

This is the 1<sup>st</sup> affidavit of  
Katerina Doumakis in this case and  
was made on January 4, 2023

NO. S-226670  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS  
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF  
TREVALI MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

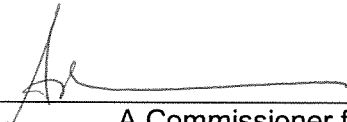
**A F F I D A V I T**

I, **Katerina Doumakis**, Legal Assistant, of Suite 2400 – 745 Thurlow Street, in the City of Vancouver, in the Province of British Columbia, AFFIRM THAT:

1. I am a legal assistant at McCarthy Tétrault LLP, counsel for Glencore Canada Corporation (“**Glencore**”) in this action, and as such have personal knowledge of the matters hereinafter deposed to, save and except those stated to be based on information and belief, and where so stated I verily believe them to be true.
2. Attached here to and marked as **Exhibit “A”** is a copy of a General Security Agreement dated October 1, 2020, between Glencore Canada Corporation and Trevali Mining Corporation and Trevali Mining (New Brunswick) Ltd.
3. Attached here to and marked as **Exhibit “B”** is a copy of a Debenture Mortgage dated October 1, 2020.

4. Attached here to and marked as **Exhibit "C"** is a copy of a Facility Agreement dated August 6, 2020, between Trevali Mining Corporation and Glencore Canada Corporation.
5. Attached here to and marked as **Exhibit "D"** is a copy of a First Amending Agreement dated December 2, 2020, between Trevali Mining Corporation and Glencore Canada Corporation.
6. Attached here to and marked as **Exhibit "E"** is a copy of a Second Amending Agreement dated December 29, 2020, between Trevali Mining Corporation and Glencore Canada Corporation.

SWORN BEFORE ME at Vancouver, British Columbia, this 4<sup>th</sup> day of January, 2023. )

  
\_\_\_\_\_  
A Commissioner for taking Affidavits for British Columbia )

  
\_\_\_\_\_  
**KATERINA DOUMAKIS** )

**ASHLEY BOWRON**  
Barrister & Solicitor  
**McCarthy Tétrault LLP**  
SUITE 2400 - 745 THURLOW STREET  
VANCOUVER, B.C. V6E 0C5  
604-643-7973

This is **Exhibit "A"** referred to in the Affidavit #1 of Katerina Doumakis made before me at Vancouver, British Columbia, on this 4<sup>th</sup> day of January, 2023.



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A Commissioner for taking Affidavits  
for the Province of British Columbia

**GENERAL SECURITY AGREEMENT**

**THIS AGREEMENT** made as of the 1<sup>st</sup> day of October, 2020.

AMONG:

**GLENCORE CANADA CORPORATION**, a corporation incorporated under the laws of the Province of Ontario  
(herein called the "**Lender**")

OF THE FIRST PART,

- and -

**TREVALI MINING CORPORATION**, a corporation incorporated under the laws of the Province of British Columbia  
(herein called the "**Borrower**")

OF THE SECOND PART,

- and -

**TREVALI MINING (NEW BRUNSWICK) LTD.**, a corporation amalgamated under the laws of the Province of New Brunswick  
(herein called "**Trevali NB**")

OF THE THIRD PART.

**THIS AGREEMENT WITNESSES** that, in consideration of the promises contained herein and other good and valuable consideration, each of the Borrower and Trevali NB (together the "**Debtors**" and each individually a "**Debtor**") agrees with the Lender as follows:

**ARTICLE 1  
INTERPRETATION**

**1.1 Defined Terms**

All capitalized terms which are used herein which are not otherwise defined herein shall have the respective meanings ascribed thereto in the Facility Agreement regardless of whether or not the Facility Agreement remains in full force and effect. In this Agreement or any amendment hereto, unless the context clearly indicates to the contrary:

"**Collateral**" means, (i) all personal property, business and undertaking of each Debtor now owned or hereafter acquired and (ii) all proceeds from the sale or other disposition of the foregoing, all of which is further described, without limitation, in Section 2.2.

"**Control Agreement**" means:

- (a) with respect to any Uncertificated Securities included in the Collateral, an agreement between the issuer of such Uncertificated Securities, the relevant Debtor and the Lender whereby such issuer agrees to comply with

instructions that are originated by the Lender in respect of such Uncertificated Securities, without further consent of such Debtor; and

- (b) with respect to any Securities Accounts or Security Entitlements included in the Collateral, an agreement between the Securities Intermediary in respect of such Securities Accounts or Security Entitlements, the relevant Debtor and the Lender to cause such Securities Intermediary to comply with any Entitlement Orders with respect to such Securities Accounts or Security Entitlements that are originated by the Lender, without the further consent of such Debtor.

