have rights as a third-party beneficiary of any such provision.

13.2 Instructions to the Administrative Agent.

- (a) Unless a contrary indication appears in a Finance Document or a Risk Coverage Documents, the Administrative Agent:
- (i) shall exercise, or refrain from exercising, any right, power, authority or discretion vested in it as Administrative Agent in accordance with any instructions given to it in accordance with the Intercreditor Agreement;
 - (ii) shall not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with the Intercreditor Agreement; and
 - (iii) is hereby authorized by the Finance Parties party hereto to execute, deliver and perform each of the Finance Documents to which the Administrative Agent is or is intended to be a part.
- (b) The Administrative Agent shall be entitled to request instructions, or clarification of any instruction, pursuant to the Intercreditor Agreement as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Administrative Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Unless a contrary indication appears in a Finance Document, any instructions given to the Administrative Agent pursuant to the Intercreditor Agreement shall override any conflicting instructions given by any other Finance Parties and shall be binding on all Finance Parties.
- (d) In the absence of instructions pursuant to the Intercreditor Agreement, the Administrative Agent may act (or refrain from taking action) as it considers to be in the best interest of the Senior Lenders.
- (e) The Administrative Agent is not authorized to act on behalf of a Senior Lender (without first obtaining such Senior Lender's consent) in any legal or arbitration proceedings relating to any Finance Document or Risk Coverage Document, unless the legal or arbitration proceedings relate to (i) the perfection, preservation or protection of rights under any Security Document; or (ii) the enforcement of any Security or Security Document.
- (f) The Administrative Agent may:
- (i) assume, absent actual knowledge or written notice to the contrary, that (A) any representation made by any Person in connection with any Transaction Document is true, (B) no Default or Event of Default exists, (C) no Person is in breach of or in default under its obligations under any Transaction Document and (D) any right, power, authority or discretion vested herein upon any other Agent or Independent Consultant has not been exercised;
 - (ii) assume, absent actual knowledge or written notice to the contrary, that any notice or certificate given by any Person or Independent Consultant has been validly given by a Person authorized to do so and act upon such notice or certificate unless the same is revoked or superseded by a further such notice or certificate;
 - (iii) assume, absent written notice to the contrary, that the address, facsimile, email and telephone numbers for the giving of any written notice to any Person hereunder is that identified in Section 22.1 (*Notices*) until it has received from such Person a written notice designating some other office of a Person to replace any such address or facsimile or email or telephone number and act upon any such notice until the same is superseded by a further such written notice;

- (iv) employ, the costs and expenses of which shall be for the account of the Borrower, attorneys, consultants, accountants or other experts whose advice or services the Administrative Agent may reasonably determine is necessary (provided, that, in connection with an exercise of remedies following the occurrence of an Event of Default, the Administrative Agent shall be permitted to employ any such Person at the reasonable expense of the Borrower as it determines to be necessary in its sole discretion), may pay reasonable and documented fees and expenses for the advice or service of any such Person and may rely upon any advice so obtained; provided, that the Administrative Agent shall be under no obligation to act upon such advice if it does not deem such action to be appropriate;

13.3 Duties of the Administrative Agent.

- (a) The Administrative Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) The Administrative Agent shall forward promptly to a Finance Party the original or a copy of any document which it receives under this Agreement and the other Transaction Documents, including non-administrative notices, certificates, reports, opinions and agreements, which are delivered to the Administrative Agent for such Finance Party by any other Finance Party and shall provide a copy of all notices delivered to it or by it under each Finance Document to which it is a party to each Facility Agent.
- (c) The Administrative Agent shall perform its duties in accordance with the Finance Documents and any instructions given to it by the Majority Lenders, which instructions shall be binding on all Finance Parties party hereto;
- (d) The Administrative Agent shall have no responsibility for the accuracy or completeness of any information supplied by any Person in connection with the Project or for the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or any other document referred to herein or provided for herein or therein or for any recitals, statements, representations or warranties made by the Borrower or any other Person contained in this Agreement or any other Transaction Document or in any certificate or other document referred to or provided for in or received by the Administrative Agent, hereunder or thereunder. The Administrative Agent shall not be liable as a result of any failure by the Borrower or its Affiliates or any Person party hereto or to any other Transaction Document to perform their respective obligations hereunder or under any other Transaction Document or any document referred to or provided for herein or therein or as a result of taking or omitting to take any action hereunder or in relation to any Transaction Document, except to the extent of the Administrative Agent's gross negligence, fraud or willful misconduct.
- (e) The Administrative Agent is not obligated to monitor or enquire whether a Default or Event of Default has occurred. The Administrative Agent shall not be deemed to have knowledge of or notice of the occurrence of a Default or Event of Default unless the Administrative Agent has actual knowledge of such Default or Event of Default or has received a notice from a Finance Party or Independent Consultant, referring to this Agreement or any Facility Agreement, describing such Default or Event of Default and stating that such notice is a "Notice of Default." If the Administrative Agent has received notice from a Person describing a Default or Event of Default or receives such a "Notice of Default," the Administrative Agent shall give prompt notice thereof to each other Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as is provided in Article 11 (*Events of Default and Remedies*); provided, that, unless and until the Administrative Agent shall have received such directions, it may (but shall not be obligated to) take such action or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable and in the best interest of the Finance Parties.

- (f) The Administrative Agent shall not:
- (i) be bound to inquire as to (A) whether or not any representation made by any other Person in connection with any Transaction Document is true, (B) the occurrence or otherwise of any Default or Event of Default, (C) the performance by any other Person of its obligations under any of the Transaction Documents or (D) any breach or default by any other Person of its obligations under any of the Transaction Documents;
 - (ii) be bound to account to any Person for any sum or the profit element of any sum received by it for its own account except as provided in this Agreement; or
 - (iii) be bound to disclose to any Person any information relating to the Project or to any Person if such disclosure would or might in its opinion, constitute a breach of any Applicable Law or otherwise be actionable at the suit of any Person.
- (g) If the Administrative Agent receives notice from a Finance Party referring to this Agreement or a Facility Agreement, describing certain circumstances and stating that the circumstances described constitute a Default, it shall notify each of the Facility Agents.
- (h) If the Administrative Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party under any of the Finance Documents or the payment of any premium under any Risk Mitigation Document, it shall notify each of the Facility Agents promptly.
- (i) The Administrative Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).
- (j) It is understood and agreed by each Finance Party hereto (for itself and any Person claiming through it) that, except as expressly set forth herein, it has itself been and will continue to be, solely responsible for making its own independent appraisal of and investigations into, the financial condition, creditworthiness, condition, affairs, status and nature of each Person and, accordingly, each such Finance Party hereto warrants to the Administrative Agent that it has not relied on and will not hereafter rely on the Administrative Agent:
- (i) in making its decision to enter into this Agreement, any other Finance Document, any Risk Coverage Document or any amendment, waiver or other modification hereto or thereto;
 - (ii) to check or inquire on its behalf into the adequacy, accuracy or completeness or any information provided by any Person or Independent Consultant in connection with any of the Transaction Documents or the transactions therein contemplated (whether or not such information has been or is hereafter circulated to such Person or Independent Consultant by the Administrative Agent);
 - (iii) to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of any Person or Independent Consultant.

13.4 Role of the Mandated Lead Arranger.

Except as specifically provided in the Finance Documents, no Mandated Lead Arranger has any obligations of any kind to any other Finance Party under or in connection with any Finance Document or any Risk Coverage Document, as applicable.

13.5 No Fiduciary Duties.

Except as specifically provided in a Finance Document:

- (a) nothing in the Finance Documents or Risk Coverage Document makes an Administrative Party a trustee or fiduciary of any other person; and
- (b) no Administrative Party shall be bound to account to any Senior Lender for any sum or the profit element of any sum received by it for its own account.

13.6 Business with the Borrower.

- (a) Each Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.
- (b) If it is also a Senior Lender, each Administrative Party has the same rights and powers under the Finance Documents and any Risk Coverage Document, as applicable, as any other Senior Lender and may exercise those rights and powers as though it were not an Administrative Party.
- (c) Each Administrative Party may carry on any business with the Borrower or its related entities (including acting as an agent or a trustee in connection with any other financing).

13.7 Responsibility for Documentation.

No Administrative Party is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any statement or information (whether oral or written) made, given or supplied by any person in or in connection with any Finance Document or Risk Coverage Document, as applicable;
- (b) the legality, validity, effectiveness, adequacy, completeness or enforceability of any Finance Document, Risk Coverage Document, as applicable, or the Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document, Risk Coverage Document, as applicable, or the Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

13.8 No Duty to Monitor.

No Facility Agent shall be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Finance Party of its obligations under any Finance Document or Risk Coverage Document, as applicable; or
- (c) whether any other event specified in any Finance Document or any Risk Coverage Document, as applicable, has occurred.

13.9 Exclusion of Liability.

- (a) Without limiting paragraph (a)(ii) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of any Administrative Party), no Administrative

Party nor any of its respective officers, directors, employees or agents shall be liable to any Person or any Independent Consultant for:

- (i) any damage, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document, any Risk Coverage Document, as applicable, or the Security, unless directly caused by its gross negligence, willful misconduct or fraud, as determined by a court of competent jurisdiction;
- (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, any Risk Coverage Document, as applicable, or the Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document, any Risk Coverage Document, as applicable, or the Security; or
- (iii) without prejudice to the generality of paragraphs (a)(i) above and (a)(ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalization, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third-party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No the Administrative Party nor any of its officers, directors, employees or agents shall be liable to any Person or Independent Consultant for any action taken or omitted under this Agreement, under the other Finance Documents, or the Risk Coverage Documents, as applicable, or in connection therewith, except to the extent caused by the gross negligence, fraud or willful misconduct of such Administrative Party, as determined by a court of competent jurisdiction. The Finance Parties party hereto each (for itself any Person claiming through it) hereby release, waive, discharge and exculpate such Administrative Party for any action taken or omitted under this Agreement, under the other Finance Documents or the Risk Coverage Documents, as applicable, or in connection therewith, except to the extent caused by the gross negligence, fraud or willful misconduct of such Administrative Party as determined by a court of competent jurisdiction. Each Administrative Party will not be liable for any delay (or any related consequences) in crediting an account with an amount required under any Finance Document or any Risk Coverage Document, as applicable, to be paid by such Administrative Party if the Administrative Party has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognized clearing or settlement system used by the Administrative Party for that purpose.
- (c) No Finance Party (other than the relevant Administrative Party (as applicable)) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against such Administrative Party or in respect of any act or omission of any kind by such officer, employee or agent in relation to any Finance Document, Risk Coverage Documents, as applicable, or any Security, except in respect of proceedings for fraud. Any officer, employee or agent of an Administrative Party may enforce and enjoy the benefit of this Section 13.9.
- (d) No Facility Agent shall be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents or Risk Coverage Document, as

applicable, to be paid by such Facility Agent if such Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognized clearing or settlement system used by such Facility Agent for that purpose.

- (e) Nothing in this Agreement or any Facility Agreement shall obligate any Administrative Party to carry out:
- (i) any "know your customer" or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement or any Facility Agreement might be unlawful for any Senior Lender,

on behalf of any Senior Lender and each Senior Lender confirms to each Administrative Party that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by any other Administrative Party.

- (f) Without prejudice to any provision of any Finance Document or any Risk Coverage Document, as applicable, excluding or limiting an Administrative Party's liability, any liability of an Administrative Party arising under or in connection with any Finance Document, the Risk Coverage Documents, as applicable, or the Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of such Administrative Party or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to such Administrative Party at any time which increase the amount of such loss. In no event shall any Administrative Party be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not foreseeable, whether or not such Administrative Party has been advised of the possibility of such loss or damages and regardless of whether the claim for loss or damage is made in negligence, breach of contract, duty or otherwise.

13.10 Senior Lender's Indemnity to the Administrative Agent.

- (a) Without limiting the liability of the Borrower under the Finance Documents or under the Risk Coverage Documents, as applicable, each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments), the Administrative Agent, within three (3) Business Days of demand against any cost, loss or liability incurred by the Administrative Agent, except to the extent that the cost, loss or liability is caused by the Administrative Agent's gross negligence, willful misconduct or fraud in acting as Administrative Agent under the Finance Documents or the Risk Coverage Documents, as applicable, (unless the Administrative Agent has been reimbursed by the Borrower pursuant to a Finance Document or a Risk Coverage Document, as applicable).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the Administrative Agent under this Section 13.10.

13.11 Resignation and Replacement of the Administrative Agent.

- (a) The Administrative Agent may resign and appoint one of its Affiliates, acting through an office in France or the United Kingdom, as successor Administrative Agent by giving written notice to the Senior Lenders and the Borrower.
- (b) Alternatively, the Administrative Agent may resign by giving thirty (30) days' written notice to the Senior Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Administrative Agent.

- (c) The Majority Lenders may remove the Administrative Agent from its appointment hereunder with or without cause by giving prior written notice to that effect to the Administrative Agent and the Borrower.
- (d) If the Majority Lenders have not appointed a successor Administrative Agent in accordance with paragraph (b) above within twenty (20) days after notice of resignation or removal was given, the retiring Administrative Agent (after consultation with the Borrower) may appoint a successor Administrative Agent.
- (e) The retiring Administrative Agent shall, at its own cost:
 - (i) make available to the successor Administrative Agent those documents and records and provide such assistance as the successor Administrative Agent may reasonably request for the purposes of performing its functions as the Administrative Agent under the Finance Documents and the Risk Coverage Documents, as applicable; and
 - (ii) enter into and deliver to the successor Administrative Agent those documents and effect any registrations as may be reasonably required for the transfer or assignment of all of its rights and benefits under the Finance Documents to the successor Administrative Agent.
- (f) The resignation of the Administrative Agent and the appointment of any successor Administrative Agent shall both become effective only when the successor Administrative Agent notifies all the Finance Parties that it accepts its appointment.
- (g) On giving the notification the successor Administrative Agent shall succeed to the position of the Administrative Agent and the term Administrative Agent shall mean the successor Administrative Agent.
- (h) Upon its resignation becoming effective, the retiring Administrative Agent shall be discharged from any further obligation in respect of the Finance Documents and the Risk Coverage Documents, as applicable (other than its obligations under paragraph (e) above and other than any accrued liabilities) but shall remain entitled to the benefit of this Section 13.11. The provisions of this Agreement shall inure to the retiring Administrative Agent's benefit as to any actions taken or omitted to be taken by it under this Agreement, the other Finance Documents and the Risk Coverage Documents, as applicable, while it was Administrative Agent. Any successor and each of the other Finance Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an initial Finance Party.
- (i) After consultation with the Borrower, the Majority Lenders may, by notice to the Administrative Agent, require it to resign under paragraph (c) above. In this event, the Administrative Agent shall resign in accordance with paragraph (b) above.
- (j) The Administrative Agent shall resign in accordance with paragraph (a) or (b) above (and, to the extent applicable, shall use reasonable endeavors to appoint a successor Administrative Agent pursuant to paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Administrative Agent under the Finance Documents and under the Risk Coverage Document, as applicable, either:
 - (i) the Administrative Agent fails to respond to a request under Section 5.2 (*FATCA Information*) and the Borrower, a Facility Agent or a Senior Lender reasonably believes that the Administrative Agent shall not be (or shall have ceased to be) a FATCA Exempt Party on or after such FATCA Application Date;
 - (ii) the information supplied by the Administrative Agent pursuant to Section 5.2 (*FATCA Information*) indicates that the Administrative Agent shall not be (or shall have ceased to be) a FATCA Exempt Party on or after such FATCA Application Date; or

- (iii) the Administrative Agent notifies the Borrower, a Facility Agent or a Senior Lender that the Administrative Agent shall not be (or shall have ceased to be) a FATCA Exempt Party on or after such FATCA Application Date,

and (in each case) the Borrower, a Facility Agent or a Senior Lender reasonably believes that a Finance Party shall be required to make a FATCA Deduction that would not be required if the Administrative Agent were a FATCA Exempt Party.

