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# Fourth Amendment and Restatement Deed

between

**Mantos Copper S.A.**

as the Seller

and

**Osisko Bermuda Limited**

as the Purchaser

relating to

a silver purchase agreement

**THIS DEED** is dated July 22, 2022 and made

**BETWEEN:**

- (1) **MANTOS COPPER S.A.**, a *sociedad anonima* incorporated in Chile whose registered office is at Panamericana Norte Km 1405 s/n, Antofagasta, Chile (the "Seller"); and
  - (2) **OSISKO BERMUDA LIMITED**, an exempted company incorporated under the laws of Bermuda whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM11, Bermuda (the "Purchaser"),
- (together the "Parties" and each a "Party").

**Background:**

- (A) The Parties entered into the Agreement (as defined below) on 11 September 2015 and amended and restated the Agreement on 09 March 2016, on 31 July 2017 and on 31 August 2019.
- (B) The Parties have agreed to amend and restate the Agreement upon the terms and to the extent set out in this Deed.

**THE PARTIES AGREE THAT:**

1. **Interpretation**

- 1.1 In this Deed, words and expressions defined in the Agreement (as defined below) shall (unless otherwise defined in this Deed) have the same meaning when used in this Deed.

1.2 **Additional Definitions**

In this Deed:

"Agreement" means the silver purchase agreement dated 11 September 2015 as amended and restated on 9 March 2016, on 31 July 2017 and on 31 August 2019, entered into between the Purchaser and the Seller.

"Effective Date" means the date of this Deed.

1.3 **Construction of certain references**

In this Deed, where the context admits:

- (A) References to clauses and schedules are to the clauses and schedules of this Deed and the schedule forms part of this Deed and shall have effect as if set out in full in this Deed.
- (B) Clause, schedule and paragraph headings shall not affect the interpretation of this Deed.
- (C) The words "including", "includes" and "included" shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words.

2. **Amendment of the Agreement**

2.1 With effect from the Effective Date the Seller and the Purchaser agree that:

- (A) the Agreement is amended and restated in the form set out in Schedule 1 (*Amended and Restated Agreement*) and shall be read and construed accordingly; and
- (B) the rights and obligations of the Seller and the Purchaser shall be governed by the Agreement as amended and restated further to this Deed.

2.2 Nothing in this Clause 2:

- (A) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Agreement before the Effective Date; or
- (B) discharges, releases or otherwise affects any liability or obligation arising under the Agreement before the Effective Date,

and any such right, power, authority, discretion, remedy, liability or obligation arising under the Agreement before the Effective Date shall remain subject to the terms of the Agreement as in force before the Effective Date.

3. **Limitation Periods**

Nothing in this Deed shall have the effect of extending any limitation period applicable to the Agreement.

4. **Costs and expenses**

Notwithstanding Section 14.13 of the Agreement, the Seller shall be liable for the Purchaser's properly incurred and evidenced costs incurred in connection with the evaluation, due diligence (including technical consulting fees and expenses), negotiation, preparation, printing, execution and implementation of this Deed.

5. **Application of Provisions of the Agreement**

Sections 6.6 (*Confidentiality*), 14.1 (*Disputes and Arbitration*), 14.2 (*Exclusion of Consequential Loss*), 14.3 (*Further Assurances*), 14.5 (*Governing Law*) and 14.7 (*Amendments*) to 14.15 (*Counterparts*) (inclusive) of the Agreement shall apply to this Deed mutatis mutandis as though references to "this Agreement" shall be references to this Deed.

6. **Notices**

Section 14.6 (*Notices*) of the Agreement (as amended by this Deed) shall apply to this Deed mutatis mutandis.

7. **Conflicts**

7.1 If there is any conflict between this Deed and Schedule 1 (*Amended and Restated Agreement*), this Deed will prevail.

7.2 Schedule 1 (*Amended and Restated Agreement*) and this Deed shall together constitute and be read as one and the same written instrument.

IN WITNESS of which this Deed has been executed and delivered by the Parties on the date first written above.

**SCHEDULE 1**  
**AMENDED AND RESTATED AGREEMENT**

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**AMENDED AND RESTATED SILVER PURCHASE AGREEMENT**

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**BETWEEN**

**OSISKO BERMUDA LIMITED**

**AS PURCHASER**

**- and -**

**MANTOS COPPER S.A.**

**AS SELLER**

DATED AS OF 11 September 2015  
and amended and restated on 09 March 2016  
and amended and restated on 31 July 2017  
and amended and restated on 31 August 2019  
and amended and restated on 22 July 2022

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**THIS SILVER PURCHASE AGREEMENT** dated as of 11 September, 2015 and amended and restated on 09 March, 2016 and amended and restated on 31 July, 2017 and amended and restated on 31 August, 2019 and amended and restated on 22 July 2022

**BETWEEN:**

(1) **OSISKO BERMUDA LIMITED**, an exempted limited company existing under the laws of Bermuda

(the "**Purchaser**")

– and –

(2) **MANTOS COPPER S.A.**, a sociedad anonima incorporated in Chile having its registered office at Panamericana Norte Km 1405 s/n, Antofagasta, Chile

(the "**Seller**")

**WITNESSES THAT:**

**WHEREAS** the Seller has agreed to sell to the Purchaser, and the Purchaser has agreed to purchase from the Seller, Refined Silver as determined in this Agreement, all subject to and in accordance with the terms and conditions of this Agreement; and

**NOW THEREFORE** in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties mutually agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Defined Terms**

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

"**AACI Offtake Agreement**" means the copper concentrate offtake agreement dated 01 April 2015 between the Seller and Anglo American Chile Inversiones S.A., as amended from time to time.

"**Additional Term**" has the meaning given to it in Section 4.1(a).

"**Affiliate**" means, in relation to any person, any other person who is, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such first mentioned person.

"**Agreement**" means this purchase agreement and all attached schedules, in each case as the same may be amended, restated, amended and restated, supplemented, modified or superseded from time to time in accordance with the terms hereof.

"**Applicable Laws**" means any international, federal, state, provincial, territorial, local or municipal law, regulation, ordinance, code, order or other requirement or rule of law or the rules,

policies, orders or regulations of any Governmental Authority or stock exchange, including any judicial or administrative interpretation thereof, applicable to a person or any of its properties, assets, business or operations.

"**Applicable Percentage**" has the meaning set out in Section 6.5(c).

"**Business Day**" means any day other than a Saturday or Sunday or a day that is a statutory holiday under the laws of any of New York City, State of New York; Santiago, Chile; or Bermuda.

"**Change of Control**" of a person (the "**Subject Person**") means the consummation of any transaction, including any consolidation, arrangement, amalgamation or merger or any issue, Transfer or acquisition of voting securities, the result of which is that any other person or group of other persons acting jointly or in concert for purposes of such transaction (1) becomes the beneficial owner, directly or indirectly, of more than 50% of the voting securities of the Subject Person or (2) otherwise acquires control, directly or indirectly, of the Subject Person.

"**Claim**" means any claim or liability of any nature whatsoever, including any demand, obligation, liability, debt, cause of action, suit, proceeding, judgment, award, assessment or reassessment.

"**Closing Date**" means 11 September 2015.

"**Collateral**" means: (a) the sulphide concentrate plant related to the Mine Project; and (b) (i) the extracted silver and silver in process from the Mine and (ii) the exploitation mining concessions listed or otherwise referred to in Schedule B, excluding physical materials or assets accessory to the mining concessions pursuant to Article 3 of the current Chilean Mining Code.

"**Commingling Plan**" has the meaning set out in Section 6.3.

"**Confidential Information**" has the meaning set out in Section 6.6(a).

"**Contaminant**" means any solid, liquid, gas, odour, heat, sound, vibration, radiation, or combination of any of them, that is reasonably expected to:

- (a) materially impair the quality of the environment for any use that can be made of it;
- (b) materially injure or damage property or plant or animal life;
- (c) materially and adversely affect the health of any individual;
- (d) materially impair the safety of any individual;
- (e) materially render any plant or animal life unfit for use by man; or
- (f) create a liability under any Environmental Law,

and includes any "**contaminant**" within the meaning assigned to such term in any Environmental Law.

"**control**" (including, with correlative meanings, the terms "**controlled by**" and "**under common control with**"), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise.

"Date of Delivery" has the meaning set out in Section 2.2(b). "Deposit" has the meaning set out in Section 3.1.

"Deposit Reduction Amount" means, in respect of a given Lot and delivery of Refined Silver, an amount equal to:

- [Redacted - commercially sensitive pricing formula omitted.] (a) from the Closing Date until and including 31 December 2017, [Redacted];
- [Redacted - commercially sensitive pricing formula omitted.] (b) (i) from and including 01 January 2018 until and including the day immediately before the Third A&R Date and (ii) from and including the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable, [Redacted]; and
- [Redacted - commercially sensitive pricing formula omitted.] (c) from and including the Third A&R Date until the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable, or until the end of the Term if the Fourth Instalment Repayment Amount is never paid, [Redacted].

expressed in US Dollars.

"Deposit Reduction Date" means the date on which the Remaining Deposit Balance is equal to zero.

"Designated Percentage of Payable Silver" means, subject to reduction further to Sections 2.1(h):

- (a) for each Lot until and including the Lot in which 19,300,000 ounces (in aggregate with all ounces of Payable Silver delivered in previous Lots during the Term) of Payable Silver have been delivered, 100%; and
- (b) for each subsequent Lot after the Lot in which 19,300,000 ounces (in aggregate with all ounces of Payable Silver delivered in previous Lots during the Term) of Payable Silver have been delivered, 40%

of the number of ounces of Payable Silver in respect of any Minerals from the Mine for which the Seller receives an Offtaker Settlement under an Offtake Agreement.

"Early Termination Amount" means, at any time, an amount equal to the Remaining Deposit Balance at such time.

"Encumbrances" means any and all mortgages, charges, assignments, hypothecations, pledges, security interests, liens, contractual rights of set-off and other encumbrances of every nature and kind, whether contingent or absolute and any agreement, option or privilege capable of becoming any of the foregoing (whether consensual, arising by law or otherwise) that secures the payment of any Indebtedness or liability or the observance, payment or performance of any obligation.

"Environmental Laws" means all Applicable Laws relating to the protection of the environment, natural resources, human health and safety, Hazardous Substances, the assessment of environmental and social impacts or the rehabilitation, reclamation and closure of lands used in connection with the Mine.

"**EPC Contract**" means the engineering, procurement and construction contract to be entered into by the Payor in respect of the MB-CDP.

"**Expiry Date**" means the last day of the Term.

"**Final Delivery Amount**" has the meaning given to it in Section 2.6(b).

"**Fourth A&R Date**" means the "**Effective Date**" as defined in the deed titled "**Fourth Amendment and Restatement Deed**" and made between the Seller and the Purchaser in respect of this Agreement.

"**Fourth Instalment**" has the meaning given to it in Section 3.1.

"**Fourth Instalment Repayment Amount**" means the amount that is equal to USD 25,000,000 plus interest which accrues thereon at a per annum rate equal to 10%, compounded quarterly, from and after the Third A&R Date.

"**Gold Interest**" has the meaning given to it in Section 13.1.

"**Good Industry Practice**" means, in relation to any decision or undertaking, 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 international mining companies, complying with Applicable Laws, in the operation of projects similar to the Mine Project in Chile.

"**Governmental Authority**" means any international, federal, state, provincial, territorial, municipal or local government, agency, department, ministry, authority, board, tribunal, commission or official, including any such entity with power to tax, or exercise regulatory or administrative functions, or any court, arbitrator (public or private), stock exchange or securities commission.

"**Hazardous Substances**" means any substance, material or waste defined, regulated, listed or prohibited by Environmental Laws, including pollutants, Contaminants, chemicals, deleterious substances, dangerous goods, hazardous or industrial toxic wastes or substances, tailings, wasterock, radioactive materials, flammable substances, explosives, petroleum and petroleum products, polychlorinated biphenyls, chlorinated solvents and asbestos.

"**Indebtedness**" of any person means, without duplication:

- (a) all obligations of such person for borrowed money and all obligations of such person evidenced by bonds, debentures, notes (including pagares), bills or other similar instruments;
- (b) all obligations, contingent or otherwise, relative to the face amount of all letters of credit and surety, performance or similar bonds, whether or not drawn, and banker's acceptances, in each case, issued for such person's account;
- (c) all obligations of such person under any lease that is required to be classified and accounted for as a capital or financed lease for financial accounting purposes or under any synthetic lease, tax retention, operating lease or other lease having substantially the same economic effect as a conditional sale, title retention agreement or similar arrangement;

- (d) all obligations of such person in respect of the deferred purchase price of property or services including pursuant to this Agreement or any other forward or prepaid sale of a Mineral Interest (excluding current accounts payable incurred in the ordinary course of business);
- (e) all indebtedness of another person secured by (or for which the holder of such obligations has an existing right, contingent or otherwise, to be secured by) any Encumbrance, upon or in property owned by such person, even if such person has not assumed or become liable for the payment of such obligations or such obligations are limited in recourse;
- (f) all obligations of such person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such person (even if the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property);
- (g) all guarantees, indemnities and other obligations (contingent or otherwise) of such person in respect of Indebtedness of another person;
- (h) all obligations of such person to purchase, redeem, retire, defease or otherwise acquire for value any equity, ownership or profit interests in such person within ten years from the date of issuance thereof;
- (i) all swap, hedging, exchange, option or other derivative transaction (whether in respect of interest rates, commodities, currencies or otherwise);
- (j) all indebtedness under metal streaming transactions, royalty finance or other similar transactions (which for the avoidance of doubt will not benefit from any Subordination Agreement); and
- (k) any transaction not listed in (a) through (j) above having the commercial effect of a borrowing (or otherwise classified as borrowing under the accounting principles applicable to the Seller); provided that such transaction matures on or before the ten year anniversary of the date of entry into such transaction.

