

**MONTAGE GOLD CORP.**

**– and –**

**BARRICK GOLD (CÔTE D’IVOIRE) LIMITED**

**– and –**

**ENDEAVOUR GOLD CORPORATION**

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**SHARE PURCHASE AGREEMENT**

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**June 7, 2022**

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## SHARE PURCHASE AGREEMENT

THIS AGREEMENT made the 7<sup>th</sup> day of June, 2022,

AMONG :

**MONTAGE GOLD CORP.,**  
a corporation existing under the laws of the  
Province of British Columbia,

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

- and -

**BARRICK GOLD (CÔTE D’IVOIRE) LIMITED,**  
a corporation existing under the laws of Jersey,

(hereinafter referred to as the “**Barrick Seller**”),

- and -

**ENDEAVOUR GOLD CORPORATION,**  
a company existing under the laws of the Cayman  
Islands,

(hereinafter referred to as the “**Endeavour Seller**”  
and together with the Barrick Seller, the “**Sellers**”).

WHEREAS the Sellers are the owners of all of the issued and outstanding ordinary shares of Mankono Exploration Limited, a company duly incorporated and validly existing under the laws of Jersey (the “**Joint Company**”);

AND WHEREAS the Joint Company is the owner of all of the issued and outstanding shares, par value \$1.00 each, of Mankono Exploration SA, a company duly incorporated and validly existing as a société anonyme under the laws of Côte d’Ivoire (the “**Mining Company**”);

AND WHEREAS the Sellers wish to sell to the Purchaser, and the Purchaser wishes to purchase from the Sellers, the Purchased Securities (as defined below) on the terms hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements of the Parties hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each Party), the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement (including the recitals and the Exhibits hereto), the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have the corresponding meanings:

- (a) **“Adjusted Cash Consideration”** has the meaning set out in Section 2.7;
- (b) **“Adjusted Consideration Shares”** has the meaning set out in Section 2.7;
- (c) **“Affiliate”** means, with respect to any person, any person which directly or indirectly Controls, or is Controlled by, or is under common Control with, that person;
- (d) **“Agreement”** means this Share Purchase Agreement (including the Exhibits hereto), as the same may be amended from time to time in accordance herewith;
- (e) **“Applicable Securities Laws”** has the meaning set out in Section 6.12(a);
- (f) **“Assessment”** means an assessment, reassessment or any other form of written demand assessing liability for Taxes, or interest or penalties in respect of Taxes under applicable Laws;
- (g) **“Barrick NSR Royalty Agreement”** means the net smelter returns royalty agreement in respect of a 1.4% net smelter returns royalty, in the form attached hereto as Exhibit A, to be entered into by the Purchaser and the Barrick Seller (or any of its Affiliates, as applicable) on Closing;
- (h) **“Barrick Seller”** has the meaning set out in the recitals to this Agreement;
- (i) **“BGC”** means Barrick Gold Corporation, the ultimate parent company of the Barrick Seller;
- (j) **“Books and Records”** means books and records of or relating to either of the Mankono Companies, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, supplier lists, production data, quality control records and procedures, assay reports, drill logs, exploration reports, environmental studies, mine plans, operational documents, non-proprietary mining and reserve models, sales records, strategic plans, material and research, including all technical records, files papers, surveys and plans or specifications, but excluding any Privileged Documents;
- (k) **“Business Day”** means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, Canada or St Helier, Jersey, on which commercial banks in Toronto, Ontario and St Helier, Jersey are open for business;

- (l) “**Cash Consideration**” means (subject to any increase in the aggregate amount thereof pursuant to Section 2.7), C\$14,500,000 in cash;
- (m) “**Change of Control Transaction**” has the meaning set out in Section 4.13(b);
- (n) “**Claim**” has the meaning set out in Section 8.7(a);
- (o) “**Closing**” means the closing of the transactions contemplated by this Agreement;
- (p) “**Closing Date**” has the meaning set out in Section 3.1;
- (q) “**Competition Act**” means the *Competition Act*, R.S.C. 1985, c. C-34, as amended, and the regulations thereunder;
- (r) “**Confidentiality Agreement**” means the confidentiality agreement dated October 6, 2020 between Barrick Gold (Geology) Limited and the Purchaser;
- (s) “**Consideration**” has the meaning set out in Section 2.2;
- (t) “**Consideration Shares**” means (subject to any decrease in the aggregate number thereof pursuant to Section 2.7), in the aggregate, the 22,142,857 common shares of the Purchaser to be issued to the Sellers in their respective Proportionate Shares at Closing, in each case free and clear of all Encumbrances;
- (u) “**Consideration Value**” means the aggregate value of the Consideration as agreed among the Parties, being C\$30,000,000;
- (v) “**Contract**” means any agreement, indenture, contract, lease, deed of trust, royalty, licence, option, instrument, arrangement, understanding or other commitment, whether written or oral;
- (w) “**Control**” means possession, directly or indirectly, of the power to direct or cause the direction of management and policies through ownership of voting shares, interests or securities, or by contract, voting trust or otherwise; and “**Controlled**” and “**Controlling**” shall have corresponding meanings;
- (x) “**Direct Claim**” has the meaning set out in Section 8.7(a);
- (y) “**Disclosure Letters**” means, collectively, the Purchaser Disclosure Letter and the Seller Disclosure Letter and “**Disclosure Letter**” means either of them, as the circumstances require;
- (z) “**Encumbrance**” means any lien, charge, hypothec, pledge, mortgage, title retention agreement, covenant, condition, lease, license, security interest of any nature, claim, exception, reservation, easement, encroachment, right of occupation, right-of-way, right-of-entry, matter capable of registration against title, option, assignment, right of pre-emption, right of first refusal, royalty, privilege or any other encumbrance or charge or title defect of any nature whatsoever,

regardless of form, whether or not registered or registrable and whether or not consensual or arising by Law, or any Contract to create any of the foregoing;

- (aa) **“Endeavour NSR Royalty Agreement”** means the net smelter returns royalty agreement in respect of a 0.6% net smelter returns royalty, in the form attached hereto as Exhibit A, to be entered into by the Purchaser and the Endeavour Seller (or any of its Affiliates, as applicable) on Closing;
- (bb) **“Endeavour plc”** means Endeavour Mining plc, the ultimate parent company of the Endeavour Seller;
- (cc) **“Endeavour Seller”** has the meaning set out in the recitals to this Agreement;
- (dd) **“Environmental Laws”** means all applicable Laws relating to the protection of the environment and includes those relating to pollution, protection, use or conservation of the environment or natural resources, the protection of public health and safety, Hazardous Substances, or the reclamation, rehabilitation, closure or other restoration of mining properties. For greater certainty, an Environmental Law pertaining to the protection, use or conservation of the environment shall include all such Environmental Laws relating to the manufacture, processing, generation, use, treatment, storage, disposal, transport, Release, containment, reclamation, rehabilitation, closure or other restoration of any tailings, waste rock, tailings ponds or Hazardous Substances;
- (ee) **“Environmental Permits”** means any Permit necessary to conduct exploration operations in compliance in all material respects with Environmental Laws;
- (ff) **“Exploration Permits”** means, collectively, (i) the Sissedougou Permit; (ii) upon its grant, the Sisseple Permit; and (iii) upon its grant, the Gbongogo Permit, including, in each case, any renewals, extensions, modifications, substitution or variation thereof from time to time, and **“Exploration Permit”** means any of the foregoing, as the circumstances require;
- (gg) **“Financing”** means a financing by the Purchaser for the purpose of funding the Cash Consideration;
- (hh) **“Gbongogo Permit”** means the permit to be issued to the Mining Company, the details of which are set out in Schedule A of the Seller Disclosure Letter, as the same may be modified in connection with the issuance thereof to the Mining Company;
- (ii) **“Governmental Authority”** means any (i) multinational, national, federal, provincial, state, territorial, municipal, local or other government (whether domestic or foreign), (ii) governmental or quasi-governmental authority of any nature, including any stock exchange or any governmental ministry, agency, branch, department, commission, commissioner, board, tribunal, bureau or instrumentality (whether domestic or foreign), or (iii) body exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power under or for the account of any of the foregoing, including any court, arbitrator or arbitration tribunal;

- (jj) **“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, radioactive materials, explosives, petroleum and petroleum products and polychlorinated biphenyls;
- (kk) **“IFRS”** means International Financial Reporting Standards as issued by the International Accounting Standards Board;
- (ll) **“Indemnified Party”** has the meaning set out in Section 8.7(a);
- (mm) **“Indemnified Seller”** has the meaning set out in Section 8.6;
- (nn) **“Indemnifying Party”** has the meaning set out in Section 8.7(a);
- (oo) **“Indemnifying Seller”** has the meaning set out in Section 8.6;
- (pp) **“Individual Seller Obligation”** means, in relation to a Seller, a Claim pursuant to: (i) Section 8.2(a) or 8.2(b) relating to a breach of a representation or warranty in respect of such Seller; or (ii) Section 8.2(d) relating to a breach or non-performance of any covenant by such Seller;
- (qq) **“Instrument of Termination”** means a written instrument to be entered into by the Barrick Seller, the Endeavour Seller, the Joint Company, the Mining Company and the Manager on Closing providing for the termination of the Joint Venture Agreement and Management Agreement;
- (rr) **“Investment Canada Act”** means the *Investment Canada Act*, R.S.C. 1985, c. 28, as amended, and the regulations thereunder;
- (ss) **“Jersey Tax Law”** has the meaning set out in Section 5.4(e);
- (tt) **“Joint Company”** has the meaning set out in the recitals to this Agreement;
- (uu) **“Joint Venture Agreement”** means the incorporated joint venture agreement among the Barrick Seller, as successor to Randgold Resources (Côte d’Ivoire) Limited, the Endeavour Seller, the Joint Company and the Mining Company dated as of October 30, 2017;
- (vv) **“JV Obligation”** means a Claim pursuant to: (i) Section 8.2(a), 8.2(b) or 8.2(c) relating to a breach of a representation or warranty made in respect of either or both of the Mankono Companies; or (ii) Section 8.4;
- (ww) **“Koné DFS”** means the technical report filed on [www.sedar.com](http://www.sedar.com) in respect of the Purchaser’s Koné Gold Project dated March 14, 2022 and titled “Koné Gold Project, Côte d’Ivoire, Definitive Feasibility Study, National Instrument 43-101 Technical Report”;
- (xx) **“Laws”** means international, national, provincial, state, municipal and local laws (including common and civil law), treaties, statutes, codes, ordinances, judgements, decrees, injunctions, writs, certificates and orders, by-laws, rules,

regulations, ordinances, or other requirements enacted, adopted, promulgated or applied by any Governmental Authority in each case having the force of law, and the term “**applicable**” with respect to such Laws and in a context that refers to one or more Parties, means such Laws as are applicable to such Party or its business, undertaking, property or securities and emanate from a person having jurisdiction over the Party or Parties or its or their business, undertaking, property or securities;

- (yy) “**Loss**” or “**Losses**” means all claims, demands, proceedings, fines, losses, damages, liabilities, deficiencies, costs and expenses (including all reasonable legal and other professional fees and disbursements, interest, penalties, judgments and amounts paid in settlement) arising directly or indirectly as a consequence of the matter giving rise to such Loss or Losses; provided that “**Loss**” and “**Losses**” shall not include loss of future profit or punitive damages;
- (zz) “**Management Agreement**” means the management agreement dated December 4, 2017 among the Mining Company and the Manager;
- (aaa) “**Manager**” means Randgold Technical Services Limited, the manager appointed pursuant to the Joint Venture Agreement;
- (bbb) “**Mankono Companies**” means, collectively, the Joint Company and the Mining Company and “**Mankono Company**” means either of them, as the circumstances require;
- (ccc) “**Mankono Material Adverse Change**” means a change, effect, circumstance or event that, individually or in the aggregate, is, or would reasonably be expected to be, material and adverse to the business, properties, assets, financial condition or results of operations of the Mankono Companies, taken on a consolidated basis, other than: (i) any change or condition generally affecting the mining industry; (ii) the state of the securities, credit, banking, capital or commodity markets in general; (iii) any change in the price of gold or any other commodity; (iv) any change relating to the rate at which any currency can be exchanged for any other currency; (v) general political, economic or financial conditions, including in Canada, United Kingdom, Jersey or Côte d’Ivoire; (vi) any adoption, implementation, change or proposed change in applicable Laws or applicable accounting standards (or in any interpretation of applicable Laws or accounting standards); (vii) any natural disaster, terrorist attack, armed hostilities, military conflicts, or any response by any Governmental Authority to any of the foregoing; (viii) any epidemic, pandemic or outbreak of sickness; or (ix) the announcement of the execution of this Agreement or the implementation of any of the transactions contemplated in this Agreement or in any of the other Transaction Documents; except in the case of clause (i), (v) or (vi), where such change, effect, circumstance or event has a materially disproportionate effect on the Mankono Companies, taken on a consolidated basis, relative to comparable companies operating in the industry and jurisdictions where the Mankono Companies operate;
- (ddd) **{Redacted - confidential}**

- (eee) **“Material Contract”** means any contract or arrangement which: (i) involves annual payments or accruals of more than \$200,000 (or its equivalent in any other currency); (ii) may not be terminated on less than six months’ notice; (iii) is of an unusual or abnormal nature and is outside the ordinary course of business; (iv) gives any party an option to acquire or dispose of any asset or permits in respect of any material asset, property or rights or requires another person to do so; (v) relates to any joint venture, partnership or similar arrangement; or (iv) restricts the freedom of the applicable person to carry on the whole or any part of its business in such manner as it thinks fit;
- (fff) **“Minimum Loss Amount”** means \$500,000; provided that for any Claim relating to an Individual Seller Obligation, such amount shall be \$350,000 in respect of the Barrick Seller and \$150,000 in respect of the Endeavour Seller, as applicable;
- (ggg) **“Mining Authority”** means the Direction Générale des Mines et de la Géologie, Côte d’Ivoire;
- (hhh) **“Mining Code”** means Law No. 2014-138 of 24 March 2014 of Côte d’Ivoire containing the Mining Code together with the Decree of Application of the Mining Code No. 2014-397 of 25 June 2014;
- (iii) **“Mining Company”** has the meaning set out in the recitals to this Agreement;
- (jjj) **“Notice of Claim”** has the meaning set out in Section 8.7(a);
- (kkk) **“NSR Royalty Agreements”** means, collectively, the Barrick NSR Royalty Agreement and the Endeavour NSR Royalty Agreement and **“NSR Royalty Agreement”** means either of the foregoing, as the circumstances require;
- (III) **“Operations”** means all activities of whatever kind or nature conducted in connection with the exploration of the Property;
- (mmm) **“Order”** means orders, injunctions, judgments, decisions, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator;
- (nnn) **“Outside Date”** means, subject to Section 4.10, December 7, 2022, or such other date that the Sellers and the Purchaser may agree to in writing;
- (ooo) **“Parties”** means, collectively, each of the Sellers and the Purchaser and **“Party”** means a party to this Agreement;
- (ppp) **“Permit Condition”** means the issuance by Presidential Decree of the Gbongogo Permit to the Mining Company;
- (qqq) **“Permits”** means all permits, licenses, leases, registrations, qualifications, certifications and other approvals required under applicable Laws from a Governmental Authority, including (i) any mining tenement or mining permit which may be in force or issued in lieu of or in relation to the same ground as the

Exploration Permits; and (ii) any form of right granted by a Governmental Authority, or owner or occupier of land, in respect of an area of land within the Exploration Permits;

- (rrr) **“Permitted Encumbrances”** means: (i) Encumbrances for Taxes, royalties of any Governmental Authority, assessments and similar charges that are not yet due or have been notified to the Purchaser or any of its Affiliates and are being contested in good faith; (ii) undetermined or inchoate liens, charges and privileges (including mechanics’, construction, carriers’, workers’, repairers’, storers’ or similar liens) which, individually or in the aggregate, are not material, arising or incurred in the ordinary course of business; (iii) minor title defects or irregularities or servitudes, easements, restrictions, encroachments, covenants, rights of way and other similar rights or restrictions in real property or mineral property, or any interest therein, whether registered or unregistered, which individually or in the aggregate would not prevent the exploration pursuant to the Exploration Permits as currently conducted; (iv) statutory liens, adverse claims or Encumbrances of any nature whatsoever claimed or held by any Governmental Authority that have not at the time been filed or registered against the Property or any related real property or served upon a Seller, an Affiliate of a Seller or either of the Mankono Companies pursuant to applicable Law that do not materially detract from the value of, or materially impair the exploration pursuant to, the Exploration Permits; (v) the reservations, limitations and exceptions in any original grants from any Governmental Authority of any real property or mineral property or interest therein and statutory exceptions to title that do not materially detract from the value of, or materially impair the exploitation of, the Property; and (vi) any rights of a Governmental Authority under the Mining Code;
- (sss) **“person”** includes any individual, corporation or other body corporate, partnership, trustee, trust or unincorporated association, joint venture, syndicate, sole proprietorship, other form of business enterprise, executor, administrator or other legal representatives, regulatory body or agency or Governmental Authority, however designated or constituted;
- (ttt) **“Post-Closing Notice”** has the meaning set out in Section 4.12;
- (uuu) **“Privilege”** has the meaning set out in Section 2.3;
- (vvv) **“Privileged Documents”** has the meaning set out in Section 2.3;
- (www) **“Proceeding”** means any action, claim, demand, lawsuit, assessment, hearing, arbitration, judgment, award, decree, order, injunction and prosecution, or other similar proceeding;
- (xxx) **“Property”** means the area within the boundaries of the Exploration Permits existing as at the date of this Agreement, and as set out in Schedule D of the Seller Disclosure Letter;
- (yyy) **“Proportionate Share”** means, in the case of the Barrick Seller, 70%, and in the case of the Endeavour Seller, 30%;
- (zzz) ***{Redacted - confidential}***

(aaaa) **{Redacted - confidential}**

(bbbb) **"Purchased Securities"** means, collectively, the Purchased Shares **{Redacted - confidential}**

(cccc) **"Purchased Shares"** means all of the issued and outstanding Shares owned by the Sellers;

(dddd) **"Purchaser"** has the meaning set out in the recitals to this Agreement;

(eeee) **"Purchaser Disclosure Letter"** means the disclosure letter dated the date hereof executed by the Purchaser and delivered to the Sellers in connection with the execution of this Agreement;

(ffff) **"Purchaser Financial Statements"** has the meaning set out in Section 6.13;

(gggg) **"Purchaser Fundamental Representations"** means Purchaser's representations and warranties in Sections 6.1, 6.2, 6.6, 6.7 and 6.9;

(hhhh) **"Purchaser Material Adverse Change"** means a change, effect, circumstance or event that, individually or in the aggregate, is, or would reasonably be expected to be, material and adverse to the business, properties, assets, financial condition or results of operations of the Purchaser and its Affiliates, taken on a consolidated basis, other than: (i) any change or condition generally affecting the mining industry; (ii) the state of the securities, credit, banking, capital or commodity markets in general; (iii) any change in the price of gold or any other commodities; (iv) any change relating to the rate at which any currency can be exchanged for any other currency; (v) general political, economic or financial conditions, including in Canada or Côte d'Ivoire; (vi) any adoption, implementation, change or proposed change in applicable Laws or applicable accounting standards (or in any interpretation of applicable Laws or accounting standards); (vii) any change in the market price or trading volume of any securities of the Purchaser (it being understood that the causes underlying such changes may be taken into account in determining whether a Purchaser Material Adverse Change has occurred); (viii) any natural disaster, terrorist attack, armed hostilities, military conflicts, or any response by any Governmental Authority to any of the foregoing; (ix) any epidemic, pandemic or outbreak of sickness; or (x) the announcement of the execution of this Agreement or the implementation of any of the transactions contemplated in this Agreement or in any of the other Transaction Documents; except in the case of clause (i), (v) or (vi), where such change, effect, circumstance or event has a materially disproportionate effect on the Purchaser and its Affiliates, taken on a consolidated basis, relative to comparable companies operating in the industry and in the jurisdictions where the Purchaser and its Affiliates operate;

(iiii) **"Purchaser Mining Permits"** has the meaning set out in Section 6.14(a);

(jjjj) **"Purchaser Public Record"** means all of the documents and information filed by the Purchaser under Applicable Securities Laws on [www.sedar.com](http://www.sedar.com) from and after September 22, 2020;

- (kkkk) **“Release”**, when used as a verb, includes release, spill, leak, emit, deposit, discharge, pump, pour, inject or dispose of into the environment or any other similar act, however defined in applicable Environmental Laws, and the term **“Release”** when used as a noun has a correlative meaning;
- (llll) **“Representative”** means, with respect to any person, any and all directors, officers, members, managers, employees, consultants, financial advisors, counsel, accountants and other agents of such person or any of such person’s Affiliates;
- (mmmm) **“Seller Disclosure Letter”** means the disclosure letter dated the date hereof executed by the Sellers and delivered to the Purchaser in connection with the execution of this Agreement;
- (nnnn) **“Seller Fundamental Representations”** means the representations and warranties of a Seller in Sections 5.1, 5.2, 5.4(a) and 5.6;
- (oooo) **“Seller Representative”** means the Barrick Seller acting for and on behalf of the Sellers;
- (pppp) **“Seller Tax Representations”** means the representations and warranties of a Seller in Section 5.16;
- (qqqq) **“Shares”** means ordinary shares in the capital of the Joint Company;
- (rrrr) **“Sissedougou Permit”** means the permit granted to the Mining Company, the details of which are set out in Schedule B of the Seller Disclosure Letter;
- (ssss) **“Sisseple Permit”** means the permit to be issued to the Mining Company, the details of which are set out in Schedule C of the Seller Disclosure Letter, as the same may be modified in connection with the issuance thereof to the Mining Company;
- (tttt) **“Stock Exchange”** means the TSX Venture Exchange;
- (uuuu) **“Tax”** or **“Taxes”** means all foreign, federal, national, provincial, state, city or municipal taxes, levies, duties, assessments, reassessments and other charges of any nature whatsoever, including income tax, profits tax, capital gains tax, gross receipts tax, corporation tax, mining tax, royalties, sales and use tax, wage tax, payroll tax, workers’ compensation levy, capital tax, stamp duty, registration tax or duty, transfer tax, statistical duty, community levy, real and personal property tax, land transfer tax, customs or excise duty, excise tax, turnover or value added tax on goods sold or services rendered, goods and services tax, withholding tax, social security, government pension plan and employment insurance charges or retirement contributions and any interest, penalties or other additions to tax;
- (vvvv) **“Tax Return”** means any return (including any information return), report, statement, schedule, notice, form, declaration, claim for refund or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Authority in connection with the determination,

assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any legal requirement relating to any Tax;

(www) “**Third Party**” has the meaning set out in Section 8.10(c);

(xxxx) “**Third Party Claim**” has the meaning set out in Section 8.7(a);

(yyyy) “**Threshold Amount**” means \$2,500,000; provided that for any Claim relating to an Individual Seller Obligation, such amount shall be \$1,750,000 in respect of the Barrick Seller and \$750,000 in respect of the Endeavour Seller, as applicable; and provided further that only Claims resulting in Losses exceeding the applicable Minimum Loss Amount shall be taken into account when calculating whether the applicable Threshold Amount has been exceeded;

(zzzz) “**Time of Closing**” means 9:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as agreed to in writing by the Purchaser and the Seller Representative;

(aaaa) “**Transaction Documents**” means this Agreement and the NSR Royalty Agreements;

(bbbbb) *{Redacted - confidential}*

(cccc) “**Transfer Taxes**” has the meaning set out in Section 2.6.