13.12 Agent's Confidentiality.

- (a) In acting as an agent for the Finance Parties, each Administrative Party shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions and departments.
- (b) If information is received by another division or department of any Administrative Party, it may be treated as confidential to such division or department and such Administrative Party shall not be deemed to have notice of it.

13.13 Relationship with the Senior Lenders.

- (a) The Administrative Agent may treat the person shown in its records as Senior Lender at the opening of business (in the place of the Administrative Agent's principal office as notified to the Finance Parties from time to time) as each Senior Lender acting through its lending office:
 - (i) entitled to or liable for any payment due under any Finance Document or the Risk Coverage Documents, as applicable, on such day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document or the Risk Coverage Documents, as applicable, made or delivered on such day,

unless it has received not less than five (5) Business Days' prior notice from such Senior Lender to the contrary in accordance with the terms of this Agreement.

- (b) The Administrative Agent may at any time, and shall if requested to do so by the Majority Lenders, convene a meeting of the Senior Lenders.
- (c) Any Senior Lender may by notice to the Administrative Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or dispatched to such Senior Lender under the Finance Documents or the Risk Coverage Documents, as applicable.
 - (i) Any such notice:
 - (A) shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under a Finance Document and under a Risk Coverage Document, as applicable) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
 - (B) shall be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by such Senior Lender for the purposes of the Finance Documents and the Risk Coverage Document, as applicable.

- (ii) The Administrative Agent is entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were such Senior Lender.
- (d) The Administrative Agent shall keep a record of all Finance Parties and supply any other Finance Party with a copy of the record on request. The record shall include each Senior Lender's contact details for the purposes of the Finance Documents and the Risk Coverage Documents, as applicable, and its lending office.

13.14 Credit Appraisal by the Senior Lenders.

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document or the Risk Coverage Document, as applicable, each Senior Lender confirms to the Administrative Parties that it has been, and shall continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document or any Risk Coverage Document, as applicable, including but not limited to:

- (a) the financial condition, creditworthiness, status and nature of the Borrower;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any Risk Coverage Document, as applicable, the Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document, any Risk Coverage Document, as applicable, or the Security;
- (c) whether such Senior Lender has recourse, and the nature and extent of such recourse, against any Finance Party or any of its respective assets under or in connection with any Finance Document, any Risk Coverage Document, as applicable, the Security, the transactions contemplated by the Finance Documents, or any Risk Coverage Document, as applicable, or any other agreement, arrangement or document entered into made or executed in anticipation of, under or in connection with any Finance Document, any Risk Coverage Document, as applicable, or the Security;
- (d) the adequacy, accuracy and/or completeness of any reports and any other information provided by any Administrative Party, by any Finance Party or by any other person under or in connection with any Finance Document, any Risk Coverage Document, as applicable, the transactions contemplated by the Finance Documents, or any Risk Coverage Document, as applicable, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or any Risk Coverage Document, as applicable; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of, the Security, the priority of any of the Security or the existence of any security interest affecting the Collateral.

13.15 Deduction from Amounts Payable by Administrative Parties.

If any Finance Party owes an amount to any Administrative Party under the Finance Documents, or any Risk Coverage Document, as applicable, such Administrative Party may, after giving notice to such Finance Party, deduct an amount not exceeding such amount from any payment to such Finance Party which such Administrative Party would otherwise be obligated to make under the Finance Documents or any Risk Coverage Document, as applicable, and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Document or any Risk Coverage Document, as applicable, such Finance Party shall be regarded as having received the amount so deducted.

13.16 Notice Period.

Where a Finance Document or any Risk Coverage Document, as applicable, specifies a minimum period of notice to be given to any Administrative Party, such Administrative Party may, at its discretion, accept a shorter notice period.

13.17 Collateral Agents.

The exercise or performance by the Offshore Collateral Agent of its rights, remedies or functions under this Agreement are subject in all respects to the terms of the Amended and Restated Collateral, Agency, Accounts and Security Agreement and the Offshore Collateral Agent shall have all the rights and protections set out in the Amended and Restated Collateral, Agency, Accounts and Security Agreement as if set out in full herein, including (without limitation) any provisions in relation to fees, costs and expenses.

13.18 Senior Lender's Indemnity to the Offshore Collateral Agent.

- (a) Without limiting the liability of the Borrower under the Finance Documents, or any Risk Coverage Document, as applicable, each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments, the Offshore Collateral Agent, within three (3) Business Days of demand against any cost, loss or liability incurred by the Offshore Collateral Agent, except to the extent that the cost, loss or liability is caused by the Offshore Collateral Agent's gross negligence, willful default or fraud in acting as Offshore Collateral Agent under the Finance Documents or any Risk Coverage Document, as applicable (unless the Offshore Collateral Agent has been reimbursed by the Borrower pursuant to a Finance Document or any Risk Coverage Document, as applicable).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the Offshore Collateral Agent under this Section 13.18.

13.19 Payments.

- (a) While no Event of Default is continuing, the Borrower shall make all payments in accordance with Article 17 (*Payment Mechanics*).
- (b) Following an Event of Default that is continuing, provided the Administrative Agent has declared all Obligations immediately due and payable, all payments shall be made to the Administrative Agent for distribution to the Senior Lenders in accordance with the Intercreditor Agreement, such that the benefit of all such payments shall be shared by the Senior Lenders ratably in accordance with the Applicable Percentage owing to them; provided, that, the provisions of this Section 13.19 shall not be construed to apply to:
 - (i) any payment made in respect of an obligation that is secured by a Permitted Encumbrance or that is otherwise entitled to priority over the Borrower's obligations under or in connection with the Finance Documents or any Risk Coverage Document, as applicable;
 - (ii) any payment to which such Senior Lender is entitled as a result of any form of credit protection obtained by such Senior Lender; or
 - (iii) any payment to which such Senior Lender is entitled in its capacity as a party to any Finance Document or any Risk Coverage Document, as applicable.

13.20 Senior Lender's Indemnity to the Technical Agent.

- (a) Without limiting the liability of the Borrower under the Finance Documents, each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments, the Technical Agent, within three (3) Business Days of demand against any cost, loss or liability incurred by the Technical Agent, except to the extent that the cost, loss or liability is caused by the Technical Agent's gross negligence, willful default or fraud in acting as Technical Agent under the Finance Documents (unless the Technical Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the Technical Agent under this Section 13.20.

13.21 Senior Lender's Indemnity to the Risk Mitigation Agent.

- (a) Without limiting the liability of the Borrower under the Finance Documents, or any Risk Coverage Document, as applicable each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments, the Risk Mitigation Agent, within three (3) Business Days of demand against any cost, loss or liability incurred by the Risk Mitigation Agent, except to the extent that the cost, loss or liability is caused by the Risk Mitigation Agent's gross negligence, willful default or fraud in acting as Risk Mitigation Agent under the Finance Documents or any Risk Coverage Document, as applicable (unless the Risk Mitigation Agent has been reimbursed by the Borrower pursuant to a Finance Document or a Risk Coverage Document, as applicable).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the Risk Mitigation Agent under this Section 13.21.

13.22 Senior Lender's Indemnity to the ECA Agent

- (a) Without limiting the liability of the Borrower under the Finance Documents and the Risk Coverage Documents, as applicable, each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments, the ECA Agent, within three (3) Business Days of demand against any cost, loss or liability incurred by the ECA Agent, except to the extent that the cost, loss or liability is caused by the ECA Agent's gross negligence, willful default or fraud in acting as ECA Agent under the Finance Documents or any Risk Coverage Document, as applicable, (unless the ECA Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the ECA Agent under this Section 13.22.

13.23 Senior Lender's Indemnity to the Environmental and Social Agent

- (a) Without limiting the liability of the Borrower under the Finance Documents, each Senior Lender shall indemnify (in proportion to such Senior Lender's share of total outstanding Loans or, if no Loans are then outstanding, its share of the Total Commitments, the Environmental and Social Agent, within fifteen (15) Business Days of demand against any cost, loss or liability incurred by the Environmental and Social Agent, except to the extent that the cost, loss or liability is caused by the Environmental and Social Agent's gross negligence, willful default or fraud in acting as Environmental and Social Agent under the Finance Documents (unless the Environmental and Social Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) The Borrower shall immediately on demand reimburse any Senior Lender for any payment such Senior Lender makes to the Environmental and Social Agent under this Section 13.23.

13.24 Administrative Agent as Senior Lender.

With respect to its Commitment and the Loans made by it, any Person serving as Administrative Agent hereunder shall have the same rights and powers under the Transaction Documents as any other Senior Lender and may exercise the same as though it were not the Administrative Agent. The term “Senior Lender”, “Finance Party” or “Secured Party”, when used with respect to the Administrative Agent, shall unless otherwise expressly indicated, include the Administrative Agent in its individual capacity. The Administrative Agent and its Affiliates may accept deposits from, lend money to, act as trustee under, act as financial advisor or in any other advisory capacity for and generally engage in any kind of business with, any Person as if the Administrative Agent were not the Administrative Agent hereunder, without any duty to account therefor to the Senior Lenders, Finance Parties or Secured Parties.

Article 14 CONSULTANTS

14.1 Consultants.

- (a) With the prior approval of the Borrower, and subject to paragraph (c) below, the Administrative Agent may appoint additional advisors in addition to the Independent Consultants to act on behalf of the Finance Parties (other than the Offshore Collateral Agent) in relation to the Project; provided, that, the prior approval of the Borrower will not be required if the appointment is in relation to the occurrence of an Event of Default.
- (b) The Borrower shall pay to the Administrative Agent the amount of all reasonable fees, costs and expenses (including reasonable legal fees and any value added tax) incurred by the Administrative Agent in connection with any appointment under this Section 14.1.
- (c) If no Event of Default has occurred and is continuing, no Finance Party may hire any additional consultants or advisers whose fees and costs are to be reimbursed by the Borrower without first consulting in good faith with the Borrower as to the terms of engagement and obtaining the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed.
- (d) Each Independent Consultant, or any replacement thereof appointed in accordance with this Agreement, shall be engaged by the Borrower from no later than the Effective Date until the earlier of (i) the Final Maturity Date or (ii) the later of the date on which there are no longer any services required to be performed by the relevant Independent Consultant pursuant to (x) the Finance Documents or (y) its engagement letter.
- (e) To the extent any Independent Consultant resigns or is removed or any additional advisor is to be appointed and the Administrative Agent is unable to agree on the appointment of a replacement Independent Consultant within ten (10) days of notification to them by the Administrative Agent of such replacement or resignation or additional appointment, the Administrative Agent may appoint any replacement advisor as it deems appropriate, acting reasonably.
- (f) The Borrower shall co-operate in good faith with each Independent Consultant and each other duly appointed advisor to the Senior Lenders. If the Borrower is required to supply any information to the Administrative Agent under the Finance Documents, and the Administrative Agent so requests, the Borrower shall supply a copy of that information to each Independent Consultant and each other duly appointed advisor to the Senior Lenders.
- (g) At any time and from time to time, the Borrower may request, by delivery of notice to the Administrative Agent, the consent of the Administrative Agent, to replace any Independent Consultant (or other duly appointed advisor) and upon such consent being given, the Independent Consultant shall be so replaced; provided, that, if an Event of Default has occurred and is continuing at the time of delivery of such notice, such request may only be made on the basis that the relevant Independent Consultant (or other duly appointed advisor):

- (i) is failing to perform its obligations under its engagement letter or as required by the Finance Documents;
 - (ii) has become an Affiliate of any Finance Party;
 - (iii) has developed a conflict of interest which calls into question that Independent Consultant's (or other duly appointed advisor's) capacity to exercise its reasonable judgment independently (including, in relation to the Independent Environmental and Social Consultant, where an organization would be being asked to audit policies it has been involved in implementing); or
 - (iv) has ceased to be a consulting firm of recognized international standing.
- (h) Subject to paragraph (g) above, the Senior Lenders may not replace any Independent Consultant without the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed.
- (i) After the Financial Closing Date, any additional reports or certificates prepared by an Independent Consultant pursuant to the Finance Documents, as applicable, shall be delivered to the Administrative Agent, with a copy to the Borrower.

Article 15 CONDUCT OF BUSINESS BY THE FINANCE PARTIES

15.1 Conduct of Business by the Finance Parties

No provision of any Finance Document and any Risk Coverage Document, as applicable, will:

- (a) interfere with the right of any Secured Party to arrange its affairs (tax or otherwise) in whatever manner it deems appropriate;
- (b) obligate any Secured Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) obligate any Secured Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

Article 16 SHARING AMONG THE FINANCE PARTIES

16.1 Payments to Finance Parties

If a Finance Party (in the case of the Offshore Collateral Agent, to the extent that it has such amounts available in its hands for distribution) (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with Article 17 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under a Finance Document or a Risk Coverage Document then:

- (a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Administrative Agent;
- (b) the Administrative Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Administrative Agent or the relevant Facility Agent (as applicable) and distributed in accordance with Article 17 (*Payment Mechanics*) without taking account of any Tax

which would be imposed on the Administrative Agent, the relevant Facility Agent in relation to the receipt, recovery or distribution; and

- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Administrative Agent, pay to the Administrative Agent an amount (the “**Sharing Payment**”) equal to that receipt or recovery less any amount which the Administrative Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with section 8.2 (*Distributions*) of the Intercreditor Agreement.

16.2 Redistribution of Payments.

The Administrative Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with section 8.2 (*Distributions*) of the Intercreditor Agreement towards the obligations of the Borrower to the Sharing Finance Parties.

16.3 Recovering Finance Party’s Rights.

On a distribution by the Administrative Agent under Section 16.2 (*Redistribution of Payments*) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.

16.4 Reversal of Redistribution.

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party (in the case of the Offshore Collateral Agent, to the extent that it has such amounts available in its hands for distribution) shall, on request of the Administrative Agent, pay to the Administrative Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (the “**Redistributed Amount**”); and
- (b) as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

16.5 Exceptions.

- (a) This Section 16.5 will not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Section 16.5, have a valid and enforceable claim against the Borrower.
- (b) A Recovering Finance Party is not obligated to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

Article 17
PAYMENT MECHANICS

17.1 Payments to the Agents.

- (a) On each date on which the Borrower or a Senior Lender is required to make a payment under a Finance Document (including as relates to any payments to be made in respect of any Risk Coverage Document), the Borrower or such Senior Lender shall make the same available to the Administrative Agent or (in the case of any disbursement or payment expressed to be made or payable under the terms of any Finance Document and any Risk Coverage Document) to the relevant Facility Agent, for value on the due date at the time and in Dollars.
- (b) Payment shall be made to such account in the principal financial center of the country of that currency and with such bank as the Administrative Agent or relevant Facility Agent specifies.