**"Initial Term"** has the meaning given to it in Section 4.1(a).

**"Insolvency Event"** means, in relation to any person, any one or more of the following events or circumstances:

- (a) proceedings are commenced for the winding-up, liquidation or dissolution of it, unless it in good faith actively and diligently contests such proceedings resulting in a dismissal or stay thereof within 30 days of the commencement of such proceedings;
- (b) a decree or order of a court of competent jurisdiction is entered adjudging it to be bankrupt or insolvent (unless vacated), or a petition seeking reorganization, arrangement or adjustment of or in respect of it is approved under Applicable Laws relating to bankruptcy, insolvency or relief of debtors;
- (c) it makes an assignment for the benefit of its creditors, or petitions or applies to any court or tribunal for the appointment of a receiver or trustee for itself or any substantial part of its assets or property, or commences for itself or acquiesces in or approves or has filed or

commenced against it any proceeding under any Applicable Laws relating to bankruptcy, insolvency, reorganization, arrangement or readjustment of debt or any proceeding for the appointment of a receiver or trustee for itself or any substantial part of its assets or property, or has a liquidator, administrator, receiver, trustee, conservator or similar person appointed with respect to it or any substantial portion of its property or assets unless such proceeding, assignment or appointment is involuntary and dismissed, vacated or stayed within 30 days of commencement of such proceeding; or

- (d) a resolution of its board of directors is passed for any of the foregoing.

[Redacted - commercially sensitive dollar amount omitted.]

"**Limit**" means [REDACTED]; provided however that no Indebtedness of the type listed in clause (b) of the definition of "**Indebtedness**" arising solely in respect of remediation, actual or future mine closure and similar operating and performance requirements required under Applicable Laws and no Indebtedness of the type listed in clause (i) of the definition of "**Indebtedness**" shall be taken into account when calculating whether or not the Limit has been exceeded.

"**Losses**" means any and all damages, claims, losses, diminution of value, liabilities, fines, injuries, costs, penalties and expenses (including reasonable legal fees). Losses shall not include consequential, special, exemplary, indirect, incidental or punitive damages except to the extent such losses are awarded to a third party in connection with a third party's Claim.

"**Lot**" means the applicable quantity of each shipment of concentrate or any other product containing Minerals delivered to an Offtaker pursuant to an Offtake Agreement.

"**M**", in respect of a given Lot, means the calendar month in which there has been a provisional Offtaker Settlement.

"**M+1**", in respect of a given Lot, means the month immediately succeeding M.

"**Mantos Blancos Monthly Performance Report**" means a written report in relation to each calendar month in the form set out in Schedule C with respect to the Mine Project.

"**Mantos Holding**" means Mantos Copper Holding SPA.

"**Material Adverse Effect**" means any change, event, occurrence, circumstance, fact or effect that, when taken individually or together with all other events, occurrences, changes or effects has, or could reasonably be expected to have, a material adverse effect on:

- (a) the operations, results of operations, business, affairs, properties, assets, prospects, liabilities and obligations (contingent or otherwise), capitalization or condition (financial or otherwise) of the Seller, taken as a whole;
- (b) the Mine Project, including (A) the ability of (1) the Seller to perform its obligations under any Transaction Document or Offtake Agreement, or (2) the Seller to operate the Mine Project substantially in accordance with the Operating Plan in effect at the time of the occurrence of such change, event, occurrence, circumstance, fact or effect; or (B) expected silver production from the Mine based on the Operating Plan in effect at the time of the occurrence of such change, event, occurrence, circumstance, fact or effect; or
- (c) the legality, validity, binding effect or enforceability against the Seller of any Transaction Document to which it is a party,

provided, in each case, that it shall not include any event, change or effect resulting exclusively from (x) the announcement of the execution of this Agreement or any other Transaction Document contemplated herein or therein; or (y) for purposes of Section 10.1, any change in commodity prices; or (z) any Permitted Care and Maintenance Event (it being understood that the underlying effects, events, facts or occurrences giving rise to any of (x), (y) or (z) that are not otherwise excluded by this proviso may be determined to constitute, or give rise to, a Material Adverse Effect).

**"Material Permit"** means the (i) Environmental Approval Resolution No. 419/2017, dated November 2, 2017, granted by the Environmental Assessment Service; and (ii) Favorable Construction Report, granted by the corresponding Governmental Authority.

**"MB-CDP"** has the meaning given to it in Section 3.2.

**"Mine"** means all real property interests, mineral claims, mineral leases, surface access rights and other rights, concessions and interests relating to the Mantos Blancos copper mine and processing plant located in Chile and owned by the Seller as at the date of this Agreement, and all buildings, structures, improvements, appurtenances and fixtures thereon or attached thereto, whether created privately or by the action of any Governmental Authority. The **"Mine"** shall also include any extension, renewal, replacement, conversion or substitution of any such real property interests, mineral claims, mineral leases, surface access rights and any related rights, concessions or interests, owned or in respect of the Mine at any time during the Term, whether or not such ownership or interest is held continuously.

**"Mine Project"** means the Mine, including the mining, exploration and development operations conducted thereon, and the mines, infrastructure, equipment, inventory, processing facilities and other facilities constructed and operated at or in respect of the Mine, and includes all Minerals and Permits.

**"Mineral Interest"** means any royalty, stream, participation or production interest, or any agreements that are similar to a royalty, stream, participation or production interest agreement, in each case in respect of any Minerals.

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

**"Monthly Production and Sales Report"** means a written report in relation to a calendar month with respect to the Mine Project that contains, for such month:

- (a) ounces and grades of mined silver to the extent assayed;
- (b) to the extent available, the number of ounces of silver contained in Minerals processed during such month, but not delivered to an Offtaker by the end of such month;
- (c) a summary of deliveries made to Offtakers during such month showing, among other things, provisional Refined Silver and Produced Silver amounts and related Offtaker Settlements and any final settlement adjustments made during such month; and

- (d) the aggregate number of ounces of Refined Silver delivered to the Purchaser under this Agreement up to the end of such month.

**"Mortgage"** means the Mortgage over Mining Concessions dated as of August 25, 2017, executed by means of public deed before Notary Public Mrs. María Zaldívar Grass and recorded on page 89, number 20 of the Registry of Mortgages and Liens of the Mining Registry of Antofagasta of the year 2017, as amended by a clarification deed dated as of June 14, 2018, executed before Notary Public Mr. Roberto Cifuentes Allel and by an amendment deed dated September 2, 2019, executed before Notary Public Mr. Roberto Cifuentes Allel, delivered by the Seller in favour of the Purchaser, as amended on or about the Fourth A&R Date and as further amended from time to time.

**"Net Proceeds"** means, with respect to the receipt of proceeds under Section 6.5(c), the aggregate amount received by the Seller less the fees, costs and other out-of-pocket expenses (as evidenced by supporting documentation provided to the Purchaser upon request) incurred or paid to a third party by the Seller in connection with the claim giving rise to such proceeds, without deduction for any insurance premiums or similar payments.

**"New Technical Report"** has the meaning given to it in Section 5.3(d).

**"NI 43-101"** means National Instrument 43-101 – Standards of Disclosure for Mineral Projects of the Canadian Securities Administrators, as it may be amended from time to time, or any successor instrument, rule or policy.

**"Offtake Agreement"** means the AACI Offtake Agreement and any other copper concentrate offtake agreement (or other agreement under which the Seller otherwise disposes of or grants rights in respect of copper concentrate) between the Seller and any person (as applicable) in respect of Minerals derived from the Mine.

**"Offtaker"** means any person that enters into an Offtake Agreement with the Seller, including Anglo American Chile Inversiones S.A. in respect of the AACI Offtake Agreement.

**"Offtaker Settlement"** means with respect to Minerals purchased by an Offtaker from the Seller (or that the Seller otherwise disposes of or grants rights in respect of), the receipt by the Seller of provisional or final (as applicable) payment, or other consideration, in full from the Offtaker, relating to Produced Silver further to the applicable Offtake Agreement.

**"Offtaker Settlement Sheets"** means the final documents from an Offtaker or such other relevant documents, in each case evidencing at least the amount of Minerals, including Produced Silver, in each Lot.

**"Operating Plan"** means the development plan or operating plan for the Mine Project in place from time to time, including the operating plan for the MB-CDP following the commencement of operations at the MB-CDP, as approved by the relevant Governmental Authority.

**"Other Minerals"** means any and all marketable metal bearing material in whatever form or state (including ore) that is mined, produced, extracted or otherwise recovered from any location that is not within the Mine.

**"Parties"** means the parties to this Agreement.

**"Payable Silver"** means during the Term, in respect of any Offtake Agreement, 100.00% of Produced Silver, less:

- (a) a deduction of 30 grams per dry metric tonne until and including 31 December 2017 and from and including 01 January 2018, such other deduction as specified under the relevant Offtake Agreement to a maximum of 30 grams per dry metric tonne, as applicable; and
- (b) any Refining Charges, treatment charges, penalties, insurance charges, transportation charges, settlement charges, financing charges or price participation charges, or other similar charges or deductions applied to the Produced Silver pursuant to the relevant Offtake Agreement or otherwise,

and as otherwise determined in accordance with Section 2.1(b).

**"Permits"** means all material licenses, permits, approvals (including environmental approvals), authorizations, rights (including surface and access rights), privileges, concessions or franchises necessary for the development and operation of the Mine Project, including any contemplated by the Operating Plan.

**"Permitted Care and Maintenance Event"** means the suspension of operations at the Mine Project resulting from:

- (a) up to and including the Deposit Reduction Date, a decision by the board of the Seller to put the Mine Project into care and maintenance due to prevailing copper prices at such time; or
- (b) following the Deposit Reduction Date, a decision by the board of the Seller to put the Mine Project into care and maintenance for any reason.

**"Permitted Encumbrances"** means the following: (a) Encumbrances for taxes not yet due and payable (or which are subject to contest); (b) Encumbrances imposed by law, such as materialmen's, mechanics', carriers', workmen's and repairmen's liens and other similar Encumbrances arising in the ordinary course of business; (c) pledges or deposits to secure obligations under workers' compensation laws, unemployment insurance, social security or similar legislation or to secure public or statutory obligations; (d) easements, rights of way and other Encumbrances on title to property that do not materially adversely affect the use of property encumbered thereby for its intended purposes; (e) Encumbrances created by the lessor of any property leased by the Seller; and (f) any other Encumbrances arising in the ordinary course of business and not securing Indebtedness.

**"person"** includes an individual, corporation, body corporate, limited or general partnership, joint stock company, limited liability corporation, joint venture, association, company, trust, bank, trust company, Governmental Authority or any other type of organization or entity, whether or not a legal entity.

**"Priority Lienholder"** means any holder of any Priority Lienholder Indebtedness. For the avoidance of doubt, neither the Purchaser nor any holder of Indebtedness of the type listed in clause (j) of the definition of Indebtedness shall be a Priority Lienholder.

**"Priority Lienholder Indebtedness"** means Indebtedness of the Seller now or hereafter existing that is, or is intended to be, secured; provided that; (i) indebtedness under metal streaming

transactions, royalty finance or other similar transactions shall not be "Priority Lienholder Indebtedness"; and (ii) the aggregate outstanding principal amount of such Indebtedness secured by an Encumbrance on the Collateral senior to the Encumbrance created by the Security Documents taken together shall not at any time exceed the Limit.

**"Priority Lienholders Security Documents"** means each security document between the Seller and the Priority Lienholders (directly or through their designated agent or representative) pursuant to which the Seller creates an Encumbrance in favour of the Priority Lienholders over the Collateral.

**"Produced Silver"** means any and all silver in whatever form or state that is contained in Minerals recovered from the Mine.

**"Provisional Delivery Amount"** has the meaning given to it in Section 2.6(b).

**"Purchaser Event of Default"** has the meaning given to it in Section 10.3.

**"Receiving Party"** has the meaning set out in Section 6.6(a).

**"Reduced Designated Percentage of Payable Silver"** has the meaning given to it in Section 2.1(h).

**"Refined Silver"** means marketable metal bearing material in the form of silver bars or coins that is refined to standards meeting or exceeding 999 parts per 1,000 fine silver, and otherwise conforming to the London Bullion Market Association specifications for good delivery.

**"Refining Charge"** means the refining charge (as determined under the relevant Offtake Agreement) applicable to each ounce of Payable Silver under the relevant Offtake Agreement that the Seller is responsible for further to the relevant Offtake Agreement.

**"Remaining Deposit Balance"** means at any given time an amount equal to:

- (a) USD 108,500,000; LESS
- (b) the aggregate of Deposit Reduction Amounts to date; LESS
- (c) USD 25,000,000 if and only if the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3;

(provided that such amount may not be less than zero), expressed in US Dollars, provided that the Seller and the Purchaser agree that as at the Third A&R Date after giving effect to the payment of the fourth instalment of the Deposit further to Section 3.1 the **"Remaining Deposit Balance"** is USD 83,183,304.86.

**"Review Period"** has the meaning given to it in Section 13.3.

**"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.

**"Securities Regulators"** means, collectively, the securities regulators or other securities regulatory authorities in British Columbia, Alberta, Saskatchewan, Nova Scotia, Ontario and in any other jurisdictions whose Securities Laws are applicable to the Purchaser from time to time.