## 1.2 Rules of Construction

In this Agreement:

- (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 “Exhibit” followed by a number or letter refer to the specified Article or Section of or Exhibit to this Agreement;
- (c) the division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa;
- (e) unless otherwise indicated, any reference to a statute, regulation or rule shall be construed to be a reference thereto as the same may from time to time be amended, re-enacted or replaced, and any reference to a statute shall include any regulations or rules made thereunder;

- (f) the words “include”, “includes” and “including” mean “include”, “includes” or “including”, in each case, “without limitation”;
- (g) reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time;
- (h) each of the Parties has jointly participated in the negotiation and drafting of this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by each of the Parties, and no presumptions or burdens of proof shall arise favouring one Party by virtue of authorship of any of the provisions of this Agreement;
- (i) unless otherwise indicated, time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and
- (j) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next following Business Day.

### **1.3 Currency**

Unless otherwise indicated, all dollar amounts referred to in this Agreement are expressed in United States dollars.

### **1.4 Time of Essence**

Time shall be of the essence of this Agreement.

### **1.5 Knowledge**

(a) References in this Agreement to “the knowledge of the Seller” means the actual knowledge of, in relation to:

- (i) the Barrick Seller, any of Graham Shuttleworth and Victor Matfield, after making diligent inquiry of other responsible officers and employees of BGC, the Barrick Seller and the Manager to inform themselves as to the relevant matters; and
- (ii) the Endeavour Seller, Silvia Bottero, after making diligent inquiry of other responsible officers and employees of Endeavour plc and the Endeavour Seller to inform herself as to the relevant matters,

but, in each case, without the requirement to make any inquiries of third parties or Governmental Authorities or to perform any search of any public registry office or system.

(b) References in this Agreement to “the knowledge of the Purchaser” means the actual knowledge, in relation to the Purchaser, of any of Hugh Stuart, Glenn Kondo and Adam Spencer, after making diligent inquiry of other responsible officers and employees of the

Purchaser to inform themselves as to the relevant matters, but, in each case, without the requirement to make any inquiries of third parties or Governmental Authorities or to perform any search of any public registry office or system.

## **1.6 Exhibits and Disclosure Letters**

(a) The Exhibits and Disclosure Letters form an integral part of this Agreement. The Disclosure Letters and all information contained therein is confidential information and may not be disclosed unless: (i) it is required to be disclosed pursuant to applicable Laws; or (ii) a Party needs to disclose it in order to enforce or exercise its rights under this Agreement or any Transaction Document.

(b) Any matter disclosed on any of the schedules to a Disclosure Letter shall be deemed to be disclosed on each other schedule of the Disclosure Letter relating to such matters to the extent that the disclosure is reasonably apparent from its face to be applicable to such other schedule. Any disclosure made in any particular numbered schedule of a Disclosure Letter that expressly states that it is an exception to one or more specified representations in the accompanying Section of the Agreement, or with respect to which it is reasonably apparent on its face that it is an exception to one or more specified representations in the accompanying Section of the Agreement, shall constitute an exception to the representations and warranties contained in such Section, whether or not the representation contains the phrase "except as set forth in schedule" or similar language.

(c) The purposes of the Disclosure Letters is to set out the qualifications, exceptions and other information called for in this Agreement. The Parties acknowledge and agree that the information and disclosures contained in the Disclosure Letters do not constitute or imply, and will not be construed as:

- (i) any representation, warranty, covenant or agreement which is not expressly set out in the body of this Agreement;
- (ii) an admission of any liability or obligation of the Party making such disclosure;
- (iii) an admission that the information is material or would constitute a Mankono Material Adverse Change or a Purchaser Material Adverse Change, as applicable; or
- (iv) an expansion of the scope or effect of any of the representations, warranties and/or covenants set out in this Agreement.

(d) Disclosure of any information in the Exhibits or Disclosure Letters that is not strictly required under this Agreement has been made for informational purposes only and does not imply disclosure of all matters of a similar nature.

## **1.7 Seller Representative**

Each of the Sellers hereby appoints the Barrick Seller as the Seller Representative under this Agreement and each Seller hereby authorizes the Barrick Seller to act on behalf of it as its representative in accordance with the express terms of this Agreement. The Barrick Seller hereby agrees to act as the Seller Representative of the Sellers as set forth

in this Agreement. The Purchaser hereby acknowledges and agrees that the Barrick Seller is acting as the representative of each of the Sellers under this Agreement and shall be entitled to rely on any notice or instrument delivered by the Seller Representative pursuant to authority expressly granted to it under this Agreement. For the avoidance of doubt, it is acknowledged and agreed (i) that the Barrick Seller shall promptly send the Endeavour Seller a copy of any notice received from the Purchaser, and obtain the prior written consent of the Endeavour Seller before sending any notice, waiver or consent to the Purchaser, on behalf of the Sellers in its capacity as Seller Representative, and (ii) that the Barrick Seller does not, by virtue of acting as Seller Representative, assume any liability or responsibility for the obligations, covenants or representations or warranties of the Endeavour Seller hereunder.

## **ARTICLE 2 TRANSFER OF PURCHASED SECURITIES**

### **2.1 Transfer of Purchased Securities**

Subject to the terms and conditions hereof, at the Time of Closing, the Sellers shall respectively sell, assign and transfer to the Purchaser, and the Purchaser shall purchase from each of the Sellers, all of the Purchased Securities, in each case free and clear of all Encumbrances, in consideration for the payment to the Sellers of the Consideration in the manner set out herein. Each of the Sellers shall deliver certificates representing the Purchased Shares owned by such Seller to the Purchaser or, subject to Section 3.5, as otherwise directed by the Purchaser, at the Time of Closing.

### **2.2 Consideration**

Subject to Section 2.7, in consideration for the purchase and sale of the Purchased Securities from the Sellers pursuant to Section 2.1, the Purchaser shall at Closing:

- (a) allot and issue to the Barrick Seller or an Affiliate designated by the Barrick Seller at least three Business Days prior to Closing, 15,500,000 fully paid and validly issued Consideration Shares free and clear of any Encumbrances;
- (b) allot and issue to the Endeavour Seller or an Affiliate designated by the Endeavour Seller at least three Business Days prior to Closing, 6,642,857 fully paid and validly issued Consideration Shares free and clear of any Encumbrances;
- (c) pay to (i) the Barrick Seller a payment in cash of C\$10,150,000, and (ii) to the Endeavour Seller a payment in cash of C\$4,350,000, representing their Proportionate Share of the Cash Consideration, in each case to a bank account designated in writing by each such Seller to the Purchaser at least three Business Days prior to Closing; and
- (d) grant to (i) the Barrick Seller a 1.4% net smelter return royalty in respect of the Property, and (ii) the Endeavour Seller a 0.6% net smelter return royalty in respect of the Property, in each case pursuant to the terms and conditions set forth in the respective NSR Royalty Agreements to be entered into on Closing, which are collectively referred to in this Agreement as the “**Consideration**”.

**2.3**            **{Redacted - confidential}**

**2.4**            **Excluded Items**

All communications and other documents exchanged between either of the Mankono Companies, the Sellers or any of their respective Affiliates and legal counsel (including, as applicable, internal legal counsel) providing legal advice to either of the Mankono Companies, the Sellers or any of their respective Affiliates, including documents and communications related to the transactions contemplated by this Agreement and files maintained by legal counsel as a result of providing legal advice to the Mankono Companies, the Sellers or any of their respective Affiliates (the “**Privileged Documents**”), that are subject to attorney-client privilege, any similar privilege, or that constitute attorney work product (as applicable, a “**Privilege**”), specifically are excluded from the transactions contemplated by this Agreement and shall be the property of the Sellers and their respective Affiliates, as applicable. Neither of the Mankono Companies nor the Sellers, nor the applicable Affiliates, intend to waive any applicable Privilege, and any disclosure of any Privileged Documents, whether in the Books and Records or otherwise, shall be deemed to be inadvertent. Accordingly, the Purchaser acknowledges and agrees that a disclosure of any Privileged Documents will not constitute a waiver of such Privilege, and the Purchaser promptly shall return to the Seller Representative, or with the consent of the Seller Representative destroy, such inadvertently disclosed Privileged Documents.

**2.5**            **Withholding Taxes**

(a)        The Purchaser may deduct from the Consideration and any other amount to be paid or delivered by the Purchaser to the Sellers pursuant to this Agreement any present or future Taxes required by Law to be deducted or withheld from such amounts. If any such Taxes are required by Law to be deducted or withheld by the Purchaser, then the Purchaser shall: (i) make such deduction or withholding; (ii) within the time period required by Law pay to the relevant Governmental Authority in accordance with Law the full amount of Taxes required to be deducted or withheld; and (iii) as promptly as possible thereafter, forward to the applicable Sellers an original official receipt (or a certified copy) or other documentation reasonably acceptable to the Sellers evidencing such payment to such Governmental Authority.

(b)        If the Purchaser determines that any deduction or withholding is required by Law, it shall notify the Seller Representative no later than 10 Business Days prior to the Closing Date and the Parties shall cooperate in good faith to minimize any such withholding or deduction of Taxes. The Purchaser represents and warrants that it is not currently aware of any applicable deductions or withholdings that would be required by Law from the Consideration or any other amount to be paid or delivered by the Purchaser to the Sellers pursuant to this Agreement.

(c)        For the purposes of Section 2.5(a), Taxes will only be considered to be required by Law to be deducted or withheld by the Purchaser if the requirement to deduct or withhold Taxes is confirmed in a written opinion of counsel to the Purchaser addressed to the Sellers, in form and substance satisfactory to the Sellers as confirmed in writing by the Seller Representative.

(d)        If the Purchaser makes any deductions or withholdings on account of Taxes contrary to the foregoing requirements of this Section 2.5, then the Purchaser shall pay such additional amounts to the Sellers as are required so that the net amount received by the Sellers,

after such deductions or withholdings, is the same as the amount that the Sellers would have received absent such deductions or withholdings and the imposition of such Taxes.

## **2.6 Transfer Taxes**

The Purchaser and its Affiliates shall be solely liable for and shall pay all applicable sales, transfer, use, stamp, conveyance, value-added, real property transfer, recording, registration and other similar Taxes, if any, together with all recording or filing fees, notarial fees and other similar costs of Closing (all such Taxes and costs being “**Transfer Taxes**”), that may be imposed upon, or payable, collectible or incurred in connection with or as a result of, directly or indirectly, the transfer by the Sellers of the Purchased Shares. **{Redacted – confidential}**

## **2.7 Adjustment to the Consideration Shares and Cash Consideration**

If the Consideration Shares issuable to the Barrick Seller set out in Section 2.2 would result in the Barrick Seller and its Affiliates having beneficial ownership of more than 9.95% of the common shares of the Purchaser as of the Time of Closing, the Purchaser may elect to decrease the total number of Consideration Shares payable to the Sellers pursuant to Section 2.2 (such amended number of shares, the “**Adjusted Consideration Shares**”), in its discretion, such that, upon allocation to the Sellers of their Proportionate Share of the Adjusted Consideration Shares, the Barrick Seller and its Affiliates will have beneficial ownership of no more than 9.95% of the common shares of the Purchaser as of the Time of Closing. If there is an adjustment to the Consideration Shares to be issued at Closing pursuant to this Section 2.7, the total Cash Consideration payable pursuant to Section 2.2 shall be increased by an amount equal to the difference between the Consideration Shares and the Adjusted Consideration Shares multiplied by C\$0.70 (the “**Adjusted Cash Consideration**”), with each Seller entitled to receive its Proportionate Share of the Adjusted Cash Consideration. Any election by the Purchaser to make an adjustment to the Consideration Shares must be given to the Sellers in writing at least three Business Days prior to the Closing Date and such notice shall specify the exact number of Consideration Shares to be issued to each of the Sellers at Closing, as well as the increased Cash Consideration payable to each of the Sellers at Closing, in each case as adjusted pursuant to this Section 2.7. In no event will the Purchaser be liable to pay or will the Sellers be liable to accept Consideration, as a result of any re-allocation of the Consideration Shares and Cash Consideration pursuant to this Section 2.7, that is not equal in the aggregate to the Consideration Value.

## **ARTICLE 3 CLOSING**

### **3.1 Closing Date**

Subject to compliance with the terms and conditions hereof, the transfer of the Purchased Securities shall be deemed to take effect as at the Time of Closing (a) on the date that is five Business Days after the date on which the last of the conditions set forth in Article 7 (other than any such conditions which, by their terms, are not capable of being satisfied until the Closing Date, but subject to the satisfaction or waiver of those conditions at the Closing) is satisfied or waived, or (b) on such other date as the Seller Representative and the Purchaser may mutually determine in writing, provided that the Closing Date shall occur no later than the Outside Date. The date on which the Closing actually occurs is referred to herein as the “**Closing Date**”.

### 3.2 Place of Closing

The Closing shall take place at the offices of the Barrick Seller. Notwithstanding the foregoing, in lieu of a physical closing, the Parties agree that the Closing may take place on the Closing Date on the exchange of solicitors' undertakings which will involve each Party's solicitor delivering to his or her counterpart all required documentation and payments, to be held in escrow and not released until all such documentation has been executed and delivered and all conditions have been satisfied and each Party's solicitor has authorized in writing that the escrow is to be terminated.

### 3.3 Deliveries of the Sellers

- (a) At the Time of Closing, the Barrick Seller shall deliver or cause to be delivered to the Purchaser:
- (i) a certificate of status or equivalent for each of the Mankono Companies issued by the applicable Governmental Authority no more than 10 days prior to the Closing Date;
  - (ii) a certificate from a senior officer of the Barrick Seller certifying (A) the constating documents of the Barrick Seller, (B) the incumbency of certain officers of the Barrick Seller, and (C) the resolutions of the board of directors of the Barrick Seller relating to this Agreement and the transactions contemplated by this Agreement;
  - (iii) the certificates contemplated by Sections 7.2(a), 7.2(b) and 7.2(c);
  - (iv) certificates representing the Purchased Shares owned by the Barrick Seller, together with a duly executed share transfer form;
  - (v) the Barrick NSR Royalty Agreement, duly executed and delivered by or on behalf of the Barrick Seller;
  - (vi) the Instrument of Termination, in form and substance acceptable to the Purchaser, acting reasonably, duly executed and delivered by the Barrick Seller, the Joint Company, the Mining Company and the Manager;
  - (vii) **{Redacted - confidential}**
  - (viii) evidence, satisfactory to the Purchaser, acting reasonably, that the Permit Condition has been satisfied;
  - (ix) a written resignation and an executed mutual release from each director and officer of each of the Mankono Companies appointed by the Barrick Seller, substantially in a form to be agreed by the Seller Representative and Purchaser, acting reasonably, such resignations and releases to be effective as at the Closing Date, and duly executed terminations of all powers of attorney granted to such directors and officers;
  - (x) subject to Section 2.3, all Books and Records; and

- (xi) all other documents required to be delivered by the Barrick Seller pursuant to the provisions of this Agreement or reasonably necessary to give effect to the transactions contemplated by this Agreement.

(b) At the Time of Closing, the Endeavour Seller shall deliver or cause to be delivered to the Purchaser:

- (i) a certificate from a senior officer of the Endeavour Seller certifying (A) the constating documents of the Endeavour Seller, (B) the incumbency of certain officers of the Endeavour Seller and (C) the resolutions of the board of directors of the Endeavour Seller relating to this Agreement and the transactions contemplated by this Agreement;
- (ii) the certificates contemplated by Sections 7.2(a), 7.2(b) and 7.2(c);
- (iii) certificates representing the Purchased Shares owned by the Endeavour Seller, together with a duly executed share transfer form;
- (iv) the Endeavour NSR Royalty Agreement, duly executed and delivered by or on behalf of the Endeavour Seller;
- (v) the Instrument of Termination, in form and substance acceptable to the Purchaser, acting reasonably, duly executed and delivered by the Endeavour Seller;
- (vi) a written resignation and an executed mutual release from each director and officer of each of the Mankono Companies appointed by the Endeavour Seller, substantially in a form to be agreed by the Seller Representative and Purchaser, acting reasonably, such resignations and releases to be effective as at the Closing Date, and duly executed terminations of all powers of attorney granted to such directors and officers; and
- (vii) all other documents required to be delivered by the Endeavour Seller pursuant to the provisions of this Agreement or reasonably necessary to give effect to the transactions contemplated by this Agreement.

### **3.4 Deliveries of the Purchaser**

At the Time of Closing, Purchaser shall deliver or cause to be delivered to each of the Sellers:

- (a) each such Seller's Proportionate Share of the Cash Consideration in accordance with Section 2.2(c);
- (b) a certificate of status (or equivalent thereof);
- (c) a certificate from a senior officer of the Purchaser certifying (i) the constating documents of the Purchaser, (ii) the incumbency of certain officers of the Purchaser and (iii) any applicable corporate authorizations of the Purchaser relating to this Agreement and the transactions contemplated by this Agreement;

- (d) the certificates contemplated by Sections 7.3(a), 7.3(b) and 7.3(c);
- (e) certificates representing the requisite number of Consideration Shares issuable to each of the Sellers and registered in the name of the Barrick Seller and the Endeavour Seller, respectively, or as otherwise directed by the Barrick Seller and the Endeavour Seller pursuant to Section 2.2(a) or 2.2(b), as applicable;
- (f) each of the NSR Royalty Agreements, duly executed and delivered by or on behalf of the Purchaser;
- (g) **{Redacted – confidential}**
- (h) evidence of receipt of the required Stock Exchange approval; and
- (i) all other documents required to be delivered by the Purchaser pursuant to the provisions of this Agreement or reasonably necessary to give effect to the transactions contemplated by this Agreement.

### **3.5 Registration of the Purchased Shares in the Name of the Purchaser**

(a) Subject to Section 3.5(b), concurrently with Closing, the Seller Representative shall cause the Purchased Shares to be recorded in the shareholders' registry book of the Joint Company in the name of the Purchaser.

(b) The Purchaser may direct that the Purchased Shares be registered in the name of a wholly-owned subsidiary of the Purchaser as of the Closing, if, and only if, in the Seller Representative's view, acting reasonably:

- (i) the Purchaser has reasonably requested that the Purchased Shares be registered in the name of a wholly-owned subsidiary of the Purchaser and provided the Seller Representative and its advisors with a reasonable opportunity to understand the nature and potential impact of such direction on the Sellers and/or the Mankono Companies;
- (ii) any such direction will not delay Closing; and
- (iii) any such direction would not be prejudicial to either of the Sellers or the Mankono Companies either commercially or to the reputation of either of the Sellers or the Mankono Companies and/or their respective directors or officers, or the directors or officers of BGC or Endeavour plc.

## **ARTICLE 4 COVENANTS OF THE PARTIES**

### **4.1 Actions to Satisfy Closing Conditions**

(a) Each Party shall: (i) take all such reasonable actions as are within its power and otherwise use all commercially reasonable efforts so as to (A) ensure compliance with the conditions set forth in Article 7, and (B) cause the Closing to occur as promptly as reasonably practicable following the date hereof, and (ii) not take or agree to take any action that would

reasonably be expected to delay or prevent the consummation of the transactions contemplated by this Agreement.

(b) Prior to Closing, the Seller Representative and the Purchaser shall coordinate all communications with Governmental Authorities in relation to the satisfaction of the Permit Condition and the issuance of the Sisseple Permit, provided that the Seller Representative shall initiate and lead all such communications. The Purchaser shall not contact any Governmental Authority independently in relation to the Permit Condition or the issuance of the Sisseple Permit without the prior consultation and written approval of the Seller Representative.