17.2 Distributions by the Agents.

Each payment received by an Agent under the Finance Documents or any Risk Coverage Document for another Finance Party shall, subject to Section 17.3 (*Distributions to the Borrower*) and Section 17.4 (*Clawback*), be made available by that Agent as soon as practicable after receipt to the Finance Party entitled to receive payment in accordance with the Finance Documents or any Risk Coverage Document and:

- (a) in the case of payment for the Borrower, to the Onshore Operating Collateral Account;
- (b) in the case of payment for a Senior Lender, for the account of its lending office; and
- (c) in the case of payment for any other Finance Party (other than the Borrower or a Senior Lender), to such account with a bank in New York City as that Finance Party may notify to the relevant Facility Agent by not less than five (5) Business Days' prior notice.

17.3 Distributions to the Borrower.

Each Agent may (with the consent of the Borrower or in accordance with Section 18.1 (*Set-Off*)) apply any amount received by it for the Borrower in or towards payment (as soon as practicable after receipt) of any amount due from the Borrower under the Finance Documents or any Risk Coverage Document. For this purpose the relevant Agent may apply the received sum in or towards the purchase of any amount of any currency to be paid.

17.4 Clawback.

- (a) Where a sum is to be paid to an Agent under the Finance Documents or any Risk Coverage Document for another Finance Party, such Agent is not obligated to pay that sum to that other Finance Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction such it has actually received that sum.
- (b) If an Agent pays an amount to another Finance Party and it proves to be the case that such Agent has not actually received such amount, then the Finance Party to whom such amount (or the proceeds of any related exchange contract) was paid by such Agent shall on demand refund such amount to such Agent.

17.5 No Set-Off by the Borrower.

- (a) All payments to be made by the Borrower under the Finance Documents (including as relates to any payments to be made in respect of any Risk Coverage Document) will be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- (b) Paragraph (a) above does not apply to any payment netting provision contained in a Hedge Agreement entered into in accordance with this Agreement.

17.6 Business Days.

- (a) Any payment which is due to be made on a day that is not a Business Day will be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum approved by the Finance Parties under a Finance Document and a Risk Coverage Document, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

17.7 Currency of Account.

- (a) Subject to paragraphs (b) and (c) below, Dollars is the currency of account and payment for any sum due from the Borrower under any Finance Document and any Risk Coverage Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than dollars will be paid in that other currency.

17.8 Change of Currency.

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognized by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country will be translated into, or paid in, the currency or currency unit of that country designated by the Administrative Agent (after consultation with the Borrower); and
 - (ii) any translation from one currency or currency unit to another will be at the official rate of exchange recognized by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Administrative Agent (acting reasonably).
- (b) If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognized at the same time as the lawful currency of a country), the Finance Documents will, to the extent the Administrative Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the relevant interbank market and otherwise reflect the change in currency.

Article 18
SET-OFF

18.1 Set-Off.

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents and the Risk Coverage Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

Article 19
BAIL-IN PROVISIONS

19.1 Contractual Recognition of Bail-In.

Notwithstanding anything to the contrary in any Finance Document, in any Risk Coverage Document or in any other agreement, arrangement or understanding among any such Finance Parties, each Finance Party hereto acknowledges and accepts that any liability of any Finance Party to any other Finance Party under or in connection with the Finance Documents, to the extent such liability is unsecured, may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) The application of any Bail-In Action to any such liabilities arising hereunder which may be payable to it by any Finance Party hereto; and
- (b) The effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction, in full or in part, or cancellation in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability; and
 - (ii) a conversion of all, or a portion of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
- (c) The variation of any term of any Finance Document or any Risk Coverage Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

Article 20
CALCULATIONS AND CERTIFICATES

20.1 Day Count Conventions.

Except as otherwise expressly provided in a Finance Document or in a Risk Coverage Document, any interest, commission or fee accruing under a Finance Document or under any Risk Coverage Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of three hundred sixty (360) days or, in any case where the practice in the relevant interbank market differs, in accordance with that market practice.

20.2 Financial Calculations.

All financial calculations to be made under, or for the purposes of, this Agreement, any Risk Coverage Document and any other Finance Document shall be made in accordance with IFRS and, except as otherwise required to conform to any provision of this Agreement, shall be calculated from the then-most-recently issued quarterly financial statements which the Borrower is obligated to furnish to the Finance Parties under Section 9.7 (*Quarterly Financial Reporting*).

Article 21
CONFIDENTIAL INFORMATION

21.1 Confidential Information

The Borrower, the Finance Parties each agree that it shall maintain as confidential and, without the prior written consent of the relevant party(ies), shall not disclose the terms of this Agreement and any non-public information concerning the other party or its business and operations (the “**Confidential Information**”); provided, that, a party and the ECA Guarantor may disclose such information:

- (a) where such information becomes publicly available or widely known by the public other than by a breach of this Agreement, or is known by the receiving party prior to the entry of this Agreement or obtained independently of this Agreement, and the disclosure of such information would not breach any other confidentiality obligations;
- (b) if required by Applicable Law or requested by any Governmental Body having jurisdiction over such party;
- (c) to its Affiliates and those of its and its Affiliates' directors, officers, employees, advisors and representatives who need to have knowledge of such information;
- (d) to any Person to whom such party, in good faith, anticipates assigning an interest in this Agreement as contemplated by Section 12.1 (*Assignment by Senior Lenders*) and such Person's Affiliates and the representatives, consultants and advisors of such Person or its Affiliates who have a legitimate need to know such information.
- (e) to the ECA Guarantor such Confidential Information as that Finance Party considers appropriate. The Borrower acknowledges that the ECA Guarantor may disclose information as required by the rules, regulations or recommendations of the Organization for Economic Co-operation and Development (OECD, including, but not limited to, publishing the executive summary of the EIAs on the ECA Guarantor's website), the European Union and the information the ECA Guarantor considers appropriate in order to arrange and manage any reinsurance or other security arrangements to cover its risk exposure; and
- (f) in connection with the exercise of an duties or remedies hereunder or any suit, action or proceeding relating to this Agreement or under the Risk Mitigation Instrument or the ECA Guarantee (or in satisfaction of the insureds' obligations thereunder).

In the case of disclosure pursuant to paragraph (c), (d) or (e) above, the disclosing party shall be responsible to ensure that the recipient of such Confidential Information does not disclose such information to the same extent as if it were bound by the same non-disclosure obligations of the disclosing party under this Agreement, and shall be liable to the disclosing party for any improper use or disclosure of such information by such recipient.

21.2 Entire Agreement Regarding Confidentiality.

- (a) This Article 21 constitutes the entire agreement between the Finance Parties in relation to the obligations of the Finance Parties under the Finance Documents and the Risk Coverage Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.
- (b) No Finance Party will be liable for any loss, cost, liability or other claim in connection with the Confidential Information beyond reasonably foreseeable losses and will not be liable for lost profits or consequential or punitive damages.

21.3 Inside Information.

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

21.4 Notification of Disclosure.

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to Section 21.1 (*Confidential Information*) except where such disclosure is made to any of the persons referred to in that Section 21.1 (*Confidential Information*) during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Section 21.4.

21.5 Continuing Obligations.

The obligations in this Section 21.5 are continuing and, in particular, will survive and remain binding on each Finance Party for a period of twelve (12) months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with the Finance Documents and the Risk Coverage Documents (pursuant to the terms of the Finance Documents) have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

21.6 Press Releases and Public Disclosure.

If Lundin or any of its Subsidiaries is required by Applicable Law to file a copy of this Agreement on SEDAR (or otherwise publicly file a copy of this Agreement), Lundin shall consult with the Administrative Agent with respect to, and agree upon, any proposed redactions to this Agreement in compliance with Applicable Laws before it is filed on SEDAR (or otherwise). If the parties are unable to agree on such redactions, Lundin shall redact this Agreement to the fullest extent permitted by Applicable Laws before filing it on SEDAR (or otherwise).

21.7 Equator Principles.

Each of the Finance Parties, the ECA Guarantor and the Borrower consent to the reporting of the Project name pursuant to Annex B of the Equator Principles on any publicly available Internet website maintained by any Finance Party or the ECA Guarantor.

Article 22 NOTICES

22.1 Notices.

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the day of sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below. Notices of change of address shall also be governed by this Article 22. Notices and other communications shall be addressed as follows:

- (a) if to the Borrower:

Aurelian Ecuador S.A.
 Av. Amazonas N37-29 y UNP, Edif. Eurocenter Piso 5
 Quito, Pichincha, Ecuador
 Attention: REDACTED [*Contact person redacted*]
 Email: REDACTED [*Email address redacted*]

Telephone: REDACTED [*Telephone number redacted*]
Fax: REDACTED [*Fax number redacted*]

with a copy to (which shall not constitute notice)

Aurelian Ecuador S.A.
885 West Georgia, Suite 2000
Vancouver, British Columbia, Canada, V6C 3E8
Telephone: REDACTED [*Telephone number redacted*]
Fax: REDACTED [*Fax number redacted*]

- (b) if to the Administrative Agent:

The Bank of Nova Scotia
40 King Street West, 55th floor
Toronto, Ontario, Canada M5H 1H1
Attention: Director & Head of Agency Services
Email: REDACTED [*Email address redacted*]
or at such other address, facsimile number or email address as a party hereto from time to time directs in writing to the other parties hereto.

- (c) if to the Commercial Facility Agent:

The Bank of Nova Scotia
40 King Street West, 55th floor
Toronto, Ontario, Canada M5H 1H1
Attention: Director & Head of Agency Services
Email: REDACTED [*Email address redacted*]

or at such other address, facsimile number or email address as a party hereto from time to time directs in writing to the other parties hereto.

- (d) If the ECA Facility Agent:

The Bank of Nova Scotia
40 King Street West, 55th floor
Toronto, Ontario, Canada M5H 1H1
Attention: Director & Head of Agency Services
Email: REDACTED [*Email address redacted*]

or at such other address, facsimile number or email address as a party hereto from time to time directs in writing to the other parties hereto.

- (e) if to the Offshore Collateral Agent:

The Bank of Nova Scotia
40 King Street West, 55th floor
Toronto, Ontario, Canada M5H 1H1
Attention: Director & Head of Agency Services
Email: REDACTED [*Email address redacted*]

or at such other address, facsimile number or email address as a party hereto from time to time directs in writing to the other parties hereto.

- (f) if to the Risk Mitigation Agent:

Caterpillar Financial Services Limited
 2-3457 Superior Court, Oakville ON, L6L 0C4
 Attention: Mining - Structured Finance Americas
 Email: REDACTED [*Email address redacted*]
 with a copy to (which shall not constitute notice):
 REDACTED [*Email address redacted*]

or at such other address, facsimile number or email address as a party hereto from time to time directs in writing to the other parties hereto.

- (g) if to the Senior Lenders, at the addresses noted on Schedule A (*Commitments*); and
- (h) in accordance with Section 23.5 (*English Language*), any notices and communications given in respect of this Agreement shall be given in the English language, or if given in any other language, that notice or communication shall be accompanied by an English translation of it, which shall be certified as being a true and correct translation of the notice or communication.

22.2 Notification of Address and Fax Number.

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to this Article 22 or changing its own address or fax number, the Administrative Agent shall notify the other Finance Parties.

22.3 Electronic Communication.

- (a) Any communication to be made between any of the Finance Parties under or in connection with the Finance Documents and the Risk Coverage Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if the relevant Finance Parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iii) notify each other of any change to their electronic mail address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above made between any two Finance Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Finance Party to any Facility Agent or the Offshore Collateral Agent only if it is addressed in such a manner as that Agent or Offshore Collateral Agent may specify for this purpose.
- (c) Any electronic communication which would otherwise become effective on a non-working day or after business hours in the place of receipt will be deemed only to become effective on the next working day in that place.
- (d) Any reference in a Finance Document to a communication being sent or received will be construed to include that communication being made available in accordance with this Section 22.3.

22.4 Communications to the Offshore Collateral Agent.

If pursuant to this Article 22 the Offshore Collateral Agent is to act on instructions or directions delivered by fax, electronic mail, other electronic means or any other unsecured method of communication, the Offshore Collateral Agent shall have:

- (a) no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorized to give instructions or directions on behalf of any relevant Finance Party, and
- (b) no liability for any losses, liabilities, costs or expenses incurred or sustained by any relevant Finance Party as a result of such reliance upon or compliance with such instructions or directions.

Article 23 GENERAL

23.1 Partial Invalidity.

If, at any time, any provision of a Finance Document or any Risk Coverage Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of the Finance Documents or any Risk Coverage Document; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other provision of the Finance Documents or any Risk Coverage Document.

23.2 Reliance and Non-Merger.

All covenants, agreements, representations and warranties of the Borrower made herein or in any other Finance Document or in any certificate or other document signed by any of its directors or officers and delivered by or on behalf of the Borrower pursuant hereto or thereto are material, shall be deemed to have been relied upon by the Administrative Agent and each Senior Lender notwithstanding any investigation heretofore or hereafter made by the Administrative Agent, the Senior Lenders or Senior Lenders' counsel or any employee or other representative of any of them and shall survive the execution and delivery of this Agreement and the other Finance Documents until all Obligations owed to the Administrative Agent or the Senior Lenders under this Agreement and the other Finance Documents shall have been satisfied and performed and the Senior Lenders shall have no further obligation to make the Loan hereunder.

23.3 Remedies and Waivers.

- (a) No investigation by or on behalf of any Finance Party, into the affairs of the Borrower will prejudice any rights or remedies held by or on behalf of a Finance Party under the Finance Documents or any Risk Coverage Document.
- (b) No failure to exercise, nor any delay in exercising, on the part of or on behalf of any Finance Party, any right or remedy under a Finance Document or Risk Coverage Document will operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document or any Risk Coverage Document. No election to affirm any Finance Document on the part of or on behalf of any Finance Party will be effective unless it is in writing. No single or partial exercise of any right or remedy will prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document or each Risk Coverage Document are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically.