"**Security**" means the Encumbrances granted in favour of the Purchaser pursuant to Section 8.2.

"**Security Documents**" means (i) the Mortgage; (ii) the pledge without conveyance over minerals (silver); and (iv) the pledge without conveyance (sulphide concentrate plant).

"**SEDAR**" means the Canadian System for Electronic Document Analysis and Retrieval, or such successor system as may replace it in whole or in part from time to time.

"**Seller Event of Default**" has the meaning set out in Section 10.1.

"**Seller Offer**" has the meaning given to it in Section 13.1.

"**Silver Market Price**" means, with respect to any day, the daily per ounce LBMA Silver Price in US Dollars quoted by the London Bullion Market Association for Refined Silver on such day; provided that if, for any reason, the LBMA Silver Price is no longer confirmed, acknowledged or quoted by the London Bullion Market Association, the Silver Market Price shall be determined by reference to the price of Refined Silver on a commodity exchange agreed by the Parties (each acting reasonably).

"**Silver Purchase Price**" means, in respect of a given Lot and delivery of Refined Silver, an amount equal to:

- (a) (i) from the Closing Date until and including the day immediately before the Third A&R Date and (ii) from and including the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable,  $0.25 \times$  the average Silver Market Price in M; and
- (b) from and including the Third A&R Date until the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable, or until the end of the Term if the Fourth Instalment Repayment Amount is never paid,  $0.08 \times$  the average Silver Market Price in M, expressed in US Dollars.

"**SPA**" means the share sale and purchase agreement between, inter alia, Inversiones Anglo American Norte S.A, Inversiones Minorco Chile S.A. (the "**Vendors**") and Mantos Holding relating to the sale of the entire issued share capital in the Seller by the Vendors to Mantos Holding and dated 22 August 2015.

"**Specified Terms**" means, in respect of the Seller Offer, the deposit amount, gold purchase price, designated percentage of payable gold, volume of gold to be sold and delivered, delivery and payment terms, required security, commencement date and expiry date of the proposed Gold Interest agreement.

"**Subordination Agreement**" means the subordination agreement dated on or about the Fourth A&R Date between the Purchaser, the Seller, Mantos Holding, Canadian Imperial Bank of Commerce as administrative agent as Priority Lienholder and Southern Cross Royalties Limited, and any other subordination agreement entered into between the Purchaser and each Priority Lienholder (or its agent or other representative) from time to time pursuant to Section 8.3.

"**Taxes**" means all taxes, surtaxes, duties, levies, imposts, tariffs, fees, assessments, reassessments, withholdings, dues and other charges of any nature, whether disputed or not, by a Governmental Authority, and instalments in respect thereof, including such amounts imposed or collected on the

basis of: income; capital, real or personal property; payments, deliveries or transfers of property of any kind to residents or non-residents; purchases, consumption, sales, use, import, export of goods and services; mining; distributions; equity; together with penalties, fines, additions to tax and interest thereon; and "**Tax**" shall have a corresponding meaning.

"**Technical Report**" means the report titled MANTOS BLANCOS, CONCENTRATOR DEBOTTLENECKING PROJECT, NI 43-101 Technical Report on Feasibility Study, May, 2018.

"**Term**" has the meaning set out in Section 4.1(a).

"**Third A&R Date**" means the "**Effective Date**" as defined in the deed titled "**Third Amendment and Restatement Deed**" and made between the Seller and the Purchaser in respect of this Agreement.

"**Third Parties**" has the meaning set out in Section 6.6(a)(i).

"**Third Party Offer**" has the meaning given to it in Section 13.1(b).

"**Time of Delivery**" has the meaning set out in Section 2.2(b).

"**Transaction Documents**" means, collectively, this Agreement, the Subordination Agreement, and the Security Documents, and each other agreement, document, instrument or certificate delivered for the benefit of the Purchaser pursuant to or otherwise in connection with any of this Agreement and/or the Security Documents.

"**Transfer**" means to, directly or indirectly, sell, transfer, assign, novate, convey, dispose or otherwise grant a right, title or interest (including expropriation or other transfer required or imposed by law or any Governmental Authority), whether voluntary or involuntary and "**Transferred**" shall be construed accordingly.

## 1.2 Certain Rules of Interpretation

Except as may be otherwise specifically provided in this Agreement and 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 provision hereof.
- (b) References to an "**Article**", "**Section**" or "**Schedule**" followed by a number or letter refer to the specified Article or Section of or Schedule to this Agreement.
- (c) Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (d) Where the word "including" or "includes" is used in this Agreement, it means "including without limitation" or "includes without limitation".
- (e) The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

- (f) Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (g) A reference to a statute includes all regulations made pursuant to and rules promulgated under such statute and, unless otherwise specified, any reference to a statute or regulation includes the provisions of any statute or regulation which amends, supplements or supersedes any such statute or any such regulation from time to time.
- (h) A reference to an agreement includes all schedules, exhibits and other appendices attached thereto and means such agreement as amended, supplemented, restated, amended and restated or replaced from time to time.
- (i) Time is of the essence in the performance of the Parties' respective obligations under this Agreement.
- (j) Unless specified otherwise, in this Agreement:
  - (i) a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (New York City time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at 5:00 p.m. (New York City time) on the next Business Day; and
  - (ii) any reference to a day which is not a Business Day shall be construed as a reference to the next Business Day.
- (k) Unless specified otherwise in this Agreement, all statements or references to dollar amounts, US Dollars or USD in this Agreement are to United States of America dollars.
- (l) Schedule A is attached to and forms part of this Agreement.
- (m) A company is a "**subsidiary**" of another company, its "**holding company**", if that other company:
  - (i) holds a majority of the voting rights in it; or
  - (ii) is a member of it and has the right to appoint or remove a majority of its board of directors; or
  - (iii) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,

or if it is a subsidiary of a company that is itself a subsidiary of that other company and the terms "**subsidiaries**" and "**holding companies**" are to be construed accordingly. For the purposes of Sections 1.2(m)(ii) and 1.2(m)(iii) a company shall be deemed to be a member of another company if shares in that other company in which it has an interest are held by a nominee on its behalf or by its mortgagee or nominee of such mortgagee.

**ARTICLE 2  
PURCHASE AND SALE**

**2.1 Purchase and Sale of Refined Silver**

- (a) Subject to and in accordance with the terms of this Agreement, during the Term, the Seller hereby agrees to sell to the Purchaser, and the Purchaser hereby agrees to purchase from the Seller at the Silver Purchase Price, in respect of each Lot, an amount of Refined Silver equal to the Designated Percentage of Payable Silver, free and clear of all Encumbrances.
- (b) Subject to Section 2.6, the amount of Payable Silver shall be measured by the amount of contained silver in the Minerals received by the Offtaker as provisionally determined by the relevant provisional Offtaker Settlement Sheets (to the extent available and absent evident inaccuracy).
- (c) The Purchaser shall not be responsible for, or liable in respect of, any refining charges, treatment charges, penalties, insurance charges, transportation charges, settlement charges, financing charges or price participation charges, or other similar charges or deductions under the relevant Offtaker Agreement or otherwise.
- (d) The Refined Silver delivered pursuant to this Agreement need not come from silver physically produced at the Mine.
- (e) The Refined Silver to be delivered by the Seller to the Purchaser pursuant to this Agreement shall conform in all respects with the London Bullion Market Association (or a successor satisfactory to the Purchaser) specifications for good delivery, and the Purchaser shall not be required to purchase any Refined Silver that does not meet such specifications.
- (f) If the London Bullion Market Association ceases to exist or ceases to publish rules for the good delivery of silver or such rules should no longer be internationally recognized as the basis for good delivery of silver, the Parties shall together, acting reasonably, agree, for purposes of this Agreement, a new basis for determining good delivery of Refined Silver. Until such new basis is agreed, deliveries of Refined Silver by the Seller to the Purchaser under this Agreement shall conform to the last set of rules for good delivery in effect under this Agreement immediately prior to the time such rules ceased to be published or recognized.
- (g) Until (and including) 31 December 2017, the Seller shall notify to the Purchaser, on the 2nd Business Day in each month, the provisional amounts of Produced Silver delivered in the previous month and the provisional assay of such Produced Silver.
- (h) **Purchaser reduction election**

In respect of any month, the Purchaser may elect, on 30 days prior notice to the Seller, to reduce:

- (i) the Designated Percentage of Payable Silver to a number that is equal to (i) from the Closing Date until and including the day immediately before the Third A&R Date, [REDACTED]; and (ii) from and including the Third A&R Date, the Designated Percentage of Payable Silver

[Redacted - commercially sensitive purchaser reduction formula omitted.]

multiplied by 0.92 (such number, the "**Reduced Designated Percentage of Payable Silver**"); and

(ii) the Silver Purchase Price to [REDACTED],

in respect of that month only and Seller shall be entitled to sell an amount of Refined Silver equal to the amount by which the Designated Percentage of Payable Silver exceeds the Reduced Designated Percentage of Payable Silver to third parties at its sole discretion.

## 2.2 Delivery Obligations

- (a) Subject to Section 2.1(f), on the third Business Day of M+1 the Seller shall sell and deliver to the Purchaser Refined Silver in an amount equal to 100% of the Designated Percentage of Payable Silver in respect of Lots in relation to which there has been such provisional Offtaker Settlement as determined by reference to such provisional Offtaker Settlement and as supported by the documentation required pursuant to Section 2.3 and the applicable Monthly Production and Sales Report.
- (b) Subject to Sections 2.5(d) and 10.4(c), all Refined Silver to be sold under this Agreement shall be delivered by the Seller, on the third Business Day of M+1, by way of credit to the metal account or accounts in London of the Purchaser or, at the Purchaser's election, in physical silver delivered to such other place designated by the Purchaser at the Purchaser's cost, as specified by the Purchaser by electronic communication prior to the date of this Agreement and thereafter, if there is any change to such information, at least 30 days in advance of any sale or delivery of Refined Silver. Delivery of Refined Silver to the Purchaser shall be deemed to have been made at the time and on the date Refined Silver is credited to a designated metal account of the Purchaser or physically allocated to the designated place of delivery (the "**Time of Delivery**" on the "**Date of Delivery**").
- (c) Title to, and risk of loss of, Refined Silver shall pass from the Seller to the Purchaser at the Time of Delivery.
- (d) Except as provided in Section 2.2(b) in respect of the Purchaser's election to accept delivery of physical silver, all costs and expenses pertaining to each delivery of Refined Silver to the Purchaser shall be borne by the Seller.
- (e) The Seller hereby represents and warrants to and covenants with the Purchaser that, immediately prior to the Time of Delivery (i) the Seller will be the sole legal and beneficial owner of the Refined Silver credited to a metal account of or physically allocated to the Purchaser, (ii) the Seller will have good, valid and marketable title to such Refined Silver, and (iii) such Refined Silver will be free and clear of all Encumbrances other than those granted to the Purchaser under this Agreement.

## 2.3 Invoicing

- (a) The Seller shall notify the Purchaser in writing by email to [REDACTED] (or such other email address as the Purchaser may notify to the Seller), on or before the last Business Day of the calendar month immediately preceding M or on the first Business Day of M, the number of ounces of Refined Silver to be sold to the Purchaser in respect of M and, in accordance with Section 2.3(b), the

[Redacted - commercially sensitive purchaser reduction formula omitted.]

[Redacted - internal contact details omitted.]

estimated net number of ounces of Refined Silver to be credited or physically allocated to the Purchaser in respect of M.

(b) The Seller shall notify the Purchaser in writing by email to [REDACTED] (or such other email address as the Purchaser may notify to the Seller), within one Business Day after each delivery and/or credit to the account of the Purchaser pursuant to Section 2.2, by delivery of an invoice to the Purchaser that shall include:

[Redacted - internal contact details omitted.]

- (i) the calculation of the number of ounces of Refined Silver credited or physically allocated;
- (ii) copies of any provisional assays in respect of a Lot;
- (iii) the Offtaker Settlement Sheets on which the calculation is based, or if the sharing of such documentation is restricted by Applicable Laws or the delivery has been completed in advance of receipt of the Offtaker Settlement Sheets, such other information that will allow the Purchaser to verify the delivery of Refined Silver;
- (iv) the Date of Delivery and Time of Delivery;
- (v) the Silver Purchase Price for Refined Silver credited or physically allocated;
- (vi) any deductions for refining charges or penalties made further to the relevant Offtake Agreement;
- (vii) reference to the relevant Offtake Agreement;
- (viii) the Deposit Reduction Amount in respect of such delivery;
- (ix) the Remaining Deposit Balance following such delivery; and
- (x) the Seller's bank account for payment.

## 2.4 Silver Purchase Price

The Purchaser shall pay to the Seller the Silver Purchase Price for each ounce of Refined Silver sold and delivered and/or credited by the Seller to the Purchaser under this Agreement.

## 2.5 Payment

- (a) Payment by the Purchaser for each delivery of Refined Silver shall be made (i) no later than three Business Days after receipt of a valid invoice further to Section 2.3(b) or 2.6 (as applicable), and (ii) to a bank account of the Seller designated in accordance with Section 2.3(b) or 2.6(d) (as applicable).
- (b) All payments of funds due by one Party to another under this Agreement shall be made in US Dollars and shall be made by wire transfer in immediately available funds to the bank account or accounts designated by the receiving Party in writing from time to time.
- (c) Any payment or delivery not made by a Party on or by any applicable payment or delivery date referred to in this Agreement shall incur interest from the due date until such payment

or delivery is paid or made in full at a per annum rate equal to one month U.S. dollar London Interbank Offered Rate plus 5% from and after the due date, calculated, compounded and paid monthly in arrears.