(c) Without limiting Section 4.1(a) or 4.1(b), the Parties agree that they will:

- (i) respond to requests for information from the relevant Governmental Authorities at the earliest possible time, and consult with each other in good faith in relation to the form and content of any information to be provided to any Governmental Authority, provided that in the event of disagreement, the determination by the Seller Representative shall be determinative;
- (ii) keep the other informed of progress in relation to the Permit Condition and the issuance of the Sisseple Permit;
- (iii) promptly provide the other with copies of all material correspondence from any Governmental Authority related to the satisfaction of the Permit Condition and the issuance of the Sisseple Permit; and
- (iv) provide the other with reasonable advance notice of, and allow the other Party and its representatives the opportunity to be present at, any meetings (including by way of teleconference or video meeting) with a Governmental Authority to discuss matters related to the satisfaction of the Permit Condition and the issuance of the Sisseple Permit.

#### **4.2 Conduct of Business of Sellers and Mankono Companies**

Other than (a) as expressly required or permitted by this Agreement, (b) as required pursuant to applicable Laws, (c) actions or payments required to satisfy the Permit Condition and the issuance of the Sisseple Permit or to reasonably and prudently respond to an emergency or disaster (including the right to take forthwith any action or make any payment required to ensure the safety and integrity of the Operations and to preserve the Exploration Permits (once issued, if applicable) in good standing), or (d) as consented to in writing by the Purchaser (such consent not to be unreasonably withheld, delayed or conditioned), during the period of time from the date hereof to and including the Closing Date, the Sellers shall:

- (i) cause the Mankono Companies to conduct their respective businesses only in the ordinary and normal course of business consistent with past practices;
- (ii) cause the Mankono Companies not to (A) amend or modify their respective charter documents, (B) alter the terms and conditions of the Shares or the securities of either of the Mankono Companies (including any share split or conversion or exchange of securities for other securities

- or property), (C) create, authorize or agree to issue or grant any equity securities or securities convertible into or exchangeable or exercisable for equity securities of either of the Mankono Companies, or (D) grant or agree to grant rights which confer on the holder any right to acquire securities of the Mankono Companies;
- (iii) cause the Mankono Companies not to declare, set aside or pay any cash dividend or non-cash distribution or payment (whether in securities or property) in respect of any of its securities of any class;
  - (iv) cause the Mankono Companies not to acquire any shares, securities or other interest in any person;
  - (v) cause the Mankono Companies not to sell, transfer, dispose of, lease, encumber, relinquish or abandon any assets;
  - (vi) cause each of the Mankono Companies not to hire any employees;
  - (vii) cause each of the Mankono Companies not to make or change any material Tax election, change any annual Tax accounting period, adopt or change any method of Tax accounting, enter into any closing agreement with respect to a material amount of Taxes or settle any material Tax claim, audit or assessment;
  - (viii) cause each of the Mankono Companies not to incur any indebtedness for borrowed money;
  - (ix) cause each of the Mankono Companies not to create any Encumbrance, other than Permitted Encumbrances;
  - (x) (A) not make any loans or advances to a Mankono Company; and (B) cause the Mankono Companies not to make any loans or advances to any person or assume or guarantee the liabilities of any person;
  - (xi) cause the Mankono Companies not to be voluntarily dissolved, liquidated or wound up;
  - (xii) cause the Mankono Companies not to settle, offer or propose to settle, compromise, assign or release any Proceeding brought against either of the Mankono Companies;
  - (xiii) (A) not enter into any agreement creating a joint venture or partnership or effecting a business combination or other similar arrangement with another person in respect of the Mankono Companies or any of their respective assets, and (B) cause each of the Mankono Companies not to enter into any agreement creating a joint venture or partnership or effecting a business combination or other similar arrangement with another person; and
  - (xiv) not, and shall cause the Mankono Companies not to, attempt or agree to do any of foregoing.

#### **4.3 Notice of Certain Events**

Each of the Parties agrees that, subject to applicable Laws, each Party shall provide each of the other Parties with prompt notice in writing of:

- (a) any notice or communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement or any of the Transaction Documents;
- (b) any material notice or communication from any Governmental Authority in connection with the transactions contemplated by this Agreement or any of the Transaction Documents;
- (c) any material Proceeding commenced or threatened against it (and in the case of the Sellers, either of the Mankono Companies) which relates to the consummation of the transactions contemplated by this Agreement or any of the Transaction Documents; and
- (d) any failure by it to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied under this Agreement,

and copies of all documents related thereto, provided that the giving of any such notice shall not in any way change or modify the representations and warranties of a Party or any conditions in favour of a Party, contained in this Agreement or otherwise affect the remedies available to any of the Parties under this Agreement.

#### **4.4 Access**

Upon reasonable notice and subject to applicable Law and the Confidentiality Agreement and provided it would not unreasonably interfere with the business and affairs of the Sellers, the Manager or the Mankono Companies, the Seller Representative agrees to, and to cause the Manager to provide the Purchaser and its authorized representatives with reasonable access during regular business hours to (a) all books, records and information relating to the Exploration Permits, the Property, the Operations and Mankono Companies in its or either such company's possession and control, and (b) at Purchaser's sole risk, the properties and the Operations of the Mining Company. Purchaser acknowledges and agrees that information furnished pursuant to this Section 4.4 shall be subject to the terms and conditions of the Confidentiality Agreement.

#### **4.5 Confidentiality**

(a) Subject to Section 4.5(b), and without limiting the Confidentiality Agreement, each Party shall, and shall cause its Affiliates to, treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which relates to:

- (i) the subject matter hereof and the provisions of the Transaction Documents;
- (ii) the negotiations relating to this Agreement and the Transaction Documents; or

(iii) an other Party or any of its Affiliates.

(b) Notwithstanding Section 4.5(a), a Party may disclose information which would otherwise be confidential if and to the extent:

- (i) required by applicable Laws;
- (ii) required by any Governmental Authority with authority over such Party or any of its Affiliates, subject to Section 4.6;
- (iii) required for the Financing, provided that any such financing sources to which the information is to be disclosed are bound by appropriate confidentiality obligations that are comparable to those of the Purchaser, and the Purchaser shall be responsible for any breach of this Section 4.5 by any such financing source;
- (iv) disclosure is made to its Representatives, provided that (A) any such Representative is first informed of the confidential nature of the information, (B) such Representative acts in accordance with the provisions of Section 4.5(a) as if it were a party to this Agreement, and (C) the Party shall be responsible for any breach of this Section 4.5 by any such Representative;
- (v) the information has come into the public domain through no fault of that Party; or
- (vi) the other Party or in the case of the Sellers, the Seller Representative, has given prior written approval to the disclosure.

#### **4.6 Public Statements**

(a) Each Party shall consult with the other Parties prior to issuing any press releases or otherwise making public statements with respect to this Agreement or the transactions contemplated by this Agreement and shall provide the other Parties with a reasonable period of time to review and comment on all such press releases or statements prior to the release thereof. To the extent that any such press release or public statement is required by applicable Laws, by a rule of a stock exchange on which a Party's shares (or those of any of its Affiliates) are listed or traded or by a Governmental Authority, the press release or public announcement shall be issued or made after consultation with the other Parties and after taking into account the other Parties' comments. If such advance consultation is not reasonably practicable or legally permitted, to the extent permitted by applicable Law, the disclosing Party shall provide the other Parties with a copy of any written disclosure made by such disclosing Party as soon as practicable thereafter.

(b) Notwithstanding anything else in this Section 4.6, the Sellers acknowledge and agree that if the Purchaser is required to publicly file this Agreement on [www.sedar.com](http://www.sedar.com) under Applicable Securities Laws, the Purchaser may file a redacted form of this Agreement subject to such reasonable redactions as the Sellers may request, provided that such redactions are permitted under Applicable Securities Laws. Any provision of this Agreement that has been so redacted shall continue to constitute confidential information for purposes of this Agreement and Section 4.5; provided, however, that if any securities regulatory authority subsequently requires

the Purchaser to disclose any such redacted information or such redacted information shall otherwise become publicly available pursuant to applicable Laws, (i) such redacted information shall cease to be confidential information for purposes of this Agreement and Section 4.5 upon such disclosure, and (ii) the Purchaser shall not be in breach or violation of this Agreement with respect thereto. The Purchaser agrees that prior to filing any version of this Agreement with any securities regulatory authority, it shall provide the Sellers with a reasonable opportunity to review and comment on all documents to be submitted in connection with such filing and shall consider in good faith the comments, if any, provided by the Sellers in respect of such documents.

#### **4.7 Control over Tax Proceedings; Refund of Taxes**

(a) Subject to Section 4.7(b), the Purchaser acknowledges and agrees that the Sellers shall have at its own expense, exclusive control following the Closing Date over any dealings with tax authorities (including any audit or any appeal of an Assessment, whether that appeal is through the administrative appeal process or through judicial proceedings, and including any resolution or settlement of such an audit or appeal) that involves either of the Mankono Companies in respect of Taxes, or interest or penalties in respect of Taxes, relating to a period ending on or prior to December 31, 2021 **{Redacted – confidential}** provided, however that the Sellers shall keep the Purchaser reasonably informed with respect to the conduct of such dealings.

(b) Notwithstanding anything to the contrary in this Section 4.7, the Sellers shall not settle any audit, Assessment, appeal or judicial proceedings with respect to Taxes that it otherwise manages or controls pursuant to this Section 4.7 without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed.

(c) If, following the Closing Date, either of the Mankono Companies (or the Purchaser or any person under Control of the Purchaser in respect of or on behalf of either of the Mankono Companies) receives any communication from a Tax authority (including any audit information request, query, proposal letter, assessment, or reassessment) in respect of any period ending on or prior to December 31, 2021 **{Redacted – confidential}** the Purchaser shall or shall cause such Mankono Company (or such other person) to forthwith provide a copy of such communication to the Seller Representative. Upon receipt of such communication, the Sellers shall have, subject to Section 4.7(b), the exclusive right to deal with the Tax authorities in the manner contemplated in Section 4.7(a).

(d) The Purchaser and the Sellers shall cause the Mankono Companies to cooperate fully with the Sellers in connection with any matter contemplated by this Section 4.7 and not to take any actions in respect of any such matter in respect of any period ending on or prior to December 31, 2021 without the prior written consent of the Seller Representative. For clarity and the avoidance of doubt, the Sellers shall have, subject to Section 4.7(b), the exclusive right to settle any audit, appeal or Proceedings referenced in, or initiated by the Sellers in accordance with, this Section 4.7.

(e) The Sellers shall fund their Proportionate Shares of any payment of Taxes and any professional fees necessary to object to or contest any matter over which the Sellers have exclusive control under Section 4.7(a). Any payment made pursuant to this Section 4.7(e) will be treated as an adjustment to the Consideration Value for all purposes, unless a contrary treatment is required by applicable Laws.

(f) If either of the Mankono Companies receives a refund of any Taxes paid by either of the Sellers or the Mankono Companies in respect of a period ending on prior to December 31, 2021, **{Redacted – confidential}** Sellers or in respect of which the Sellers had made indemnity payments to the Purchaser or the Mankono Companies, and such refund is not set-off against any Taxes payable by the Sellers or the Mankono Companies in respect of a period prior to the Closing Date, the Purchaser shall pay to the Sellers in accordance with their respective Proportionate Shares, an amount equal to such refund. Any payment made pursuant to this Section 4.7(f) will be treated as an adjustment to the Consideration Value for all purposes, unless a contrary treatment is required by applicable Laws.

#### **4.8 Financing**

The Parties acknowledge and agree that it is the intention of the Purchaser to effect the Financing primarily by way of an equity offering. The Purchaser covenants and agrees that it shall do, or cause to be done, all things reasonably necessary, proper or advisable to complete the Financing in the form and on the terms announced by the Purchaser concurrently with the announcement by the Purchaser of the execution of this Agreement, and take all steps reasonably necessary to ensure that it will complete the Financing such that it will have sufficient funds on hand at Closing to pay the Cash Consideration in full and will deliver the Consideration to the Sellers.

#### **4.9 Supplemental Disclosure**

The Sellers may, from time to time, but no less than five Business Days prior to Closing, by written notice from the Seller Representative to the Purchaser, amend, supplement or modify section 5.14 of the Seller Disclosure Letter in order to add information to, or change information previously set forth therein, provided that such amendment does not relate to a Mankono Material Adverse Change and shall not, without the prior written consent of the Purchaser, reflect additional liabilities of either or both of the Mankono Company in excess of \$1 million. Notwithstanding Section 1.6, any such amendment, supplement or modification to section 5.14 of the Seller Disclosure Letter shall be limited to qualifying the representations in Section 5.14 and, without limiting the foregoing, shall not qualify any other representation or affect the obligations of the Sellers under Section 8.4. No such amendment, supplement or modification shall be evidence that the representations and warranties or disclosures previously made by either of the Sellers was not true and correct as of the date of this Agreement or is no longer true or correct.

#### **4.10 Outside Date**

(a) Either Party may, by no later than 5:00 p.m. on the date that is not less than three Business Days immediately prior to the Outside Date, elect to extend the Outside Date for an additional 90 days by delivering a written notice to the other Parties, if, on such date, the condition set out in Section 7.1(b) has not been satisfied or waived; provided that:

- (i) the electing party reasonably concludes in good faith that the condition set out in Section 7.1(b), as applicable, is likely to be satisfied during such extension;
- (ii) the electing Party is not then in breach of any of the terms in this Agreement; and

- (iii) all other conditions have been satisfied or waived (other than those conditions that by their nature are to be satisfied at Closing, which conditions are capable of being satisfied on the Outside Date).

(b) The right set out in Section 4.10 to extend the Outside Date in the manner set out therein may not be exercised on more than two occasions in the aggregate.

#### **4.11 Post-Closing Access to Books and Records**

The Sellers may from time to time during normal business hours, after the Purchaser takes possession of the Books and Records in accordance with Sections 3.3(a)(x), and upon reasonable notice and without undue interference to the business operations of the Purchaser, inspect and make copies (at its own expense) of the Books and Records, provided that its access to and use of such Books and Records will be limited to legal and regulatory purposes, including responding to Tax audits, or otherwise dealing with Governmental Authorities.

#### **4.12 Post-Closing Filing**

Within ten Business Days of Closing, the Seller Representative will file with the Mining Authority a notice of change of the ultimate beneficial holder of the Exploration Permits, or to the extent that the Sisseple Permit has not yet been granted, the permit application relating to the Sisseple Permit ("**Post-Closing Notice**"). The Purchaser shall have the opportunity to review and provide input on the Post-Closing Notice, provided that such input is provided at least two Business Days prior to the deadline for the filing of the Post-Closing Notice set forth in the foregoing sentence. The Seller Representative shall give due consideration to the comments from the Purchaser but will only be required to incorporate comments provided by the Purchaser in the Post-Closing Notice to the extent that they relate to information relating to the Purchaser. **{Redacted – confidential}**

#### **4.13 Other Post-Closing Covenants**

(a) **Final Approval of the Stock Exchange**. Promptly following Closing, the Purchaser shall make or cause to be made all filings, and shall pay all fees required to be given or made to the Stock Exchange in order to satisfy all of the conditions to listing the Consideration Shares. The Purchaser shall promptly advise the Sellers if final approval of the Stock Exchange for the listing of the Consideration Shares is not granted for any reason.

(b) **Reporting Issuer Status**. The Purchaser covenants and agrees that it will, from the date of this Agreement through the 40 month period immediately following the Closing Date, (i) use its commercially reasonable efforts to maintain its listing on the Stock Exchange or the Toronto Stock Exchange, and (ii) maintain its status as a "reporting issuer" in the provinces in which it is a reporting issuer as at the date hereof, provided that the foregoing requirement (A) is subject to the obligations of the Purchaser's directors to comply with their fiduciary duties to the Purchaser, and (B) shall not restrict the Purchaser from entering into, participating in or being subject to a merger, takeover bid, arrangement or other business combination transaction (a "**Change of Control Transaction**") which is in the best interest of the Purchaser, following which the Purchaser is not a "reporting issuer" or is not listed on the Stock Exchange or the Toronto Stock Exchange, provided that all of the Consideration Shares are purchased or acquired pursuant to such Change of Control Transaction. If, as a result of a Change of Control Transaction, the Sellers, or either of them, receive shares of a successor to the Purchaser, such

successor shall be bound by this Section 4.13(b) to the same extent as the Purchaser and shall deliver to the Seller(s) an instrument in writing assuming the obligations of the Purchaser pursuant to this Section 4.13(b) on or before the effective time of the Change of Control Transaction.

(c) **Compliance with Laws**. From and after Closing until such time as the Sellers cease to hold any of the Consideration Shares:

- (i) neither the Purchaser nor any of its Affiliates nor any of their respective directors, officers, employees or agents shall knowingly offer or give on behalf of the Purchaser or any of its Affiliates anything of value to any official of a Governmental Authority, any political party or official thereof or any candidate for political office, for the purpose of any of the following:
  - (A) influencing any action or decision of such person in such person's official capacity, including a decision to fail to perform such person's official function in order to obtain or retain an advantage in the course of business;
  - (B) inducing such person to use such person's influence with any Governmental Authority to affect or influence any act or decision of such Governmental Authority to assist the Purchaser or any of its Affiliates in obtaining or retaining business for, with, or directing business to, any person or otherwise to obtain or retain an advantage in the course of business; or
  - (C) where such payment would constitute a bribe, rebate, payoff, influence payment, kickback or illegal or improper payment to assist the Purchaser or any of its Affiliates in obtaining or retaining business for, with, or directing business to, any person;
- (ii) neither the Purchaser nor any of its Affiliates nor any of their respective directors, officers, employees or agents will take any action that would cause the Purchaser or any of its Affiliates to be in violation in any material respect of the *Corruption of Foreign Public Officials Act* (Canada), the *Foreign Corrupt Practices Act of 1977* (United States), the *Bribery Act 2010* (United Kingdom) or any similar legislation in any jurisdiction in which it conducts its business and to which it is subject and the Purchaser and each of its Affiliates shall maintain policies and procedure in respect thereof; and
- (iii) the operations of the Purchaser and each of its Affiliates shall be conducted at all times in material compliance with all applicable Laws (including, for greater certainty, those Laws set forth in Section 6.23) to which the Purchaser or any of its Affiliates are subject.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF SELLERS**

Each of the Sellers hereby severally, and not jointly or jointly and severally, represents and warrants to the Purchaser as follows and acknowledges that Purchaser is

relying on such representations and warranties in entering into this Agreement and completing the purchase of the Purchased Securities and the transactions contemplated by this Agreement and the other Transaction Documents:

### **5.1 Existence**

The Seller and each of the Mankono Companies is a company validly existing and in good standing under the laws of its jurisdiction of incorporation. The Seller has the corporate power to: (a) own the Purchased Shares owned by it and to carry on its business as currently conducted; and (b) execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is a party.

### **5.2 Execution, Delivery and Enforceability**

The execution, delivery and performance of this Agreement and each of the other Transaction Documents to which it is a party has been duly authorized by all necessary corporate action on the part of the Seller and constitutes, or, in the case of the NSR Royalty Agreements, will constitute, a legal, valid and binding obligation of the Seller enforceable by the Purchaser in accordance with its terms, except insofar as enforceability may be limited by applicable bankruptcy, insolvency and other rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

### **5.3 No Conflict**

Except as disclosed in section 5.3 of the Seller Disclosure Letter, the entering into of this Agreement and the other Transaction Documents and the performance by the Seller of its obligations hereunder and thereunder, including the sale of the Purchased Securities owned by the Seller, will not (a) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under any provision of the constating documents of the Seller or either of the Mankono Companies, or any Material Contract of either of the Mankono Companies or (b) result in a violation in any material respect of any of the terms and provisions of any Law applicable to the Seller or either of the Mankono Companies.

### **5.4 Ownership of Purchased Shares; Subsidiaries**

(a) The Seller is the registered and beneficial owner of record of the number of Purchased Shares set forth opposite its name in Exhibit B, free and clear of all Encumbrances other than those Encumbrances arising (a) under the Joint Venture Agreement, which will be terminated on Closing, or (b) this Agreement. Upon completion of the transactions contemplated by this Agreement and the other Transaction Documents, all of the Purchased Shares owned by the Seller will be owned by the Purchaser (or any assignee purchaser thereof in accordance with Section 3.5(b)) as the registered and beneficial owner of record, free and clear of all Encumbrances (except such Encumbrances as may have been granted by the Purchaser).

(b) Upon completion of the transactions contemplated by this Agreement and the other Transaction Documents, there will be no outstanding options, warrants, convertible or exchangeable securities or other rights, arrangements, agreements or commitments relating to the Shares or other equity interests of either of the Mankono Companies and there will be no outstanding obligations of either of the Mankono Companies to repurchase, redeem or otherwise acquire any of the outstanding Shares or other equity interests.

(c) At the Time of Closing, neither of the Mankono Companies will own, beneficially or of record, any securities or other ownership, equity or proprietary interests of any kind in any person or be bound by any commitment or obligation to acquire any securities or other ownership, equity or proprietary interests of any kind in any person, other than all of the issued and outstanding shares of the Mining Company that are owned by the Joint Company.

(d) No active business has been carried on by the Joint Company at any time and the operations of the Joint Company have at all times been activities incidental to its role as a holding company owning the issued and outstanding shares of the Mining Company.