23.4 Amendment and Waiver.

- (a) Required Consents.
- (i) Except as otherwise expressly provided in this Agreement and subject to paragraph (b) and paragraph (a)(ii) below, any term of the Finance Documents may be amended, modified, waived or supplemented only with the consent of the Majority Lenders, the Borrower, to the extent they are a party, the Obligors and the Administrative Agent (acting on behalf of the Majority Lenders), and any such amendment, waiver, modification or supplement shall be binding on all Parties.
 - (ii) Except as otherwise expressly provided in the relevant agreement or document, no waiver, consent, annulment, modification or supplement of any term or condition of any Finance Document may be given or granted by the Borrower or the Senior Lenders except in accordance with the Intercreditor Agreement.
 - (iii) Notwithstanding paragraphs (a)(i) and (a)(ii) above, the consent of the Borrower to any amendment, waiver, modification or supplementation of the Intercreditor Agreement is only required in accordance with section 2 thereof.
- (b) Notwithstanding paragraph (a) above, an amendment, modification, supplement or waiver which relates to the rights, duties, protections or obligations of the Agents, the Account Banks or the Mandated Lead Arrangers (each in their capacity as such) may not be effected without the consent of the Agents, Account Banks or the Mandated Lead Arrangers (as the case may be).
- (c) Notwithstanding paragraph (a) above, each Senior Lender shall be required to consent to any amendment, modification, supplement or waiver of:
- (i) the definition of “Majority Lenders”, “Specified Majority Lenders” or “Supermajority Lenders” or any other provision in the Finance Documents or in the Risk Coverage Documents specifying the number or percentage of Senior Lenders required to waive, amend or modify any rights thereunder or make any determination or grant thereunder;
 - (ii) the definition of “Permitted Transferee”;
 - (iii) Schedule B (*Conditions Precedent*);
 - (iv) a reduction in the Applicable Margin, or a reduction in the amount of any payment of principal, interest, fees or other amounts payable to a Senior Lender under the Finance Documents;
 - (v) an increase in, or an extension of, a Commitment or the Total Commitments;
 - (vi) a release of the Borrower, any other Obligor or any other party (other than a Secured Party) from a Security Document (other than pursuant to the terms of such Security Document), or the release of all or a material part of the Collateral from the Encumbrance of the Security Documents;
 - (vii) a change to the order of application of any reduction in the Commitments or any prepayment of Loans from the application thereof set forth in the applicable provisions of Section 3.2 (*Mandatory Prepayments*), Section 3.4 (*Mandatory Prepayment – Cash Sweep*), Section 3.5 (*Voluntary Cancellation*), and Section 3.6 (*Voluntary Prepayments*);
 - (viii) a term or provision of a Finance Document that expressly requires the consent, approval or instructions of each Senior Lender;
 - (ix) the right of a Senior Lender to assign or transfer its rights or obligations under the Finance Documents in accordance with Section 12.1 (*Assignments by Senior Lenders*);

- (A) this Section 23.4;
- (B) Section 23.8 (*Remedies Cumulative*);
- (x) the Intercreditor Agreement or the order of priority set forth in the Cash Flow Waterfall in section 3.2(b) of the Amended and Restated Collateral, Agency, Accounts and Security Agreement; or
- (xi) change the order of priority of payments set forth in Section 11.4 (*Application of Proceeds*) or any provision in the Finance Documents relating to the pro rata nature of the Utilizations or any amount.
- (d) The Administrative Agent (acting on behalf of the Majority Lenders) or, in the case of an amendment or waiver of a Security Document, the Offshore Collateral Agent, may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Section 23.4. The Administrative Agent shall notify the other Finance Parties promptly of any amendment or waiver effected by it or the Offshore Collateral Agent under this paragraph (d).
- (e) If Supermajority Lenders have agreed to an amendment or waiver which requires all Senior Lenders to consent, the Borrower may require any non-consenting Senior Lender to its commitment (if any is remaining) and participations in the Facilities to another Senior Lender or a new Senior Lender nominated by the Borrower and acceptable to the Supermajority Lenders (acting reasonably).

23.5 English Language.

- (a) Any communication made under or in connection with any Finance Document or any Risk Coverage Document shall be in English.
- (b) All other documents provided under or in connection with any Finance Document or any Risk Coverage Document shall be:
 - (i) in English; or
 - (ii) if not in English, accompanied by an English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

23.6 Further Assurances.

Whether before or after the happening of an Event of Default, the Borrower shall at its own expense do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, things, agreements, documents and instruments in connection with this Agreement, the other Finance Documents and any Risk Coverage Document as the Administrative Agent may reasonably request from time to time for the purpose of giving effect to the terms of this Agreement, the other Finance Documents and any Risk Coverage Document including, for the purpose of facilitating the enforcement of the Security, all immediately upon the request of the Administrative Agent.

23.7 Judgment Currency.

If for the purpose of obtaining or enforcing judgment in any court it is necessary to convert a sum due hereunder or under any other Finance Document in Dollars into another currency (the “**Judgment Currency**”), the rate of exchange which shall be applied shall be that at which in accordance with normal banking procedures a Secured Party, as applicable, could purchase such Dollars in the United States of America with the Judgment Currency on the Business Day next preceding the day on which such judgment is rendered. The obligation of the Borrower in respect of any such sum due from it to such Secured Party hereunder or under any other Finance Document (an “**Entitled Person**”) shall, notwithstanding the rate of exchange actually applied in rendering such judgment, be discharged only to the extent that on the Business Day following the receipt by such Entitled Person of any sum adjudged to

be due hereunder or under any other Finance Document in the Judgment Currency, such Entitled Person may in accordance with normal banking procedures purchase and transfer Dollars to the United States of America with the amount of the Judgment Currency so adjudged to be due; and the Borrower hereby, as a separate obligation and notwithstanding any such judgment, agrees to indemnify such Entitled Person on demand, in Dollars, for the amount (if any) by which the sum originally due to such Entitled Person in Dollars hereunder or under any other Finance Document exceeds the amount of the Dollars so purchased and transferred.

23.8 Remedies Cumulative

Subject to Applicable Law, no failure or delay on the part of any Secured Party in exercising any right, power or privilege hereunder or under any other Finance Document or under any Risk Coverage Document and no course of dealing between the Borrower or any its Affiliates, on the one hand and any Secured Party, on the other hand, shall impair any such right, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Finance Document or under any Risk Coverage Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Finance Document or in any Risk Coverage Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Secured Party to any other or further action in any circumstances without notice or demand.

23.9 Entire Agreement.

This Agreement, the other Finance Documents and the Risk Coverage Documents constitute the entire agreement between the parties pertaining to the subject matter described herein and therein. There are no warranties, conditions or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement, the other Finance Documents and the Risk Coverage Documents. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneously with, or after the entering into of this Agreement, the other Finance Documents and the Risk Coverage Documents, or any amendment or supplement thereto, by any party to this Agreement or any of the other Finance Documents or any of the Risk Coverage Documents or its directors, officers, partners, employees or agents, where applicable, to any other party to this Agreement or any of the other Finance Documents or its directors, officers, partners, employees or agents, where applicable, except to the extent that the same has been reduced to writing and included as a term of this Agreement or any of the other Finance Documents or any Risk Coverage Documents.

23.10 Governing Law; Jurisdiction.

THIS AGREEMENT AND EACH OF THE OTHER FINANCE DOCUMENTS (UNLESS SUCH DOCUMENT EXPRESSLY STATES OTHERWISE THEREIN (INCLUDING, FOR THE AVOIDANCE OF DOUBT, THE OFFTAKE AGREEMENT, THE NOTE AND THE ECUADORIAN SECURITY DOCUMENTS), THE RELATIONSHIP BETWEEN THE FINANCE PARTIES HERETO AND ANY CLAIM OR DISPUTE (WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE) RELATING TO THIS AGREEMENT OR SUCH OTHER FINANCE DOCUMENT OR SUCH RELATIONSHIP SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

23.11 Service of Process

- (a) Each party to this Agreement irrevocably submits, for itself and its property, to the non-exclusive jurisdiction of any New York State or U.S. Federal court sitting in the City and County of New York for the settlement of any action or dispute in connection with any Finance Document.
- (b) Each party to this Agreement waives any objection to the courts referred to in Section 23.10 (*Governing Law; Jurisdiction*) on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with any Finance Document, and waives the jurisdiction of any other courts it may be entitled to. Each of the parties hereto agrees that a final non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- (c) The Borrower hereby irrevocably appoints Corporation Service Company with an office on the date hereof at 1180 Avenue of the Americas, Suite 210, New York, NY 10036, as its agent for service of process in any action or proceeding before any court located in the State of New York or any arbitral tribunal.
- (d) If any Person appointed as process agent is unable for any reason to act as agent for service of process, the Borrower shall immediately appoint another agent on terms acceptable to the Administrative Agent.
- (e) The Borrower agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.
- (f) The Borrower irrevocably acknowledges and agree that service of process in any such action or proceeding may also be effected by mailing a copy thereof by first class mail, postage prepaid, together with two copies of a statement of service by mail and acknowledgement of receipt, with a postage-prepaid return envelope addressed to the sender, to the Borrower at their address set forth on Article 22 (*Notices*) or at such other address of which the Administrative Agent shall have been notified pursuant to Article 22 (*Notices*).
- (g) This Section 23.11 does not affect any other method of service allowed by Applicable Law.
- (h) To the extent that the Borrower may, in any action or proceeding arising out of or relating to any of the Finance Documents, be entitled under any Applicable Law to require or claim that any Secured Party post security for costs or take similar action, the Borrower hereby irrevocably waives and agrees not to claim the benefit of such entitlement.

23.12 Waiver of Jury Trial.

EACH OF THE FINANCE PARTIES HERETO HEREBY EXPRESSLY, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER FINANCE DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY FINANCE PARTY RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE SECURED PARTIES TO ENTER INTO THIS AGREEMENT.

23.13 USA PATRIOT Act

To the extent that it is subject to the requirements of the USA PATRIOT ACT or any other anti-money laundering rules and regulations applicable to such Secured Party, each Secured Party hereby notifies the Borrower that, pursuant to the requirements of the USA PATRIOT ACT or any other anti-money laundering rules and regulations applicable to such Secured Party and the customer due diligence requirements for financial institutions of the Financial Crimes Enforcement Network (as published at 81 FR 29397, 31 CFR 1010, 1020, 1023, 1024, and 1026), it is required to obtain, verify and record

information that identifies the Borrower and its direct and indirect beneficial owners, which information includes the name and address of such Persons and other information that will allow such Secured Party, as the case may be, to identify the Borrower and its direct and indirect beneficial owners in accordance with the USA PATRIOT ACT or any other anti-money laundering rules and regulations applicable to such Secured Party and the customer due diligence requirements for financial institutions of the Financial Crimes Enforcement Network. The Borrower agrees that it will promptly provide each Secured Party with such information as it may request in order for such Secured Party, respectively, to satisfy the requirements of the USA PATRIOT ACT or any other anti-money laundering rules and regulations applicable to such Secured Party.

23.14 Counterparts.

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts (including facsimile), with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

23.15 No Third-Party Beneficiaries.

The agreement of the Senior Lenders to make the Loans to the Borrower, on the terms and conditions set forth in this Agreement, is solely for the benefit of the Borrower and the Secured Parties, and no other Person (including any contractor, subcontractor, supplier, workman, carrier, warehouseman or materialman furnishing labor, supplies, goods or services to or for the benefit of the Project) shall have any rights under this Agreement or under any other Transaction Document or with respect to any extension of credit contemplated by this Agreement.

23.16 Severability.

Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated in this Agreement are fulfilled to the extent possible.

23.17 Survival.

All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans. The provisions of Sections 6.3 (*Change in Circumstances*), 6.4 (*Payment of Costs and Expenses*), 6.5 (*Indemnities*), Article 13 (*Administrative Parties*) and Article 21 (*Confidential Information*) shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

23.18 Reinstatement.

The obligations of the Borrower under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Obligations is rescinded or shall be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Borrower agrees that it will indemnify each Secured Party on demand for all reasonable and documented costs and expenses (including fees of counsel) incurred by such Secured Party in connection with such rescission or restoration, including any

such reasonable and documented costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

23.19 Waiver of Immunity.

- (a) The Borrower acknowledges and agrees that the activities contemplated by the provisions of the Finance Documents are commercial in nature rather than governmental or public and therefore acknowledges and agrees that it is not entitled to any right of immunity on the grounds of sovereignty or otherwise with respect to such activities or in any legal action or proceeding arising out of or relating to the Finance Documents. To the extent permitted by Applicable Law, the Borrower, in respect of itself, its process agents and its properties and revenues, expressly and irrevocably waives any such right of immunity which may now or hereafter exist (including any immunity from the jurisdiction of any court or from any suit, execution, attachment (whether provisional or final, in aid of execution, prior to judgment or otherwise) or other legal process (including in any jurisdiction where immunity (whether or not claimed) may be attributed to it or its assets)) or claim thereto which may now or hereafter exist and irrevocably agrees not to assert any such right or claim of immunity in any such action or proceeding to the fullest extent permitted now or in the future by the laws of any such jurisdiction.
- (b) The Borrower agrees that the waivers set forth in paragraph (a) above shall have the fullest effect permitted under the Foreign Sovereign Immunities Act of 1976 of the United States of America (28 U.S.C. §§ 1602-1611) and are intended to be irrevocable and not subject to withdrawal for purposes of such Act.

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

AURELIAN ECUADOR S.A.,
as Borrower

By: "Ron Hochstein"
Name: Ron Hochstein
Title: Executive President

THE BANK OF NOVA SCOTIA,
as Administrative Agent, Mandated Lead Arranger and
Senior Lender

By: "Elizabeth Daponte"
Name: Elizabeth Daponte
Title: Managing Director

By: "Priya Francis"
Name: Priya Francis
Title: Associate

CATERPILLAR FINANCIAL SERVICES LIMITED, as
Mandated Lead Arranger and Senior Lender

By: "Richard Kinsey"
Name: Richard Kinsey
Title: Managing Director

SOCIETE GENERALE, as Senior Lender

By: "P.E. Kavanaugh"
Name: P.E. Kavanaugh
Title: Director

SG AMERICAS SECURITIES, LLC, as Mandated Lead
Arranger

By: "P.E. Kavanaugh"
Name: P.E. Kavanaugh
Title: Director

KFW IPEX-BANK GMBH, as Mandated Lead Arranger
and Senior Lender

By: "Dirk Sindermann"
Name: Dirk Sindermann
Title: Director

By: "Christian Koesters"
Name: Christian Koesters
Title: Vice President

ING CAPITAL LLC, as Mandated Lead Arranger and Senior Lender

By: "Remko van de Water"
Name: Remko van de Water
Title: Managing Director

By: "Anne van Riel"
Name: Anne van Riel
Title: Director

NATIXIS, NEW YORK BRANCH, as Mandated Lead
Arranger and Senior Lender

By: "Chamss Ould"
Name: Chamss Ould
Title: Vice President

By: "Alisa Trani"
Name: Alisa Trani
Title: Executive Director

BANK OF MONTREAL, as Senior Lender

By: "Jerome Doucet"
Name: Jerome Doucet
Title: Managing Director

:

**SCHEDULE A
COMMITMENTS**

Commercial Facility Commitments

Initial Lender	Commitment (\$)	Address for Notices
ING	REDACTED <i>[Allocation number redacted]</i>	ING Capital LLC 4th floor – Metals & Mining 1133 Avenue of the Americas New York, NY 10036 Attention: REDACTED <i>[Contact person redacted]</i> Email: REDACTED <i>[Email address redacted]</i> Tel: REDACTED <i>[Telephone number redacted]</i>
Societe Generale	REDACTED <i>[Allocation number redacted]</i>	Societe Generale 245 Park Avenue New York, NY 10167 Attention: REDACTED <i>[Contact person redacted]</i> Email: REDACTED <i>[Email address redacted]</i> and REDACTED <i>[Email address redacted]</i> Tel: REDACTED <i>[Telephone number redacted]</i>
Caterpillar Financial	REDACTED <i>[Allocation number redacted]</i>	Caterpillar Financial Services Limited 2-3457 Superior Court, Oakville ON, L6L 0C4 Attention: Mining - Structured Finance Americas Email: REDACTED <i>[Email address redacted]</i> ; with a copy to (which shall not constitute notice): REDACTED <i>[Email address redacted]</i>
The Bank of Nova Scotia	REDACTED <i>[Allocation number redacted]</i>	The Bank of Nova Scotia 40 King Street West, 55th floor Toronto, Ontario, Canada M5H 1H1 Attention: Director & Head of Agency Services Email: REDACTED <i>[Email address redacted]</i>
KfW IPEX-Bank	REDACTED <i>[Allocation number redacted]</i>	KfW IPEX-Bank Palmengartenstrasse 5-9 60325 Frankfurt am Main Germany Attention: REDACTED <i>[Contact person redacted]</i> Email: REDACTED <i>[Email address redacted]</i> Tel: REDACTED <i>[Telephone number redacted]</i> Fax: REDACTED <i>[Telephone number redacted]</i>
Bank of Montreal	REDACTED <i>[Allocation number redacted]</i>	Bank of Montreal Attention: REDACTED <i>[Contact person redacted]</i> Email: REDACTED <i>[Email address redacted]</i> Tel: REDACTED <i>[Telephone number redacted]</i> Fax: REDACTED <i>[Fax number redacted]</i>
Natixis	REDACTED <i>[Allocation number redacted]</i>	Natixis 1251 Avenue of the Americas