- (d) Any US Dollar amount or Refined Silver owing by a Party to any other Party under this Agreement may be set off against any US Dollar amount or Refined Silver owed to such Party by the other Party. Any amount of Refined Silver set off and withheld against any non-payment by a Party shall be valued at the Silver Market Price, as applicable, as of the first trading day that such amount of Refined Silver became due to such Party and shall result in a reduction in an amount of Refined Silver otherwise to be delivered by that number of ounces equal to the US Dollar amount set off divided by the Silver Market Price, as applicable, as of the day such US Dollar amount first became payable.

## 2.6 Final Offtaker Settlement Reconciliation

- (a) Two Business Days after the final Offtaker Settlement becomes available for a Lot the Seller shall notify (in the form of an invoice) the Purchaser in writing by email to [REDACTED] (or such other email address as the Purchaser may notify to the Seller) whether the number of ounces of Refined Silver delivered further to Section 2.2(a) is greater or lesser than the number of ounces of contained silver in the Minerals received by the Offtaker as finally determined by the relevant final Offtaker Settlement Sheets (to the extent available and absent evident inaccuracy).

[Redacted - internal contact details omitted.]

- (b) If the number of ounces of Refined Silver delivered further to Section 2.2(a) (such number of ounces, the "**Provisional Delivery Amount**") is more than [REDACTED] of the number of ounces of contained silver in the Minerals received by the Offtaker as finally determined by the relevant final Offtaker Settlement Sheets (such finally determined number of ounces, the "**Final Delivery Amount**") then the notice further referred to in section 2.6(a) shall be an invoice from the Seller to the Purchaser for an amount equal to:

[Redacted - commercially sensitive amount omitted.]

- (i) for any ounces of Refined Silver delivered (i) from the Closing Date until and including the day immediately before the Third A&R Date and (ii) from and including the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable, [REDACTED] (expressed in USD) x the number of ounces by which the Provisional Delivery Amount exceeds the Final Delivery Amount; and

[Redacted - commercially sensitive formula omitted.]

- (ii) for any ounces of Refined Silver delivered from and including the Third A&R Date until the date that the Fourth Instalment Repayment Amount is paid pursuant to Section 3.3, if applicable, or until the end of the Term if the Fourth Instalment Repayment Amount is never paid, [REDACTED] (expressed in USD) x the number of ounces by which the Provisional Delivery Amount exceeds the Final Delivery Amount. The Purchaser shall pay such invoice in accordance with Section 2.5.

[Redacted - commercially sensitive formula omitted.]

- (c) If the Provisional Delivery Amount is less than [REDACTED] of the Final Delivery Amount then the Seller shall sell and deliver to the Purchaser a number of ounces of Refined Silver equal to the number of ounces by which the Final Delivery Amount exceeds the Provisional Delivery Amount. Such sale and delivery shall be in accordance with Sections 2.1 and 2.2 provided that the time for delivery for the purposes of Section 2.2 shall be four Business Days after the final Offtaker Settlement becomes available for the relevant Lot. The notice

[Redacted - commercially sensitive amount omitted.]

further referred to in section 2.6(a) shall be an invoice from the Seller to the Purchaser for an amount equal to the Silver Purchase Price x the number of ounces of Refined Silver sold and delivered further to this Section 2.6(c). The Purchaser shall pay such invoice in accordance with Section 2.5.

- (d) The notice referred to in section 2.6(a) shall include:
- (i) the calculation of the relevant Provisional Delivery Amount and Final Delivery Amount;
  - (ii) copies of any final assays in respect of a Lot and the final Offtaker Settlement Sheets on which the calculations are based, or if the sharing of such documentation is restricted by Applicable Laws or the delivery has been completed in advance of receipt of the final Offtaker Settlement Sheets, such other information that will allow the Purchaser to verify the Final Delivery Amount;
  - (iii) the revised Deposit Reduction Amount in respect of such delivery; and
  - (iv) the Remaining Deposit Balance following such delivery.

### **ARTICLE 3 DEPOSIT PAYMENT**

#### **3.1 Deposit**

In consideration for the respective promises and covenants of the Seller contained herein, including the sale and delivery by the Seller to the Purchaser of Refined Silver, the Purchaser hereby agrees to pay, and the Seller hereby agrees to accept, a cash deposit in the amount of USD 108,500,000 (the "**Deposit**"). The Deposit shall be paid to the Seller in four instalments. The first instalment of the Deposit was in the amount of USD 41,250,000, which was paid by the Purchaser on 08 October 2015. The second instalment of the Deposit was in an amount equal to USD 41,250,000, which was paid by the Purchaser on 14 October 2015. The third instalment of the Deposit was in an amount equal to USD 1,000,000, which was paid by the Purchaser on or around 31 July 2017. The fourth instalment of the Deposit was in an amount equal to USD 25,000,000 (the "**Fourth Instalment**") and was paid by the Purchaser on the Third A&R Date. Subject to Section 3.3, no interest will be payable by the Seller on or in respect of the Deposit.

#### **3.2 Use of Proceeds**

The Seller shall use the proceeds from the Fourth Instalment for capital costs associated with the Mantos Blancos Concentrator Debottlenecking Project (substantially as such project is described in the Technical Report) ("**MB-CDP**") and for no other purpose.

#### **3.3 Repayment of Fourth Instalment**

Seller shall provide notice in writing (an "**Event Notice**") to the Purchaser promptly, and in any event within two (2) Business Days, following the occurrence of a Fourth Instalment Repayment Event (as defined below), with such notice containing a detailed description of such event. Purchaser shall have the option, exercisable in its sole discretion within fifteen (15) Business Days ("**Option Period**") of receipt by the Purchaser of the Event Notice, to demand payment of the Fourth Instalment Repayment Amount or waive such payment. If the Purchaser elects to not receive payment of the Fourth Instalment Repayment Amount, the Purchaser shall provide notice in writing ("**Waiver Notice**") to the Seller of such election

during the Option Period. If the Purchaser has not delivered a Waiver Notice to the Seller during the Option Period, the Seller shall pay the Fourth Instalment Repayment Amount within five (5) Business Days of the earlier of (i) the Purchaser's demand for payment of the Fourth Instalment Repayment Amount pursuant to this Section 3.3 and (ii) the expiry of the Option Period. For greater certainty, the Fourth Instalment Repayment Amount shall not be considered paid if the Purchaser elects to not receive payment of the Fourth Instalment Repayment Amount pursuant to this Section 3.3.

**"Fourth Instalment Repayment Event"** means any of the following events: (i) the Seller fails to use an amount equal to the entire amount of the Fourth Instalment for capital costs associated with the MB-CDP; (ii) the Seller does not commence construction of the MB-CDP within three months of the Third A&R Date; (iii) the Seller takes or seeks to take any action to abandon construction or operation of the MB-CDP or otherwise suspends construction or operation of the MB-CDP (other than temporary suspensions for operational reasons, not to exceed 4.5 months in aggregate); (iv) the Seller fails to obtain, or loses the right to, any Material Permit; (v) Any permit or authorization (other than a Material Permit) is not received or is revoked and has the effect of causing a delay in construction or operation, as the case may be, that exceeds 4.5 months in aggregate; (vi) the Seller fails to achieve a production rate of at least 85% of capacity as set forth in the Technical Report by June 30, 2022; or (vii) the Seller fails to cause the Security Documents entered into on or around the Third A&R Date to be perfected under Chilean law on or before the date which is 90 days after the Third A&R Date.

Notwithstanding the foregoing, upon the Seller achieving a production rate of 85% of capacity as set forth in the Technical Report, the Purchaser shall no longer be entitled to payment of the Fourth Instalment Repayment Amount upon the occurrence of a Fourth Instalment Repayment Event.

## **ARTICLE 4 TERM**

### **4.1 Term**

- (a) The term of this Agreement shall commence on the Closing Date and, subject to Sections 4.1(b), shall continue until the date that is 40 years after the date of this Agreement (the **"Initial Term"**) and thereafter shall automatically be extended for successive 10-year periods (each an **"Additional Term"** and, together with the Initial Term, the **"Term"**), unless there have been no active mining operations on the Mine during the last 10 years of the Initial Term or throughout such Additional Term, as applicable, in which case this Agreement shall terminate at the end of the Initial Term or such Additional Term, as applicable.
- (b) Before the end of the Term this Agreement may also be terminated by the Parties on mutual written consent or by the Purchaser for an event of default in accordance with Article 10.

### **4.2 Survival**

The following provisions shall survive termination of this Agreement: Section 2.2(a)-(e); Section 4.2; Section 5.3(a) (for a period of 24 months); Section 6.6; Section 8.2; Article 9; Section 10.2; Article 12; Section 14.1; Section 14.4; Section 14.5; Section 14.6; Section 14.7; Section 14.8; Section 14.9; Section 14.10; Section 14.11; Section 14.12; Section 14.13; and Schedule A, and such other provisions of this Agreement as are required to give effect thereto.

**ARTICLE 5**  
**REPORTING; BOOKS AND RECORDS; INSPECTIONS**

**5.1 Monthly Reporting**

On or before the fifteenth Business Day after the end of each calendar month during the Term, the Seller shall provide to the Purchaser a Monthly Production and Sales Report and the Mantos Blancos Monthly Performance Report.

**5.2 Ongoing Reporting**

The Seller shall deliver or furnish, or cause to be delivered or furnished, to the Purchaser written notice of each of the following events promptly upon the Seller becoming aware of or having knowledge of such event:

- (i) any material damages suffered to the Mine for which the Seller has or plans to make any insurance claim;
- (ii) the occurrence of any Seller Event of Default, or any event or circumstance which with notice or lapse of time or both would become a Seller Event of Default or upon the determination by the Seller that a Seller Event of Default is pending;
- (iii) any revocation or suspension of any material Permit; and
- (iv) any other condition or event which has resulted, or that could reasonably be expected to result, in a Material Adverse Effect,

in each case, accompanied by a written statement by a senior officer of the Seller setting forth details of the occurrence referred to therein.

**5.3 Books and Records and Technical Reports**

- (a) The Seller shall keep true, complete and accurate books and records of all of the operations and activities with respect to the Mine Project and this Agreement, including the mining and production of all Minerals therefrom and the mining, treatment, processing, milling, transportation and sale or refining of all Minerals, and all operating or capital costs.
- (b) Subject to Section 6.6, the Seller shall ensure that the Purchaser and its authorized representatives and agents may perform audits or other reviews and examinations of the Seller's books and records and other information relevant to the production, delivery and determination of Produced Silver and Payable Silver and compliance with this Agreement from time to time at reasonable times at the Purchaser's sole risk and expense and not less than ten Business Days' notice, provided that the Purchaser and its authorized representatives and agents will not exercise such rights more often than once during any calendar year absent the existence of a Seller Event of Default, or absent a material deficiency identified during a previous audit or review, in which case such rights may be exercised not more than once during any calendar quarter until no material deficiencies are identified during four consecutive audits or reviews, at which point the Purchaser will once again be limited to exercising such rights once per calendar year. The Purchaser shall diligently complete any audit or other examination permitted hereunder.

- (c) If any technical report prepared in accordance with NI 43-101 is prepared on the Mine Project, the Seller shall provide to the Purchaser (i) an advanced draft copy (and a reasonable opportunity to comment thereon) of such technical report before it is final, and (ii) unless the Seller publicly files such technical report in accordance with NI 43-101 and neither the Purchaser nor its Affiliate is required by Applicable Laws to publicly file such technical report as determined by the Purchaser, once it is final, an executed copy of such technical report that is addressed to the Purchaser (or its Affiliate), together with the necessary certificates and consents required by Applicable Laws and such other documents reasonably requested by the Purchaser to facilitate the public filing of such technical report by the Purchaser (or its Affiliate) if applicable.
- (d) On or prior to the date that is 120 days after the Third A&R Date, the Seller shall cause the authors of the Technical Report to deliver to the Purchaser an updated and current technical report that has been prepared in accordance with NI 43-101 and is addressed to the Purchaser (or its Affiliate) (the "**New Technical Report**") at the sole cost and expense of the Seller. The obligations of the Seller set out in Section 5.3(c) shall apply to the New Technical Report.
- (e) If the Purchaser or any of its Affiliates is required by Applicable Laws to prepare a technical report under NI 43-101 (or similar report) in respect of the Mine Project, as determined by the Purchaser acting reasonably, the Seller shall cooperate with and allow the Purchaser and its authorized representatives to access technical information pertaining to the Mine Project and complete site visits at the Mine (subject to the Purchaser's representatives complying with the Seller's health and safety procedures) so as to enable the Purchaser or its Affiliates, as the case may be, to prepare the technical report (or similar report) in accordance with NI 43-101 (or any other applicable Canadian and/or U.S. and/or stock exchange rules and policies governing the disclosure obligations of the Purchaser or any of its Affiliates) at the sole cost and expense of the Purchaser. At reasonable times and with the prior consent of the Seller (not to be unreasonably withheld or delayed), at the sole risk and expense of the Purchaser, the Seller shall ensure that the Purchaser and its authorized representatives have a right of access to all surface and subsurface portions of the Mine, to any mill, smelter, concentrator or other processing facility owned or operated by the Seller that is used to process Minerals and to any related operations of the Seller for the purpose of enabling the Purchaser to comply with the obligations of the Purchaser or any of its Affiliates under NI 43-101 (or any other applicable Canadian and/or U.S. Securities Laws and/or stock exchange rules and policies governing the disclosure obligations of the Purchaser or any of its Affiliates), as determined by the Purchaser acting reasonably.
- (f) The Seller shall promptly deliver or furnish, or cause to be delivered or furnished, to the Purchaser a copy of any life of mine or similar study, including any amendments or supplements thereto, prepared in respect of the Mine Project.