(e) For the purposes of the Taxation (Companies - Economic Substance) (Jersey) Law 2019 (as amended) (the "**Jersey Tax Law**"), the Joint Company did not have any "relevant activity" (as defined in the Jersey Tax Law) carried on by it that generated gross income in a financial period commencing on or after January 1, 2019.

## **5.5 Consents**

(a) Except for the satisfaction of the Permit Condition and the issuance of the Sisseple Permit which, for greater certainty, is not a condition to closing, no consent, approval, order or authorization of, or declaration or filing with, any Governmental Authority is required to be obtained or made by the Seller or the Mankono Companies in connection with the consummation of the transactions contemplated by this Agreement or the other Transaction Documents.

(b) No consent or approval is required to be obtained under any Material Contract in connection with the consummation of the transactions contemplated by this Agreement or the other Transaction Documents.

## **5.6 No Other Agreements to Purchase; No Options**

(a) Except as set forth in the Joint Venture Agreement to be terminated on Closing, no person other than the Purchaser has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition from the Seller of any of the Purchased Shares owned by the Seller.

(b) Other than the Purchaser, no person has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition of any securities of the Joint Company, except the rights of the Sellers set forth in the Joint Venture Agreement to be terminated on Closing.

(c) Except as disclosed in Section 5.6 of the Seller Disclosure Letter, no person has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition from either of the Mankono Companies of any of their respective material assets. At the Time of Closing, no person will have any written or oral agreement or option or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition from either of the Mankono Companies of any of their material assets.

## **5.7 Absence of Changes**

Since December 31, 2021, the business of the Mining Company with respect to the Exploration Permits and the Operations has been and will be conducted only in the ordinary course of business consistent with past practice, except as disclosed in section 5.7 of the Seller Disclosure Letter, and there has not been any Mankono Material Adverse Change.

## **5.8 Exploration Permits and Ancillary Rights**

(a) Schedules A, B and C of the Seller Disclosure Letter describe all of the Exploration Permits. All of the Exploration Permits (once issued, if applicable) have currently been recorded in the name of the Mining Company and, subject to minor omissions and errors that do not impact the ownership of the Exploration Permits, are duly registered with the Mining Authority to the extent required by and in accordance with applicable Laws. All of the Exploration Permits (once issued, if applicable) are and at the Time of Closing will be valid and in good standing, free and clear of all Encumbrances other than Permitted Encumbrances (other than with respect to the Sisseple Permit to the extent that Closing occurs prior to the issuance thereof), and all material rentals, fees, expenditures and other payments owed in respect thereof to Governmental Authorities have been paid or incurred and will have been paid or incurred at the Time of Closing and all material filings in respect thereof have been and at the Time of Closing will have been made to Governmental Authorities.

(b) Except as set forth in the Joint Venture Agreement to be terminated on Closing, (i) no person other than the Mining Company has any preferential right or interest in the Exploration Permits (once issued, if applicable) or the production or profits therefrom or any royalty in respect thereof or any right to acquire any such interest and (ii) there are no back-in rights, earn-in rights, rights of first refusal or similar provisions or rights which currently affect the Mining Company's interest in the Exploration Permits (once issued, if applicable).

(c) The Exploration Permits (once issued, if applicable) do not overlap with any third party rights that may enable any such third party to explore or exploit any substance in the same area.

(d) The Mining Company has all easements and surface rights from landowners or Governmental Authorities necessary to conduct the Operations as currently conducted.

## **5.9 Permits**

Except in respect of the Permit Condition and the issuance of the Sisseple Permit which, for greater certainty, is not a condition to closing, the Mining Company has duly obtained all material Permits (other than the Environmental Permits) required to conduct the Operations and is not in material default or material breach of any such material Permit. None of the material Permits will be terminated or impaired or become terminable, in whole or in part, as a result of the transactions contemplated in this Agreement.

## **5.10 Agreements and Commitments**

Section 5.10 of the Seller Disclosure Letter contains a list of all Material Contracts entered into by either of the Mankono Companies as of the currency date set out therein. Except as disclosed in Section 5.10 of the Seller Disclosure Letter: (a) the Mankono Company party to such Material Contract has performed in all material respects all of the

obligations required to be performed by it under such Material Contract; (b) the Mankono Company party to such Material Contract is entitled to all benefits under any such Material Contract; (c) the Mankono Company party to such Material Contract is not in material default or to the knowledge of the Seller, alleged to be in material default in respect of, any such Material Contract which would detrimentally affect the entitlement of the Mankono Company party to such Material Contract to the benefits of such Material Contract; (d) all such Material Contracts are valid and binding agreements of the Mankono Company party to such Material Contract, are in good standing and in full force and effect; and (e) no event, condition or occurrence has occurred or exists which, after notice or lapse of time or both, would constitute a material default by the Mankono Company party to such Material Contract or, to the knowledge of the Seller, a material default by any other party, under any such Material Contract which would detrimentally affect the entitlement of the Mankono Company party to such Material Contract to the benefits of such Material Contract.

## **5.11 Environmental Matters**

Except as set forth below in this Section 5.11, no representations or warranties are being made by Seller with respect to any environmental matters, including those arising under or relating to Environmental Laws:

- (a) Except as disclosed in section 5.11 of the Seller Disclosure Letter: (i) currently and during the past three years, the Mining Company is and was in compliance in all material respects with all applicable Environmental Laws; (ii) the Mining Company does not require any Environmental Permits to conduct the Operations as currently conducted; (iii) the Mining Company has not received within the last three years any written order, notice or other communication from any Governmental Authority in respect of the Property of any actual or threatened material non-compliance with any Environmental Law which would give rise to a material undischarged liability relating to the Property; and (iv) there are no pending or, to the knowledge of the Seller, threatened Proceedings relating to the Mining Company in connection with the Operations or the Property arising under or in respect of any Environmental Law.
- (b) Except as disclosed in section 5.11 of the Seller Disclosure Letter, the assets and properties currently owned, leased or used by the Mining Company in connection with the Property and the Operations have not been used to generate, manufacture, treat, transport, store, dispose of, transfer, produce or process any Hazardous Substances, except in compliance in all material respects with all Environmental Laws. Except as disclosed in section 5.11 of the Seller Disclosure Letter, the Mining Company has not caused or permitted the Release of any Hazardous Substances at, in, on, under or from the Property within the last three years, except in compliance in all material respects with all Environmental Laws. Except as disclosed in section 5.11 of the Seller Disclosure Letter, all Hazardous Substances disposed of, treated or stored on the real property or mineral property related to the Property within the last three years have been disposed of, treated and stored in compliance in all material respects with Environmental Laws.

## **5.12 Books and Records**

The financial books, records and accounts of the Mankono Companies fairly reflect the material transactions and dispositions of the assets and properties of the Mankono Companies. The corporate records the Mankono Companies comply in all material respects with applicable Laws.

## **5.13 Compliance with Laws**

Except as disclosed in section 5.13 of the Seller Disclosure Letter, the Mining Company is in compliance in all material respects with applicable Laws in connection with its conduct of the Operations, and is duly licensed, registered or qualified in each jurisdiction that it carries on business to enable its business to be carried on as now conducted, and its assets to be owned, leased, and operated, as applicable. All such licenses, registrations and qualifications are valid and subsisting and in good standing.

## **5.14 No Undisclosed Liabilities**

Except for ***{Redacted – confidential}*** the liabilities set out in the financial statements of the Mankono Companies disclosed in section 5.14 of the Seller Disclosure Letter, the Mankono Companies do not have any liabilities that would be required to be disclosed in financial statements of the Mankono Companies.

## **5.15 Litigation**

(a) There are no Proceedings pending or, to the knowledge of the Seller, threatened against or affecting or related to, the Mankono Companies in connection with its conduct of the Operations or the Property before or by any court or any Governmental Authority which would reasonably be expected to be material to the Mankono Companies in connection with the conduct of the Operations and the Property.

(b) There are no Proceedings pending, or to the knowledge of the Seller, threatened against the Seller or any of its Affiliates before any court or Governmental Authority nor is the Seller or any of its Affiliates subject to any outstanding injunction, order, decree, ruling or judgment that, either individually or in the aggregate, is reasonably likely to prevent or materially delay completion of the transactions contemplated by this Agreement or any of the Transaction Documents.

## **5.16 *{Redacted - confidential}***

## **5.17 Employment Matters**

Neither of the Mankono Companies currently has, or has had at any time since the date of its incorporation, any employees.

## **5.18 No Bankruptcy, etc.**

(a) There has not been any petition or application filed, or any judicial or administrative proceeding commenced which has not been discharged, by or against the Seller or either of the Mankono Companies with respect to any of its respective assets under any applicable Laws relating to bankruptcy, insolvency, reorganization, fraudulent transfer,

compromise, arrangement of debt, creditors' rights, and no assignment has been made by the Seller or any of the Mankono Companies for the benefit of creditors.

(b) No receiver, receiver and manager, liquidator, administrator or like official has been appointed over the undertaking or property of the Seller or either of the Mankono Companies.

(c) Neither the Seller nor either of the Mankono Companies has entered into, or taken steps or proposed to enter into, any arrangement, compromise or assignment for the benefit of its creditors or a class of them.

#### **5.19 Anti-Corruption**

(a) To the knowledge of the Seller, neither the Seller, either of the Mankono Companies nor any of their respective directors, officers, employees or agents has knowingly offered or given on behalf of the Seller or either of the Mankono Companies anything of value to any official of a Governmental Authority, any political party or official thereof or any candidate for political office, for the purpose of any of the following:

- (i) influencing any action or decision of such person in such person's official capacity, including a decision to fail to perform such person's official function in order to obtain or retain an advantage in the course of business;
- (ii) inducing such person to use such person's influence with any Governmental Authority to affect or influence any act or decision of such Governmental Authority to assist the Seller or either of the Mankono Companies in obtaining or retaining business for, with, or directing business to, any person or otherwise to obtain or retain an advantage in the course of business; or
- (iii) where such payment would constitute a bribe, rebate, payoff, influence payment, kickback or illegal or improper payment to assist the Seller either of the Mankono Companies in obtaining or retaining business for, with, or directing business to, any person.

(b) To the knowledge of the Seller, neither the Seller, either of the Mankono Companies nor any of their respective directors, officers, employees or agents has taken any action that would cause the Seller or either of the Mankono Companies to be in violation in any material respect of the *Corruption of Foreign Public Officials Act* (Canada), the *Foreign Corrupt Practices Act of 1977* (United States) or any similar legislation in any jurisdiction in which it conducts its business and to which it is subject and each of the Seller and the Mankono Companies have policies and procedure in place in respect thereof.

#### **5.20 Anti-Money Laundering**

To the knowledge of the Seller, the operations of the Seller and the Mankono Companies are and have been conducted at all times in material compliance with all applicable financial recordkeeping and reporting requirements, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the *Bank Secrecy Act*, as amended by *Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to*

*Intercept and Obstruct Terrorism Act of 2001*, the rules and regulations under the foregoing and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority to which the Seller or either Mankono Company is subject, and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Seller or either Mankono Company with respect to the foregoing Laws is pending or, to the knowledge of the Seller, threatened.

**5.21 No Sanctions**

Neither the Seller nor either Mankono Company nor, to the knowledge of the Seller, any director, officer, agent, employee or person acting on behalf of the Seller or either Mankono Company is an individual or entity that is controlled by a person that is currently the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control or any equivalent Governmental Authority in Canada.

**5.22 Finders' Fee**

No investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Seller or either of the Mankono Companies that might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents.

**5.23 Competition Act**

The Joint Company and any entity it controls do not, in aggregate, have assets in Canada or sales in or from Canada generated from those assets, determined in each case in accordance with the Competition Act, of more than C\$93 million.

**5.24 Investment Canada Act**

Neither the Joint Company nor any entity it controls within the meaning of the Investment Canada Act is a "Canadian business" within the meaning of the Investment Canada Act.

**5.25 Competition (Jersey) Law 2005**

Neither the Joint Company nor any entity it controls directly or indirectly supplies or purchases goods or services of any description to or from persons in Jersey, as determined in accordance with the Competition (Jersey) Law 2005.

**ARTICLE 6  
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

Purchaser hereby represents and warrants to the Sellers as follows and acknowledge that the Sellers are relying on such representations and warranties in entering into this Agreement and completing the sale of the Purchased Securities and the transactions contemplated by this Agreement and the other Transaction Documents:

## **6.1 Existence**

The Purchaser is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation. The Purchaser has the corporate power to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is a party.

## **6.2 Execution, Delivery and Enforceability**

The execution, delivery and performance of this Agreement and each of the other Transaction Documents to which it is a party has been duly authorized by all necessary corporate action on the part of the Purchaser and constitutes, or, in the case of the NSR Royalty Agreements, will constitute, a legal, valid and binding obligation of the Purchaser enforceable by the Sellers in accordance with its terms, except insofar as enforceability may be limited by applicable bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **6.3 No Conflict**

The entering into of this Agreement and the other Transaction Documents and the performance by the Purchaser of its obligations hereunder and thereunder, including the purchase of the Purchased Securities and the delivery of the Consideration Shares, will not (a) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under any provision of the constating documents of the Purchaser or any Contract to which it is a party or by which it is bound or (b) result in a violation in any material respects of any of the terms and provisions of any Law applicable to the Purchaser.

## **6.4 Consents and Regulatory Approvals**

Except for the approval of the Stock Exchange in respect of the transactions contemplated by this Agreement and the other Transaction Documents, no consent, approval, order or authorization of, or declaration or filing with, any Governmental Authority or any other third party is required to be obtained by the Purchaser in connection with the consummation of the transactions contemplated by this Agreement and the other Transaction Documents.

## **6.5 Litigation**

There are no Proceedings pending, or to the knowledge of the Purchaser, threatened against the Purchaser or any of its Affiliates before any court or Governmental Authority nor is the Purchaser or any of its Affiliates subject to any outstanding injunction, order, decree, ruling or judgment that, either individually or in the aggregate, is reasonably likely to prevent or materially delay completion of the transactions contemplated by this Agreement or any of the Transaction Documents.

## **6.6 Capitalization**

As at the date of this Agreement, (a) the authorized capital of the Purchaser consists of an unlimited number of common shares; and (b) the issued and outstanding capital of the Purchaser consists of 105,340,004 common shares, each of which has been issued as

fully paid and non-assessable. As of the date of this Agreement, other than as set out in the Purchaser Public Record, there are no (i) options, warrants, bonds, debentures, conversion privileges or other rights, agreements, arrangements or commitments obligating the Purchaser to issue, sell or deliver any shares or securities of the Purchaser, or obligations of any kind convertible into or exchangeable for any shares or other securities of the Purchaser, (ii) deferred shares, deferred share units, performance shares, performance share units, restricted shares, restricted share units, stock appreciation rights, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of shares or any other securities of the Purchaser, (iii) voting trusts, proxies, shareholder agreements or other similar agreements or understandings to which the Purchaser is a party or by which the Purchaser is bound with respect to the voting of any shares or other securities of the Purchaser, (iv) shareholder rights plans, "poison pills" or other similar agreements or understandings to which the Purchaser is a party or by which the Purchaser is bound, or (v) contractual obligations or commitments of any character to which the Purchaser is a party or by which the Purchaser is bound restricting the transfer of, or requiring the registration for sale of, any shares or other securities of the Purchaser. There are no bonds, notes, debentures or other evidences of indebtedness of the Purchaser outstanding having the right to vote (or that are convertible or exercisable for securities having the right to vote) with shareholders of the Purchaser on any matter.

#### **6.7 Issuance of Consideration Shares**

The Consideration Shares, when issued and delivered in accordance with the terms of this Agreement, will be duly and validly issued as fully paid and non-assessable common shares in the capital of the Purchaser. At Closing, the Consideration Shares will be listed for trading on the Stock Exchange and will not be subject to any contractual or other restrictions on transferability or voting other than those imposed under Applicable Securities Laws, the rules and policies of the Stock Exchange.

#### **6.8 No Pre-Emptive Rights**

Except as disclosed in section 6.8 of the Purchaser Disclosure Letter, the issue of the Consideration Shares will not be subject to any pre-emptive right or other contractual right to purchase securities granted by the Purchaser or to which the Purchaser is subject.

#### **6.9 Listing of Shares**

The issued and outstanding common shares of the Purchaser are listed and posted for trading on the Stock Exchange and are quoted on the Pink Open Market of OTC Markets Group, and are not, to the knowledge of the Purchaser, listed or posted for trading on any other stock or securities exchange or marketplace.

#### **6.10 Material Shareholders**

Except as disclosed in section 6.10 of the Purchaser Disclosure Letter, to the knowledge of the Purchaser, no person beneficially owns, or exercises control or direction over, directly or indirectly, 10% or more of the outstanding common shares of the Purchaser or securities convertible into, or exchangeable or exercisable for, common shares of the Purchaser when aggregated with its common shares of the Purchaser would total 10% or more of the outstanding common shares of the Purchaser upon such conversion, exercise or exchange.

## 6.11 Conduct of Business

Each of the Purchaser and its Affiliates is conducting its business in compliance in all material respects with all applicable Laws and is duly licensed, registered or qualified in each jurisdiction that it carries on business to enable its business to be carried on as now conducted, and its assets to be owned, leased, and operated. All such licenses, registrations and qualifications are valid and subsisting and in good standing.

## 6.12 Securities Law Matters

(a) The Purchaser is a reporting issuer in each of the provinces of Canada other than Quebec and is not in default in the performance of its material obligations under the securities legislation applicable in each of the provinces of Canada other than Quebec and is in compliance, in all material respects, with the applicable rules and regulations of the Stock Exchange (such securities legislation and such rules and regulations of the Stock Exchange being collectively referred to as the “**Applicable Securities Laws**”).

(b) No order ceasing or suspending trading in any securities of the Purchaser or prohibiting the issue, sale and delivery (as applicable) of securities or the trading of any of the Purchaser’s issued securities has been issued and no proceedings for such purpose are pending or, to the Purchaser’s knowledge, threatened.

(c) The Purchaser is in compliance in all material respects with all timely disclosure obligations under Applicable Securities Laws and, without limiting the generality of the foregoing, there has not occurred any material change in the assets, liabilities (absolute, accrued, contingent or otherwise), affairs, business, capital, condition (financial or otherwise), operations or prospects of the Purchaser and its Affiliates, taken as a whole, which has not been publicly disclosed. Each document comprising the Purchaser Public Record was, as of the date thereof, in compliance in all material respects with Applicable Securities Laws and such documents collectively constitute full, true and plain disclosure of all material facts relating to the Purchaser, and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. All of the material contracts and agreements of the Purchaser have been disclosed and filed with the applicable securities regulatory authorities at [www.sedar.com](http://www.sedar.com). No confidential material change report has been filed that remains confidential on the date hereof.

## 6.13 Purchaser Financial Statements

The Purchaser’s audited consolidated financial statements for the fiscal years ended December 31, 2021 and December 31, 2020 and all notes thereto, and the Purchaser’s condensed interim consolidated financial statements for the three months ended March 31, 2022 and March 31, 2021 and all notes thereto (collectively, the “**Purchaser Financial Statements**”) (a) comply as to form in all material respects with the requirements of Applicable Securities Laws, and (b) present fairly, in all material respects, the financial position of the Purchaser and its subsidiaries at the respective dates and for the respective periods to which they apply, and its financial performance and its cash flows in accordance with IFRS, consistently applied throughout the periods covered thereby. There has been no Purchaser Material Adverse Change since December 31, 2021.

#### **6.14 Mining Permits and Ancillary Rights**

(a) The Koné DFS and section 6.14 of the Purchaser Disclosure Letter sets out a list of the mining Permits of the Purchaser (the “**Purchaser Mining Permits**”). All of the Purchaser Mining Permits have currently been recorded in the name of the Purchaser or an Affiliate of the Purchaser and, subject to minor omissions and errors that do not impact the ownership of the Purchaser Mining Permits, are duly registered with the Governmental Authorities to the extent required by and in accordance with applicable Laws. All of the Purchaser Mining Permits are and at the Time of Closing will be valid and in good standing, free and clear of all Encumbrances other than Permitted Encumbrances, and all material rentals, fees, expenditures and other payments owed in respect thereof to Governmental Authorities have been paid or incurred and will have been paid or incurred at the Time of Closing and all material filings in respect thereof have been and at the Time of Closing will have been made to Governmental Authorities.

(b) Except as disclosed in section 6.14 of the Purchaser Disclosure Letter, no person other than the Purchaser has any preferential right or interest in the Purchaser Mining Permits or the production or profits therefrom or any royalty in respect thereof or any right to acquire any such interest.

(c) Except as disclosed in the Purchaser Public Record, there are no back-in rights, earn-in rights, rights of first refusal or similar provisions or rights which currently affect the Purchaser’s interest in the Purchaser Mining Permits.

(d) Except as disclosed in the Purchaser Public Record, the Purchaser Mining Permits do not overlap with any third party rights that may enable any such third party to explore or exploit any substance in the same area.

(e) The Purchaser has all easements and surface rights from landowners or Governmental Authorities necessary to conduct its operations in respect of the Purchaser Mining Permits as currently conducted.

#### **6.15 Permits**

The Purchaser has duly obtained all material Permits (other than the Purchaser Mining Permits and Environmental Permits) required to conduct its operations and is not in material default or material breach of any such material Permit. None of the material Permits will be terminated or impaired or become terminable, in whole or in part, as a result of the transactions contemplated in this Agreement.

#### **6.16 Mineral Reserves and Resources**

The estimated proven and probable mineral reserves and estimated mineral reserves disclosed in the Koné DFS have been prepared and disclosed in all material respects in accordance with accepted engineering practices and all applicable Laws.