	<i>redacted]</i>	New York, NY 10020 Attention: REDACTED [<i>Contact person redacted]</i> Email: REDACTED [<i>Email address redacted]</i> Tel: REDACTED [<i>Telephone number address redacted]</i> Fax: REDACTED [<i>Fax number redacted]</i>
TOTAL	250,000,000.00	

ECA Facility Commitments

Initial Lender	Commitment (\$)	Address for Notices
ING	REDACTED [<i>Allocation number redacted]</i>	ING Capital LLC 4th floor – Metals & Mining 1133 Avenue of the Americas New York, NY 10036 Attention: REDACTED [<i>Contact person redacted]</i> Email: REDACTED [<i>Email address redacted]</i> Tel: REDACTED [<i>Telephone number redacted]</i>
Societe Generale	REDACTED [<i>Allocation number redacted]</i>	Societe Generale 245 Park Avenue New York, NY 10167 Attention: REDACTED [<i>Contact person redacted]</i> Email: REDACTED [<i>Email address redacted]</i> and REDACTED [<i>Email address redacted]</i> Tel: REDACTED [<i>Telephone number redacted]</i>
Caterpillar Financial	REDACTED [<i>Allocation number redacted]</i>	Caterpillar Financial Services Limited 2-3457 Superior Court, Oakville ON, L6L 0C4 Attention: Mining - Structured Finance Americas Email: REDACTED [<i>Email address redacted]</i> ; with a copy to (which shall not constitute notice): REDACTED [<i>Email address redacted]</i>
The Bank of Nova Scotia	REDACTED [<i>Allocation number redacted]</i>	The Bank of Nova Scotia 40 King Street West, 55th floor Toronto, Ontario, Canada M5H 1H1 Attention: Director & Head of Agency Services Email: REDACTED [<i>Email address redacted]</i>
KfW IPEX-Bank	REDACTED [<i>Allocation number redacted]</i>	KfW IPEX-Bank Palmengartenstrasse 5-9 60325 Frankfurt am Main Germany Attention: REDACTED [<i>Contact person redacted]</i> Email: REDACTED [<i>Email address redacted]</i> Tel: REDACTED [<i>Telephone number redacted]</i> Fax: REDACTED [<i>Fax number redacted]</i>
Bank of Montreal	REDACTED	Bank of Montreal

	[Allocation number redacted]	Attention: REDACTED [Contact person redacted] Email: REDACTED [Email address redacted] Tel: REDACTED [Telephone number redacted] Fax: REDACTED [Fax number redacted]
Natixis	REDACTED [Allocation number redacted]	Natixis 1251 Avenue of the Americas New York, NY 10020 Attention: REDACTED [Contact person redacted] Email: REDACTED [Email address redacted] Tel: REDACTED [Telephone number redacted]
TOTAL	100,000,000.00	

SCHEDULE B CONDITIONS PRECEDENT

Part I – Conditions Precedent to Effective Date

The obligations of the parties to this Agreement shall not become effective until the following Conditions Precedent to Effective Date are satisfied, in form and substance satisfactory to the Senior Lenders, or waived (solely in writing by all Senior Lenders).

1. Legal Opinions

The Administrative Agent shall have received a copy of the following legal opinions (in each case in form and substance satisfactory to the Finance Parties), prepared for the benefit of, and addressed to, the Finance Parties on the Effective Date:

- 1.1. A legal opinion of Norton Rose Fulbright Canada LLP, legal advisors in Ontario, British Columbia and New York to the Obligor.
- 1.2. A legal opinion of Lexim Abogados, legal advisors in Ecuador to the Borrower (including to confirm current status of land rights and existing mortgages thereon).
- 1.3. A legal opinion of Milbank, Tweed, Hadley & McCloy LLP, New York counsel to the Senior Lenders.
- 1.4. A legal opinion of Flor & Hurtado Abogados, Ecuadorian counsel to the Senior Lenders.
- 1.5. A legal opinion of Hannes Snellman Attorneys Ltd, Finnish counsel to the Senior Lenders.

2. Corporate Documentation

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 2.1. Certified copies of the constitutional documents (including, without limitation, any unanimous shareholder agreements or declarations, as applicable) of each Obligor, attached in each case to an Officer's Certificate of each Obligor;
- 2.2. A copy of the resolutions of the board of directors and shareholders meeting (as applicable) of each Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party and authorizing a specified person or persons to execute the Transaction Documents to which it is a party on its behalf, attached in each case to the Officer's Certificate of such Obligor;
- 2.3. Specimen signatures of each person from each Obligor authorized by the resolutions to sign the Transaction Documents to which it is a party, a copy of the duly registered powers of attorney and any other notices or documents under or in connection with the Transaction Documents to which it is a party, attached in each case to the Officer's Certificate of such Obligor; and
- 2.4. A certificate of each of the Obligors (signed by an authorized representative) confirming that (i) borrowing or guaranteeing or securing, as appropriate, the total commitments would not cause any borrowing, guarantee, security or similar limit binding on such Obligor to be exceeded; (ii) each copy document relating to it specified in this section is

correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement; and (iii) all representations and warranties contained in Article 7 of the Common Terms Agreement are true, accurate and complete; and (iv) no event has occurred and is continuing or would result from the Finance Documents as at the date of this Agreement which constitutes an Event of Default.

- 2.5. A certificate of status, compliance, good standing or like certificate with respect to each Obligor issued by the appropriate government official in the jurisdiction of its incorporation.

3. Finance Documents

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 3.1. A copy of: (i) each Finance Document (other than any Direct Agreement, any Accession Agreement and any Transfer Certificate); and (ii) the Risk Mitigation Instrument (which shall not be the responsibility of the Borrower to deliver) duly executed and delivered by each of the parties thereto, together with an Officer's Certificate of the Borrower certifying that no material amendments have been made or agreed to be made to the Material Project Documents since their execution (it being acknowledged that any revisions to the scope or term or increases in the payment provisions, shall constitute material amendments).

4. ECA Guarantee and Boliden Offtake Agreement.

- 4.1. Final credit approval from the ECA Guarantor shall have been obtained in respect of the transactions contemplated by the ECA Guarantee and the other Transaction Documents.
- 4.2. An executed copy of: (i) the reimbursement agreement between Boliden and the ECA Guarantor in respect of the ECA Guarantee and (ii) the Boliden Offtake Agreement.

5. Environmental and Social CPs.

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender and the ECA Guarantor):

- 5.1. A certificate from an authorized officer of the Borrower and approved in writing by the Independent Environmental and Social Consultant certifying that the actions outlined in the ESAP required to have been accomplished in all material respects on or prior to the Effective Date have been accomplished.
- 5.2. Copies of each of the EIAs (save in respect of the Mountain Pass Quarry and cyanide transportation) duly approved by the Government of Ecuador and the Environmental Licenses in relation thereto, in each case certified by an authorized officer of the Borrower.
- 5.3. Certificate from an authorized officer of the Independent Environmental and Social Consultant in connection with the then-current draft of the IFC ESIA and ESMPs reviewed, certifying that the Borrower, its Subsidiaries and the Project shall, after the actions set forth in the ESAP have been implemented, be in compliance in all material respects with the Equator Principles and Performance Standards.

6. Reports

The Administrative Agent shall have received a copy of the following reports (in each case in form and substance satisfactory to each Senior Lender), prepared for the benefit of, and addressed to, the Senior Lenders at signing:

- 6.1. A copy of legal due diligence reports from Ecuadorian, Canadian and New York counsel to the Senior Lenders.
- 6.2. A copy of the engagement letter and a technical due diligence report from the Independent Technical Consultant.
- 6.3. A copy of the engagement letter and an insurance report from the Independent Insurance Consultant.
- 6.4. A copy of the engagement letter containing the agreed monitoring scope of work for the Independent Environmental and Social Consultant and environmental due diligence report from the Independent Environmental and Social Consultant.
- 6.5. A copy of the engagement letter and the financial model review report from the Independent Model Auditor.
- 6.6. Reliance letters with respect to each report delivered by the Independent Consultant, save for the report to be delivered by the Independent Insurance Consultant, in customary form.

7. Fees

The Administrative Agent shall have been satisfied that the fees payable on the Effective Date in accordance with the Fee Letters have been paid prior to or on the Effective Date.

8. Amendments

Execution and delivery of the amendment to the Canadian Share Pledge.

9. Know Your Customer Information.

Each of the Borrower, the Shareholders and Lundin shall have provided of all information necessary to comply with any money laundering regulations, know your customer checks and other identification procedures as may be requested by the Administrative Agent.

Part II – Conditions Precedent to First Utilization

The obligations of the Senior Lenders hereunder are subject to the satisfaction or waiver, in form and substance satisfactory to each Senior Lender, of each of the following conditions precedent, which conditions precedent are for the sole and exclusive benefit of all Senior Lenders and may be waived in writing solely by each Senior Lender.

1. Corporate Documentation

The Administrative Agent shall have received a bring-down of the certificates delivered pursuant to Part I.2 (*Corporate Documentation*), above, and shall provide updated copies (to the extent applicable) of all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 1.1. Certified copies of the constitutional documents (including, without limitation, any unanimous shareholder agreements or declarations, as applicable) of each Obligor, attached in each case to an Officer's Certificate of each Obligor;
- 1.2. A copy of the resolutions of the board of directors and shareholders (as applicable) meeting of each Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party and authorizing a specified person or persons to execute the Transaction Documents to which it is a party on its behalf, attached in each case to the Officer's Certificate of such Obligor;
- 1.3. Specimen signatures of each person from each Obligor authorized by the resolutions to sign the Transaction Documents to which it is a party, a copy of the duly registered powers of attorney and any other notices or documents under or in connection with the Transaction Documents to which it is a party, attached in each case to the Officer's Certificate of such Obligor; and
- 1.4. A certificate of each of the Obligors (signed by an authorized representative) confirming that (i) borrowing or guaranteeing or securing, as appropriate, the total commitments would not cause any borrowing, guarantee, security or similar limit binding on such Obligor to be exceeded; (ii) each copy document relating to it specified in this section is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement; (iii) all representations and warranties are true, accurate and complete; and (iv) no event has occurred and is continuing or would result from the Finance Documents as at the date of this Agreement which constitutes an Event of Default.
- 1.5. A certificate of status, compliance, good standing or like certificate with respect to each Obligor issued by the appropriate government official in the jurisdiction of its incorporation.

2. Finance Documents and Risk Mitigation

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender), including any amendments to any such documents delivered pursuant to Part 1.3 (*Finance Documents*):

- 2.1. A copy of each Finance Document (other than any Accession Agreement and any Transfer Certificate) duly executed and delivered by each of the parties thereto, together with an Officer's Certificate of the Borrower certifying that no material amendments have been made or agreed to be made to the Material Project Documents since the Effective Date and that the Material Project Documents are in full force and effect (it being acknowledged that any revisions to the scope or term or increases in the payment provisions, shall constitute material amendments).
- 2.2. Execution and delivery of a Cost Overrun Facility, acceptable to the Senior Lenders, and evidence that such Cost Overrun Facility shall have been fully funded or backstopped by an Acceptable Letter of Credit.
- 2.3. Execution and delivery of the ECA Guarantee and the Claims Cooperation Agreement duly executed and delivered by each of the parties thereto.
- 2.4. Evidence that the Onshore Collateral Agent has acceded to or acknowledged the terms of the Amended and Restated Collateral Agency, Accounts and Security Agreement and the Intercreditor Agreement.

3. Security

- 3.1.** Each of the Obligors shall have signed all documents, given all notices and taken all actions requested by the Collateral Agents (including, for the avoidance of doubt, personal property lien searches on each of the Obligors) to enable the security granted or to be granted by the Security Documents to be perfected, including to facilitate:
- 3.1.1.** all filings, stampings, registrations, recordings, government authorizations, notifications and other actions (or documents to effect such actions) in all relevant jurisdictions necessary or, in the opinion of legal advisors to the Administrative Agent, advisable or desirable, in order to preserve, protect or create in favor of the Finance Parties valid perfected security interests over all of the assets purported to be covered by each Security Document; and
 - 3.1.2.** the giving of notices of pledge, assignment or charge, as applicable in relation to the security created under the Security Documents to each of the parties to the contractual arrangements and accounts which are the subject of the Security Documents.
- 3.2.** Evidence that no prior notice of any security interest has been received by any of the parties to the contractual arrangements and accounts which are the subject of the Security Documents, and that amounts payable in relation to such contractual arrangements shall be paid without set-off or counterclaim.
- 3.3.** Evidence that no liens or encumbrances are registered against the Obligors (other than Permitted Encumbrances).
- 3.4.** Evidence that a personal property registration has been made against the Borrower on behalf of the Offshore Collateral Agent with respect to the General Security Agreement.
- 3.5.** Evidence that the Ecuadorian Security Document Amendments have been duly executed.

4. Project Documents

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 4.1.** A certified copy of each Additional Material Project Document (and any performance bond, guarantees or other credit support entered into with respect to each) entered into since the Effective Date, duly executed and delivered by the parties to such document and any amendments to any Material Project Documents executed since the Effective Date.
- 4.2.** Evidence that the Project Documents are unconditional and in full force and effect.
- 4.3.** Evidence of payment of all preservation patents payable in respect of the Concessions and Related Concessions and the final advanced royalty payment in connection with the Exploitation Agreement.
- 4.4.** Evidence of renewal of the Environmental Bonds.
- 4.5.** Delivery of the final report detailing the Project logistics and establishing route to market (including with respect to helicopter, road, and port arrangements), which is also in form and substance satisfactory to the Independent Technical Consultant.

5. Environmental and Social CPs.

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 5.1. Copy of the Mountain Pass Quarry EIA duly approved by the Municipality and the Environmental License in relation thereto, certified by an authorized officer of the Borrower.
- 5.2. A copy of the IFC ESIA and the ESMPs translated into English (save for the appendices attached thereto), which are not materially different from the drafts reviewed by the Independent Environmental and Social Consultant prior to delivery of its certificate as set out in Section 5.3 of Part I at or prior to the Effective Date.
- 5.3. Evidence that the ESMS has been updated and implemented to reflect the requirements of the IFC ESIA (including with respect to the ESMPs).