**“Facility Agreement”** means the facility agreement dated as of August 6, 2020 between the Borrower and the Lender pursuant to which the Lender established in favour of the Borrower a working capital facility, as the same may be amended, restated, supplemented, replaced or otherwise modified from time to time.

**“Enforcement Date”** has the meaning given to it in the Facility Agreement.

**“Event of Default”** has the meaning given to it in the Facility Agreement.

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

**“Investment Property”** has the meaning given to it in the PPSA and **“Certificated Security”**, **“Entitlement Order”**, **“Financial Asset”**, **“Securities Account”**, **“Securities Intermediary”**, **“Security Certificate”**, **“Security Entitlement”** and **“Uncertificated Security”** have the meanings given to them in the STA.

**“Lender”** has the meaning given to it in the recitals.

**“PPSA”** means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time (and includes all regulations from time to time made under such legislation).

**“Secured Obligations Termination Date”** means the date on which all Secured Obligations of the Obligors (other than those provisions which by their terms survive the termination of the Credit Documents) have been paid in full and the Lender has no commitment to provide credit to the Borrower under or in connection with the Credit Facility.

**“Senior Lenders”** has the meaning given to it in the Facility Agreement.

**“STA”** means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time (and includes all regulations from time to time made under such legislation).

## 1.2 Other Usages

References to “this Agreement”, “hereof”, “herein”, “hereto” and like references refer to this General Security Agreement, as the same may be amended, modified, supplemented or replaced from time to time, and not to any particular Article, Section or other subdivision of this Agreement. A reference in this Agreement to another agreement refers to that other agreement

as it may be amended, modified, supplemented, restated or replaced from time to time. A reference in this Agreement to a statute refers to that statute as it may be amended and to any restated or successor legislation of comparable effect.

### **1.3 Number and Gender**

Where the context so requires, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

### **1.4 Headings**

The insertion of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### **1.5 Currency**

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

### **1.6 Applicable Law and Attornment Clause**

This agreement and all documents delivered pursuant hereto shall be deemed to be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, but excluding choice of law rules. The parties hereby attorn to the courts of the Province of Ontario and agree that those courts shall have non-exclusive jurisdiction to determine all disputes relating to this Agreement.

### **1.7 Prohibited Provisions**

In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a court, this Agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

### **1.8 Time of the Essence**

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

### **1.9 Rule of Construction**

This Agreement has been negotiated by each party hereto with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of this Agreement.

## ARTICLE 2 SECURITY INTEREST

### 2.1 Grant of Security Interest

As general and continuing security for the payment and performance of all of its Secured Obligations, each Debtor hereby charges, pledges, assigns and grants to the Lender a security interest in its Collateral.

### 2.2 Description of Collateral

Subject to Section 2.5 hereof, a security interest is granted by each Debtor in favour of the Lender in all of the present and after-acquired personal property of such Debtor, including, without limitation, in the following:

(a) Accounts

all debts, amounts, claims and moneys which now are, or which may at any time hereafter be, due or owing to or owned by such Debtor, whether or not earned by performance including, without limitation, all intercompany loans and advances made by such Debtor to its affiliates; all securities, mortgages, bills, notes and other documents now held or owned, or which may be hereafter taken, held or owned, by or on behalf of such Debtor, in respect of the said debts, amounts, claims and moneys or any part thereof; and all books, documents and papers recording, evidencing or relating to the said debts, amounts, claims and moneys or any part thereof, all of which are herein called the "**Accounts**";

(b) Inventory

all goods or chattels now or hereafter forming the inventory of such Debtor, including, without limitation, all goods, merchandise, raw materials, work in process, finished goods, goods held for sale or resale or lease or that have been leased or that are to be, or have been, furnished under a contract of service, and goods used in or procured for packing or packaging, all of which are herein called the "**Inventory**";

(c) Equipment

all equipment now owned or hereafter acquired by such Debtor, including, without limitation, all machinery, fixtures, plant, tools, furniture, chattels, vehicles of any kind or description including, without limitation, motor vehicles, parts, accessories installed in or affixed or attached to any of the foregoing, all drawings, specifications, plans and manuals relating thereto, and any other tangible personal property which is not Inventory, all of which are herein called the "**Equipment**";

(d) Intangibles

all intangible property now owned or hereafter acquired by such Debtor and which is not Accounts including, without limitation, all contractual rights, goodwill, patents, trademarks, trade names, copyrights and other intellectual property of such Debtor and all other choses in action of such Debtor of every kind, whether due or owing at the present time or hereafter to become due or owing, all of which are herein called the "**Intangibles**".