#### **6.17 Environmental Matters**

Except as set forth below in this Section 6.17, no representations or warranties are being made by the Purchaser with respect to any environmental matters, including those arising under or relating to Environmental Laws:

- (a) (i) currently and during the past three years, the Purchaser and each of its Affiliates is and was in compliance in all material respects with all applicable Environmental Laws; (ii) the Purchaser and each of its Affiliates does not require any Environmental Permits to conduct its operations as currently conducted; (iii) neither the Purchaser nor any of its Affiliates has received within the last three years any written order, notice or other communication from any Governmental Authority in respect of any of its Permits of any actual or threatened material non-compliance with any Environmental Law which would give rise to a material undischarged liability relating to any of its Permits; and (iv) there are no pending or, to the knowledge of the Purchaser, threatened Proceedings relating to the Purchaser or any of its Affiliates in connection with its operations or Permits arising under or in respect of any Environmental Law.
- (b) the assets and properties currently owned, leased or used by the Purchaser or any of its Affiliates in connection with its Permits and operations have not been used to generate, manufacture, treat, transport, store, dispose of, transfer, produce or process any Hazardous Substances, except in compliance in all material respects with all Environmental Laws. Neither the Purchaser nor any of its Affiliates has caused or permitted the Release of any Hazardous Substances at, in, on, under or from its property within the last three years, except in compliance in all material respects with all Environmental Laws. All Hazardous Substances disposed of, treated or stored on the real property owned or occupied by the Purchaser or any of its Affiliates within the last three years have been disposed of, treated and stored in compliance in all material respects with Environmental Laws.

#### **6.18 No Undisclosed Liabilities**

The Purchaser does not have any liabilities required to be disclosed in the Purchaser Financial Statements in accordance with IFRS, except those liabilities reflected or reserved against in the Purchaser Financial Statements.

#### **6.19 Absence of Changes**

Since December 31, 2021, the business of the Purchaser has been conducted only in the ordinary course of business consistent with past practices of the Purchaser and there has not been any Purchaser Material Adverse Change.

#### **6.20 Taxes**

(a) The Purchaser and each of its Affiliates has duly filed on a timely basis with the appropriate Governmental Authority all Tax Returns required to be filed by it. All such Tax Returns were complete and accurate in all material respects. The Purchaser and each of its Affiliates has paid all Taxes which are due and payable (including all installments and prepayments of Tax as required by applicable Laws), except where the failure to pay such Taxes would not result in a Purchaser Material Adverse Change.

(b) There are no agreements, waivers or other arrangements providing for an extension of time for either of the Purchaser and each of its Affiliates to file any Tax Return or pay any Taxes or for any Governmental Authority to examine any Tax Return or levy any assessment.

(c) The Purchaser and each of its Affiliates has, in all material respects, withheld from each payment made, or deemed to have been made, to any person the amount of all Taxes and other deductions required to be withheld therefrom and will have paid the same to the proper Tax or other receiving authorities within the time required under any applicable Laws.

(d) The Purchaser and each of its Affiliates has collected all material amounts required to be collected by it on account of Taxes and remitted, in all material respects, to the appropriate Tax authority when required by Law to do so all such amounts collected by it.

(e) There are no material Proceedings pending or, to the knowledge of the Purchaser, threatened against the Purchaser or any of its Affiliates in respect of Taxes, governmental charges or assessments, nor are there any material matters under discussion by either of the Purchaser or any of its Affiliates with any Governmental Authority relating to Taxes, governmental charges or assessments.

#### **6.21 No Bankruptcy, etc.**

(a) There has not been any petition or application filed, or any judicial or administrative proceeding commenced which has not been discharged, by or against the Purchaser or any its Affiliates with respect to any of its respective assets under any applicable Laws relating to bankruptcy, insolvency, reorganization, fraudulent transfer, compromise, arrangement of debt, creditors' rights, and no assignment has been made by the Purchaser or any its Affiliates for the benefit of creditors.

(b) No receiver, receiver and manager, liquidator, administrator or like official has been appointed over the undertaking or property of the Purchaser or any its Affiliates.

(c) None of the Purchaser nor any its Affiliates has entered into, or taken steps or proposed to enter into, any arrangement, compromise or assignment for the benefit of its creditors or a class of them.

#### **6.22 Anti-Corruption**

(a) To the knowledge of the Purchaser, neither the Purchaser nor any of its Affiliates nor any of their respective directors, officers, employees or agents has knowingly offered or given on behalf of the Purchaser or any of its Affiliates anything of value to any official of a Governmental Authority, any political party or official thereof or any candidate for political office, for the purpose of any of the following:

- (i) influencing any action or decision of such person in such person's official capacity, including a decision to fail to perform such person's official function in order to obtain or retain an advantage in the course of business;
- (ii) inducing such person to use such person's influence with any Governmental Authority to affect or influence any act or decision of such Governmental Authority to assist the Purchaser or any of its Affiliates in obtaining or retaining business for, with, or directing business to, any person or otherwise to obtain or retain an advantage in the course of business; or

- (iii) where such payment would constitute a bribe, rebate, payoff, influence payment, kickback or illegal or improper payment to assist the Purchaser or any of its Affiliates in obtaining or retaining business for, with, or directing business to, any person.

(b) To the knowledge of the Purchaser, neither the Purchaser nor any of its Affiliates nor any of their respective directors, officers, employees or agents has taken any action that would cause the Purchaser or any of its Affiliates to be in violation in any material respect of the *Corruption of Foreign Public Officials Act (Canada)*, the *Foreign Corrupt Practices Act of 1977 (United States)*, the *Bribery Act 2010 (United Kingdom)* or any similar legislation in any jurisdiction in which it conducts its business and to which it is subject and the Purchaser and each of its Affiliates have policies and procedure in place in respect thereof.

### **6.23 Anti-Money Laundering**

To the knowledge of the Purchaser, the operations of the Purchaser and each of its Affiliates are and have been conducted at all times in material compliance with all applicable financial recordkeeping and reporting requirements, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*, the *Bank Secrecy Act*, as amended by *Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, the *Proceeds of Crime Act 2002 (United Kingdom)*, the rules and regulations under the foregoing and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority to which the Purchaser or any of its Affiliates is subject, and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Purchaser or any of its Affiliates with respect to the foregoing Laws is pending or, to the knowledge of the Purchaser, threatened.

### **6.24 No Sanctions**

Neither the Purchaser nor any of its Affiliates nor, to the knowledge of the Purchaser, any director, officer, agent, employee or person acting on behalf of the Purchaser or any of its Affiliates is an individual or entity that is controlled by a person that is currently the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control or any equivalent Governmental Authority in Canada or the United Kingdom.

### **6.25 Finders' Fee**

There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of the Purchaser or any of its Affiliates who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents.

### **6.26 Financial Statements of the Mankono Companies**

The Purchaser has reviewed the financial statements of the Mankono Companies that are disclosed in section 5.14 of the Seller Disclosure Letter and acknowledges that the Mining Company has net equity that is less than half of its share capital.

## **ARTICLE 7 CLOSING CONDITIONS**

### **7.1 Mutual Conditions**

The obligations of the Sellers and the Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfilment on or before the Time of Closing of each of the following conditions:

- (a) the Stock Exchange shall have approved the listing of the Consideration Shares on terms applicable to the Sellers and the Purchaser, each acting reasonably, subject only to customary conditions; and
- (b) the Permit Condition shall have been satisfied.

The foregoing conditions are for the exclusive benefit of the Sellers and the Purchaser and any such condition may be waived in whole or in part by the Seller Representative (on behalf of the Sellers) and the Purchaser at or prior to the Time of Closing by each delivering to the other a written waiver to that effect. Delivery of any such waiver shall be without prejudice to any rights and remedies at law and in equity that a Seller or the Purchaser may have, including any claims such Seller or the Purchaser may have for breach of covenant, representation or warranty by another Party, and also without prejudice to a Seller's and the Purchaser's rights of termination in the event of non-performance of any other conditions in whole or in part.

### **7.2 Closing Conditions in Favour of the Purchaser**

The obligations of the Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfilment on or before the Time of Closing of each of the following conditions:

- (a) the representations and warranties made by each of the Sellers in this Agreement shall be true and correct in all respects without giving effect to any limitation indicated by the words "Material Adverse Change", "in all material respects", "material" or "materially", except where the failure of such representations and warranties to be true and correct do not constitute in aggregate a Mankono Material Adverse Change, and the Seller Fundamental Representations of each Seller shall be true and correct in all respects (other than *de minimis* discrepancies), in each case, as of the Closing Date as if made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, then as of such date), and each of the Sellers shall have provided to the Purchaser a certificate dated the Closing Date executed by a senior officer of such Seller exclusively with respect to such Seller to the foregoing effect;
- (b) each of the Sellers shall have performed and complied in all material respects with all covenants, conditions and agreements required by this Agreement to be performed or complied with by it on or prior to the Time of Closing, and each of the Sellers shall have provided to the Purchaser a certificate dated the Closing Date executed by a senior officer of such Seller exclusively with respect to such Seller to the foregoing effect;

- (c) no Mankono Material Adverse Change shall have occurred since the date hereof, and each of the Sellers shall have provided to the Purchaser a certificate dated the Closing Date executed by a senior officer of such Seller to the foregoing effect; and
- (d) all deliveries contemplated by Section 3.3 shall have been tabled.

The foregoing conditions are for the exclusive benefit of the Purchaser and any such condition may be waived in whole or in part by the Purchaser at or prior to the Time of Closing by delivering to the Sellers a written waiver to that effect executed by the Purchaser. Delivery of any such waiver shall be without prejudice to any rights and remedies at law and in equity that the Purchaser may have, including any claims the Purchaser may have for breach of covenant, representation or warranty by either of the Sellers, and also without prejudice to the Purchaser's rights of termination in the event of non-performance of any other conditions in whole or in part.

### **7.3 Closing Conditions in favour of Sellers**

The obligations of each of the Sellers to consummate the transactions contemplated by this Agreement shall be subject to the fulfilment on or before the Time of Closing of each of the following conditions:

- (a) the representations and warranties made by the Purchaser in this Agreement shall be true and correct in all respects without giving effect to any limitation indicated by the words "Material Adverse Change", "in all material respects", "material" or "materially", except where the failure of such representations and warranties to be true and correct do not constitute in aggregate a Purchaser Material Adverse Change, and the Purchaser Fundamental Representations shall be true and correct in all respects (other than *de minimis* discrepancies), in each case, as of the Closing Date as if made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, then as of such date), and the Purchaser shall have provided to each of the Sellers a certificate dated the Closing Date executed by a senior officer to the foregoing effect;
- (b) the Purchaser shall have performed and complied in all material respects with all covenants, conditions and agreements required by this Agreement to be performed or complied with by the Purchaser on or prior to the Time of Closing, and the Purchaser shall have provided to each of the Sellers a certificate dated the Closing Date executed by a senior officer to the foregoing effect;
- (c) no Purchaser Material Adverse Change shall have occurred since the date hereof, and each of the Purchaser shall have provided to each of the Sellers a certificate dated the Closing Date executed by a senior officer to the foregoing effect;
- (d) as of the Time of Closing, the Consideration Shares issued to the Barrick Seller or an Affiliate thereof pursuant to Section 2.2(a) shall represent no more than 9.95% of the issued and outstanding common shares of the Purchaser;
- (e) all deliveries contemplated by Section 3.4 shall have been tabled; and

- (f) all deliveries of the other Seller contemplated in Section 3.3(a) or (b), as applicable, shall have been tabled.

The foregoing conditions are for the exclusive benefit of the Sellers and any such condition may be waived in whole or in part by the Seller Representative (on behalf of the Sellers) at or prior to the Time of Closing by delivering to the Purchaser a written waiver to that effect executed by the Seller Representative. Delivery of any such waiver shall be without prejudice to any rights and remedies at law and in equity that the Sellers may have, including any claims a Seller may have for breach of covenant, representation or warranty by the Purchaser or the other Seller, and also without prejudice to such Seller's rights of termination in the event of non-performance of any other conditions in whole or in part.

## **ARTICLE 8 SURVIVAL AND INDEMNIFICATION**

### **8.1 Survival of Representations, Warranties and Covenants**

Subject to Section 8.8, all representations, warranties and covenants contained in this Agreement and in all other agreements, documents and certificates delivered pursuant to or contemplated by this Agreement (other than the conditions of Closing set out in Article 3) shall survive the Closing and shall not merge.

### **8.2 Indemnification by the Sellers**

Subject to the limitations set out elsewhere in this Article 8, each of the Sellers shall indemnify and save harmless the Purchaser from and against all Losses suffered or incurred by the Purchaser as a result of or arising directly or indirectly out of or in connection with:

- (a) any inaccuracy or breach by such Seller of any Seller Fundamental Representation made by such Seller;
- (b) any inaccuracy or breach by such Seller of any representation or warranty of such Seller contained in this Agreement (other than an inaccuracy or breach of a Seller Fundamental Representation **{Redacted – confidential}** made by such Seller) or in any agreement, certificate or other document delivered by such Seller pursuant hereto;
- (c) **{Redacted – confidential}**; and
- (d) any breach or non-performance by such Seller of any covenant contained in this Agreement or in any agreement, certificate or other document delivered by such Seller pursuant hereto.

### **8.3 Indemnification by the Purchaser**

Subject to the limitations set out elsewhere in this Article 8, the Purchaser shall indemnify and save harmless each of the Sellers from and against all Losses suffered or incurred by the Sellers as a result of or arising directly or indirectly out of or in connection with:

- (a) any inaccuracy or breach by the Purchaser of any Purchaser Fundamental Representation;
- (b) any inaccuracy or breach by the Purchaser of any representation or warranty of the Purchaser contained in this Agreement (other than an inaccuracy or breach of a Purchaser Fundamental Representation) or in any agreement, certificate or other document delivered pursuant hereto; and
- (c) any breach or non-performance by the Purchaser of any covenant contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto.

**8.4** *{Redacted – confidential}*

**8.5** **Limitation of Liability**

(a) The Purchaser shall not be entitled to require payment in respect of any Loss pursuant to the indemnity of a Seller contained in Section 8.2(b) and such Seller shall not be liable for any indemnity payment thereunder unless:

- (i) the amount finally agreed or adjudicated of any such individual Loss exceeds the applicable Minimum Loss Amount; and
- (ii) such Loss, when aggregated with the amount finally agreed or adjudicated to be payable in respect of other Losses for which the Purchaser would otherwise be entitled to require payment under such indemnity, exceeds the Threshold Amount.

Once the applicable Threshold Amount has been exceeded in respect of all Losses for which the Purchaser would otherwise be entitled to require payment, the Purchaser shall only be entitled to require payment by the Seller(s) on such indemnities on the portion of the aggregate Losses that exceed the applicable Threshold Amount. To the extent that each of the Sellers is liable pursuant to Section 8.2(b) in connection with a JV Obligation, each such Seller shall be responsible for its Proportionate Share of such Losses, subject to the limitations contained in Section 8.5(c) and 8.5(f).

(b) The Seller(s) shall not be entitled to require payment in respect of any Loss pursuant to the indemnity contained in Section 8.3(b) and the Purchaser shall not be liable for any indemnity payment thereunder unless:

- (i) the amount finally agreed or adjudicated of any such individual Loss exceeds the Minimum Loss Amount; and
- (ii) such Loss, when aggregated with the amount finally agreed or adjudicated to be payable in respect of other Losses for which the Seller(s) would otherwise be entitled to require payment under such indemnity, exceeds the Threshold Amount.

Once the Threshold Amount has been exceeded for all Losses for which the Seller(s) would otherwise be entitled to require payment, the Seller(s) shall only be entitled to require payment by the Purchaser on such indemnities on the portion of the aggregate Losses that exceed the

Threshold Amount. The Sellers shall apportion the amount of any such indemnification payment by the Purchaser on the basis of the Proportionate Shares of each of the Sellers, including to the extent that only one of the Sellers has initiated a Claim or Claims for indemnification from the Purchaser pursuant to this Article 8, in which case the claiming Seller shall be deemed to be acting on behalf of and for the benefit of both Sellers and shall promptly remit to the other Seller its Proportionate Share of any indemnification amount received in respect of such Claim(s), subject to deduction of its reasonable expenses of realization, which shall be enumerated for the other Seller.

(c) The maximum aggregate liability of a Seller in respect of the indemnities contained in (i) Section 8.2(b) shall not exceed 80% of the portion of the Consideration Value payable to such Seller; (ii) **{Redacted – confidential}**; and (iii) Section 8.2(a) shall not exceed the portion of the Consideration Value payable to such Seller.

(d) The maximum aggregate liability of the Purchaser in respect of the indemnities contained in (i) Section 8.3(b) shall not exceed 80% of the Consideration Value and (ii) in Section 8.3(a) shall not exceed the Consideration Value.

(e) Notwithstanding any other provision of this Agreement, and subject to the limitations contained in Section 8.5(c) and 8.5(f), each of the Sellers shall be responsible for its Proportionate Share of the JV Obligations. The liability of the Sellers pursuant to this Agreement is in all respects intended to be several. For greater certainty, in no event shall the Purchaser be entitled to seek indemnification pursuant to this Article 8 from: (i) a Seller in respect of an Individual Seller Obligation of the other Seller; or (ii) both Sellers in connection with a JV Obligation in respect of the same Loss or portion thereof, as applicable, in an amount greater than such Seller's Proportionate Share of such Loss.

(f) Notwithstanding any other provision in this Article 8, for the avoidance of doubt, in no event shall the aggregate liability of a Seller in respect of all indemnities under this Agreement (other than the indemnities contained in Section 8.2(d) or 8.6), exceed the portion of the Consideration Value payable to such Seller.

(g) Notwithstanding any other provision in this Article 8, for the avoidance of doubt, in no event shall the aggregate liability of the Purchaser in respect of all indemnities under this Agreement (other than the indemnities contained in Section 8.3(c)), exceed the Consideration Value.

(h) For purposes of Sections 8.5(a) and 8.5(b):

- (i) Losses arising out of separate sets of facts, matters or circumstances will not be treated as an individual Loss for purposes of determining whether the Minimum Loss Amount has been met, even if each set of facts, matters or circumstances may be a breach of the same representation and warranty; and
- (ii) Losses of the same or similar nature arising out of the same or similar facts, matters and circumstances will be treated as an individual Loss for purposes of determining whether the Minimum Loss Amount has been met, including where the Purchaser is entitled to pursue a JV Obligation against both of the Sellers; provided that where each of the Sellers are

Indemnifying Parties in respect of such Claim, the indemnification obligations shall, in each case, continue to be several in all respects.

## **8.6 Mutual Indemnification by the Sellers**

Each Seller (the “**Indemnifying Seller**”) agrees to indemnify and save harmless the other Seller (the “**Indemnified Seller**”) from and against:

- (a) any and all JV Obligations to the extent of that portion of all monies which the Indemnified Seller may be required to pay or liability to which an Indemnified Seller may become subject by reason of any Losses whatsoever arising therefrom is in excess of the applicable Indemnified Seller’s Proportionate Share of such Losses; and
- (b) any and all Losses whatsoever arising out of the Indemnifying Seller’s separate debts, liabilities, obligations, duties, agreements, costs and expenses, whether present or future, or arising out of any breach by the Indemnifying Seller of this Agreement or in any agreement, certificate or other document delivered by the Indemnifying Seller pursuant hereto or arising out of the wilful default or the gross negligence, fraud or dishonesty of the Indemnifying Seller.

## **8.7 Notice of Claim**

(a) A Party that may be entitled to make a claim for indemnification (a “**Claim**”) under this Agreement (the “**Indemnified Party**”) shall give written notification to the other Party (the “**Indemnifying Party**”) of such Claim (a “**Notice of Claim**”) promptly upon becoming aware of the Claim, but in no event later than the relevant date, if any, specified in Section 8.8. The Notice of Claim shall specify whether the Claim arises as a result of a claim by a person against the Indemnified Party (a “**Third Party Claim**”) or whether the Claim does not so arise (a “**Direct Claim**”), and shall also specify with reasonable particularity, to the extent that the information is available, the factual basis for the Claim and the amount of the Claim. If both Sellers are Indemnified Parties in respect of a Claim or Claims against the Purchaser arising out of the same or similar facts, matters and circumstances, “**Indemnified Party**” shall be deemed to refer to both such Indemnified Parties, collectively, other than with respect to the limitations imposed pursuant to Section 8.5(b), entitlements to payment, reimbursement, settlement, Tax reimbursement, insurance proceeds or other similar entitlements which in each case will be taken into account individually.

(b) Subject to Section 8.8, if an Indemnified Party fails to provide the Indemnifying Party with a Notice of Claim promptly as required by Section 8.7(a), the Indemnifying Party shall be relieved of the obligation to pay damages to the extent it can show that it was prejudiced in its defence of the Claim or in proceeding against a third party who would have been liable to it by the fact of the delay, but the failure to provide such Notice of Claim promptly shall not otherwise release the Indemnifying Party from its obligations under this Article 8.

(c) If the date by which a Notice of Claim must be given as set out in Section 8.8 has passed without any Notice of Claim having been given to the Indemnifying Party, then the related Claim shall be forever extinguished, notwithstanding that by the date specified in Section 8.8 the Indemnified Party did not know, and in the exercise of reasonable care could not have known, of the existence of the Claim.