6. Insurances

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 6.1. Evidence satisfactory to the Independent Insurance Consultant that the Borrower has in full force and effect the Insurances pursuant to Schedule O (*Insurance Policies*) to the Common Terms Agreement.
- 6.2. Insurance broker's letter of undertaking in relation to the relevant Insurances.
- 6.3. Evidence satisfactory to the Independent Insurance Consultant that each relevant policy of insurance taken out has attached to it an endorsement in a form satisfactory to the Independent Insurance Consultant.
- 6.4. Evidence of renewal of the Environmental Bonds.

7. Reports

The Administrative Agent shall have received a bring-down of the following reports (in each case in form and substance satisfactory to each Senior Lender), prepared for the benefit of, and addressed to, the Senior Lenders at closing:

- 7.1. A bring-down of legal due diligence reports from Ecuadorian, Canadian and New York counsel to the Senior Lenders.
- 7.2. A bring-down of a technical due diligence report from the Independent Technical Consultant.
- 7.3. (i) A copy of the insurance report from the Independent Insurance Consultant or (ii) a bring-down of an insurance report from the Independent Insurance Consultant provided that the insurance report was delivered more than thirty (30) days prior to the first utilization.
- 7.4. A bring-down of the environmental report from the Independent Environmental and Social Consultant.
- 7.5. A bring-down of the marketing report from the Sponsor.

- 7.6. A bring-down of the financial model review report from the Independent Model Auditor.
- 7.7. Reliance letters with respect to each report or bring-down report, as applicable, delivered by the Independent Consultant in customary form.

8. Legal Opinions

The Administrative Agent shall have received a bring-down of the following legal opinions (in each case in form and substance satisfactory to the Finance Parties), prepared for the benefit of, and addressed to, the Finance Parties at closing:

- 8.1. A bring-down legal opinion of Norton Rose Fulbright Canada LLP, legal advisors in Ontario, British Columbia and New York, to the Borrower.
- 8.2. A bring-down legal opinion of Lexim Abogados, legal advisors in Ecuador to the Borrower (including to confirm current status of land rights and existing mortgages thereon).
- 8.3. A bring-down legal opinion of Milbank, Tweed, Hadley & McCloy LLP, New York counsel to the Senior Lenders.
- 8.4. A bring-down legal opinion of Flor & Hurtado Abogados, Ecuadorian counsel to the Senior Lenders.
- 8.5. A bring-down legal opinion of Hannes Snellman Attorneys Ltd, Finnish counsel to the Senior Lenders.

9. Base Case Financial Model, Mine Plan, Model Audit Report and Budgets

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 9.1. An electronic copy of an updated Base Case Financial Model, delivered no more than ninety (90) days and no less than thirty (30) days prior to the first Utilization, each certified by an authorized signatory of the Borrower as being a true and accurate copy of the original thereof, which demonstrates that from June 30, 2021, on each Calculation Date until the Final Maturity Date:
 - 9.1.1. Loan Life Cover Ratio for the Senior Facilities to be greater than 1.50:1;
 - 9.1.2. Project Life Cover Ratio for the Senior Facilities to be greater than 2:1;
 - 9.1.3. Reserve Tail Ratio for the Senior Facilities to be greater than 30%;
 - 9.1.4. Projected Debt Service Cover Ratio to be greater than 1.25:1 for the twelve-month period immediately following the date of the Utilization; and
 - 9.1.5. that no Cost-to-Complete Shortfall exists, provided that solely for purposes of this Section 9.1.5, "Available Resources" shall not include available commitments in respect of the Cost Overrun Facility for purposes of calculating whether any such Cost-to-Complete Shortfall exists unless the Technical Agent (acting reasonably and in consultation with the Independent Technical Consultant) with the consent of Senior Lenders, acting reasonably, has provided written confirmation that (i) the Projected Project Costs estimate used in connection with determining whether any such Cost-to-Complete Shortfall exists is reasonable and (ii) the Cost Overrun Facility, net of any existing and unfunded cost overrun, is sufficient

to cover any further cost overruns in an amount equal to not less than REDACTED [percentage redacted]% of the commitments available under the Senior Facilities.

- 9.2. A report and audit of the Base Case Financial Model from the Independent Model Auditor dated as of the date of the first Utilization.
- 9.3. The Construction Budget, Plan and Schedule, which shall be consistent with the General Work and Investment Plan and shall be delivered no more than ninety (90) days and no less than thirty (30) days prior to the first Utilization.
- 9.4. Confirmation from the Finance Parties that the most recently delivered Mine Plan is in form and substance satisfactory to them, acting on the advice of the Independent Technical Consultant.
- 9.5. Confirmation from the Borrower that no material Construction Costs have been incurred to date in relation to the Project which are not included in the Base Case Financial Model.
- 9.6. The Cost Overrun Facility is undrawn and will remain undrawn as of the date of the first disbursement.

10. Property and Environment

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender and the ECA Guarantor): A certificate from an authorized officer of the Borrower certifying that the actions outlined in the ESAP have been accomplished in all material respects;

11. Project Accounts

The Administrative Agent shall have received evidence that the Project Accounts have been opened with the applicable Account Banks.

12. Equity Contributions

- 12.1. The Administrative Agent shall have been satisfied that the minimum equity contribution has been funded in accordance with the Base Case Model delivered in accordance with Section 9.1 of this Schedule B and any updates to the Base Case Model delivered in accordance with Section 9.6 of the Common Terms Agreement plus the difference between (x) the aggregate amount of the Facilities as of the Effective Date and (y) \$350,000,000 and that such equity contributions have been deposited into the Project Accounts.
- 12.2. The Administrative Agent shall have been satisfied that \$150,000,000 has been funded into the Project Accounts under and pursuant to the Gold Prepay Credit Agreement.
- 12.3. The Administrative Agent is satisfied that \$150,000,000 has been funded into the Project Accounts under and pursuant to the Stream Credit Facility Agreement.

13. Initial Financial Statements

The Administrative Agent shall have received all of the following (in each case in form and substance satisfactory to each Senior Lender):

- 13.1. Certified copies of the most recently delivered financial statements (delivered pursuant to Sections 9.7(b) and Section 9.8(a) of the Common Terms Agreement) together with all

subsequently available audited and unaudited financial statements of the Borrower, the Shareholders and Lundin.

- 13.2.** A certificate signed by an authorized signatory of each applicable Obligor that there has been no Material Adverse Effect since the preparation of its most recently delivered financial statements (delivered pursuant to Section 9.7(b) and Section 9.8(a) of the Common Terms Agreement).

14. General

- 14.1.** The Administrative Agent shall have been satisfied that the fees payable in accordance with the Fee Letters and the Finance Documents and all costs and expenses due at that time have been paid, or arrangements, satisfactory to the Senior Lenders, shall be in place to pay such amounts and fees simultaneously with the first Utilization as evidenced in the funds flow delivered pursuant to an irrevocable payment instruction.
- 14.2.** The Administrative Agent shall have received a certified copy of Corporate Organization Chart set out in Schedule K to the Common Terms Agreement attached to the Officer's Certificate of the Borrower.
- 14.3.** The Borrower shall have appointed, or arranged for appointment of an agent for service of process in New York and Canada (as applicable).
- 14.4.** A duly executed funds flow memorandum together with an irrevocable payment instruction.
- 14.5.** The Conditions Precedent to Effective Date contained in Part I of this Schedule B shall have been satisfied or waived.

15. CSR

The Borrower shall have provided a copy of the Compliance Programs and the HSEC Policy to the Administrative Agent.

16. Senior Loan Agreements

- 16.1.** All conditions precedent under each Facility Agreement shall have been fulfilled to the satisfaction of the applicable Facility Agent, or waived.
- 16.2.** The Borrower shall have delivered a Note for the account of each Senior Lender duly executed and delivered by the Borrower as issuer, and endorsed by each Completion Guarantor (*por aval*), dated on or before the Financial Closing Date.

17. Prepay/Stream Credit Document.

The Borrower shall have delivered Certified Copies of each Prepay/Stream Credit Document to the Administrative Agent and attached to the Officer's Certificate of the Borrower, which such Prepay/Stream Credit Document shall be in full force and effect.

Part III – Conditions Precedent for all Utilizations**1. No Default**

An Officer's Certificate of the Borrower confirming that no Default or Event of Default shall have occurred and be continuing or would result from the making of the proposed Loan under any Transaction Document or Prepay/Stream Credit Document.

2. Representations

An Officer's Certificate of the Borrower shall have been delivered to the relevant Facility Agents confirming that the Repeating Representations to be made by each Obligor are true, accurate and complete in all respects.

3. Project Accounts Funded As Required

The balance on each Project Account complies with the requirements of the Finance Documents (including as relates to the Senior DSR Required Balance).

4. No Change of Control

No Change of Control shall have occurred.

5. Purpose

An Officer's Certificate of the Borrower confirming that the proposed loan will be used for the purpose specified in "Use of Proceeds".

6. Costs Certificate

The Borrower shall have delivered a Utilization Request and the relevant Costs Certificate to the relevant Facility Agent and the Technical Agent.

7. Cost-to-Complete

- 7.1.** The Borrower shall have delivered a Cost-to-Complete Certificate to the relevant Facility Agents with the relevant Utilization Request, certifying (A) that no Cost-to-Complete Shortfall exists, has occurred, or is likely to occur, and (B) that Project Completion is expected to occur by the Projected Completion Date, which Cost-to-Complete Certificate shall set out all relevant calculations in a sufficient level of detail in order for the Independent Technical Consultant and the Technical Agent to verify such confirmation and shall be countersigned by the Independent Technical Consultant confirming that no Cost-to-Complete Shortfall exists. Such Cost-to-Complete Certificate shall be reviewed by the Independent Technical Consultant and shall be deemed approved within fourteen (14) days after such Cost-to-Complete Certificate has been delivered to the Independent Technical Consultant unless the Independent Technical Consultant notifies the Borrower that it has not approved such Cost-to-Complete Certificate.
- 7.2.** All Cost Overruns shall have been paid, or amounts have been draw under the Cost Overrun Facility and transferred to the Proceeds Account for the purposes of making payment of any Cost Overruns.

8. Senior Loan Agreements

- 8.1. No Senior Lender shall have suspended its obligations to make Loans under its Facility Agreement.
- 8.2. The Administrative Agent shall have received a Note for the account of each Senior Lender duly executed and delivered by the Borrower as issuer, and endorsed by each Completion Guarantor (*por aval*), dated on or before the Utilization Date.

9. No MAE

The relevant Facility Agent shall have received an Officer's Certificate of the Borrower confirming that no notice of a Material Adverse Effect has been delivered.

10. Cessation of Work

The relevant Facility Agent shall have received an Officer's Certificate of the Borrower confirming that no notice of suspension or abandonment has been delivered.

11. Completion Agreement

No Risk Event has occurred and is continuing and no Political Exclusion shall be in effect, in each case in accordance with the terms of the Completion Agreement.

**SCHEDULE C
COMPLIANCE CERTIFICATE**

To: The Bank of Nova Scotia as Administrative Agent

Attention:

Email:

From: Aurelian Ecuador S.A., as Borrower

Date: [] ¹

Re: Common Terms Agreement, dated as of July 6, 2018, by and among Aurelian Ecuador S.A., as Borrower, The Bank of Nova Scotia, as Administrative Agent, and the senior lenders party thereto from time to time (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Common Terms Agreement**”).

The undersigned hereby certifies as of the date hereof that he/she is the [_____] of the Borrower, and that, as such, he/she is authorized to execute and deliver this Compliance Certificate to the Administrative Agent on the behalf of the Borrower, and hereby further certifies without personal liability on behalf of the Borrower, as follows:

1. This Compliance Certificate is furnished pursuant to the Common Terms Agreement. Unless otherwise defined in this Compliance Certificate, terms defined in the Common Terms Agreement are used in this Compliance Certificate with the same meanings given to them in the Common Terms Agreement, and the rules of construction of the Common Terms Agreement apply to this Compliance Certificate.
2. The undersigned has read and is familiar with the Common Terms Agreement including, in particular, the definitions of the various financial terms used in the Common Terms Agreement, the covenants and Events of Default contained in the Common Terms Agreement.
3. The undersigned has made, or has caused to be made under his/her supervision, such examinations or investigations as are, in the undersigned’s opinion, necessary to furnish this Compliance Certificate, and the undersigned has furnished this Compliance Certificate with the intent that it may be relied upon by the Senior Lenders as a basis for determining compliance by the Borrower with the covenants and obligations under the Common Terms Agreement as of the date of this Compliance Certificate.
4. [This Compliance Certificate is delivered for the Fiscal Quarter ended [___] and attached hereto as Schedule I are (a) the quarterly unaudited financial statements for such Fiscal Quarter of each Obligor (other than Lundin), and such financial statements have been prepared in accordance with IFRS applied on a consistent basis throughout and present fairly, in all material respects, the financial condition of such Obligor (other than Lundin) as at the date specified therein and for the period then ended and (b) Lundin’s quarterly unaudited consolidated financial statements for such Fiscal Quarter, and such financial statements have been prepared in accordance with IFRS applied on a consistent basis throughout and comply or will comply, as of their date of filing, with the applicable published rules and regulations of any stock exchange on which Lundin’s securities are listed and Securities Laws, and such financial statements present fairly, in all

¹ To be delivered (a) within 45 days after the end of each Fiscal Quarter and (b) within 90 days after the end of each Fiscal Year, in each case, until the Final Maturity Date.

material respects, the financial condition of Lundin and its Subsidiaries, on a consolidated basis, as at the date specified therein and for the period then ended.]²

5. [This Compliance Certificate is delivered for the Fiscal Year ended [____] and attached hereto as Schedule I are (a) the audited annual financial statements for such Fiscal Year of each Obligor (other than Lundin), and such financial statements have been prepared in accordance with IFRS applied on a consistent basis throughout and present fairly, in all material respects, the financial condition of such Obligor (other than Lundin) as at the date specified therein and for the period then ended and (b) Lundin's audited annual consolidated financial statements for such Fiscal Year, and such financial statements have been prepared in accordance with IFRS applied on a consistent basis throughout and comply or will comply, as of their date of filing, with the applicable published rules and regulations of any stock exchange on which Lundin's securities are listed and Securities Laws, and such financial statements present fairly, in all material respects, the financial condition of Lundin and its Subsidiaries, on a consolidated basis, as at the date specified therein and for the period then ended.]³
6. The Borrower does not intend to correct or restate, nor, to the knowledge of the Borrower, is there any basis for any correction or restatement of, any aspect of the financial statements delivered in connection with this Compliance Certificate, except in the case of the Financial Statements of Ecoaurelian Agrícola S.A. insofar as they contain a qualification relating to the valuation of certain real estate assets and the depreciation thereon, of which the Senior Lenders have been made aware.
7. [Attached hereto as Schedule II is an updated version of [*List of Updated Schedules to the Gold Prepay Credit Agreement*] reflecting any changes to such Schedules from the versions appended to the Common Terms Agreement.]⁴
8. The Borrower, since [____]⁵, has duly observed and performed all of its covenants and other agreements and has satisfied every condition contained in the Finance Documents to be observed, performed or satisfied by it.
9. No Default or Event of Default has occurred and is continuing on the date of this Compliance Certificate [except as set forth below].