(e) Documents of Title

any writing now or hereafter owned by such Debtor that purports to be issued by or addressed to a bailee and purports to cover such goods and chattels in the bailee's possession as are identified or fungible portions of an identified mass, whether such goods and chattels are Inventory or Equipment, and which writing is treated in the ordinary course of business as establishing that the person in possession of such writing is entitled to receive, hold and dispose of the said writing and the goods and chattels it covers, and further, whether such writing is negotiable in form or otherwise, including bills of lading and warehouse receipts, all of which are herein called the "**Documents of Title**";

(f) Money

all money now or hereafter owned by such Debtor, whether such money is authorized or adopted by the Parliament of Canada as part of its currency or by any foreign government as part of its currency, all of which are herein called the "**Money**";

(g) Chattel Paper

all present and future agreements made between such Debtor as secured party and others which evidence both a monetary obligation and a security interest in or a lease of specific goods, all of which are herein called the "**Chattel Paper**";

(h) Instruments

all present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)) of such Debtor, and all other writings of such Debtor that evidence a right to the payment of money and are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment and all letters of credit and advices of credit of such Debtor provided that such letters of credit and advices of credit state that they must be surrendered upon claiming payment thereunder, all of which are herein called the "**Instruments**";

(i) Securities

all present and future securities held by such Debtor, including shares, options, rights, warrants, joint venture interests, interests in limited partnerships, trust units, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of such Debtor in property or in an enterprise or which constitute evidence of an obligation of the issuer; including, without limitation, any Security Entitlements, any Investment Property, any Uncertificated Securities and all substitutions therefor and, subject to Section 2.6, dividends and income derived therefrom and, all of which are herein called the "**Securities**".

(j) Documents

all documents, including, without limitation, all books, invoices, letters, papers and other records, in any form evidencing or relating to the Collateral, all of which are herein called the "**Documents**";



## (k) Proceeds

all personal property in any form derived directly or indirectly from any dealing with the Collateral or the proceeds therefrom, including, without limitation, property that indemnifies or compensates for the expropriation, destruction or damage of the Collateral or the proceeds therefrom, all of which are herein called the “**Proceeds**”;

## (l) Leaseholds

subject to Section 2.5, all leases, now owned or hereafter acquired by such Debtor as lessee (whether oral or written) or any agreement therefor, all of which are herein called the “**Leaseholds**”; and

## (m) Undertaking

all present and future personal property, business, and undertaking of such Debtor not being Accounts, Inventory, Equipment, Intangibles, Documents of Title, Money, Chattel Paper, Instruments, Securities, Documents, Proceeds or Leaseholds all of which are herein called the “**Undertaking**”.

### 2.3 Attachment of Security Interest

The parties hereby acknowledge that:

- (i) value has been given;
- (ii) each Debtor has rights in the Collateral of that Debtor; and
- (iii) the parties have not agreed to postpone the time for attachment of the security interests created by this Agreement.

The parties further agree that the security interests created by this Agreement are intended to attach to all Collateral in which a Debtor acquires an interest as a result of any amalgamation, arrangement or similar proceeding.

### 2.4 Registration

The Lender shall have the right at any time and without notice to or any further actions on the part of the Debtor, to cause this Agreement or notice thereof to be registered or filed in any place or office of public record where the Lender or its counsel may reasonably deem advisable or necessary.

### 2.5 Exception re: Leaseholds and Contractual Rights

The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the security interest created by this Agreement, but each Debtor agrees to stand possessed of such last day in trust for such person as the Lender may direct and each Debtor shall assign and dispose thereof in accordance with such direction, subject to the terms of the Intercreditor Agreement. To the extent that the security interest created by this Agreement in any contractual rights, leases in respect of real property, licenses, intellectual property and permits (herein called the “**Contractual Rights**”) would constitute a breach and/or default or cause the

acceleration or termination of such Contractual Right, said security interest shall not be granted hereunder but each Debtor shall hold its interest therein in trust for the Lender, and shall subject to, and pursuant to, the express provisions of the Facility Agreement, use commercially reasonable efforts to obtain the appropriate consents to the attachment of said security interest in any such Contractual Rights and shall grant a security interest in such Contractual Rights that are to the Lender forthwith upon obtaining the appropriate consents to the attachment of said security interest.