(d) A copy of each Notice of Claim delivered by a Seller to the Purchaser shall be concurrently delivered to the other Seller. To the extent that both Sellers constitute an Indemnified Party or are both Indemnifying Parties in respect of a Claim or Claims arising out of the same or similar facts, matters and circumstances, the Sellers shall co-operate fully with each other with respect to such Claim or Claims, and shall keep each other fully apprised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available).

## **8.8 Time Limits for Notice of Claim**

(a) The Sellers shall not be required to indemnify or save harmless the Purchaser pursuant to Section 8.2(a), 8.2(b) or 8.2(c) unless the Purchaser shall have provided to the relevant Seller(s) a Notice of Claim within the following time limits:

- (i) with respect to the Seller Fundamental Representations, at any time after Closing, subject only to the applicable limitation period imposed by Law;
- (ii) with respect to the Seller Tax Representations not later than six months after the relevant Governmental Authorities shall no longer be entitled to assess liability for Taxes against the Mankono Companies for those particular periods; and
- (iii) with respect to all other representations and warranties, not later than 24 months after the Closing Date.

(b) A Seller shall not be required to indemnify or save harmless the Purchaser pursuant to Section 8.4 unless the Purchaser shall have provided to such Seller a Notice of Claim not later than 36 months after the Closing Date.

(c) The Purchaser shall not be required to indemnify or save harmless the Sellers pursuant to Section 8.3(a) or 8.3(b) unless a Seller shall have provided to the Purchaser a Notice of Claim with respect to the Purchaser Fundamental Representations at any time after Closing and with respect to all other representations and warranties not later than 24 months after the Closing Date.

## **8.9 Direct Claims**

With respect to any Direct Claim, following receipt of notice from the Indemnified Party of the Claim, the Indemnifying Party shall have 45 days to make such investigation of the Claim as is considered necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the Claim, together with all such other information as the Indemnifying Party may reasonably request. If both parties agree at or prior to the expiration of such 45-day period (or any mutually agreed upon extension thereof) to the validity and amount of such Claim, the Indemnifying Party shall immediately pay to the Indemnified Party the full agreed-upon amount of the Claim, failing which the matter shall be determined by a court of competent jurisdiction.

## 8.10 Third Party Claims

(a) The Indemnifying Party shall have the right, at its expense, to participate in or assume control of the negotiation, settlement or defence of any Third Party Claim and if the Indemnifying Party assumes control, it shall reimburse the Indemnified Party for all of the Indemnified Party's out-of-pocket expenses prior to the time the Indemnifying Party assumed control. If the Indemnifying Party elects to assume such control, the Indemnified Party shall have the right to participate in the negotiation, settlement or defence of such Third Party Claim and to retain counsel to act on its behalf, provided that the fees and disbursements of such counsel shall be paid by the Indemnified Party unless the named parties to any action or proceeding include both the Indemnifying Party and the Indemnified Party and the Indemnified Party determines in good faith, based on the advice of its legal counsel, that representation of both the Indemnifying Party and the Indemnified Party by the same counsel would be inappropriate due to actual or potential differing interests between them (such as the availability of different defences). In no event, however, shall the Indemnifying Party be liable hereunder to pay the fees and disbursements of more than one counsel in any jurisdiction acting as counsel on behalf of all Indemnified Parties.

(b) If the Indemnifying Party, having elected to assume such control, thereafter fails to defend the Third Party Claim within a reasonable time, the Indemnified Party shall be entitled to assume such control.

(c) If any Third Party Claim is of a nature such that the Indemnified Party is required by applicable Law to incur losses or make a payment to any person (a "**Third Party**") with respect to the Third Party Claim before the completion of settlement negotiations or related legal proceedings, the Indemnified Party may incur such Losses or make such payment and the Indemnifying Party shall, forthwith after demand by the Indemnified Party, reimburse the Indemnified Party for such payment. If the amount of any liability of the Indemnified Party under such Third Party Claim, as finally determined, is less than the amount that was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party shall, forthwith after the receipt of the difference from the Third Party, pay the amount of such difference, together with any interest thereon paid by the Third Party to the Indemnified Party, to the Indemnifying Party. In addition, the Indemnifying Party shall post all security required by any court, regulatory body or other authority having jurisdiction, including without limitation, for purposes of enabling the Indemnifying Party to contest any Third Party Claim.

(d) If the Indemnified Party undertakes the defence of the Third Party Claim, the Indemnifying Party will not be bound by any compromise or settlement of the Third Party Claim effected without the consent of the Indemnifying Party (which consent may not be unreasonably withheld, conditioned or delayed).

(e) The Indemnifying Party will not be permitted to compromise and settle or to cause a compromise and settlement of a Third Party Claim without the prior written consent of the Indemnified Party, which consent may not be unreasonably withheld, conditioned or delayed; provided, however, that no such consent shall be required if:

- (i) the terms of the compromise and settlement require only the payment of money for which the Indemnified Party is entitled to full indemnification under this Agreement and the Indemnifying Party agrees to timely pay such amount in full; and

(ii) the Indemnified Party is not required to admit any wrongdoing, take or refrain from taking any action, acknowledge any rights of the person making the Third Party Claim or waive any rights that the Indemnified Party may have against the person making the Third Party Claim.

(f) Subject to Section 8.10(c), no Party shall be liable to pay any amount in discharge of a Claim under this Agreement unless and until the liability in respect of which the Claim is made has become due and payable.

(g) The Indemnified Party and the Indemnifying Party shall co-operate fully with each other with respect to Third Party Claims, and shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available).

(h) For greater certainty, the provisions of this Section 8.10 relating to a Third Party Claim in respect of Taxes shall be subject to the provisions of Section 4.7, and in the event of any inconsistency between this Section 8.10 and Section 4.7, Section 4.7 will govern.

## **8.11 Adjustments**

(a) The amount of any Loss for which indemnification is provided in this Article 8 will be adjusted to take into account any tax benefit or other benefit realized by the Indemnified Party by reason of the Loss for which indemnification is so provided. Any such tax benefit or other benefit will be taken into account at such time as it is received by the Indemnified Party.

(b) In determining the amount of any Losses under this Article 8, such Losses will be increased to take into account any Tax actually incurred by the Indemnified Party as a result of the matter giving rise to such Losses.

(c) Where an Indemnified Party is, or would be likely to be, entitled to recover or be compensated or indemnified by another person, whether by way of contract, indemnity or otherwise (including under a policy of insurance), any amount in respect of a Claim made by the Indemnified Party, the Indemnified Party shall promptly notify the Indemnifying Party of such right or entitlement, take all reasonable steps to seek recovery of that amount and keep the Indemnifying Party at all times fully and promptly notified of the status of such recovery. The amount of the Claim by the Indemnified Party shall be reduced by any amount actually recovered by the Indemnified Party (net of all reasonable out of pocket costs and expenses incurred in doing so and any Tax paid or payable on the amount recovered).

(d) If, after an Indemnifying Party has made a payment in respect of a Claim, an Indemnified Party recovers from or is paid by another person any amount in respect of the Loss that gave rise to the Claim, the Indemnified Party shall promptly, and in any event within 10 Business Days, pay to the Indemnifying Party, the lesser of (i) the amount of the Loss that was recovered or paid and (ii) the amount paid by the Indemnifying Party to the Indemnified Party in respect of the Claim, in either case net of all reasonable out of pocket costs and expenses incurred in obtaining the recovery or payment and any Tax paid or payable as a result of receiving such recovery or payment.

(e) Any payment made by the Seller(s) as an Indemnifying Party to the Purchaser pursuant to this Article 8 will constitute a dollar-for-dollar decrease in the Consideration Value and any payment made by the Purchaser as an Indemnifying Party to the Seller(s) pursuant to

this Article 8 will constitute a dollar-for-dollar increase in the Consideration Value; provided that the limitations set out in Sections 8.5(a)(ii), 8.5(c) and 8.5(d) shall be determined without reference to any adjustments to the Consideration Value made pursuant to this Section 8.11(e).

## **8.12 Exclusivity**

No claim for damages in respect of this Agreement or any agreement, certificate or other document delivered pursuant hereto, or in respect of any breach or termination thereof, may be made by a Party against any other Party except by making a Claim pursuant to and in accordance with this Article 8.

## **ARTICLE 9 TERMINATION**

### **9.1 Termination**

This Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written agreement of the Parties;
- (b) by either Party, if:
  - (i) the Closing has not occurred on or prior to the Outside Date, except that the right to terminate this Agreement under this Section 9.1(b)(i) shall not be available to any Party whose failure to fulfill any of its covenants or obligations or whose breach of any of its representations and warranties under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur by the Outside Date; or
  - (ii) after the date hereof, there shall be enacted or made any applicable Law, or a Governmental Authority shall have issued any Order (which Order is final and non-appealable, unless such Order has been withdrawn, reversed or otherwise made inapplicable), permanently restraining or enjoining or otherwise prohibiting the transactions contemplated in this Agreement;
- (c) by a Seller by written notice to each of the other Parties, if:
  - (i) any of the conditions in Section 7.1 or 7.3 has not been satisfied or waived by the Outside Date or is incapable of satisfaction by the Outside Date, provided that such Seller is not then in breach of this Agreement so as to cause any of the conditions in Section 7.1 or 7.3 not to be satisfied; or
  - (ii) any representation or warranty of the Purchaser contained herein is untrue or incorrect or shall have become untrue or incorrect such that the condition contained in Section 7.3(a) would be incapable of satisfaction, or the Purchaser is in default in any material respect of any of its covenants or obligations herein such that the condition in Section 7.3(b) would be incapable of satisfaction, or a Purchaser Material Adverse

Change shall have occurred since the date hereof such that the condition contained in Section 7.3(c) would be incapable of satisfaction; or

- (d) by the Purchaser by written notice to each of the Sellers, if:
  - (i) any of the conditions in Section 7.1 or 7.2 has not been satisfied or waived by the Outside Date or is incapable of satisfaction by the Outside Date, provided that Purchaser is not then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.1 or 7.2 not to be satisfied; or
  - (ii) any representation or warranty of either of the Sellers contained herein is untrue or incorrect or shall have become untrue or incorrect such that the condition contained in Section 7.2(a) would be incapable of satisfaction, or either of the Sellers is in default in any material respect of any of its covenants or obligations herein such that the condition in Section 7.2(b) would be incapable of satisfaction, or a Mankono Material Adverse Change shall have occurred since the date hereof such that the condition contained in Section 7.2(c) would be incapable of satisfaction.

## **9.2 Effect of Termination**

(a) Notwithstanding the termination of this Agreement by a Seller pursuant to Section 9.1(b) or Section 9.1(c), either of the Sellers may bring an action against the Purchaser or the other Seller for Losses suffered by such Seller where the event giving rise to the right of termination is a result of a breach of covenant, representation or warranty by the Purchaser or the other Seller.

(b) Notwithstanding the termination of this Agreement by the Purchaser pursuant to Section 9.1(b) or Section 9.1(d), the Purchaser or any non-breaching Seller may bring an action against a breaching Seller for Losses suffered by the Purchaser or non-breaching Seller where the event giving rise to the right of termination is a result of a breach of covenant, representation or warranty by the breaching Seller.

## **9.3 Surviving Provisions on Termination**

Notwithstanding any other provisions of this Agreement, if this Agreement is terminated (whether by a Party or automatically or otherwise), the provisions of Sections 7.1, 7.2, 7.3 and 9.2 and Article 8 (subject to any time limitations referred to therein) shall survive such termination and remain in full force and effect, along with any other provisions of this Agreement which expressly or by their nature survive the termination hereof.

## **9.4 Remedies**

Each of the Parties acknowledge and agree that an award of money damages would be inadequate for any breach of this Agreement by any Party or its representatives and any such breach would cause the non-breaching Party irreparable harm. Accordingly, each of the Parties agree that, in the event of any breach or threatened breach of this Agreement by it and provided this Agreement shall not have been terminated pursuant to Section 9.1, the non-breaching Party shall also be entitled, without the requirement of posting a bond or other security, to seek equitable relief, including injunctive relief and specific performance. Such

remedies will not be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at law or equity to each of the Parties.

## **ARTICLE 10 GENERAL PROVISIONS**

### **10.1 Notices**

(a) Any notice or other communication that is required or permitted to be given hereunder shall be in writing and shall be validly given if delivered in person (including by courier service) or transmitted by fax or email with confirmation receipt requested as follows:

(i) in the case of the Purchaser:

2000 - 885 West Georgia Street  
Vancouver, British Columbia  
V6C 3E8

Attention: Hugh Stuart  
Email: **{Redacted}**

with a copy to:

Cassels Brock & Blackwell LLP  
Suite 2100 Scotia Plaza  
40 King St. West  
Toronto, ON M5H 3C2 Canada

Attention: Chad Accursi  
Email: **{Redacted}**

(ii) in the case of the Barrick Seller:

3rd Floor, Unity Chambers  
28 Halkett Street, St Helier  
Jersey, JE2 4WJ  
Channel Islands

Attention: Antoine Thibaud  
Email: **{Redacted}**

with a copy to:

Brookfield Place, Canada Trust Tower  
Suite 3700, 161 Bay Street  
P.O. Box 212  
Toronto Ontario, Canada M5J 2S1

Attention: General Counsel  
Email: **{Redacted}**

and:

Davies Ward Phillips &Vineberg LLP  
155 Wellington Street West  
Toronto Ontario, Canada  
M5V 3J7

Attention: Richard Fridman  
Email: **{Redacted}**

(iii) in the case of the Endeavour Seller:

Endeavour Gold Corporation  
Mourant Governance Services (Cayman) Limited  
94 Solaris Avenue  
Camana Bay  
PO BOX 1348  
Grand Cayman KY1-1108  
Cayman Islands

Attention: Morgan Carroll  
Email: **{Redacted}**

(b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted by fax or email (or, if such day is not a Business Day or such notice or other communication was delivered or transmitted after 5:00 p.m. (recipient's time), on the next following Business Day).

(c) Any Party may at any time change its address for service from time to time by giving notice to the other Parties in accordance with this Section 10.1.

## **10.2 Applicable Law**

(a) This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the Laws of the Province of Ontario and the federal Laws of Canada applicable in such province.

(b) Each of the Parties irrevocably and unconditionally: (i) submits to the non-exclusive jurisdiction of the courts of the Province of Ontario over any action or proceeding arising out of or relating to this Agreement; (ii) waives any objection that it might otherwise be entitled to assert to the jurisdiction of such courts; and (iii) agrees not to assert that such courts are not a convenient forum for the determination of any such action or proceeding.

## **10.3 Entire Agreement**

This Agreement, along with the other Transaction Documents, constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof and thereof except as provided herein or therein. Notwithstanding the foregoing, the

Parties acknowledge and agree that the Confidentiality Agreement remains in full force and effect.

#### **10.4 Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any Party hereto.

#### **10.5 No Waiver**

The failure of any Party to insist upon strict adherence to any provision of this Agreement on any occasion shall not be considered a waiver or deprive that Party of the right thereafter to insist upon strict adherence to such provision or any other provision of this Agreement. No purported waiver shall be effective as against any Party unless consented to in writing by such Party. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach.

#### **10.6 Further Assurances**

Each of the Parties hereto shall, from time to time hereafter, do all such acts and execute and deliver all such further certificates or other documents, and will cause the doing of all such acts and will cause the execution of all such further certificates or other documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed in order to give full effect to the provisions of this Agreement.

#### **10.7 Amendments**

No term or provision of this Agreement may be amended except by an instrument in writing signed by all the Parties to this Agreement.

#### **10.8 Assignment**

No Party shall assign any of its rights or benefits under this Agreement, or delegate any of its duties or obligations, except with the prior written consent of the other Parties; *provided* that, prior to the Closing Date, Purchaser may, without the prior written consent of the other Parties, but subject to Section 3.5(b), assign any of its rights and delegate any of its obligations under this Agreement to any Affiliate of the Purchaser; *provided, further*, that any such assignment shall not relieve Purchaser of any of its obligations hereunder.

#### **10.9 Enurement**

This Agreement will enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

**10.10 Expenses**

Except as otherwise expressly provided in this Agreement, each Party will pay for its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Agreement, the agreements contemplated herein and the transactions contemplated herein and therein, including the fees and expenses of legal counsel, financial advisors, accountants, consultants and other professional advisors.

**10.11 Counterparts**

This Agreement may be executed in any number of counterparts (including by pdf or fax) each of which when so executed will be deemed to be an original and when taken together shall constitute the entire and same agreement.

***[Remainder of page left intentionally blank]***

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

**MONTAGE GOLD CORP.**

by (signed) "Hugh Stuart"  
Name: Hugh Stuart  
Title: Chief Executive Officer

(signed) "Adam Spencer"  
Name: Adam Spencer  
Title: Executive Vice President

**BARRICK GOLD (CÔTE D'IVOIRE)  
LIMITED**

by (signed) "Graham Shuttleworth"  
Name: Graham Shuttleworth  
Title: Director

(signed) "Victor Matfield"  
Name: Victor Matfield  
Title: Director

**ENDEAVOUR GOLD CORPORATION**

by (signed) "Morgan Carroll"  
Name: Morgan Carroll  
Title: EVP Corporate Finance &  
General Counsel

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

**EXHIBIT A**  
**FORM OF NSR ROYALTY AGREEMENT**

See attached.

## NET SMELTER RETURNS ROYALTY AGREEMENT

THIS AGREEMENT made as of [date],

BETWEEN:

**BARRICK GOLD CORPORATION,**  
a corporation existing under the laws of the  
Province of British Columbia,

(hereinafter referred to as the “**Royalty Holder**”),

- and -

**MONTAGE GOLD CORP.,**  
a corporation existing under the laws of the  
Province of British Columbia,

(hereinafter referred to as “**Montage**”).

WHEREAS the Payor indirectly acquired the Exploration Permits (as defined below) by way of the acquisition of all of the ordinary shares of Mankono Exploration Limited from an affiliate of the Royalty Holder and its joint venture partner;

AND WHEREAS as partial consideration for such acquisition, the Payor has agreed to grant to the Royalty Holder the Royalty (as defined below) on the terms and conditions set forth herein;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements of the Parties hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each Party), the Parties agree as follows:

### 1. Interpretation.

(a) For the purpose of this Agreement, unless expressly stated or 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:

“**affiliate**” means, in relation to any person, any other person controlling, controlled by or under common control with such first-mentioned person and, for purposes of this definition, “control” is the power whether by contract or ownership of equity or voting securities or interests to select a majority of the board of directors or other supervisory management authority of a person, whether directly or indirectly through a chain of entities that are “controlled” within the foregoing meaning;

“**Allowable Deductions**” for a calendar quarter means, without duplication, the following costs, charges, expenses and deductions actually paid or incurred or deemed incurred during such calendar quarter in connection with the smelting, refining, treatment, beneficiation, transportation and/or sale of Product extracted from the Property:

- (a) smelting and refining charges, treatment charges and penalties, including all costs of assaying, analyzing, sampling or representation, umpire charges, metal deductions and losses, penalties for impurities and charges for treating, refining, beneficiating, storing and handling any Product levied by any smelter, refinery or other place of treatment or beneficiation;
- (b) costs of transporting Product (including loading, freight, insurance, security, storage or stockpiling, transportation, shipping, Taxes, handling, port, demurrage, delay and forwarding expenses incurred by reason of or in the course of transportation) from the Property or from a concentrator, whether situated on or off the Property, to any smelter, refinery or other place of treatment or beneficiation and then to the place of sale, costs of offsite freight and insurance, security, storage, loading and discharge and ocean freight and port charges;
- (c) marketing and other sales costs, including sales commissions or brokerage costs and fees, incurred in selling the Product; and
- (d) sales, use, severance, excise, net proceeds of mine, *ad valorem* or any other Taxes, customs duties or other charges of any Governmental Authority, including royalties, payable in respect of the existence, production, removal, sale, processing, import, export, transportation or disposition, value or quantity of Product, but excluding income taxes of the Payor or its affiliates or other operators of the Property, or sales or goods and services taxes payable by the purchaser or purchasers of the Product,

provided that, if smelting, refining or other treatment or beneficiation is carried out in facilities owned or controlled, in whole or in part, by the Payor or its affiliates, then the Allowable Deductions shall include the lesser of (x) the amount that the Payor would have incurred if such smelting, refining or other treatment or beneficiation were carried out at facilities not owned or controlled by the Payor or its affiliates then offering comparable services for comparable products on prevailing terms, and (y) the actual charges and costs incurred by the Payor with respect to such smelting, refining, or other treatment or beneficiation;

**“Applicable Spot Price”** at any date means:

- (a) in the case of Product that is gold, the price of gold on such date, in U.S. dollars, as established pursuant to the London Bullion Market Association P.M. Gold Fix, as quoted in the Wall Street Journal, Reuters or another reliable source selected by the Royalty Holder and acceptable to the Payor, acting reasonably;
- (b) in the case of Product that is silver, the price of silver on such date, in U.S. dollars, quoted by the London Bullion Market Association as the Fixing Price; and
- (c) in the case of Product that is a metal other than gold or silver, the average London Metal Exchange final daily spot price on such date, in U.S. dollars, in respect of the particular metal for which the price is being determined;

provided that, if for any reason (x) the London Bullion Market Association does not report spot pricing for gold or silver, then the Parties shall mutually agree, acting reasonably,

upon an appropriate pricing mechanism that accurately reflects the market value of gold or silver, as applicable, or (y) the London Metal Exchange does not report the daily spot price for a particular metal (other than gold or silver), then the Parties shall mutually agree, acting reasonably, upon an appropriate pricing entity or mechanism that accurately reflects the market value of such metal;

“**Auditor**” has the meaning set forth in Section 4(d);