[Signature page follows]

² Insert for Compliance Certificate delivered in each Fiscal Quarter.

³ Insert only for a Compliance Certificate delivered in each Fiscal Year.

⁴ Insert only to the extent applicable.

⁵ Insert date of Common Terms Agreement or the date of delivery of the last Compliance Certificate, whichever is more recent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of _____,
_____.

AURELIAN ECUADOR S.A.

By: _____
Name:
Title:

Schedule I to Compliance Certificate
Financial Statements

Schedule II to Compliance Certificate

List of Updated Schedules to the Gold Prepay Credit Agreement

SCHEDULE D
FORM OF COST-TO-COMPLETE CERTIFICATE

REDACTED *[form of certificate redacted]*

**SCHEDULE E
FORM OF COSTS CERTIFICATE**

REDACTED *[form of certificate redacted]*

SCHEDULE F
MATERIAL PROJECT AUTHORIZATIONS

REDACTED *[details of project authorizations redacted]*

**SCHEDULE G
MATERIAL PROJECT DOCUMENTS**

REDACTED *[list of Material Project Documents redacted]*

**SCHEDULE H
FORM OF NOTE**

PAGARÉ A LA ORDEN A CIERTO PLAZO DE VISTA CON VENCIMIENTOS SUCESIVOS

Por: USD []

Aurelian Ecuador S.A. (el “Deudor”), debo y pagaré incondicionalmente, a la orden de [] (el “Acreedor”), en esta ciudad, o en el lugar que se me reconvenga, la cantidad de [insertar cantidad en letras] dólares de los Estados Unidos de América (US\$ [insertar monto en números]), valor que he recibido del Acreedor en efectivo a mi entera satisfacción.

El Deudor promete incondicionalmente pagar intereses ordinarios sobre el capital insoluto de este Pagaré, durante el Periodo de Intereses correspondiente (como dicho término se define más adelante) a una tasa de interés nominal anual igual a la Tasa de Interés (según dicho término se define más adelante), pagaderos en la Fecha de Pago de Intereses (como dicho término se define más adelante). Los intereses serán pagaderos al vencimiento de cada Fecha de Pago de Intereses. Los intereses se calcularán sobre un año de trescientos sesenta días y se pagarán sobre el número real de días transcurridos.

“**Período de Interés**” significa cada período de tres (3) meses que comience en una Fecha de Pago de Intereses y finalice el día inmediatamente anterior a la subsiguiente Fecha de Pago de Intereses, estipulándose que el primer (1º) Período de Interés aplicable a cada desembolso ha de comenzar en la fecha de dicho desembolso y finalizará el día inmediatamente anterior a la siguiente Fecha de Pago de Intereses.

“**Fecha de Pago de Intereses**” es el 31 de marzo, el 30 de junio, el 30 de septiembre y el 31 de diciembre de cada año, comenzando en el primer vencimiento de capital y terminando en último vencimiento de capital.

“**Tasa de Interés del Préstamo**” significa Entendiéndose por Tasa LIBOR, con respecto de cualquier período arriba especificado, las tasas interbancarias ofertadas del ICE Benchmark Administration Limited (o la entidad que administre las tasas) en el día de determinación de la tasa de interés que aparecen en la página respectiva de LIBOR01 o LIBOR 02 de Thomson Reuters (la “Tasa de Pantalla”) (o cualquier reemplazo de la página de Thomson Reuters que muestre la Tasa de Pantalla), o en las páginas correspondientes de cualquier otro servicio elegido por el Acreedor que muestre dicha Tasa de Pantalla en reemplazo de Thomson Reuters, teniendo en cuenta que dicha tasa nunca será menor que cero.

Si dicha página o servicio deja de estar disponible, el Acreedor podrá, luego de consultar con el Deudor, especificar cualquier otra página o servicio que muestre la Tasa de Pantalla. De no está disponible ninguna Tasa de Pantalla para LIBOR, la Tasa de Pantalla LIBOR aplicable será la Tasa de Pantalla interpolada por un período igual al período de intereses de este pagaré a la orden (“Tasa de Pantalla Interpolada”). Si no hay disponible una Tasa de Pantalla para LIBOR en (a) dólares, o (b) para el período de intereses de este pagaré a la orden; y, no es posible calcular la Tasa de Pantalla Interpolada, la Tasa LIBOR aplicable será la tasa de un banco de referencia a las 11:00 a.m. (hora de Nueva York) del día de determinación de intereses, y por un período igual al período de intereses de este pagaré a la orden. Si no hay una Tasa de Pantalla de un banco de referencia disponible para el período de interés respectivo, no se aplicará la Tasa LIBOR y el mecanismo de Costo de Fondos será aplicado a ese período de interés. Costo de Fondos significa una tarifa porcentual anual que es la suma del Margen Aplicable, más, el promedio ponderado de las tasas que disponga el Acreedor, tan pronto como sea posible y, en cualquier caso, al final del día de la fecha que venza el plazo de quince (15) días hábiles posteriores al día de cotización (o, antes, en la fecha que sea dos (2) días hábiles previos a la

fecha en que el interés sea pagado con respecto a ese período de intereses), expresada como una tasa porcentual anual decosto de financiación para Acreedor que financia el préstamo.

Entendiéndose por Margen Aplicable al REDACTED [*interest rate redacted*] por anual] / desde la fecha de terminación del Proyecto [REDACTED [*interest rate redacted*] anual hasta el segundo aniversario de la fecha de terminación del Proyecto] / [REDACTED [*interest rate redacted*] anual, incluyendo desde el segundo aniversario de la terminación del Proyecto hasta hasta el cuarto año] [REDACTED [*interest rate redacted*] anual hasta la fecha de vencimiento]⁶

Pagaré la totalidad del monto adeudado de capital, sin deducción ni retención alguna, de acuerdo con la siguiente tabla de vencimientos y pagos:

Cuota	Vencimiento	Valor en USD
1.	a ___ días vista	[]
2.	a ___ días vista	[]
3.	a ___ días vista	[]
4.	a ___ días vista	[]
5.	a ___ días vista	[]
6.	a ___ días vista	[]
7.	a ___ días vista	[]
8.	a ___ días vista	[]
9.	a ___ días vista	[]
10.	a ___ días vista	[]
11.	a ___ días vista	[]
12.	a ___ días vista	[]
13.	a ___ días vista	[]
14.	a ___ días vista	[]
15.	a ___ días vista	[]
16.	a ___ días vista	[]
17.	a ___ días vista	[]
18.	a ___ días vista	[]
19.	a ___ días vista	[]

En caso que cualquier pago conforme a este Pagaré venza en un día que no sea un Día Hábil, la fecha de vencimiento será el Día Hábil inmediato posterior.

“**Día Hábil**” significa cualquier día que no sea sábado, domingo, cualquier otro día que sea un feriado gubernamental en la Ciudad de Nueva York; en Quito, Ecuador; Toronto, Canadá; Ontario, Canadá; Hamilton, Bermuda; Londres, Inglaterra; o cualquier otro día en el cual los bancos comerciales se encuentren autorizados u obligados por ley a permanecer cerrados en dichas ciudades.

Si no pagare una o más de las referidas cuotas de capital o sus intereses, el Acreedor podrá declarar de pleno derecho, sin necesidad de interpelación judicial o extrajudicial alguna y sin más trámite, a todas las cuotas de plazo vencido y exigirme, aun judicialmente, el pago de la totalidad del monto debido, con los intereses estipulados.

Además, me comprometo a pagar el valor total de este pagaré con intereses, sin retención y libres de todo impuesto o de cualquier otra deducción para el Acreedor. En caso de ser requeridas legalmente retenciones de impuestos o de cualquier otro concepto, las asumiré íntegramente el Deudor, debiendo

⁶ Please note that when issuing the note only the percentage values must be included, the sentences after those values serve only as filling instructions. The Promissory Note is a stand-alone document and therefore it should not have a reference to other ancillary documents/transactions.

siempre el legítimo tenedor de este pagaré recibir el monto íntegro de capital e intereses en Dólares de los Estados Unidos de América.

Desde la fecha de vencimiento hasta la fecha de pago efectivo de la obligación, en caso de mora, pagaré intereses a una tasa de un REDACTED [*interest rate redacted*] adicional a la Tasa de Interés del Préstamo, o la máxima tasa de mora aplicable que permita la ley, calculada diariamente sobre el número de días efectivamente transcurridos en un año de trescientos sesenta días, computada desde la fecha del vencimiento y mientras dicho monto se mantenga pendiente de pago, cantidad que será compuesta en cada Fecha de Pago de Intereses. Pagaré además los gastos, costas y honorarios que se causen por retardo o incumplimiento de las obligaciones que adquiero por razón de este documento, bastando para acreditar la cuantía de estos valores, la sola afirmación del legítimo tenedor de este Pagaré.

Sin protesto; exímase de la presentación para el pago, así como de los avisos por falta de este hecho.

Quito, ([●]) de ([●]) de 2017
Por Aurelian Ecuador S.A.
RUC N° 1791840712001

Nombre: Ronald Francis Hochstein
Cargo: Presidente Ejecutivo

Visto bueno: En esta fecha, expreso mi visto bueno, y acepto el pagaré en los términos y condiciones estipulados en el presente documento.

Quito, ([●]) de mayo de 2017
Por Aurelian Ecuador S.A.
RUC N°: 1791840712001

Nombre: Ronald Francis Hochstein
Cargo: Presidente Ejecutivo

POR AVAL, nosotros nos constituimos en garantes solidarios en cumplimiento de las obligaciones constantes en el pagaré que antecede, en los mismos términos allí consignados. Quedamos sometidos a los jueces de Quito. Sin protesto. Exímase de la presentación para el pago, así como de avisos por falta de pago.

(lugar y fecha)

Ecoaurelian Agrícola S.A.

Aurelianecuador Holding S.A.

Lundin Gold, Inc.

Aurelian Resources Inc.

Aurelian Resources Corporation Ltd.

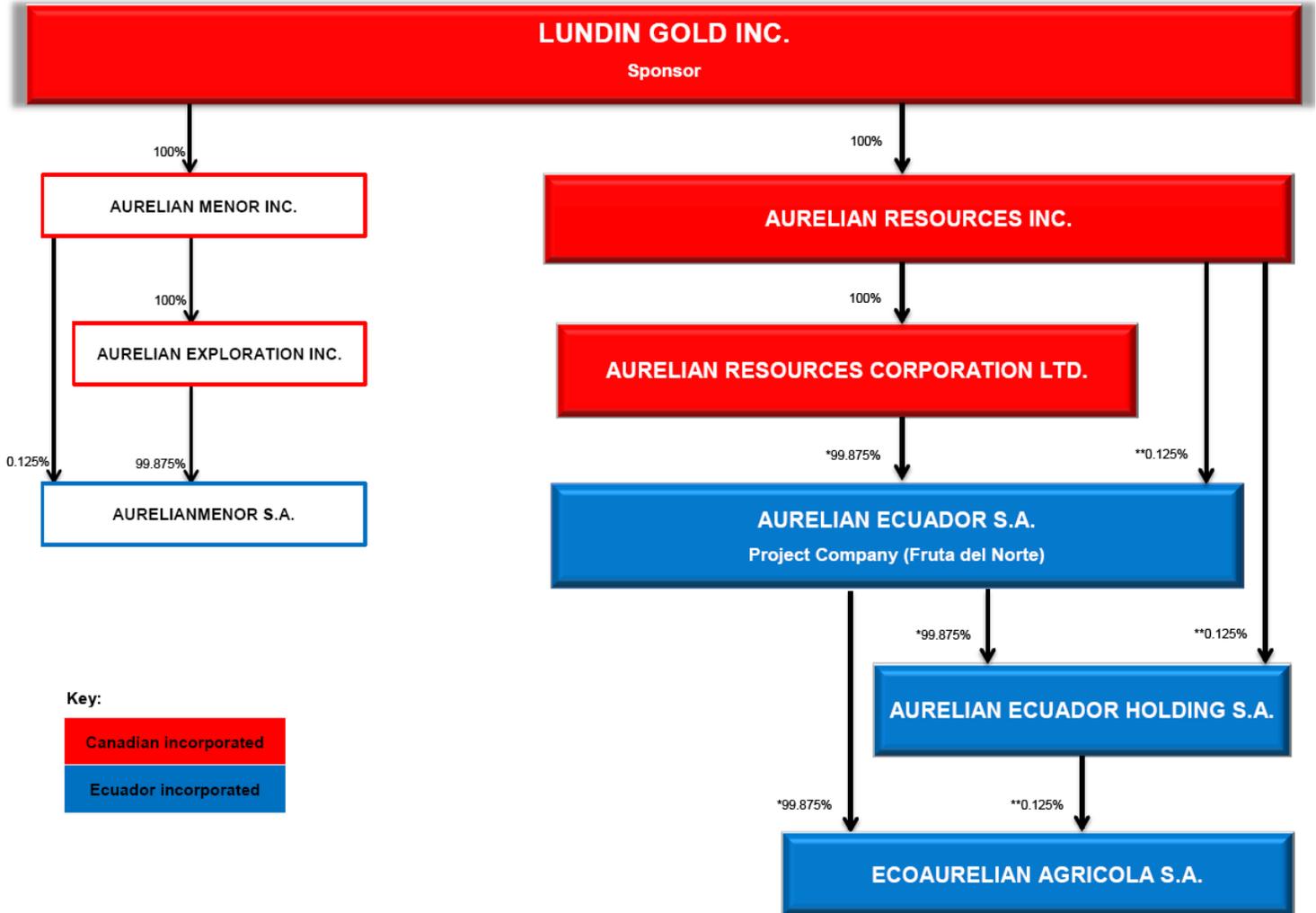
**SCHEDULE I
PROJECT REAL PROPERTY**

REDACTED [*Details of Project Real Property redacted*]

**SCHEDULE J
OTHER REAL PROPERTY**

REDACTED *[Details of Other Real Property redacted]*

**SCHEDULE K
PART A - CORPORATE ORGANIZATION CHART**



* Currently held in trust by Fideicomiso Local FDN 1
 ** Currently held in trust by Fideicomiso Local FDN 2

PART B - CORPORATE STRUCTURE SUBSIDIARIES

Entity	Registered Ownership*	Ownership prior to grant of security	Class of Share	Number of Shares
Aurelian Resources Inc.	Lundin Gold Inc.	Lundin Gold Inc.	Common	2,947,103,416
Aurelian Resources Corporation Ltd.	Aurelian Resources Inc.	Aurelian Resources Inc.	Common	117,853
Aurelian Ecuador S.A.	Fideicomiso Local FDN 2	Aurelian Resources Inc.	Ordinary	1
	Fideicomiso Local FDN 1	Aurelian Resources Corporation Ltd.	Ordinary	50,049,638
Subsidiaries				
AurelianEcuador Holding S.A.	Fideicomiso Local FDN 2	Aurelian Resources Inc.	Ordinary	1
	Fideicomiso Local FDN 1	Aurelian Ecuador S.A.	Ordinary	799
Ecoaurelian Agrícola S.A.	Fideicomiso Local FDN 2	AurelianEcuador Holding S.A.	Ordinary	1
	Fideicomiso Local FDN 1	Aurelian Ecuador S.A.	Ordinary	799

* the interest is held by way of a security trust

**SCHEDULE L
BANK ACCOUNTS**

(as of June 28, 2018)

Jurisdiction of Account	Account Number	Type of Account
Canada	[REDACTED] [<i>Account number redacted</i>]	Canadian Dollar
Canada	[REDACTED] [<i>Account number redacted</i>]	U.S. Dollar
Ecuador	[REDACTED] [<i>Account number redacted</i>]	Operating (U.S. Dollar)
	[REDACTED] [<i>Account number redacted</i>]	Payroll (U.S. Dollar)

After the Financial Closing Date and following the delivery of a notice from the Borrower to the Administrative Agent, which notice will include (i) the proposed amendment to this Schedule and (ii) the account's jurisdiction, number and type, the Borrower will establish a U.S. Dollar denominated deposit account for the purpose of making Restricted Payments.