## **2.6 Voting and Distributions re: Securities**

- (a) Prior to the Enforcement Date, all interest, cash dividends or distributions, income and revenue from Securities that have been delivered to the Lender pursuant to Section 3.1(d) (but not the proceeds of disposition of such Securities) shall be collected by and payable to the relevant Debtor (and not the Lender), and such Securities shall be voted by the relevant Debtor, and all non-cash dividends or distributions paid on such Securities, if received by the relevant Debtor, shall be paid to, and held by, the Lender as Collateral. Subject to the terms of the Intercreditor Agreement, on and after the Enforcement Date, all dividends and distributions paid on such Securities, and all interests, income and revenue from such Securities, if received by the relevant Debtor, shall be paid to the Lender and applied against the Secured Obligations in accordance with Section 12.5 of the Facility Agreement, and the Lender shall be entitled to vote or not to vote such Securities as the Lender sees fit.
- (b) On and after the Enforcement Date, all dividends and distributions paid on any Securities included in the Collateral (other than Securities that have been delivered to the Lender pursuant to Section 3.1(d)), and all interest, income and revenue from such Securities, if received by the relevant Debtor, shall be paid to the Lender, and the Lender shall be entitled to vote or not to vote such Securities as the Lender sees fit, in each case subject to the Intercreditor Agreement.

## **ARTICLE 3 WARRANTIES AND COVENANTS OF THE DEBTORS**

### **3.1 Warranties and Covenants**

In addition to the representations, warranties and covenants made by the Debtors to the Lender pursuant to the Facility Agreement (it being acknowledged that such representations, warranties and covenants, among other provisions, shall survive the termination of the Facility Agreement pursuant to Section 12.6 thereof), each Debtor hereby warrants, (subject to the provisions of the Facility Agreement during the currency thereof) covenants and agrees with the Lender as follows:

- (a) Save and except where otherwise permitted by the Credit Documents, each Debtor shall maintain, preserve, protect and keep the Inventory and the Equipment in good repair and working and saleable condition where failure to do so could reasonably be expected to have a Material Adverse Effect, ordinary wear and tear and insured loss or damage excepted.
- (b) Each Debtor agrees to execute and deliver at its own expense from time to time amendments to this Agreement or additional security agreements as may be

reasonably required by the Lender in order that a security interest shall attach to any personal property which is not substantially of the nature or type described by the definition of Collateral.

- (c) Each Debtor shall prevent Collateral from becoming an accession to any personal property not subject to this Agreement, or becoming affixed to any real property unless (i) such Debtor has mortgaged the real property to the Lender as security for the Secured Obligations of such Debtor or (ii) the affixing constitutes a leasehold improvement in the ordinary course of business.
- (d) Upon the execution and delivery of this Agreement, each Debtor which owns Certificated Securities issued by a Guarantor shall deliver (or cause to be delivered) to the Lender, endorsed to the Lender or such nominee as it may direct and/or accompanied by such instruments of assignment and transfer in such form as the Lender may reasonably request, any and all such Certificated Securities and each Debtor which owns Certificated Securities issued by a Guarantor shall deliver all such Certificated Securities issued after the execution and delivery of this Agreement to such Debtor by such Guarantors together with such instruments of assignment and transfer in such form as the Lender may reasonably request.
- (e) Subject to paragraph (d) above, promptly upon the request of the Lender from time to time, each Debtor shall deliver (or cause to be delivered) to the Lender, endorsed to the Lender or such nominee as it may direct and/or accompanied by such instruments of assignment and transfer in such form and substance as the Lender may reasonably request, any and all Instruments, Securities, Documents of Title, Documents and Chattel Paper included in or relating to the Collateral as the Lender may specify in its request.
- (f) Promptly upon the reasonable written request by the Lender, and subject to the terms of the Intercreditor Agreement, each Debtor shall:
  - (i) upon the occurrence and during the continuance of an Event of Default, direct the issuer of any and all Certificated Securities included in or relating to the Collateral as the Lender may specify in its request to register the applicable Security Certificate in the name of the Lender or such nominee as it may direct;
  - (ii) upon the occurrence and during the continuance of an Event of Default, direct the issuer of any and all Uncertificated Securities included in or relating to the Collateral as the Lender may specify in its request to register the Lender or such nominee as it may direct as the registered owner of the Uncertificated Security;
  - (iii) upon the occurrence and during the continuance of an Event of Default, direct the Securities Intermediary for any Security Entitlements or Securities Accounts included in or relating to the Collateral as the Lender may specify in its request to transfer any or all of the Financial Assets to which such Security Entitlements or Securities Accounts relate to such Securities Account or Securities Accounts as the Lender may specify;