#### **5.4 Inspections**

Upon no less than ten Business Days' notice to the Seller and subject at all times to the workplace rules and supervision of the Seller, the Seller shall ensure that the Purchaser and its representatives and agents are granted, at reasonable times and at the Purchaser's sole risk and expense, the right to access the Mine, the processing facilities related to the Mine Project and other facilities of the Mine Project, in each case to monitor the mining, processing and infrastructure operations relating to the Mine Project and to permit a qualified person to complete a personal inspection of the Mine Project in connection with the preparation

on behalf of the Purchaser or any of its Affiliates of any technical report in accordance with NI 43-101 in the Purchaser's reasonable opinion required by Applicable Laws. The Purchaser may avail itself of such right of access a maximum of once per calendar year absent a deficiency identified during a previous inspection of the Mine, in which case such rights may be exercised not more than once during any calendar quarter until no material deficiencies are identified during four consecutive inspections, at which point the Purchaser will once again be limited to exercising such rights once per calendar year, and except where additional access is requested by the Purchaser in order to prepare a technical report in its opinion required to be filed pursuant to NI 43-101. The Purchaser shall diligently complete any inspection permitted hereunder.

## **ARTICLE 6 COVENANTS**

### **6.1 Conduct of Operations**

- (a) The Seller shall ensure that the Mine Project is operated on a commercial basis as though the Seller has the full economic interest in the silver produced from the Mine Project in the absence of this Agreement and as if the Seller was entitled to receive the Silver Market Price for all silver produced. The Seller shall ensure that (i) all cut-off grade, short term mine planning and production decisions concerning the Mine Project shall be based on silver prices typical of Good Industry Practice, and (ii) all longer term planning and resource and reserve calculations concerning the Mine Project shall use Mineral prices based on Good Industry Practice. The Seller shall ensure that all Minerals will be processed in a manner consistent with the Operating Plan.
- (b) The Seller shall ensure that all exploration, development, and mining operations and activities pertaining to or in respect of the Mine Project are performed in accordance in all material respects (having a view to the interests of the Purchaser) with the Operating Plan and with all Applicable Laws and Permits and Good Industry Practice.
- (c) Subject to Sections 6.1(a) and (b), all decisions regarding the Mine Project, including all decisions concerning the methods, extent, times, procedures and techniques of any (i) exploration, development and mining related to the Mine Project, including spending on capital expenditures, (ii) leaching, milling, processing or extraction, (iii) materials to be introduced on or to the Mine Project, and (iv) except as provided herein, the sale of Minerals and terms thereof, shall be made by the Seller, in its sole discretion.
- (d) The Seller shall use all commercially reasonable efforts to obtain and, once obtained, maintain all Permits necessary to commence and continue development operations on the Mine Project in accordance with the Operating Plan.

### **6.2 Preservation of Corporate Existence and Property**

The Seller shall at all times from and after the date hereof to do and cause to be done all things necessary or advisable to maintain its corporate existence. The Seller shall not change its name or the jurisdiction of its chief executive office or the jurisdiction in which any of its tangible assets are located without providing the Purchaser with 15 days' prior written notice.

### **6.3 Processing/Commingling**

The Seller shall not commingle Other Minerals with Minerals which are or can be mined, produced, extracted or otherwise recovered from the Mine, unless reasonable practices and procedures (approved by the Purchaser, including all significant changes thereto, from time to time (such approval not to be unreasonably withheld or delayed)) for weighing, determining moisture content, sampling and assaying and determining recovery factors are adopted and employed (a "**Commingling Plan**"). Any such Commingling Plan shall ensure the division of Other Minerals and Minerals for the purposes of determining the quantum of the Produced Silver and shall not disadvantage the Purchaser with respect to such division between Other Minerals and Minerals. The Seller shall keep all books, records, data and samples required by the Commingling Plan and make such books, records, data and samples available to the Purchaser in accordance with Section 5.3(b).

### **6.4 Offtake Agreements**

- (a) The Seller shall ensure that, when Minerals that contain Produced Silver are sold or otherwise disposed of or rights granted to third parties in respect of them, all such Minerals are sold or disposed of, or rights granted, to an Offtaker pursuant to an Offtake Agreement.
- (b) During the Term, the Seller shall ensure that all Offtake Agreements entered into by it in respect of Minerals produced from the Mine shall be on commercially reasonable arm's length terms and conditions for concentrates similar in make-up and quality to those derived from the Minerals, and shall include industry standard reporting and payment settlement protocols and provisions that require the delivery of Offtaker Settlement Sheets and appropriate and separate sampling and assaying so that the Seller and the applicable Offtaker can determine the grade or content of Produced Silver and other metals in each delivery to an Offtaker. In the case of an Offtake Agreement entered into with an Affiliate or other non-arm's length party, in addition, the Offtake Agreement shall be on terms consistent with market practice.
- (c) The Seller shall ensure that all Minerals that include Produced Silver are delivered to each Offtaker, in such quantity, description and amounts and at such times and places as required under and in accordance with each Offtake Agreement.
- (d) With respect to any Offtake Agreements entered into after the date of this Agreement, the Seller shall promptly provide to the Purchaser confirmation of the terms of any such Offtake Agreement and, within 15 days after the execution thereof by each of the parties thereto, the Seller shall provide to the Purchaser a final signed copy of such Offtake Agreement, except to the extent prohibited from doing so by Applicable Laws or, provided that the Seller has used reasonable endeavours to obtain consent to disclose such Offtake Agreement, by any confidentiality obligations under such Offtake Agreement.
- (e) The Seller shall take, or procure the taking of, all commercially reasonable steps to enforce rights and remedies under each Offtake Agreement with respect to any breaches of the terms thereof relating to the timing and amount of Offtaker Settlements in respect of Produced Silver to be made thereunder. The Seller shall notify the Purchaser in writing when any dispute in respect of a material matter arising out of or in connection with any Offtake Agreement is commenced in respect of Produced Silver and shall provide the Purchaser with timely updates of the status of any such dispute and the final decision and award of the court or arbitration panel with respect to such dispute, as the case may be.

## 6.5 Insurance

- (a) The Seller shall maintain at all times with reputable insurance companies insurance in good standing with respect to the Mine Project and the operations conducted on and in respect thereof against such casualties, losses and contingencies and of such types and in such amounts that are consistent with Good Industry Practice.
- (b) The Seller shall ensure that each Lot shipped is adequately insured in such amounts and with coverage consistent with Good Industry Practice, until the time that risk of loss and damage for such Minerals is transferred to the Offtaker.
- (c) Where the Seller has received payment under an insurance policy in respect of a shipment of a Lot that is lost or damaged after leaving the Mine Project and before the risk of loss or damage is transferred to the Offtaker, the Seller shall ensure that the Applicable Percentage of the Net Proceeds of any insurance payment received by it in respect thereof is used to acquire Refined Silver in accordance with Section 2.1 and shall sell and deliver to the Purchaser (without duplication to the extent previously sold and delivered to the Purchaser by the Seller) such amount of Refined Silver at the applicable Silver Purchase Price, as applicable. In this Section 6.5(c), "**Applicable Percentage**" means an amount equal to the percentage content of Produced Silver in the portion of such Lot that was lost or damaged based on: (i) in the case of loss or damage of a partial shipment, the dry weight determined by weighing, sampling and moisture determination on loading of the Minerals and the agreed assays for silver on the part of the Minerals which have been delivered; and (ii) in the case of loss or damage of a complete shipment, on the dry weight determined at loading and the mine's provisional assays; in each case based on the respective market prices of the metals contained in such Lot as determined by the insurance settlement documents.

## 6.6 Confidentiality

- (a) Each Party (a "**Receiving Party**") agrees that it shall maintain as confidential and shall not disclose, and shall cause its Affiliates, employees, officers, directors, advisors and representatives to maintain as confidential and not to disclose, the terms contained in this Agreement and all information (whether written, oral or in electronic format) received or reviewed by it as a result of or in connection with this Agreement, including any Offtake Agreement provided under Section 6.4 (collectively, the "**Confidential Information**"), provided that a Receiving Party may disclose Confidential Information in the following circumstances:
  - (i) to its auditor, legal counsel, lenders, underwriters, investment bankers, and to persons ("**Third Parties**") with which it is considering or intends to enter into a transaction for which such Confidential Information would be relevant (and to advisors and representatives of any such person), provided that (i) such persons are advised of the confidential nature of the Confidential Information, undertake to maintain the confidentiality of it and are strictly limited in their use of the Confidential Information to those purposes necessary for such persons to perform the services for which they were, or are proposed to be, retained by the Receiving Party or to consider or effect the applicable transaction, as applicable, (ii) in the case of Third Parties, such Third Parties shall not be provided with Confidential Information other than an unredacted copy of this Agreement and any related agreements entered into in connection herewith and information regarding deliveries and payments received hereunder, without the prior written consent of

the Seller or the Purchaser, as the case may be, such consent not to be unreasonably withheld or delayed, and (iii) in the case of any Third Party that is, in the Seller's reasonable opinion, a competitor of the Seller in respect of the production of copper, no such Confidential Information of the Seller shall be provided without the Seller's prior written consent not to be unreasonably withheld or delayed;

- (ii) subject to Section 6.6(c), where that disclosure is necessary to comply with Applicable Laws, court order or regulatory request, provided that such disclosure is limited to only that Confidential Information so required to be disclosed and, where applicable, that the Receiving Party will have availed itself of the full benefits of any laws, rules, regulations or contractual rights as to disclosure on a confidential basis to which it may be entitled;
  - (iii) for the purposes of the preparation and conduct of any arbitration or court proceeding commenced under Section 14.1;
  - (iv) where such information is already available to the public other than by a breach of the confidentiality terms of this Agreement or is known by the Receiving Party prior to the entry into of this Agreement or obtained independently of this Agreement and the disclosure of such information would not breach any other confidentiality obligations;
  - (v) with the consent of the disclosing Party; and
  - (vi) to its Affiliates and those of its and its Affiliates' partners, limited partners, directors, officers, employees, advisors and representatives who need to have knowledge of the Confidential Information, provided that such persons are advised of the confidential nature of the Confidential Information and undertake to maintain the confidentiality of it.
- (b) Each Party shall ensure that its Affiliates and its and its Affiliates' employees, directors, officers, advisors and representatives and those persons listed in Section 6.6(a)(i) are made aware of this Section 6.6 and comply with the provisions of this Section 6.6. Each Party shall be liable to the other Party for any improper use or disclosure of such terms or information by such persons.
- (c) No Party shall file this Agreement on SEDAR without reasonable prior consultation with the other Party and the Parties shall consult with each other with respect to any proposed redactions to this Agreement in compliance with Applicable Laws before it is filed on SEDAR.

## ARTICLE 7 TRANSFERS OF INTERESTS

### 7.1 Transfer by the Purchaser

- (a) The Purchaser shall not Transfer any part of its rights, obligations and/or interests in this Agreement, the Refined Silver and/or the Collateral other than in accordance with this Section 7.1 or with the prior written consent of the Seller (not to be unreasonably withheld or delayed).

- (b) The Purchaser may on giving written notice to the Seller at any time in its sole discretion and without the consent of the Seller, Transfer:
- (i) the whole (and not a part only) of its rights, obligations and interests in this Agreement, the Refined Silver and/or the Collateral to any person; or
  - (ii) the whole or any part of its rights, obligations and interests in this Agreement, the Refined Silver and/or the Collateral to any Affiliate of the Purchaser,
- and the Seller shall undertake such acts and enter into such documents as Purchaser may require (including, for example, a novation agreement relating to this Agreement, if necessary) to ensure the full enforceability and effectiveness of this Section 7.1(b).
- (c) Should the Purchaser Transfer this Agreement to any person who is a competitor of the Seller or to any Affiliate, subsidiary or holding company of such a person, the Seller's obligations under Sections 5.3, 5.4 and 6.4(d) shall be deemed to be limited such that the Seller shall not, from the date of such Transfer, provide such person with any pricing, production or other competitively sensitive or market sensitive information to the extent that such provision would or might in the Seller's reasonable opinion breach any Applicable Laws.

## **7.2 Transfer by the Seller**

Subject to Section 8.2(g), except with the Purchaser's prior written consent or in accordance with Section 7.3, the Seller shall not Transfer, in whole or in part the Mine Project or the Collateral (other than any Transfer of Minerals pursuant to an Offtake Agreement in the ordinary course of business).

## **7.3 Permitted transfers by the Seller**

Subject to Section 8.2(j), the Seller may Transfer its interest in the whole, but not a part only, of the Mine Project (together with the Collateral) to any third party provided that:

- (a) at least 30 days prior written notice is given to the Purchaser of such proposed Transfer;
- (b) such proposed transferee is an entity with good and substantial credit, significant and adequate experience in the mining industry, adequate technical competence and adequate financial strength so as to enable it to fully and effectively perform the obligations of the Seller relating to this Agreement and the Mine Project;
- (c) all of the Seller's rights and obligations under this Agreement are simultaneously transferred to such third party by novation pursuant to an agreement in form and substance satisfactory to the Purchaser acting reasonably;
- (d) there is no Seller Event of Default (or an event which with notice or lapse of time or both would become a Seller Event of Default) that has occurred and is continuing;
- (e) the Purchaser does not reasonably expect such transfer to have a Material Adverse Effect (where, in the definition of "**Material Adverse Effect**", references to the "**Seller**" shall instead refer to the applicable transferee entity or Affiliate of the transferee entity);

- (f) all necessary consents and approvals of any Governmental Authority or other person are obtained or satisfied with respect to such Transfer;
- (g) the transferee, its Affiliates and each person in respect of which such transferee is a subsidiary or otherwise has a direct or indirect interest in the Mine Project grants the same charges and security interests in, to and over the Collateral, and enters into the same Security Documents entered into by the Seller or any other person pursuant to Section 8.2; and
- (h) if the transferee, and any other persons in respect of which such transferee is a subsidiary and has entered into a guarantee, has any outstanding Indebtedness secured by the same assets as this Agreement and the Security Documents, their secured lenders shall have entered into an intercreditor agreement with the Purchaser on terms reasonably acceptable to the Purchaser, it being understood that any such intercreditor agreement will recognize the Purchaser's interest in the Payable Silver and the Purchaser's first priority security interest in the Collateral, subject to the provisions of Section 8.