“**Base Rate**” means the variable rate of interest per annum, expressed on the basis of a year of 365 or 366 days, as the case may be, established or quoted from time to time by the Royal Bank of Canada as the reference rate of interest then in effect for determining interest rates on U.S. dollar denominated commercial loans made by it in Canada;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, Canada or Abidjan, Côte d’Ivoire, on which commercial banks in Toronto, Ontario and Abidjan, Côte d’Ivoire are open for business;

“**Confidential Information**” means the terms of this Agreement, all Technical Data and any other information, data, know-how, trade secrets and intellectual property of a non-public, proprietary or confidential nature (whether written, oral or in electronic format) concerning any matters affecting or relating to the business, operations, assets, results or prospects of the Payor or the Property, including information regarding plans, programs and budgets, costs, processes, results of exploration, development and mining and other data, except to the extent that such information has already been publicly released by a Party without violating this Agreement or that the Party providing such information can demonstrate was previously publicly released by a person who did not do so in violation or contravention of any duty or agreement;

“**Dispute**” has the meaning set forth in Section 4(d);

“**Election Notice**” has the meaning set forth in Section 10(b);

“**Exercise Price**” has the meaning set forth in Section 10(a);

“**Exploitation Permit**” means any exploitation permit (*permis d’exploitation*) or such other license or title granted pursuant to the Mining Code which allows for the exclusive right to extract, treat, process, transport and/or sell Products from all or any portion of the Property including any renewals, extensions, modifications, substitution or variation thereof from time to time;

“**Exploitation Permit SPV Transfer**” has the meaning set forth in Section 8(c);

“**Exploration Permits**” means, collectively, (a) the exploration permit (*permis de recherche*) No. 1900633 granted pursuant to the Mining Code on July 24, 2019 referred to as the Sissedougou Permit; (b) the exploration permit (*permis de recherche*) ■; and (c) the exploration permit (*permis de recherche*) ■, including, in each case, any renewals, extensions, modifications, substitution or variation thereof from time to time, and “**Exploration Permit**” means any of the foregoing, as the circumstances require;

“**Governmental Authority**” means any domestic or foreign (a) national, regional, district, local or other government, (b) governmental or quasi-governmental authority of any

nature, including any governmental ministry, agency, branch, department, court, commission, board, tribunal, stock exchange, regulatory agency or self-regulatory organization, bureau or instrumentality, or (c) body exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature;

**“Gross Revenues”** for a calendar quarter means, subject to Sections 5(b) and 6(e), the amount of revenues actually received by the Payor or its affiliates (without double counting) during such calendar quarter from the Sale of Product, provided that if there is a Loss of Product, any insurance proceeds actually received by the Payor in respect of such Product, after deducting therefrom all reasonable fees, costs and expenses incurred in connection with the collection of such proceeds (as evidenced by supporting documentation), shall be included in the calculation of Gross Revenue in respect of the calendar quarter during which such proceeds are received;

**“IFRS”** means International Financial Reporting Standards as prescribed, recommended or promulgated from time to time by the International Accounting Standards Board, which are applicable as at the date on which any applicable calculation made hereunder is to be effective or as at the date of any financial statements referred to herein, as the case may be;

**“Joinder Agreement”** means a joinder agreement in the form attached as Schedule B;

**“Legal Requirement”** means any applicable law, statute, ordinance, decree, requirement, order, treaty, proclamation, convention, rule or regulation (or interpretation of any of the foregoing) of any Governmental Authority, and the terms of any Permit;

**“Loss”** means an insurable loss of or damage to Product, whether or not occurring on or off the Property and whether the Product is in the possession of the Payor or otherwise;

**“Mining Code”** means Law No. 2014-138 of 24 March 2014 of Côte d’Ivoire containing the Mining Code together with the Decree of Application of the Mining Code No. 2014-397 of 25 June 2014;

**“Mining Right”** means any mining and mineral right with respect to the Property in effect from time to time under any Permit;

**“Net Smelter Returns”** means, for a calendar quarter, the amount determined by subtracting the Allowable Deductions for such calendar quarter from the Gross Revenues for such calendar quarter;

**“Option Closing Date”** has the meaning set forth in Section 10(b);

**“Option Expiry Date”** has the meaning set forth in Section 10(b);

**“Party”** means the Payor (including, for greater certainty, any Payor that becomes a Party upon execution and delivery of a Joinder Agreement) or the Royalty Holder, and **“Parties”** means the Payor and the Royalty Holder, collectively;

**“Payment Date”** for the Royalty in respect of a calendar quarter means the 30<sup>th</sup> day after the end of that calendar quarter or, if such day is not a Business Day, the Business Day that next follows;

**“Payor”** means Montage as well as any SPV that becomes Party to this Agreement as a jointly and severally obligated co-payor by executing and delivering a Joinder Agreement to each of the Parties and, to the extent that there is more than one Payor under this Agreement at any time, the term “Payor” shall mean all such Payors or the Payor making a particular Royalty payment, as the circumstances require;

**“Permit”** means the Exploration Permits and any mining claim, license, lease, concession, permit or other form of granting of rights to carry mining activities (including any Exploitation Permit) to the Payor on the whole or part of the Property and **“Permits”** means any or all of these items;

**“person”** means a natural person, a corporation, a company, a limited liability company, a partnership, a trust, a syndicate, an association, a government (or any agency thereof) or any other legal or business entity whatsoever;

**“Product”** means any and all ores, concentrates, precipitates, doré, cathodes, leach solutions, metals, minerals, mineral products or any other primary, intermediate or final products or any other product containing economically recoverable minerals that are produced or extracted by or on behalf of the Payor or any of its affiliates from the Property for which there has been a Sale;

**“Property”** means the area within the boundaries of the Exploration Permits existing as at the date of this Agreement, and as set out in Schedule A, as increased or reduced at any time and from time to time, but excluding any extension over a contiguous area covered by a mining title held by the Payor or any of its affiliates as at the date of this Agreement;

**“Purchase Option”** has the meaning set forth in Section 10(a);

**“Records”** has the meaning set forth in Section 4(b);

**“Representatives”** has the meaning set forth in Section 15(a);

**“Royalty”** means the percentage of Net Smelter Returns to which the Royalty Holder is entitled under Section 3;

**“Royalty Holder”** has the meaning set forth in the recitals hereto;

**“Royalty Rate”** means 1.4% or, following the exercise of the Purchase Option in accordance with Section 10 hereof, 0.7%;<sup>1</sup>

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<sup>1</sup> **Note to Draft:** Endeavour will have a 0.6% NSR Royalty subject to a 50% buy-back option analogous to the Purchase Option in this Agreement.

**“Sale”** means the transfer of title to Products by or on behalf of the Payor or any affiliate of the Payor to a person other than an affiliate of the Payor, and is deemed to include a Loss prior to any such transfer, and **“Sold”** shall have a corresponding meaning;

**“SPV”** means each affiliate of the Payor incorporated and organized from time to time as a holder of one or more Exploitation Permits granted in respect of the Property;

**“Tax”** or **“Taxes”** means all foreign, federal, national, provincial, state, city or municipal taxes, levies, duties, assessments, reassessments and other charges of any nature whatsoever, including income tax, profits tax, capital gains tax, gross receipts tax, corporation tax, mining tax, royalties, sales and use tax, wage tax, payroll tax, workers’ compensation levy, capital tax, stamp duty, registration tax or duty, transfer tax, statistical duty, community levy, real and personal property tax, land transfer tax, customs or excise duty, excise tax, turnover or value added tax on goods sold or services rendered, goods and services tax, withholding tax, social security, government pension plan and employment insurance charges or retirement contributions and any interest, penalties or other additions to tax;

**“Technical Data”** means engineering studies and working papers, consultants reports and working papers, pre-feasibility reports, feasibility reports, mine plans, surface and underground maps, assays, samples, cores, analyses, geologic and geophysical maps, engineering maps, photographs, drill logs, exploration reports, environmental studies, correspondence with any Governmental Authority, reserve studies and reports, metallurgical studies and reports and all other information and data in printed or electronic form concerning the condition, geology, mineral potential, physical characteristics, mineability or other technical matters related to the Property or any facilities constructed by or for the Payor or the conduct of operations in connection with the Property;

**“Trading Activities”** means any and all price hedging and price protection activities undertaken by the Payor or its affiliates with respect to any Products and any streaming contracts that may result in the Payor receiving less (or more) than market value for Products, including any forward sale and/or purchase contracts, spot-deferred contracts, option contracts, speculative purchases and sales of forward, futures and option contracts, both on and off commodity exchanges but excluding refining and smelting contracts;

**“Trading Contracts”** means the agreements, contracts, instruments, confirmations and other arrangements relating to the Trading Activities but excluding refining and smelting contracts; and

**“Withholding Taxes”** has the meaning set forth in Section 9(a).

- (b) In this Agreement, unless the context otherwise requires:
- (i) 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;
  - (ii) references to a “Section” or “Schedule” followed by a number or letter refer to the specified Section of or Schedule to this Agreement;

- (iii) the division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (iv) words importing the singular number only shall include the plural and vice versa and words importing the use of any gender shall include all genders;
- (v) any reference to a statute, regulation or rule shall be construed to be a reference thereto as the same may from time to time be amended, re-enacted or replaced, and any reference to a statute shall include any regulations or rules made thereunder;
- (vi) the words "include", "includes" and "including" are deemed to mean "include without limitation", "includes without limitation" and "including without limitation";
- (vii) reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time;
- (viii) any time period within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and
- (ix) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next following Business Day.

(c) Time shall be of the essence of this Agreement.

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

(e) The failure of a Party to insist upon strict adherence to any provision of this Agreement on any occasion shall not be considered a waiver or deprive that Party of the right thereafter to insist upon strict adherence to such provision or any other provision of this Agreement. No purported waiver shall be effective as against any Party unless consented to in writing by such Party. The waiver by a Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach.

(f) If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to a Party. Upon such determination that any term or other provision is invalid, illegal or

incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

(g) Unless otherwise indicated, all dollar amounts in this Agreement are expressed in currency of the United States of America.

(h) The schedules that are attached to this Agreement are incorporated into this Agreement by reference and are deemed to be part hereof.

(i) Insofar as is permissible under applicable Legal Requirements, the Parties hereby waive the application of any rule of law that any ambiguity or conflicting terms should be resolved against the Party who (or whose attorney) prepared the executed agreement or any earlier draft of same.

## **2. Grant of Royalty.**

The Payor hereby grants the Royalty in favour of the Royalty Holder on the terms and conditions set out in this Agreement.

## **3. Calculation and Payment of Royalty.**

(a) The amount of the Royalty payable to the Royalty Holder in respect of any applicable calendar quarter shall be the result obtained by multiplying the Net Smelter Returns for such calendar quarter by the Royalty Rate.

(b) No Royalty shall be payable hereunder for or with respect to such reasonable quantities of Product which are used by the Payor exclusively for assaying, non-bulk sampling, treatment, amenability, metallurgical, test work, piloting or other analytical processes or procedures in respect of the Property. For greater certainty, the Royalty shall be payable on all bulk samples and production where the Payor or its affiliate receives any proceeds in respect of Product from any smelter, mill, mint or other purchaser.

(c) The obligation to pay the Royalty in respect of any Product will accrue upon the Sale of such Product. Where the Sale of Products or the deposit of refined metals is made on a provisional basis, the amount of the Royalty shall be based upon the amount of refined metal (or other Products) credited by such provisional settlement, but will be adjusted to account for the amount of refined metal (or other Products) established by final settlement by the refinery or by the purchaser of the other Products, as the case may be. In the event that the Royalty Holder has been underpaid in any provisional payment or the Royalty Holder has been overpaid in any provisional payment, such underpayment or overpayment will be resolved by adjusting the next Royalty payment (or, if required, payments) due under this Agreement. If production has ceased, in the case of an underpayment, the Payor shall promptly pay the difference to the Royalty Holder in cash or other readily available funds and, in the case of an overpayment, the Royalty Holder will promptly pay to the Payor the difference in cash or other readily available funds.

(d) The amount of the Royalty payment due to the Royalty Holder in respect of any calendar quarter shall be paid to the Royalty Holder on the applicable Payment Date by the delivery to the Royalty Holder of a wire transfer (as directed by the Royalty Holder in writing, at least three Business Days prior to any applicable Payment Date, in its sole and absolute

discretion, subject to applicable Legal Requirements) in the amount owed. Subject to applicable Legal Requirements, all Royalty payments hereunder shall be made in United States dollars and shall, subject to Section 9, be made net of all amounts (if any) which the Payor is required to withhold and remit under Legal Requirements to any relevant Governmental Authorities, provided that such withholding or deduction is actually thereafter remitted to the applicable Governmental Authority. The Payor shall set out in the statement referred to in Section 3(e) any amount so withheld or remitted.

(e) At the time each Royalty payment is made, the Payor shall deliver to the Royalty Holder a statement setting forth:

- (i) the quantity, type and grade of each Product extracted in the applicable calendar quarter;
- (ii) the quantity, type and grade of each Product that has been processed during the applicable calendar quarter, and the location of the relevant facilities;
- (iii) the quantity, type and grade of all Product that has been Sold during the applicable calendar quarter;
- (iv) the quantity, type and grade of Product held or unsold during the applicable calendar quarter;
- (v) details of the Sale of Product on a provisional basis;
- (vi) the prices determined as herein provided for refined metals on which the Royalty is due;
- (vii) the Royalty for the quarter, the identity of the Payor, and details of the calculation of the Gross Revenue and Allowable Deductions underlying the calculation of the Royalty, including any amounts withheld or remitted in accordance with Section 3(d) and the amount of any related gross-up for Taxes made pursuant to Section 9;
- (viii) where commingling has occurred, details of how the allocation of metals was made between Product from the Property and materials from other properties during the applicable calendar quarter; and
- (ix) such other pertinent information, in sufficient detail to explain the calculation of the Royalty payment, as may be reasonably requested by the Royalty Holder.

(f) The Payor shall provide the Royalty Holder an annual report by not later than 90 days following the Payor's fiscal year end setting out the (i) annual mineral resources and mineral reserves; and (ii) annual production forecast and life of mine plan, in each case, related to the Property.

(g) All tailings, residues, waste rock, spoiled leach materials and other materials resulting from the Payor's operations and activities on the Property shall be the sole property of

the Payor, but shall remain subject to the Royalty should the same be processed or reprocessed, as the case may be, in the future and result in the production of Products.

(h) In the event that any Royalty payment required to be made to the Royalty Holder hereunder is not made when due, such payment will bear interest at a rate equal to the Base Rate plus 10% per annum, calculated and compounded monthly in arrears from the date on which payment was first due, until such payment and accrued interest is paid in full (excluding the date of payment).

#### **4. Accounting Matters.**

(a) All calculations relating to the Royalty payments to be made to the Royalty Holder hereunder shall be carried out on a consistent basis in accordance with IFRS to the extent that such principles are not inconsistent with the provisions of this Agreement. In the event of any inconsistency between IFRS and the provisions of this Agreement, the provisions of this Agreement shall prevail.

(b) The Payor will cause to be kept proper books of account, records and supporting materials ("**Records**") covering all matters relevant to the calculation of the Royalty payments payable to the Royalty Holder hereunder, in accordance with IFRS, as applicable. Upon not less than 10 Business Days' prior written request from the Royalty Holder, duly authorized representatives of the Royalty Holder (which may include representatives of the Royalty Holder's auditors) shall be entitled, at the Royalty Holder's cost and expense, not more frequently than semi-annually, to inspect and audit such Records and to make and take away copies of such Records, and shall be granted the opportunity to discuss issues raised by its audit with the Payor's accountants, for the purposes of confirming any information contained in a statement delivered to the Royalty Holder pursuant to Section 3(e) or otherwise confirming the rights and obligations of the Royalty Holder and the Payor hereunder.

(c) Any payment made hereunder shall be considered final and in full satisfaction of all obligations of the Payor hereunder in respect of that payment unless the Royalty Holder provides written notice of its objection to the Payor within 270 days after the receipt by the Royalty Holder of a statement prepared in compliance with Section 3(e) that relates to that payment. In addition to the audit rights provided by Section 4(b), if the Royalty Holder objects to a particular Royalty statement delivered in accordance with Section 3(e), the Royalty Holder may, for a period of 60 days after the Payor's receipt of notice of such objection, upon reasonable notice and at a reasonable time, have the Payor's accounts and records relating to the calculation of the Royalty payment in question reviewed by the Royalty Holder's auditors.

(d) If, following the receipt of the objection notice contemplated by Section 4(c) and any review by the Royalty Holder's auditors, a dispute (a "**Dispute**") arises with respect to the calculation of the Royalty, the Parties shall use commercially reasonable efforts to successfully settle such Dispute. To this effect, they shall consult and negotiate with each other to reach a resolution satisfactory to both Parties. If the Parties are unable to resolve the Dispute within a period of 15 Business Days from the date of receipt of the objection notice contemplated by Section 4(c), the Parties shall promptly retain a third party independent accounting firm mutually agreed between the Royalty Holder and the Payor and experienced in the calculation of royalties of the nature of the Royalty (an "**Auditor**") to conduct an audit solely in respect of the payment(s) in dispute. The Auditor will be directed to reach a conclusion on the dispute within 75 days of its appointment and the decision of the Auditor will be binding on the Parties. If the Parties agree or the Auditor determines that there has been a deficiency or an excess in the

payment made to the Royalty Holder, such deficiency or excess will be resolved by adjusting the next Royalty payment (or, if required, payments) due under this Agreement. If production has ceased, settlement will be made between the Parties by cash payment within 10 Business Days of the agreement of the Parties or the determination by the Auditor. For the avoidance of doubt, the provisions of Section 3(h) will apply to any deficiency payment made in connection with a settlement or audit under this Section 4(d).

(e) Any audit or other examination permitted under this Agreement shall be completed diligently. All expenses of any audit or other examination permitted hereunder shall be paid by the Royalty Holder, unless such audit or examination determines, or the Parties agree, that the discrepancies in the calculation of the Royalty payment that is challenged by the Royalty Holder resulted in an understatement by more than 3% of the correct value of the Royalty payment, as determined by the audit, in which case the Payor shall be responsible for the expenses of that particular audit or other review or examination.

## **5. Operations and Indemnity**

(a) The Payor or an affiliate thereof may, but is not obliged to, stockpile, store, treat, mill, sort, concentrate, refine or otherwise process, beneficiate or upgrade the ores, concentrates and other products at sites located on or off the Property, prior to sale, transfer or conveyance to a purchaser, user or consumer.

(b) Any sale by the Payor or an affiliate thereof of Product in the form of raw ore, doré, precipitates or concentrate made to an affiliate shall not be treated as a Sale for purposes of calculating the Royalty, provided that such Product is subsequently sold to an arm's length purchaser within six months after receipt by such affiliate. Upon the Sale of such Product to an arm's length party, the Royalty shall be calculated and payable in respect of such Sale to the arm's length party. If the affiliate that is the initial purchaser does not sell such Product within six months of the initial sale of the Product to it, the Royalty shall be immediately payable by the Payor in connection with the initial sale by the Payor or its affiliate to such other affiliate and the Royalty shall be calculated based on the Applicable Spot Price on the date of the initial sale of the Product by the Payor or its affiliate. The Payor or an affiliate thereof will be permitted to contract with an affiliate of the Payor or an unaffiliated third party for the smelting, refining or other processing of Products.

(c) Subject to Section 5(d), the Payor indemnifies and holds the Royalty Holder harmless from and against any losses or damages arising from ownership and operation of the Property by the Payor or its affiliates, including (i) exploration or mining operations on the Property, (ii) disposal of waste from the Property, (iii) reclamation of the Property, (iv) environmental liabilities arising in relation to operations on the Property, and (v) the marketing and sale of Product from the Property, it being understood and agreed between the Royalty Holder and the Payor that the Royalty is a right to receive certain payments from the Payor based upon Products produced from the Property and Sold, but is not a right that imposes upon the Royalty Holder any associated or other obligations to the Payor or to any other person, including any Governmental Authorities, or any obligation on the Royalty Holder to contribute or otherwise pay any cost or expense associated with or arising from any of the activities of the Payor or its affiliates on the Property.

(d) The indemnity in Section 5(b) is limited to losses, damages, claims, demands, liabilities, actions and proceedings that may be suffered or incurred by, or made or taken against, the Royalty Holder as a holder of the Royalty and will not include any indemnity with

respect to any losses, damages, claims, demands, liabilities, actions and proceedings against the Royalty Holder in any other capacity, including in respect of the ownership by the Royalty Holder of an interest in the Property prior to the date hereof.

**6. General Royalty Matters.**

(a) If Product is produced from the Property, such activities may occur as part of a single operation with other mining properties owned by the Payor or its affiliates or in which the Payor or its affiliates have a direct or indirect interest, in which event the Parties agree that (notwithstanding separate ownership thereof) ores, metals, minerals or mineral products mined therefrom may be mixed or commingled at the time of mining or at any time thereafter and the Royalty shall be paid hereunder only with respect to Products mined or derived from the Property; provided, however, that the Payor or its affiliates shall calculate from representative samples the average grade thereof and other measures as are appropriate, and shall determine the weight or volume of and sample and analyse/assay all such materials before the same are so mixed or commingled. Any such determination of grade, weight or volume, sampling and analysis shall be made in accordance with sound and generally accepted sampling and analytic procedures and practices consistently applied and acceptable to the Royalty Holder, acting reasonably. The weight or volume and the analysis so derived shall be used as the basis of proportionate allocation of payments in the event of a sale of materials so mixed or commingled. In addition, comparable procedures may be used by the Payor to apportion among any commingled Product any penalties and other charges and deductions, if any, imposed by the smelter, refiner or purchaser of such Product.