**SCHEDULE M
COMMUNITY MATTERS**

REDACTED *[List of agreements redacted]*

**SCHEDULE N
RELATED-PARTY TRANSACTIONS**

Reference is made to Note 10 of the Financial Statements of Lundin Gold Inc. for the financial year ended March 3, 2018.

**SCHEDULE O
INSURANCE POLICIES**

REDACTED *[Details relating to insurance policies redacted]*

**SCHEDULE P
FORM OF TRANSFER CERTIFICATE**

(Delivered pursuant to Section 12.1(c) (*Assignment by Senior Lenders*) of the
Common Terms Agreement)

Date of this Transfer Certificate: _____, _____

For Transfer Date: _____, _____

The Bank of Nova Scotia,
as Administrative Agent

Aurelian Ecuador S.A.
Av. Amazonas N37-29 y UNP, Edif. Eurocenter Piso 5
Quito, Pichincha, Ecuador
Attention: REDACTED [*Contact person redacted*]

Ladies and Gentlemen:

Fruta del Norte Gold Project – Common Terms Agreement dated [•] (the Common Terms Agreement)

1. [Transferee Lender] (the “Transferee”) delivers this Transfer Certificate to you pursuant to that certain Common Terms Agreement, dated as of July 6, 2018 (the “Common Terms Agreement”), by and among the Borrower, the Mandated Lead Arrangers, the Bookrunners, the Administrative Agent, the Intercreditor Agent, the Facility Agents, the [Existing Lender] (the “**Lender**”) and the other parties and financial institutions party thereto from time to time (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Common Terms Agreement**”). Capitalized terms used but not defined herein shall have the respective meanings ascribed thereto in, or incorporated by reference in, the Common Terms Agreement.

2. The Lender confirms that the Lender’s participation set forth on the Schedule hereto is an accurate summary of its participation in the Facility and the Commitments and requests the Transferee to accept and procure the transfer to the Transferee of the Percentage Transferred of the Lender’s participation specified in the Schedule hereto by counter-signing and delivering this Transfer Certificate to the Administrative Agent, the applicable Facility Agent and the Borrower at their respective addresses for the service of notices specified in the Common Terms Agreement or as otherwise notified by them pursuant to the terms thereof.

3. The [Transferee] hereby requests, subject to Section 12.1 of the Common Terms Agreement, the Administrative Agent, the applicable Facility Agent and the Borrower to accept this Transfer Certificate as being delivered to the Administrative Agent, the applicable Facility Agent and the Borrower pursuant to and for the purposes of Section 12.1 of the Common Terms Agreement so as to take effect in accordance with the terms thereof on the Transfer Date stated above or on such later date as may be determined in accordance with the terms thereof.

4. The Transferee confirms that it has received a copy of each of the Finance Documents together with such other information as it has required in connection with this transaction and that it has not relied and will not hereafter rely on the Lender to check or inquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information and further agrees that it has not relied and will not rely on the Lender to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of the Borrower or any other party to any of the Transaction Documents.

5. The Lender makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy, accuracy or enforceability of any of the Transaction

Documents or any document relating thereto and assumes no responsibility for the financial condition of any party thereto or for the performance and observance by such party of any of its obligations under any of the Transaction Documents or any document relating thereto and any and all such conditions and warranties, whether express or implied by law or otherwise, are hereby excluded.

6. The Lender hereby gives notice that nothing herein or in the Finance Documents (or any document relating thereto) shall oblige it to (i) accept a re-transfer from the Transferee of the whole or any part of its rights, benefits and/or obligations under the Common Terms Agreement transferred pursuant hereto or (ii) support any losses directly or indirectly sustained or incurred by the Transferee for any reason whatsoever including, without limitation, the non-performance by the Borrower, any Applicable Sponsor or any other party to any of the Transaction Documents (or any document relating thereto) of its obligations under any such document. The Transferee hereby acknowledges the absence of any such obligation as is referred to in clause (i) or (ii) above.

7. This Transfer Certificate shall be governed by the law of the State of New York of the United States of America and shall for all purposes be governed by and construed in accordance with the law of such state; provided, however, that to the extent any terms of this Transfer Certificate are incorporated in and made part of any other Finance Documents, any such term so incorporated shall for all purposes of such Finance Documents be governed by and construed in accordance with the law governing the Finance Documents into which such term is so incorporated.

8. The Transferee confirms that it has received a copy of the Senior Lender Voting Letter, dated as of the date of the Common Terms Agreement, and agrees to be bound by and comply with its terms in all respects.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned have executed this Transfer Certificate as of the respective dates set forth below.

THE BANK OF NOVA SCOTIA,
as Administrative Agent

By _____
Name:
Title:
Date:

[]⁷

By _____
Name:
Title:
Date:

[Existing Lender]

By _____
Name:
Title:
Date:

[Transferee Lender]

By _____
Name:
Title:
Date:

⁷ Insert applicable Facility Agent.

SCHEDULE

1. [Lender]:
2. Transferee:
3. Transfer Date:
4. Lender's Participation:
Lender's portion of the outstanding
Commitment:
5. Percentage Transferred:
6. Administrative Details of Transferee:
Address:
Contact Department and Name:
Account for Payments:
Facsimile:
Telephone:

**SCHEDULE Q
[RESERVED]**

**SCHEDULE R
CASH SWEEP CALCULATION CERTIFICATE**

REDACTED *[form of certificate redacted]*

SCHEDULE S
TERMS OF SUBORDINATION

1. General: Payment of the principal of and interest on Subordinated Intercompany Debt and other amounts payable on or in respect thereof shall be subordinated and subject in right of payment to the prior payment in full in cash in Dollars of all Obligations. Each Obligor that is a holder of Subordinated Intercompany Debt (each, a "Subordinated Lender") agrees that it will not ask, demand, sue for, take or receive from any other Obligor, by set off or in any other manner, or retain, payment (in whole or in part) of the Subordinated Intercompany Debt, or any security therefor, other than Restricted Payments permitted under the Collateral Agency, Accounts and Security Agreement, unless and until all of the Obligations have been paid in full. Each Subordinated Lender directs each Obligor to make, and each Obligor agrees to make, such prior payment of the Obligations. Each Obligor undertakes to satisfy any Ecuadorian law requirements that may be necessary for the effectiveness of the Subordination Terms.
2. Payment Upon Dissolution, Etc.: In the event of (a) any insolvency or bankruptcy case or proceeding in connection therewith, relative to an Obligor or to its creditors as such, or to its assets, or (b) any liquidation, dissolution or other winding up of an Obligor, whether partial or complete and whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (c) any assignment for the benefit of creditors or any other marshaling of assets and liabilities of an Obligor, then and in any such event the Secured Parties shall be entitled to receive payment in full of all amounts due or to become due on or in respect of all Obligations before any of the Subordinated Lenders shall be entitled to receive any payment on account of the Subordinated Intercompany Debt (whether in respect of principal, interest premium, fees, indemnities, commissions or otherwise) and to that end, any payment or distribution of any kind or character, whether in cash, property or securities which may be payable or deliverable in respect of the Subordinated Intercompany Debt in any such case, proceeding, dissolution, liquidation or other winding up or event shall instead be paid or delivered to the Secured Parties for application to Obligations, whether or not due, until the Obligations shall have first been fully paid and satisfied in cash in Dollars.
3. No Payment During Default: In the event and during the continuation of any Default or Event of Default, unless and until such Default or Event of Default shall have been remedied or waived, no payment (including any Restricted Payment) shall be made by any Obligor on or in respect of any Subordinated Intercompany Debt.
4. Proceeding Against Obligor; No Collateral: Whether or not any default in payment shall exist under any Finance Document, no Subordinated Lenders shall, without the prior consent of the Required Lenders, (a) commence any proceeding against any Obligor in bankruptcy, insolvency or receivership law or (b) take any collateral security for any Subordinated Intercompany Debt.
5. Payment to Secured Parties of Certain Amounts Received by Subordinated Lenders: In the event that any Subordinated Lender receives on account or in respect of the Subordinated Intercompany Debt any distribution of assets by any Obligor or payment by or on behalf of an Obligor of any kind or character, whether in cash, securities or other property, other than Restricted Payments permitted under the Collateral Agency, Accounts and Security Agreement, the Subordinated Lender shall hold in trust (as property of the Secured Parties) for the benefit of, and immediately upon receipt thereof, shall pay over or deliver to the Secured Parties, such distribution or payment in precisely the form received (except for the endorsement or assignment by such Subordinated Lender where necessary) for application in accordance with the Common Terms Agreement. In the event of failure of any Subordinated Lender to make any such endorsement or assignment, the Secured Parties irrevocably are authorized and empowered by and on behalf of each Subordinated Lender to make the same.
6. Authorizations to the Secured Parties: Each Subordinated Lender (a) irrevocably authorizes and empowers (without imposing any obligation on) the Secured Parties and the Offshore Collateral Agent to demand, sue for, collect and receive all payments and distributions on or in respect of its Subordinated Intercompany Debt which are required to be paid or delivered to the Secured Parties, as provided herein, and to file and prove all claims therefor and take all such other action, in the name of a Subordinated

Lender or otherwise, as the Secured Parties may determine to be necessary or appropriate for the enforcement of these subordination provisions, all in such manner as the Required Lenders shall instruct or otherwise in accordance with the Common Terms Agreement, (b) irrevocably authorizes and empowers (without imposing any obligation) the Secured Parties and the Offshore Collateral Agent to vote the Subordinated Intercompany Debt (including, without limitation, voting the Subordinated Intercompany Debt in favor of or in opposition to any matter which may come before any meeting of creditors of an Obligor generally or in connection with, or in anticipation of, any insolvency or bankruptcy case or proceeding, or any proceeding under any laws relating to the relief of debtors, readjustment of indebtedness, arrangements, reorganizations, compositions or extensions relative to an Obligor) in such manner as the Required Lenders shall instruct or otherwise in accordance with the Intercreditor Agreement and (c) agrees to execute and deliver to the Secured Parties all such further instruments confirming the above authorization, and all such powers of attorney, proofs of claim, assignments of claim and other instruments, and to take all such other action, as may be requested by the Secured Parties in order to enable the Secured Parties to enforce all claims upon or in respect of the Subordinated Intercompany Debt.

7. Notice: Each Subordinated Lender agrees, for the benefit of each Secured Party, that it will give each Secured Party prompt notice of any default by any Obligor in respect of the Subordinated Intercompany Debt.

8. No Waiver; Modification to Senior Debt: No failure on the part of the Secured Parties, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof by the Secured Parties, nor shall any single or partial exercise of any right, remedy or power hereunder preclude any other or future exercise by the Secured Parties of any other right, remedy or power. Each and every right, remedy and power granted to the Secured Parties, or allowed to the Secured Parties by law or other agreement shall be cumulative and not exclusive, and may be exercised by the Secured Parties from time to time.

At any time, without the consent of or notice to the Subordinated Lenders, without incurring responsibility or liability to the Subordinated Lenders and without impairing or releasing the subordination provided herein or the obligations hereunder of the Subordinated Lenders, the Secured Parties may do any one or more of the following: (a) change the manner, place or terms of payment of or extend the time of payment of, or renew or alter, Obligations or any collateral security or guarantee therefor, or otherwise amend or supplement in any manner Obligations or any instruments evidencing the same or any agreement under which Obligations are outstanding or the Finance Documents; (b) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise secured by Obligations; (c) release any Person liable in any manner for the Obligations; and (d) exercise or refrain from exercising any rights against an Obligor and any other Person. Each Subordinated Lender unconditionally waives notice of the incurring of Obligations or any part thereof.

9. Subrogation: Subject to the payment in full in cash in Dollars of all Obligations, the Subordinated Lenders shall be subrogated to the rights of the Secured Parties to receive distribution of assets of any Obligor, or payments by or on behalf of any Obligor, made on the Obligations, until the Subordinated Intercompany Debt shall be paid in full. For purposes of such subrogation, no payments over, including no payments or distributions to the Secured Parties of any cash, property or securities to which the Subordinated Lenders would be entitled except for the provisions hereof, pursuant to the provisions hereof, to the Secured Parties by the Subordinated Lenders shall, as among an Obligor, its creditors other than the Secured Parties and the Subordinated Lenders, be deemed to be a payment or distribution by an Obligor on account of the Obligations.

10. Benefit of Subordination Provisions: Nothing contained herein shall (a) impair, as among an Obligor, its creditors other than the Secured Parties and the Subordinated Lenders, the obligation of an Obligor, which is absolute and unconditional (and which, subject to the rights hereunder of the Secured Parties, is intended to rank equally with all other unsecured obligations of any Obligor), to pay the principal of and interest on the Subordinated Intercompany Debt as and when the same shall become

due and payable in accordance with the terms thereof or (b) affect the relative rights against an Obligor of the Subordinated Lender and creditors of the Obligor other than the Secured Parties.

11. Further Assurances: The Subordinated Lender, at its own cost, shall take any further action as the Secured Parties may reasonably request in order to carry out more fully the intent and purpose of these subordination provisions (including delivery of any evidence of Subordinated Intercompany Debt to the Intercreditor Agent or the Offshore Collateral Agent).

12. Governing Law: These subordination provisions shall be governed by and construed in accordance with the laws of New York.

13. Amendment: These subordination provisions may not be amended or modified without the prior consent of each of the Secured Parties.

14. Transfers: Each Subordinated Lender acknowledges and agrees that Subordinated Intercompany Debt may not be transferred, assigned or encumbered in any manner except as expressly permitted by the terms and conditions of the Finance Documents as in effect from time to time.

15. Successors and Assigns: The Agreement shall be binding and inure to the benefit of the Subordinated Lenders, the Secured Parties and their respective successors and permitted assigns.

16. Ranking: All Subordinated Intercompany Debt shall be unsecured, rank junior to the Obligations in respect of payment and pledged as security for the Obligations.

**SCHEDULE T
LIST OF MORTGAGES**

REDACTED *[list of mortgages redacted]*

**SCHEDULE U
FORM OF BORROWER ENVIRONMENTAL MONITORING REPORT**

REDACTED [*Form of report redacted*]

**SCHEDULE V
ENVIRONMENTAL AND SOCIAL ACTION PLAN**

REDACTED [*Environmental and Social Action Plan redacted*]

**SCHEDULE W
LIST OF QUALIFIED BUYERS**

REDACTED [*Names of Qualified Buyers redacted*]

**SCHEDULE X
LIST OF INDUSTRIAL PLEDGES**

REDACTED [*List of pledges redacted*]