#### 7.4 Change of Control of the Seller

- (a) Subject to Section 7.4(b) and Section 8.2(g), the Seller shall not, and shall procure that no other person shall, permit, agree to, or enter into any agreement, arrangement or other transaction with any person that would cause, or otherwise allow or permit to exist, a Change of Control of the Seller.
- (b) Permitted Changes of Control of the Seller A Change of Control of the Seller will not be a breach of Section 7.4(a) or a Seller Event of Default if the Purchaser gives its prior written consent to such Change of Control or:
  - (i) the Seller shall have provided the Purchaser with at least 30 days prior written notice of the proposed Change of Control;
  - (ii) the Purchaser does not reasonably expect such Transfer or Change of Control to have a Material Adverse Effect (where, in the definition of "**Material Adverse Effect**", references to "**the Seller**" shall instead refer to the applicable acquiring entity or Affiliate of the acquiring entity);
  - (iii) the acquiring person is, in the opinion of the Purchaser acting reasonably, a financially sound and robust operator with experience operating projects similar to the Mine Project and has the technical and financial capability to perform its obligations under any document that it enters into in connection with the Mine Project and this Agreement;
  - (iv) all necessary consents and approvals of any Governmental Authority or other person are obtained or satisfied with respect to such Transfer; and
  - (v) if the acquiring person has any outstanding Indebtedness secured by the same assets as this Agreement and the Security Documents, their secured lenders shall have entered into an intercreditor agreement with the Purchaser on terms reasonably acceptable to the Purchaser, it being understood that any such intercreditor agreement will recognize the Purchaser's pre-paid interest in the

Payable Silver and the Purchaser's first priority security interest in the Collateral, subject to the provisions of Section 8.

## **ARTICLE 8 PURCHASE AND SALE; SECURITY**

### **8.1 Purchase and sale**

The Parties acknowledge and agree that this Agreement and the purchase and sale transactions contemplated hereby are, and are intended to be, transactions for the purchase and sale of silver. Nothing in this Agreement shall be construed to create, expressly or by implication, a debt instrument between the Parties under any Applicable Laws.

### **8.2 Security**

- (a) Notwithstanding Section 8.1, pursuant to the Mortgage and the Security Documents, the Seller shall grant to the Purchaser a mortgage and lien (subject only to Permitted Encumbrances and the Encumbrances created by any Priority Lienholder Security Documents) on the Collateral as security for the Seller's obligations under this Agreement.
- (b) Further to Section 8.2(a), the Seller shall cause the Security Documents and all other agreements, instruments and documents to be executed and delivered and all such further acts, opinions and other documents, instruments and agreements in connection therewith and things to be done as the Purchaser may from time to time reasonably request to obtain, perfect and maintain a perfected Encumbrance (subject only to Permitted Encumbrances and the Encumbrances created by any Priority Lienholder Security Documents) in, to and over all of the Collateral to the extent provided for in this Agreement. The reasonable expenses of the Purchaser in complying with its obligations in this clause (b) shall be for the account of the Seller.
- (c) The Seller and the Purchaser agree that any Encumbrances granted to the Purchaser by the Seller as provided in this Section 8.2 shall be subject and subordinate, as provided in any Subordination Agreement, the Priority Lienholders Security Documents and the Security Documents, to the rights of any Priority Lienholder granted an Encumbrance on the Collateral intended to be senior to the Purchaser's Encumbrance over the Collateral.
- (d) The Purchaser shall cause all agreements, instruments and documents to be executed, delivered, filed, registered, notarized, apostilled, consularized and recorded in the appropriate real property or other registry and all such further acts, opinions and other documents, instruments and agreements in connection therewith and things to be done as the Seller or any Priority Lienholder may from time to time reasonably require to ensure the effectiveness of any Subordination Agreement and the enforceability thereof by the Priority Lienholders. The reasonable expenses of the Purchaser in complying with its obligations in this Section 8.2(d) shall be for the account of the Seller.
- (e) The Seller shall not contest, in any manner, the effectiveness, validity, binding nature or enforceability or otherwise, of the security granted in or further to this Agreement, any Subordination Agreement, the Priority Lienholders Security Documents or the Security Documents. The Purchaser shall not contest, in any manner, the effectiveness, validity, binding nature or enforceability (by either the Seller or any Priority Lienholder) or otherwise, of any Subordination Agreement, the Priority Lienholders Security Documents

or the Encumbrances held by the Priority Lienholders or the priority thereof to the extent in each case entered into in compliance with this Agreement.

- (f) The Seller and the Purchaser agree: (i) that they have not agreed that the time for the grant of the security interests provided for pursuant to Section 8.2(a) shall be delayed; (ii) that such security interests shall attach at the earliest possible time after the date of notice from the Purchaser further to Section 8.2(a) and completion of the formalities required under applicable Chilean law; and (iii) that value has been given by the Purchaser to the Seller. The Seller confirms that it has rights in the Collateral owned by it on the date hereof or the power to transfer rights in such Collateral.
- (g) For greater clarity and notwithstanding anything in this Agreement or in any other Transaction Document to the contrary (including in Articles 7, 10 and 13), the Purchaser's consent shall not be required for, nor shall any other requirement or condition set forth herein or therein be applicable to or be required to be satisfied for, the granting by the Seller of any Encumbrance in favour of any Priority Lienholder in accordance with the terms of this Agreement or the exercise of any remedial or other rights in respect of any property to which any such Encumbrance applies by the beneficiary of such Encumbrance (in accordance with the terms of any applicable Subordination Agreement), and it shall be deemed that no Change of Control or Seller Event of Default shall result therefrom and no right of first offer on any Gold Interest shall be triggered by any such grant of an Encumbrance or any sale of all or any Gold Interest in connection with the entry into any Priority Lienholder Indebtedness in order to qualify for some or all of the funding provided thereby; provided that to the extent the Priority Lienholder Indebtedness is secured by an Encumbrance on the Collateral senior to the Encumbrance created by the Security Documents, the terms of Section 8.2(j) and Section 8.2(k) shall have been complied with.
- (h) The Purchaser agrees to the grant by the Seller to any Priority Lienholder of an Encumbrance on the Seller's rights and interests under this Agreement in connection with Priority Lienholder Indebtedness and in connection therewith the Purchaser agrees to use commercially reasonable efforts to enter into a direct agreement and deliver legal opinions (if required by any relevant Priority Lienholder), in each case, in customary form for international mine project finance transactions; provided that the reasonable expenses of the Purchaser in compliance with this Section 8.2(h) shall be for the account of the Seller.
- (i) In the event of any Transfer by the Purchaser of its rights and obligations under this Agreement, the Purchaser agrees that the transferee thereunder shall execute and deliver an agreement in form and substance reasonably satisfactory to all Priority Lienholders (if any) and to the Seller, agreeing to be bound by each Subordination Agreement and Priority Lienholder Security Documents, to provide a direct agreement as contemplated by Section 8.2(h) and all related opinions of counsel required in this Section 8.2.
- (j) The Seller shall not permit the aggregate outstanding principal amount of all Priority Lienholder Indebtedness secured by an Encumbrance on the Collateral senior to the Encumbrance created by the Security Documents taken together at any time outstanding to exceed the Limit.
- (k) The Seller shall not permit any Encumbrances on the Collateral with a priority senior to the Purchaser's Encumbrances on the Collateral created by the Security Documents other than (i) Encumbrances granted in connection with the Priority Lienholder Indebtedness as permitted by this Agreement and (ii) the Permitted Encumbrances.

- (l) At the Purchaser's request, the Seller shall promptly provide the Purchaser with evidence satisfactory to the Purchaser, acting reasonably, that the Seller is in compliance with its obligations under Section 8.2(j) and Section 8.2(k).

### **8.3 New Subordination Agreement**

If, at any time, the Seller undertakes a secured financing or re-financing that requires execution of a new, amended or replacement Subordination Agreement, the Parties agree to undertake all acts that are reasonably necessary and sign all necessary documents (including the new, amended or replacement Subordination Agreement) if the terms of such Subordination Agreement, save as to reflect different, additional or replacement parties, are (a) identical to those set out in the Subordination Agreement; or (b) on terms that are overall no less beneficial to the Purchaser than those set out in the Subordination Agreement, subject in each case to such additional amendments as the Seller or the Purchaser, each acting reasonably, may require. At the same time as entering into any such Subordination Agreement the Purchaser will enter into each mortgage postponement required under applicable Chilean law for the purpose of subordinating the Security Documents to such Encumbrances in favour of such Priority Lienholders as provided in such Subordination Agreement.

### **8.4 Stockpiling**

If the Seller intends to stockpile, store, warehouse or otherwise place minerals off the Mine, before doing so, the Seller shall obtain from the property owner, operator or both, as applicable, where such stockpiling, storage, warehousing or other placement occurs, in favour of the Purchaser written acknowledgements in form and substance satisfactory to the Purchaser, acting reasonably, which provide that the Seller's rights to the minerals shall be preserved and, following notice from the Purchaser further to Section 8.2(a), which acknowledge the Purchaser's encumbrances thereon and provides the Purchaser with a right of access in the event of enforcement by the Purchaser of the security.

## **ARTICLE 9 REPRESENTATIONS AND WARRANTIES**

### **9.1 Representations and Warranties**

The Seller, acknowledging that the Purchaser is entering into this Agreement in reliance thereon, hereby makes on and as of the date of this Agreement, the representations and warranties to the Purchaser set forth in Schedule A. The representations and warranties to the Purchaser set forth in Schedule A are qualified by the actual knowledge of the Purchaser as at the date of this Agreement.

### **9.2 Survival of Representations and Warranties**

The representations and warranties set forth in Schedule A shall survive the execution and delivery of this Agreement.

### **9.3 Knowledge**

Where any representation or warranty contained in this Agreement is expressly qualified by reference to the "**knowledge**" of the Seller, it shall be deemed to refer to the actual knowledge of any of the senior management of the Seller from time to time 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.

**ARTICLE 10**  
**SELLER EVENTS OF DEFAULT**

**10.1 Seller Events of Default**

Each of the following events or circumstances constitutes an event of default by the Seller (each, a "**Seller Event of Default**"):

- (a) the Seller fails to sell and deliver the Refined Silver to the Purchaser on the terms and conditions set forth in this Agreement within 15 Business Days after receipt of notice from the Purchaser notifying the Seller of such default;
- (b) the Seller is in breach or default of its obligations under Article 7 or Article 8 and, in respect of Article 8 only, such breach or default is not remedied within a period of 20 Business Days following delivery by the Purchaser to the Seller of written notice of such breach or default, or such longer period of time as the Purchaser may determine in its sole discretion;
- (c) other than as provided in Sections 10.1(a) or 10.1(b), the Seller is in breach or default of any terms or conditions, or any of its covenants or obligations, set forth in this Agreement or the Security Documents (though without prejudice to Section 10.1(f) below) in any material respect, which breach or default is not remedied within a period of 45 days following delivery by the Purchaser to the Seller of written notice of such breach or default, or such longer period of time as the Purchaser may determine in its sole discretion;
- (d) upon the occurrence of an Insolvency Event affecting the Seller;
- (e) upon the occurrence of a Material Adverse Effect;
- (f) except as otherwise contemplated herein, any Security becomes invalid or unenforceable or any Security otherwise ceases to constitute a first ranking perfected Encumbrance over the Collateral, and such default has not been remedied within 20 days of the earlier of
  - (i) the Seller becoming aware of such default, and (ii) receipt of notice from the Purchaser notifying the Seller of such default;
- (g) any Governmental Authority condemns, expropriates, seizes or appropriates any property or part thereof which, when combined with any other property previously condemned, expropriated, seized or appropriated, forms a material part of the Mine Project or the Collateral;
- (h) any Permit that has been previously obtained by the Seller is suspended, cancelled, revoked, forfeited, surrendered, refused renewal or terminated (whether in whole or in part) is not, or ceases to be, in full force and effect and the Seller fails to cure such default within 90 days following such default;
- (i) any Transfer of the Mine Project other than in accordance with Section 7.3 or of Mantoverde other than in accordance with Article 13, or Change of Control of the Seller other than in accordance with Section 7.4, occurs without the prior written consent of the Purchaser; and

- (j) it is or becomes unlawful for the Seller to perform any of its obligations under any Transaction Document or the Seller repudiates or rescinds any Transaction Document or Offtake Agreement or purports to repudiate or rescind any Transaction Document or Offtake Agreement.