- (iv) enter into with the Lender and the issuer of Uncertificated Securities included in or relating to the Collateral as the Lender may specify in its request, a Control Agreement in respect of such Uncertificated Securities for the purpose of perfecting the security interest of the Lender in such Uncertificated Securities provided always that such Control Agreement shall entitle the Debtor to exercise all rights of ownership to such Uncertificated Securities until an Event of Default has occurred and is continuing, including without limitation the ability to trade, make investment decisions and remove Uncertificated Securities and proceeds from the relevant account; and
  - (v) enter into with the Lender and any Securities Intermediary for any Securities Accounts or Security Entitlements included in or relating to the Collateral as the Lender may specify in its request, a Control Agreement in respect of such Securities Accounts or Security Entitlements for the purpose of perfecting the security interest of the Lender in such Securities Accounts or Security Entitlements provided always that such Control Agreement shall entitle the Debtor to exercise all rights of ownership to such Securities Accounts or Security Entitlements until an Event of Default has occurred and is continuing, including without limitation the ability to trade, make investment decisions and remove Securities Accounts or Security Entitlements and proceeds from the relevant account.
- (g) The Debtors will not use or acquire for use any Collateral as consumer goods.
- (h) The Debtors shall pay all reasonable costs and expenses of the Lender (including, without limitation, reasonable legal fees and disbursements on a solicitor and client basis) incurred with respect to:
- (i) the preparation, perfection, execution and filing of this Agreement and the filing of financing statement(s) and financing change statement(s) with respect to this Agreement;
  - (ii) dealing with other creditors of the Debtors in connection with the establishment and confirmation of the priority of the security interest created by this Agreement;
  - (iii) the exercising of any or all of the rights, remedies and powers of the Lender under this Agreement; and
  - (iv) recovering or repossessing the Collateral and any other proceedings taken for the purpose of enforcing the remedies provided herein, including, without limitation, the appointment of a receiver, manager or receiver and manager, whether by order of the court or by private appointment.
- (i) The Debtors shall indemnify the Lender for all reasonable costs and expenses as set out in Sections 3.1(h) and 3.2 and agree that all such costs and expenses shall be payable by the Debtors to the Lender on demand and shall bear interest at the annual rate equal to the Applicable Rate in effect at the time the obligation to

indemnify arose which interest shall be calculated and compounded monthly and payable on demand.

- (j) No Debtor will enter into nor consent to any third party entering into, any Control Agreement that deals, directly or indirectly, with the Collateral.

### **3.2 Performance of Covenants by the Lender**

The Lender may, in its sole discretion and upon notice to the Debtors, perform any covenant of the Debtors under this Agreement that the Debtors fail to perform and that the Lender is capable of performing, including any covenant the performance of which requires the payment of money, provided that the Lender will not be obligated to perform any such covenant on behalf of the Debtors and no such performance by the Lender will require the Lender further to perform the Debtors' covenants nor operate as a derogation of the rights and remedies of the Lender under this Agreement.

## **ARTICLE 4 DEALINGS WITH COLLATERAL**

### **4.1 Permitted Activities**

If permitted or not restricted by the terms of the Facility Agreement, the Debtors may, at any time, without the consent of the Lender:

- (a) lease, sell, license, consign or otherwise deal with items of Inventory in the ordinary course of its business or if so permitted or not restricted under the terms of the Facility Agreement so that the purchaser thereof takes title clear of the security interest created by this Agreement but (i) all rights of such Debtor as vendor, lessor, licensor or consignee shall be subject to the security interest created by this Agreement and (ii) if such sale, lease or other dealing with results in an Account, such Account shall be subject to the security interest created by this Agreement;
- (b) lease, sell or otherwise dispose of its Equipment;
- (c) continue to collect, at its own expense, all amounts due or to become due to such Debtor under the Accounts; and in connection with such collections, take such action as such Debtor or the Lender, as the case may be, may deem necessary or advisable to enforce collection of the Accounts; provided, however, that the Lender shall have the right at any time upon and after the security hereby constituted becoming enforceable to notify the account debtors or obligors under any Accounts of the assignment of such Accounts to the Lender and to direct such account debtors or obligors to make payment of all amounts due or to become due to such Debtor thereunder directly to the Lender and to give valid and binding receipts and discharges therefor and in respect thereof and, upon such notification and at the expense of such Debtor, to enforce collection of any such Accounts, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Debtor might have done.