(b) The Payor shall ensure that customary and usual practices and procedures are adopted and employed for weighing, determining moisture content, sampling and assaying and determining recovery factors for the Products and other materials not from the Property, and shall record such data in order to determine the amount of economically recoverable materials extracted or derived from such minerals, metals and concentrates and materials not from the Property or not otherwise subject to the Royalty. The Payor and its affiliates shall maintain accurate records of the results of such sampling, weighing and analysis for a period of 365 days from the date that the Royalty Holder receives a statement prepared in accordance with Section 3(e) that relates to a Royalty payment, and the Royalty Holder shall be permitted the right to examine such records relating to any blending and commingling of minerals, metals and concentrates and the materials not from the Property in accordance with the inspection rights in favour of the Royalty Holder set forth in Section 4(b).

(c) For the purpose of determining the amount of the Royalty payments required to be made to the Royalty Holder pursuant to Section 3, where applicable, all receipts and disbursements by any person in a non-United States currency will be converted into United States dollars on the basis of the noon rate of exchange quoted by the U.S. Federal Reserve on the Business Day immediately preceding the date of receipt or disbursement by such person, as the case may be.

(d) Neither the Payor nor any of its affiliates shall have any obligation of any nature whatsoever to conduct exploration, development, production or mining activities or operations on or in respect of the Property with a view to protecting, enhancing or maximizing the economic benefits available to the Royalty Holder as contemplated herein. The Payor and its affiliates have complete discretion concerning the nature, timing and extent of all mining operations and may suspend operations and production on the Property at any time, whether or not the operations are affected by force majeure. The Payor or an affiliate thereof may, but is not

obliged to, treat, mill, sort, concentrate, refine, or otherwise process, beneficiate or upgrade Products and neither the Payor nor its affiliate is liable for any commercial value that is lost in mining or processing Products.

(e) Nothing in this Agreement precludes the Payor or its affiliates from undertaking Trading Activities. Any Trading Activities engaged in by the Payor or its affiliates in respect of Product produced from the Property, and the profits and losses generated thereby, shall not, in any manner, be taken into account in the calculation of Gross Revenues or Royalty payments due to the Royalty Holder hereunder, whether in connection with the determination of price, the date of Sale, the date any Royalty payment is due or in any other respect. In the case of Sales of Product pursuant to the terms of any Trading Contract, Gross Revenues shall be calculated based on the Applicable Spot Price on the date of Sale of such Product and not the sale price under the Trading Contract. The Royalty Holder acknowledges that the Payor and its affiliates engaging in Trading Activities may result in the Payor and its affiliates realizing from time to time lesser or greater profit for Product than does the Royalty Holder, since the quantum of the Royalty payments to be made hereunder in respect of sales pursuant to Trading Contracts is to be established by the Applicable Spot Price of the Product on the date of Sale. Similarly, the Royalty Holder shall not be obligated to share in any losses generated by any such Trading Activities with respect to any Product.

## **7. Interest in Land.**

The Parties intend that the Royalty, to the extent permissible under applicable Legal Requirements, constitutes an interest in the Property and, accordingly, agree that, to the extent permitted by applicable Legal Requirements:

- (a) the Royalty will run with the Property, and any disposition or transfer of the Property or any interest therein shall be subject to the Royalty;
- (b) the Royalty will attach to an amendment, relocation, conversion of any Mining Right and to any extension or renewal thereof or to any replacement or substitution thereof; and
- (c) the Royalty Holder shall be entitled from time to time and at its sole cost and expense to register or record notice of its interest in the Royalty against title to the Property or elsewhere, and the Payor shall, and shall cause any affiliate holder of Mining Rights, including any SPV, to cooperate with the Royalty Holder to effect such reasonable registrations and recordings and provide its written consent, acting reasonably, to any documents in connection therewith and do such other things, at the cost and expense of the Royalty Holder, as soon as reasonably practicable, as are reasonably necessary to effect any such registrations or recordings.

## **8. Assignment of Interests.**

(a) The Royalty Holder may, at any time, without the consent of the Payor, assign, transfer or otherwise convey all (but not less than all) of its rights, benefits or obligations under this Agreement to any person or persons; provided, however, that no such assignment, transfer or conveyance shall be effective unless the transferee has first executed and delivered to the Payor, in form and substance satisfactory to the Payor, acting reasonably, an instrument pursuant to which the transferee agrees to be bound by the terms hereof and by all of the

liabilities and obligations of the transferor hereunder in the same manner and to the same extent as though the transferee was an original party hereto.

(b) Subject to Section 8(c), the Payor shall not assign, transfer, sell or otherwise dispose of its right, interest and obligations to and under this Agreement, without the prior written consent of the Royalty Holder, which may be withheld or conditioned in the Royalty Holder's sole and absolute discretion; however, the Payor shall be entitled to assign, transfer, sell or otherwise dispose of all or a portion of its right, interest and obligations to and under this Agreement without such consent in connection with a valid sale, transfer or assignment of all or a portion, as applicable, of the associated Property and the Mining Rights to a purchaser that is not an affiliate of the Payor. No such sale, assignment, transfer, conveyance or other disposition shall be effective unless the transferee has first executed and delivered to the Royalty Holder an instrument pursuant to which the transferee agrees to be bound by the terms hereof and by all of the liabilities and obligations of the Payor hereunder in the same manner and to the same extent as though the transferee was an original party hereto whereupon the transferor Payor shall be released from any and all obligations hereunder that arise from and after the date of such execution and delivery. Notwithstanding the foregoing, in no event shall any Payor be an entity that is not: (i) itself the registered owner or holder of the Property and the Mining Rights; or (ii) an affiliate of a person that is a registered owner or holder of the Property and the Mining Rights.

(c) The Royalty Holder acknowledges that if, as and when an Exploitation Permit is granted with respect to any of the areas within the boundaries of the Property, the Mining Code requires that the Payor (or its affiliated exploration company) incorporate and organize an SPV to which the Exploitation Permit shall be issued or transferred (the "**Exploitation Permit SPV Transfer**"). If, as and when an Exploitation Permit SPV Transfer or any other assignment to an affiliate of the Payor of all or any portion of the Property or Mining Rights shall occur: (i) the Payor shall provide written notice of such assignment to the Royalty Holder within 10 Business Days; and (ii) in connection with any such Exploitation Permit SPV Transfer, the Payor shall be entitled to cause the SPV to become a co-payor, jointly and severally obligated to perform each and every covenant and obligation of the Payor pursuant to this Agreement, upon execution and delivery by such SPV co-payor to the Royalty Holder of a Joinder Agreement and subject to the gross-up for Taxes contemplated pursuant to Section 9, following which each such co-payor shall be a Payor for all purposes of this Agreement.

## **9. Tax Gross-up.**

(a) Any Royalty payment made hereunder by the Payor shall be made without deduction or withholding for any taxes ("**Withholding Taxes**"), except as required by Legal Requirement. If the Payor is required by Legal Requirement to deduct or withhold from such payment on account of Withholding Taxes, then the Payor shall pay such additional amounts to the Royalty Holder so that the net amount received by the Royalty Holder, after any such deductions or withholdings on account of Withholding Taxes (including any deductions or withholdings from the additional amounts), is equal to the amount that the Royalty Holder would have received absent such deductions or withholdings and the imposition of such Withholding Taxes, provided that such additional amounts shall not exceed 10% of the Royalty payment (including additional amounts) to which the applicable withholdings or deductions relate.

(b) If the Royalty Holder determines, in its reasonable discretion, that it has received a refund or credit on account of any such Withholding Taxes in respect of which the Payor has paid additional amounts under this Section 9, the Royalty Holder will promptly remit to the Payor

an amount equal to such refund or credit (up to an amount equal to any such additional amounts previously paid by the Payor under this Section 9 in respect of the Withholding Taxes in question), together with any interest paid to the Royalty Holder by the relevant Governmental Authority in respect of such refund, but net of all out-of-pocket expenses of the Royalty Holder. Notwithstanding anything to the contrary in this Section 9(b), in no event will the Royalty Holder be required to pay any amount to Payor to the extent that the payment thereof would place the Royalty Holder in a less favorable net after-Tax position than the position that the Royalty Holder would have been in if the relevant Withholding Taxes had not been deducted, withheld or otherwise imposed and the additional amounts giving rise to such refund had never been paid.

(c) The Parties agree to reasonably cooperate to (i) reduce or eliminate any Withholding Taxes applicable to the payment of Royalties hereunder, to the extent possible in accordance with Legal Requirements; and (ii) obtain a refund or credit of any Withholding Taxes which have been overpaid, to the extent possible in accordance with Legal Requirements, provided that the Royalty Holder shall not be required to incur any costs or expenses pursuant to this Section 9(c) unless such costs or expenses are reimbursed by the Payor. This Section 9(c) shall not be construed to require the Royalty Holder to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Payor, or to arrange its affairs in any particular manner.

#### **10. Royalty Purchase Option.**

(a) Notwithstanding anything else contained herein, the Payor shall have the right (the "**Purchase Option**"), from the date hereof until the Option Expiry Date, to repurchase 50% of the Royalty (representing 0.7% of the Net Smelter Return) from the Royalty Holder. The price payable in connection with the exercise of the Purchase Option shall be \$7,000,000 (the "**Exercise Price**").<sup>2</sup>

(b) The Payor may exercise the Purchase Option at any time until 5:00 p.m. (Toronto Time) on the second anniversary of the date hereof (the "**Option Expiry Date**"), by delivering an irrevocable written notice (the "**Election Notice**") to the Royalty Holder in the form attached as Schedule C, setting out a closing time for the sale which shall be 9:00 a.m. (Toronto time) on a Business Day that is no less than 10 and no more than 20 days from the date of delivery of the Election Notice to the Royalty Holder (the "**Option Closing Date**"). If no Election Notice is delivered to the Royalty Holder by 5:00 p.m. (Toronto time) on the Option Expiry Date, the Purchase Option shall lapse and expire and will no longer be capable of exercise.

(c) On the Option Closing Date, the Payor shall pay the Exercise Price to an account designated by the Royalty Holder at least three Business Days prior to the Option Closing Date. If the Payor fails to pay the Exercise Price on the Option Closing Date, interest shall accrue on the balance at the Base Rate plus 10% per annum, calculated and compounded monthly in arrears from the date on which payment was first due, until such payment and accrued interest is paid in full. For the avoidance of doubt, the 50% reduction of the Royalty shall be suspended until the Exercise Price plus all accrued and unpaid interest shall have been paid to the Royalty Holder in full.

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<sup>2</sup> **Note to Draft:** The Purchase Option for the Barrick Royalty is \$7 million, and the Purchase Option for 50% of the Endeavour Royalty (i.e., 50% of the 0.6% NSR) will be \$3 million.

(d) Any amounts owing under the purchased Royalty up to, but excluding the Option Closing Date, shall be paid by the Payor to the Royalty Holder at the time of the next scheduled Payment Date.

(e) The Royalty Holder shall execute all such further instruments and documents and do all such further actions as may be necessary to amend any registration of this Agreement to reflect the reduction of the Royalty Rate upon the exercise of the Purchase Option in accordance with this Section 10.

**11. Inspection of Facilities.**

The Royalty Holder shall have the right, on the provision of reasonable notice to the Payor, and during regular business hours, to inspect the facilities associated with the Property to the extent necessary to confirm the Payor's proper performance of its obligations under this Agreement. Such inspection shall be at the sole risk and expense of the Royalty Holder, it being understood and agreed that the Royalty Holder shall abide by the health and safety rules and regulations of the Payor and that the Royalty Holder shall indemnify and hold harmless the Payor and its affiliates from and against any and all damages, losses, suits and liabilities that they may suffer as a result of damage to life, limb or property as a result of such access by the Royalty Holder, its affiliates and representatives (absent the gross negligence or wilful misconduct of the Payor, its affiliates or their respective representatives). Without limiting the generality of the foregoing, the Payor hereby grants to the Royalty Holder, at the Royalty Holder's sole risk and expense and upon reasonable notice: (a) a right of access by the Royalty Holder (and its representatives) to the Property and to any facilities used by the Payor or any of its affiliates to process Products (provided that in the event such facility is not owned or controlled by the Payor or its affiliates, such right of access shall only be the same as any such right of access of the Payor or its affiliates and shall be subject to third party contractual requirements in connection therewith); and (b) the right to (i) monitor the Payor's or its affiliates' stockpiling and milling of Products and to take samples thereof while on the Property or from any facility used by the Payor or any of its affiliates to process Products for purposes of assay verification; and (ii) to weigh or cause the Payor or its affiliates to weigh all trucks transporting Products to any facility processing Products prior to dumping such Products and immediately following such dumping.

**12. Surrender and Reacquisition.**

The Payor and its affiliates shall be entitled to surrender, allow to lapse or otherwise relinquish or terminate its interest in all or any part of the Mining Rights relating to the Property, provided that it shall give 30 days' prior written notice to the Royalty Holder of any intention to do so. If the Payor or any of its affiliates surrenders, allows to lapse or otherwise relinquishes or terminates its interest in any of the Mining Rights relating to the Property, and within a period of ten years thereafter the Payor or any of its affiliates subsequently reacquires a direct or indirect interest in the land or minerals covered by such former Mining Rights, then from and after the date of such reacquisition such reacquired interest shall be included in the Property and the Royalty shall again apply to such interest so acquired. The Payor shall give the Royalty Holder written notice of such reacquisition within 30 days of the reacquisition but only to the extent such reacquisition occurs within the said ten-year period.

**13. Applicable Law; Attornment.**

(a) This Agreement shall be construed and enforced in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.

(b) Each Party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in the province of Ontario, Canada in respect of any proceedings arising out of or in connection with this Agreement. Each Party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

**14. Notices.**

(a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by email or similar means of recorded electronic communication or sent by registered mail, charges prepaid, addressed as follows:

(i) if to the Royalty Holder:

Barrick Gold Corporation  
Brookfield Place, TD Canada Trust Tower  
Suite 3700, 161 Bay Street, P.O. Box 212  
Toronto, Ontario  
M5J 2S1

Attention: General Counsel  
Email: notices@barrick.com

(ii) if to the Payor:

Montage Gold Corp.  
2000 - 885 West Georgia Street  
Vancouver, British Columbia  
V6C 3E8

Attention: ■  
Email: ■

(b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid.

(c) Any Party may at any time change its address for service from time to time by giving notice to the other Party in accordance with this Section 14.

**15. Confidentiality.**

(a) All Confidential Information shall be treated as confidential by the Royalty Holder and shall not be disclosed to any other person other than in circumstances where the Royalty Holder has an obligation to disclose such information in accordance with applicable securities legislation, the applicable rules or policies of any recognized stock exchange or any other applicable Legal Requirements or any Permit. The Payor acknowledges and agrees that the Royalty Holder may disclose Confidential Information to (a) its directors, officers and employees (and the directors, officers and employees of its affiliates), (b) its and its affiliates' financial, accounting, legal and professional advisors, as well as its and its affiliates' lenders, underwriters and investment bankers, and each of their respective directors, officers, partners or employees, and (c) any actual or prospective *bona fide* purchaser of the Royalty Holder's rights, benefits or obligations under this Agreement (collectively, the "**Representatives**"), in each case provided that (x) each of such Representatives to whom Confidential Information is disclosed is advised of the confidentiality of such information and is directed to abide by the terms and conditions of this Section 15, and (y) the Royalty Holder shall be liable for any breach of this Section 15 by its Representatives.

(b) Each Party agrees that if such Party or its affiliate is required to file this Agreement on SEDAR and/or EDGAR under applicable securities legislation, the Party which has the filing or disclosure requirement shall, prior to filing or disclosing this Agreement, consult with the other Party to redact any commercially sensitive information contained in this Agreement to the maximum extent permitted by law, and such disclosing or filing Party shall give reasonable consideration to the comments of the other Party.

**16. Term.**

(a) This Agreement shall continue in perpetuity, and the Royalty granted hereunder will constitute a presently vested interest in, and a covenant running with, the Property which will enure to the benefit of and be binding upon the Parties and their respective successors and assigns.

(b) If any right, power or interest of either Party under this Agreement would violate the rule against perpetuities, then such right, power or interest shall terminate at the expiration of 99 years from the date hereof.

**17. Successors and Assigns.**

This Agreement shall enure to the benefit of and shall be binding upon the Parties and their respective successors and permitted assigns.

**18. General Contractual Provisions.**

(a) Each of the Parties to this Agreement shall from time to time and at all times do all such further acts and execute and deliver all further agreements and documents as shall be reasonably required in order fully to perform and carry out the terms of this Agreement.

(b) This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by each of the Parties.

(c) Nothing in this Agreement will be deemed to constitute any Party as the partner, agent or legal representative of the other Party or to create any fiduciary relationship between them. It is not the intention of the Parties to create, nor shall this Agreement be construed to create, any mining, commercial or other partnership. Except as expressly provided in this Agreement or any subsequent agreement in writing executed by the Parties, each Party will have the right to independently engage in and receive full benefits from business activities, whether or not competitive with the other Party's activities or the operations on the Property, without consulting the other Party. Notwithstanding any other provision of this Agreement, each Party will be free to acquire for its own account, free of any liability, duty or obligation to the other Party arising out of this Agreement, any mineral rights, assets or properties located anywhere within or outside the area of land comprising the Property, without regard to any doctrine of "corporate opportunity" or "business opportunity", and regardless of whether any Confidential Information is used.

(d) This Agreement may be executed in any number of counterparts and by facsimile or electronic signatures, each of which shall constitute an original and all the counterparts taken together shall constitute one and the same instrument.

***[Remainder of page has been intentionally left blank.]***

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

**BARRICK GOLD CORPORATION**

by \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Name:

Title:

**MONTAGE GOLD CORP.**

by \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Name:

Title:

## SCHEDULE A

### Property<sup>3</sup>

[Copy of Exploration Permits and map to be included.]

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<sup>3</sup>

**Note to Draft:** Exploration Permits will be the same as covered by the share purchase agreement to be entered into in connection with the transaction.

## SCHEDULE B

### Joinder Agreement

TO: BARRICK GOLD CORPORATION (the “**Royalty Holder**”)  
AND TO: MONTAGE GOLD CORP. (the “**Original Payor**”)  
AND TO: **[INSERT NAME OF SPV CO-PAYOR (the “Co-Payor”)]**  
DATE: ■

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The undersigned hereby acknowledges and confirms that the undersigned has received a copy of the net smelter returns royalty agreement dated as of ■ between the Royalty Holder and the Original Payor, as the same may be amended from time to time (the “**Royalty Agreement**”). Capitalized terms not otherwise defined herein shall have the meanings given to them in the Royalty Agreement.

The undersigned represents and warrants that it is an SPV and holds **[insert description of the Property and Mining Rights owned by the SPV]**.

As of the date hereof, the undersigned covenants and agrees to be:

- (a) a Party to and to be bound by all of the provisions of the Royalty Agreement as a Payor in the same manner and to the same extent as if the undersigned had been an original party to the Royalty Agreement; and
- (b) jointly and severally liable with the Original Payor for the due and punctual performance of each and every covenant and obligation of the Original Payor arising under the Royalty Agreement, including, but not limited to, payment of the Royalty.

***[Remainder of page has been intentionally left blank.]***

DATED as of the date first written above.

**[INSERT NAME OF CO-PAYOR]**

by \_\_\_\_\_  
Authorized Signatory

## SCHEDULE C

### Election Notice – Royalty Purchase Option

Reference is made to the Net Smelter Returns Royalty Agreement (the “**Royalty Agreement**”) dated ■ between Barrick Gold Corporation, as Royalty Holder, and Montage Gold Corp., as Payor, **as novated into by [insert name of SPV] pursuant to a joinder agreement dated ■**. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Royalty Agreement.

Payor hereby irrevocably exercises the Purchase Option pursuant to Section 10 of the Royalty Agreement. The Option Closing Date will be \_\_\_\_\_, being a date that is not less than 10 days nor more than 20 days from the date of delivery of this Election Notice to the Royalty Holder.

By 9:00 a.m. (Toronto time) on the Option Closing Date, the Payor will wire a payment in the amount of seven million U.S. dollars (US\$7,000,000.00) to an account designated by the Royalty Holder at least three Business Days prior to the Option Closing Date, in full and complete satisfaction of the Exercise Price.

The Payor acknowledges that:

- (i) this Election Notice is irrevocable;
- (ii) the Royalty will be reduced by 50% commencing on the day immediately following the Option Closing Date, provided that the Exercise Price has been paid in full; and
- (iii) any failure by the Payor to pay the Exercise Price on the Option Closing Date will result in (A) the accrual of interest in accordance with section 10(c) of the Royalty Agreement, and (B) the suspension of the reduction to the Royalty Rate until such time as the Exercise Price and all accrued and unpaid interest thereon have been paid to the Royalty Holder in full.

***[Remainder of page has been intentionally left blank.]***

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

**MONTAGE GOLD CORP.**

by \_\_\_\_\_  
Authorized Signatory

**[INSERT NAME OF CO-PAYOR]**

by \_\_\_\_\_  
Authorized Signatory

**EXHIBIT B**

**PURCHASED SHARES**

<b>Seller</b>	<b>Purchased Shares</b>
Barrick Seller	700 ordinary shares of \$1 par value each.
Endeavour Seller	300 ordinary shares of \$1 par value each.