## 10.2 Remedies for Purchaser

- (a) If a Seller Event of Default occurs and is continuing, the Purchaser shall have the right, upon written notice to the Seller, at its option and in addition to and not in substitution for any other remedies available to it hereunder or at law or equity, to take any or all of the following actions:
  - (i) demand all amounts and deliveries owing by the Seller to the Purchaser, which shall be paid or delivered (as applicable) by the Seller within 5 Business Days of such demand;
  - (ii) terminate this Agreement by written notice to the Seller and, without limiting Section 10.2(a)(i), demand the Early Termination Amount which shall become immediately payable on demand; and / or
  - (iii) enforce the Security in accordance with the terms of the Security Documents, any Subordination Agreement and the Priority Lienholders Security Documents.
- (b) For greater certainty, if the Purchaser does not exercise its right under Section 10.2(a)(ii), the obligations of the Seller or any successors following a realization hereunder shall continue in full force and effect.

## 10.3 Purchaser Events of Default

- (a) The occurrence of an Insolvency Event affecting the Purchaser shall constitute an event of default by the Purchaser (a "**Purchaser Event of Default**").
- (b) If the Purchaser fails to make any payment due then this shall not be a Purchaser Event of Default but the Seller shall be entitled to all other remedies available to it under this Agreement including further to Section 10.4(c).

## 10.4 Remedies for Seller

- (a) If a Purchaser Event of Default has occurred then the Seller shall have the right, at its option, to terminate this Agreement by written notice to the Purchaser, subject to and with effect from the Seller returning to the Purchaser the amount of the Remaining Deposit Balance within 10 Business Days of such notice.
- (b) The Seller shall have no right to terminate this Agreement other than further to Section 10.4(a), but shall be entitled to all other remedies available to it under this Agreement including further to Section 10.4(c) and under the Applicable Laws.
- (c) If the Purchaser fails on two occasions to make a payment due further to Section 2.5 within 10 Business Days of such payment becoming due then the Seller shall be entitled to offset such amounts owing (including any interest further to Section 2.5(c)) against future deliveries of Refined Silver by reducing the amount of future deliveries to ■% of the

[Redacted - commercially sensitive amount omitted.]

Designated Percentage of Payable Silver until such amounts owing have been fully offset, provided that the Seller has given prior notice of such non-payment and such intention.

## **ARTICLE 11 TAXES**

### **11.1 Taxes**

- (a) All deliveries of Refined Silver and all payments and transfers of property of any kind under the Transaction Documents by the Seller shall be made without any deduction, withholding, charge, levy or imposition for or on account of any Taxes, except as required by Applicable Laws.
- (b) Subject to Section 11.1(c) below, all Taxes (excluding any income or profit related taxes payable by the Purchaser), if any, as may be deducted, withheld, charged, levied, collected or imposed on or otherwise incurred by the Purchaser on, with respect to or in connection with any deliveries, payment(s) or transfers under the Transaction Documents shall be paid by the Seller to the Purchaser by delivering or paying to the Purchaser, such additional deliveries, payments or transfers as is necessary to ensure that the Purchaser is not out of pocket for any such Taxes (including any Taxes that will be deducted, withheld, charged, levied, collected or imposed on, with respect to or in connection with any such additional deliveries or amounts).
- (c) Cooperation. The Parties agree to reasonably cooperate to: (i) ensure that no more Taxes, duties or other charges are payable than is required under Applicable Laws; and (ii) obtain a refund or credit of any Taxes which have been overpaid.
- (d) Tax Planning. Following the execution and delivery of this Agreement, each of the Parties will co-operate reasonably with the other Party in implementing any proposed adjustments to the structure or terms of this Agreement to facilitate tax planning, provided that such adjustments have no material adverse impact on the non-proposing Party and that the costs of such adjustments shall be paid for by the proposing Party.

## **ARTICLE 12 INDEMNITY**

### **12.1 Indemnity**

The Seller agrees to indemnify the Purchaser, its Affiliates and their directors, officers, employees and agents harmless from and against any and all Losses suffered or incurred by any of them as a result of, in respect of, or arising as a consequence of:

- (a) the failure of the Seller to comply with any Applicable Laws, including any Applicable Laws relating to environmental matters and reclamation obligations, with respect to the Mine Project; or
- (b) the physical environmental condition of the Mine Project and matters of health and safety related to the Mine Project or any action or claim brought with respect thereto (including conditions arising prior to the date of this Agreement),

provided that the foregoing shall not apply to any Losses to the extent they arise primarily from the gross negligence or wilful misconduct of such indemnified persons. This Section 12.1 shall survive termination of this Agreement.

### **ARTICLE 13 GOLD RIGHT OF FIRST REFUSAL**

**13.1 If, at any time prior to 30 June 2018, the Seller (or any of its subsidiaries):**

- (a) wishes to offer for sale, or dispose of or grant rights for value to any third party any Mineral Interest in respect of gold ("**Gold Interest**") from either the Mine or the Mantoverde mine; or
- (b) following an offer by a third party to purchase or acquire for value any such Gold Interest (or rights in such Gold Interest) (a "**Third Party Offer**"), wishes to accept such Third Party Offer,

(each a "**Disposal**") the Seller shall, by notice in writing to the Purchaser, first offer to sell such Gold Interest to the Purchaser (the "**Seller Offer**").

**13.2** The Seller Offer must be capable of acceptance by the Purchaser and must set out all of the material terms and conditions related to the sale of the Gold Interest, including:

- (a) the Specified Terms that the Seller proposes to offer to a third party or that have been included in the Third Party Offer;
- (b) where the Third Party Offer includes consideration other than cash, at the Purchaser's option, the terms of the Seller Offer will permit the Purchaser to pay an amount in cash equivalent to the value of such non-cash consideration in the Third Party Offer; and
- (c) the Seller Offer must be consistent with the terms of this Agreement (except to the extent required by Sections 13.2(a) and / or 13.2(b)) and if the Seller Offer does not deal with any item that is dealt with in the terms of this Agreement, the Seller Offer shall be deemed to incorporate the relevant terms of this Agreement mutatis mutandis.

**13.3** Upon receipt of a Seller Offer, the Purchaser shall have a period of up to 30 days (the "**Review Period**") in which to indicate whether it wishes to accept the Seller Offer. During the Review Period, the Seller shall:

- (a) deal exclusively with the Purchaser with respect to the Seller Offer and any other potential disposition of the Gold Interest; and
- (b) provide to the Purchaser all information and materials that the Purchaser may reasonably require to consider the Seller Offer.

**13.4** If, prior to the end of the Review Period, the Purchaser accepts the Seller Offer by notice in writing to the Seller, the Seller and the Purchaser shall be bound by the Seller Offer on the terms set out therein subject to any other changes agreed on in writing during the Review Period.

**13.5** If a Seller Offer is accepted pursuant to Section 13.4, the Seller and the Purchaser shall cause all such further agreements, instruments and documents to be executed and delivered and all such

further acts, opinions and other documents, instruments and agreements in connection therewith and things to be done as either Party may from time to time reasonably require to give effect to the Seller Offer.

**13.6** If, by the end of the Review Period, the Purchaser has not accepted the Seller Offer, then the Seller may proceed with the Disposal of the Gold Interest which is the subject of the Seller Offer, provided that:

- (a) the terms of the Disposal are no more favourable to such third party than those included in the Seller Offer; and
- (b) such Disposal is completed within 75 days of the end of the Review Period.

**13.7** If a Disposal of the Gold Interest has not been completed within the 75 day period referred to in Section 13.6(b), the provisions of Sections 13.1 to 13.6 shall apply to any subsequent proposed Disposal of any Gold Interest by the Seller.

### **13.8 Transfers of Mantoverde**

In the event that any interest in the Mantoverde mine or Mantoverde mine project is transferred by the Seller to a third party then the Seller shall procure that at or before the time of such transfer it procures that such third party enters into a binding agreement with the Purchaser offering to the Purchaser a right of first refusal on the terms set out in this Article 13 (including incorporating this Section 13.8) in respect of any Gold Interest in relation to the Mantoverde mine or Mantoverde mine project.

## **ARTICLE 14 GENERAL**

### **14.1 Disputes and Arbitration**

- (a) Any dispute arising out of or in connection with this Agreement, including any question regarding the existence, scope, validity or termination of this Agreement or this Section 14.1 (and including any tortious or statutory claims) shall be referred to and finally resolved under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this Section 14.1 (to the extent that those Rules, or individual articles within those Rules, are valid and enforceable under national law, and where any individual article is deemed to be invalid and unenforceable it shall be severed and the remaining articles shall subsist) save that notwithstanding anything in those Rules, the Parties preserve their right to appeal or refer to the English courts on questions of law.
- (b) The number of arbitrators shall be three with each of Purchaser and the Seller appointing one arbitrator and the two appointed arbitrators selecting the third. Any person that at such time has, in the last five years been associated with (including by way of a common employer) or has provided professional services to a Party (including to a Party's Subsidiaries) shall be disqualified from appointment as an arbitrator.
- (c) The place of the arbitration shall be London, England.
- (d) The arbitration proceedings shall be conducted in the English language and the award shall be in English.

- (e) The Parties agree that information concerning or arising out of any arbitration, including information concerning any arbitration award, shall be treated as confidential and not disclosed to any person other than a Party without the prior consent in writing of the other Party unless any of the circumstances specified in Section 6.6 applies or the disclosure is to a person intended to be called as a witness in the arbitration by the Party disclosing the information, for the purpose of preparing the witness statement of such witness, provided that in any such case a written confidentiality undertaking in a form equivalent to that contained in this Section 14.1(e) has first been obtained from such person. The restrictions contained in this Section 14.1(e) shall survive the termination of this Agreement and shall continue without limit of time.
- (f) Notwithstanding the foregoing, this Section 14.1 shall (i) not apply to the Security Documents; and (ii) the Purchaser or the Seller shall not be prevented from taking proceedings related to any dispute in any other courts with jurisdiction in connection with an Insolvency Event. To the extent allowed by law, the Purchaser and the Seller may take concurrent proceedings in any number of jurisdictions in connection with an Insolvency Event.

#### **14.2 Exclusion of Consequential Losses**

Subject to Section 12.1, but otherwise notwithstanding any other provision of this Agreement, a Party is not, nor is to be deemed or adjudged liable to the other Party in contract (including under any indemnity), tort (including in negligence or for breach of statutory duty) or otherwise, for any special, indirect or consequential loss or damage of any nature.

#### **14.3 Further Assurances**

Each Party shall execute all such further instruments and documents and do all such further actions as may be necessary to effectuate the documents and transactions contemplated in this Agreement, in each case at the cost and expense of the Party requesting such further instrument, document or action, unless expressly indicated otherwise.

#### **14.4 No Joint Venture**

Nothing herein shall be construed to create, expressly or by implication, a joint venture, mining partnership, commercial partnership, agency relationship, fiduciary relationship, or other partnership relationship between the Purchaser and the Seller.

#### **14.5 Governing Law**

This Agreement and any matters arising out of or in connection with it shall be governed by and construed under the laws of England and Wales. The United Nations Vienna Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

#### **14.6 Notices**

Unless otherwise specifically provided in this Agreement, any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered by hand to an officer or other responsible employee of the addressee or transmitted by facsimile transmission or sent by electronic mail in PDF format, addressed to:

(i) If to the Seller to:

[Redacted - contact information omitted.]



and a copy to:

[Redacted - contact information omitted.]



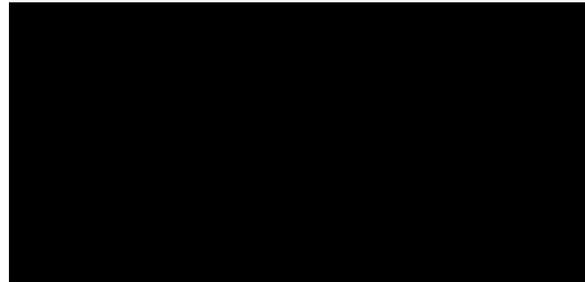
(ii) If to the Purchaser, to:

[Redacted - contact information omitted.]



with a copy to:

[Redacted - contact information omitted.]



Any notice or other communication given in accordance with this section, if delivered by hand as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Business Day and such delivery is received before 4:00 pm at the place of delivery; otherwise, it shall be deemed to be validly and effectively given on the Business Day next following the date of delivery. Any notice of communication which is transmitted by facsimile transmission or electronic mail as aforesaid, shall be deemed to have been validly and effectively given on the date of transmission if such date is a Business Day and such transmission was received before 4:00 pm at the place of receipt; otherwise it shall

be deemed to have been validly and effectively given on the Business Day next following such date of transmission. A Party may vary any of its address for notice details by notice to the other Parties.

#### **14.7 Amendments**

This Agreement may not be changed, amended or modified in any manner, except pursuant to an instrument in writing signed on behalf of each of the Parties.

#### **14.8 Beneficiaries**

This Agreement is for the sole benefit of the Parties and their successors and permitted assigns and nothing herein is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature or kind whatsoever under or by reason of this Agreement.

#### **14.9 Entire Agreement**

This Agreement and the Security Documents together constitute the entire agreement between the Parties with respect to the subject matter hereof and cancel and supersede any prior understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, opinions, advice, assertions of fact, matters, undertakings or collateral agreements, express, implied or statutory, with respect to the subject matter hereof and thereof by or between the Parties (or by any of their respective employees, directors, officers, representatives or agents) other than as expressly set forth in this Agreement or the Security Documents.

#### **14.10 Waivers**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

#### **14.11 Assignment and Transfer**

- (a) This Agreement shall enure for the benefit of and shall be binding on and enforceable by the Parties and their respective successors and permitted assigns.
- (b) Except as provided in Article 7 and Article 8 herein, neither Party shall Transfer, in whole or in part, any of its rights or obligations under any of the Transaction Documents, without the prior written consent of the other Party.

#### **14.12 Severability**

If any provision of this Agreement is determined to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect and the Parties shall negotiate in good faith to replace any provision that is invalid, illegal or unenforceable with such other valid provision that most closely replicates the economic effect and rights and benefits of such impugned provision.

#### **14.13 Costs and Expenses**

Except as otherwise provided for in this Agreement, all costs and expenses incurred by a Party shall be for its own account.

#### **14.14 Third Party Rights**

No person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

#### **14.15 Counterparts**

This Agreement may be executed in one or more counterparts, and by the Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopy or electronic scan shall be effective as delivery of a manually executed counterpart of this Agreement.

**(Remainder of page intentionally left blank)**

EXECUTION PAGE TO FOURTH AMENDMENT AND RESTATEMENT DEED FOR SILVER  
PURCHASE AGREEMENT

**EXECUTED AS A DEED** )  
by (signed) "Raman Randhawa" )  
duly authorised for )  
and on behalf of **MANTOS COPPER S.A.** )

in the presence of: )  
Signature of witness: )  
Name of witness: (signed) "Tammy Ho" )  
Address of witness: [REDACTED: PERSONAL INFORMATION]

*EXECUTION PAGE TO FOURTH AMENDMENT AND RESTATEMENT DEED FOR SILVER  
PURCHASE AGREEMENT*

**EXECUTED AS A DEED** )  
by (signed) Michael Spencer )  
..... )  
duly authorised for )  
and on behalf of **OSISKO BERMUDA** )  
**LIMITED** )

in the presence of: )  
Signature of witness: )  
 )  
Name of witness: )  
Address of witness: )

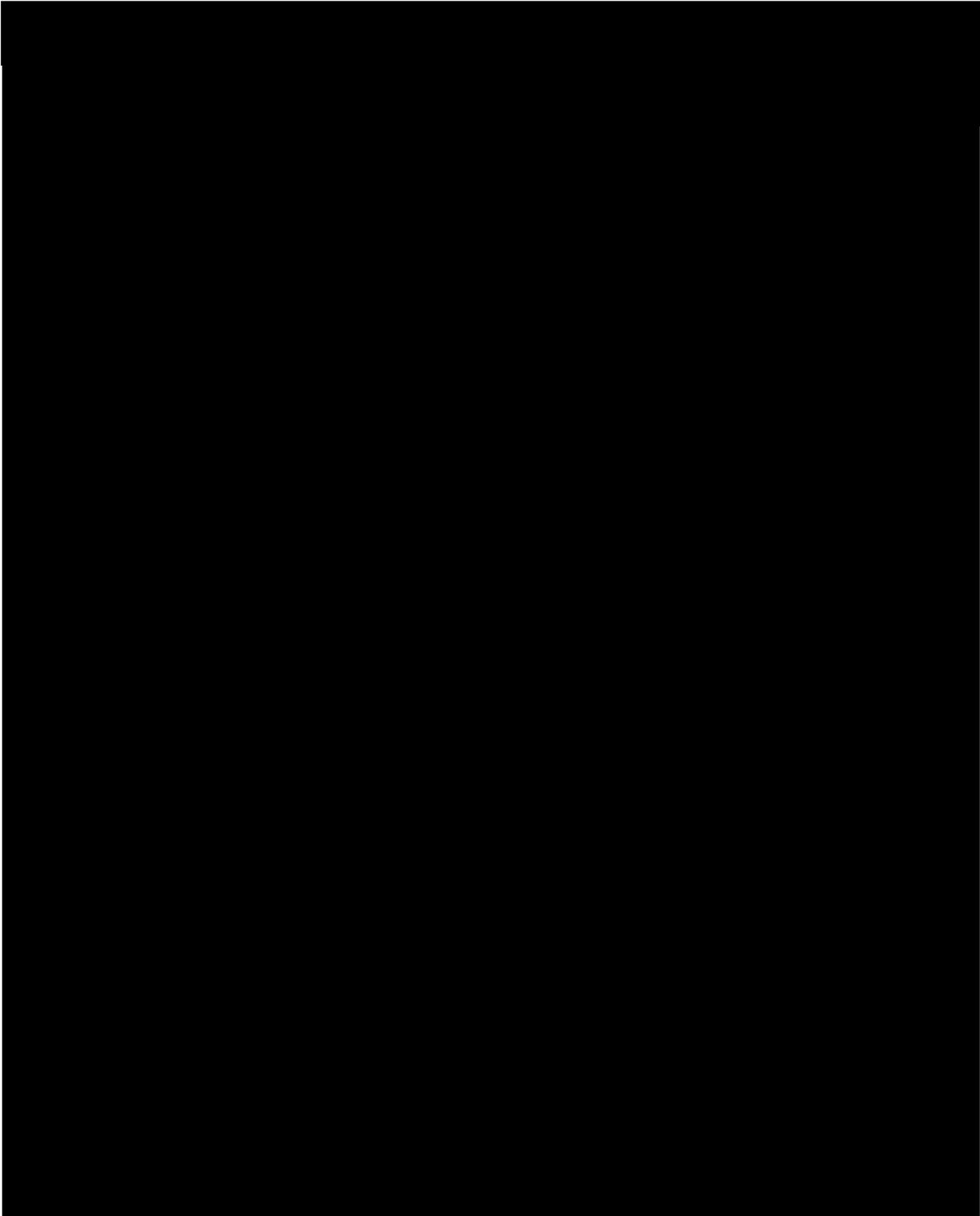
**SCHEDULE A**  
**REPRESENTATIONS AND WARRANTIES**

- (a) **Organization.** The Seller has been duly incorporated or formed, as applicable, and is validly existing and in good standing under the Applicable Laws of their existence. The Seller has the power and capacity to own and lease its property and to carry on its business as currently conducted.
- (b) **Authorization.** The Seller has the requisite power and authority to enter into each of the Transaction Documents to which it is or will become a party, and to perform its obligations thereunder. Each of the Transaction Documents to which the Seller is or will become a party has been duly authorized, executed and delivered by the Seller, and each Transaction Document to which the Seller is or will become a party is or will be a valid and binding agreement of the Seller, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Applicable Laws affecting creditors' rights generally and subject to the qualification that equitable remedies may be granted in the discretion of a court of competent jurisdiction.
- (c) **No Violation.** The execution and delivery by the Seller of each Transaction Document to which it is a party, and the performance by it of its obligations hereunder or thereunder does not and will not result in any breach of any obligation (including under any Permit) binding on the Seller, or give any party the right to terminate any contract to which the Seller is a party or withdraw or modify the terms of any Permit.
- (d) **Permits.** All Permits necessary for the Mine Project are in full force and effect. The Seller is in compliance with the terms of all applicable Permits. The Seller is not aware of any actual or grounds on which any Permit may be withdrawn or modified.
- (e) **No Consents and Approvals.** There is no requirement under any contract or Applicable Laws for the Seller to give any notice to, or to obtain the consent or approval of, any person in respect of the Transaction Documents or the transactions contemplated hereunder and thereunder.
- (f) **Title.** The Seller has good title to the Mine Project and the Minerals produced therefrom. Other than under the Offtake Agreements, none of the Mine Project nor 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. There are no Encumbrances affecting the Mine Project nor any Minerals produced therefrom, other than the Security.
- (g) **Compliance with Laws.** The Seller has not been and is not in breach or violation of: (A) any of the terms, conditions or provisions of its constitutional documents or resolutions of its shareholders or directors (or any committee thereof) in any material respect; (B) any outstanding Permit; or (C) any Applicable Laws relating to, or any order of any Governmental Authority having jurisdiction over the Seller or its respective property or assets relating to the Mine Project in any material respect. To the knowledge of the Seller, having made due enquiries, there are no Applicable Laws, or proposed Applicable Laws, which will have or could reasonably be expected to have a Material Adverse Effect.

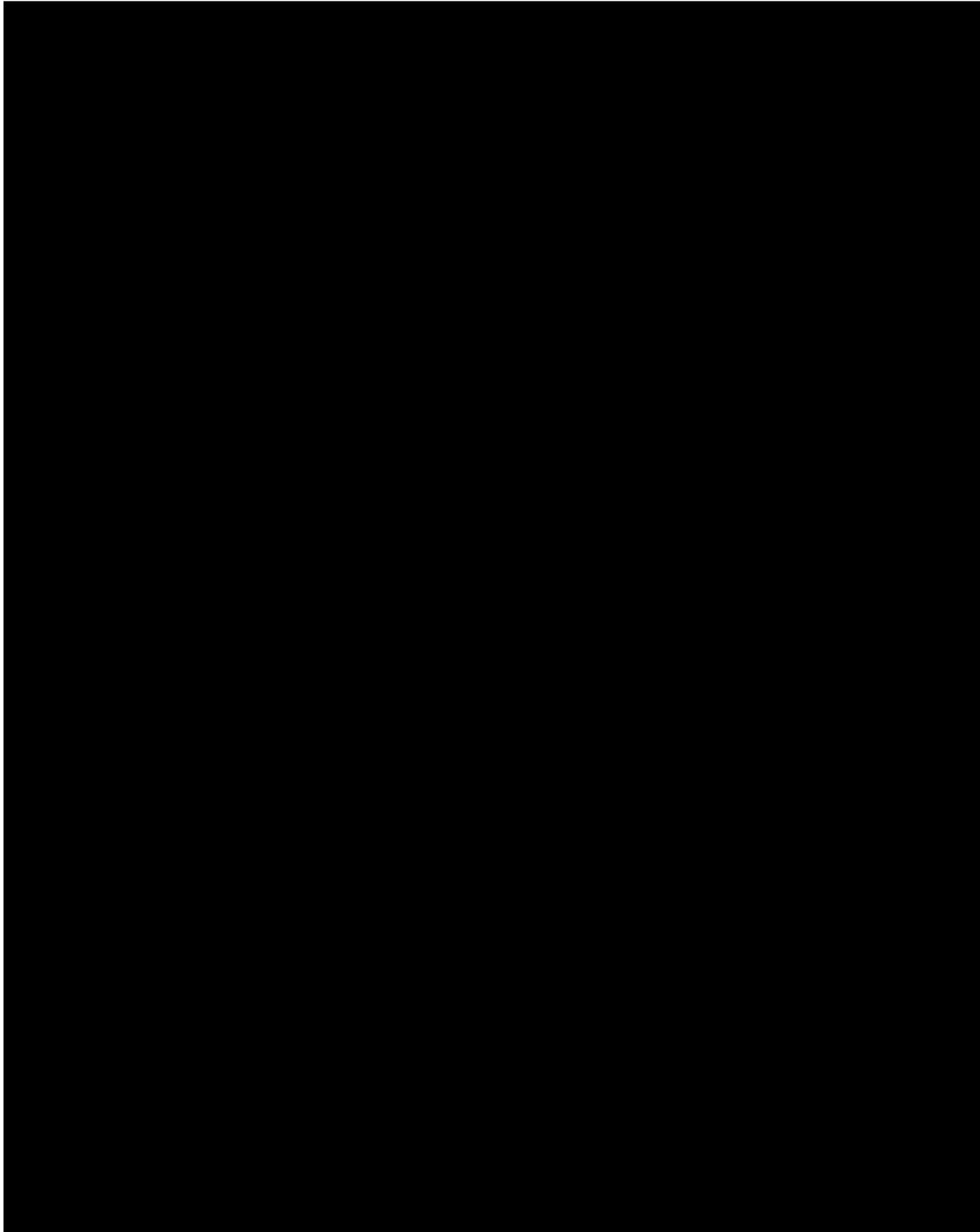
- (h) **Material Contracts.** All material contracts to which the Seller is a party or by which it is otherwise bound are in full force and effect and constitute valid and enforceable obligations of the parties thereto. Neither the Seller nor, to the Seller's knowledge having made due enquiry, any other person, is in default in any material respect in the observance or performance of any term, covenant or obligation under any such material contract, and no event has occurred which, with notice or lapse of time or both, would constitute such a default. The Seller has not received notice of any intention to terminate any such material contract or repudiate or disclaim any transaction contemplated thereby.
- (i) **Off-Balance Sheet Financing.** There are no off-balance sheet transactions, arrangements, obligations (including contingent obligations) or other relationships of the Seller with unconsolidated entities or other persons.
- (j) **Solvency.** The Seller is not insolvent within the meaning of Applicable Laws.
- (k) **Taxes.**
  - (i) All material Taxes due and payable by the Seller (whether or not shown due on any Tax returns and whether or not assessed (or reassessed) by the appropriate Governmental Authority) have been timely paid. All assessments and reassessments received by the Seller in respect of Taxes have been paid.
  - (ii) All Tax returns required by Applicable Laws to be filed by or with respect to the Seller have been properly prepared and timely filed 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.
  - (iii) Adequate provision has been made by the Seller in the financial statements for all Taxes for any period for which Tax returns are not yet required to be filed, or for which Taxes are not yet due or payable, up to the date of the financial statements.
- (l) **Environmental and Health and Safety.** The Seller and the Mine Project have acted or, as applicable, been operated in compliance with all Environmental Laws in all material respects. All mining operations and all exploration activities in respect of the Mine Project have been conducted in accordance with Good Industry Practice and all workers' compensation and health and safety regulations applicable to the Mine Project or the Seller have been complied with in all material respects.

**SCHEDULE B  
COLLATERAL**

[Redacted - Commercially Sensitive Information.]



**SCHEDULE C**  
**MANTOS BLANCOS MONTHLY PERFORMANCE REPORT**



[Redacted - Commercially Sensitive Information.]