#### **4.2 Accounts**

After the security hereby constituted becomes enforceable in accordance with Section 5.1, and subject to the terms of the Intercreditor Agreement,

- (a) all money or other form of payment received by each Debtor in respect of the Accounts shall be received in trust for the benefit of the Lender hereunder, shall be segregated from other funds of such Debtor and shall be forthwith paid over to the Lender in the same form as so received (with any necessary endorsement) to be held as cash collateral and applied as provided by Section 5.8; and
- (b) no Debtor shall adjust, settle or compromise the amount or payment of any Accounts, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon.

#### **4.3 Release by the Lender**

The Lender (i) may, at its discretion but subject to the terms of the Facility Agreement, at any time release from the security interest created by this Agreement any part or parts of the Collateral or any other security or any surety for the Secured Obligations of the Debtors either with or without sufficient consideration therefor without thereby releasing any other part of the Collateral or any person from this Agreement; and (ii) shall release the security interest created by this Agreement on any part or parts of the Collateral that are sold or transferred pursuant to a third party pursuant to any transaction permitted hereunder or by the Facility Agreement as provided therein.

#### **4.4 Proceeds Held in Trust**

All Proceeds that are monies collected or received by the Debtors will be received by the Debtors in trust for the Lender and will be forthwith paid to the Lender, subject to the terms of the Intercreditor Agreement. The Lender shall not exercise its rights under this Section 4.4, and the Debtors' trust obligations under this Section 4.4 need not be complied with, unless such Proceeds arise from a disposition of Collateral which is not permitted hereunder or under the Facility Agreement or unless and until the security hereby constituted becomes enforceable.

### **ARTICLE 5 ENFORCEMENT**

#### **5.1 Enforcement**

The security hereby constituted shall immediately become enforceable without further notice of any kind, which notice is expressly waived by the Debtors, on the Enforcement Date.

## 5.2 Remedies

At any time while the security hereby constituted is enforceable in accordance with Section 5.1, and in each case subject to the terms of the Intercreditor Agreement, the Lender shall have the following rights, powers and remedies:

- (a) to appoint any person to be an agent or any person to be a receiver, manager or receiver and manager (herein called the “**Receiver**”) of the Collateral and to remove any Receiver so appointed and to appoint another if the Lender so desires; it being agreed that any Receiver appointed pursuant to the provisions of this Agreement shall have all of the powers of the Lender hereunder, and in addition, shall have the power to carry on the business of the Debtors;
- (b) to make payments to parties having prior Liens on any Collateral;
- (c) to enter onto any premises where the Collateral may be located;
- (d) to take possession of all or any part of the Collateral with power to exclude the respective Debtor, its agents and its servants therefrom;
- (e) to preserve, protect and maintain the Collateral and make such replacements thereof and additions thereto as the Lender shall deem advisable;
- (f) to enjoy and exercise all powers necessary or incidental to the performance of all functions provided for in this Agreement including, without limitation, the power to purchase on credit;
- (g) to sell, lease or dispose of all or any part of the Collateral whether by public or private sale or lease or otherwise and on any terms so long as every aspect of the disposition is commercially reasonable, including, without limitation, terms that provide for payment of credit, provided that:
  - (i) the Lender or the Receiver will not be required to sell, lease or dispose of the Collateral, but may peaceably and quietly take, hold, use, occupy, possess and enjoy the Collateral without molestation, eviction, hindrance or interruption by the Debtors or any other person or persons whomsoever for such period of time as is commercially reasonable;
  - (ii) the Lender or the Receiver may convey, transfer and assign to a purchaser or purchasers the title to any of the Collateral so sold; and
  - (iii) subject to Section 5.8, the relevant Debtor will be entitled to be credited with the actual proceeds of any such sale, lease or other disposition only when such proceeds are received by the Lender or the Receiver in cash or such other form of compensation as may be acceptable to the Lender, in its sole discretion;
- (h) to enjoy and exercise all of the rights and remedies of a secured party under the PPSA;

- (i) to dispose of all or any part of the Collateral in the condition in which it was on the date possession of it was taken, or after any commercially reasonable repair, processing or preparation for disposition;
- (j) to sell or otherwise dispose of any part of the Collateral without giving any notice whatsoever where:
  - (i) the Collateral is perishable;
  - (ii) the Lender or the Receiver believes on reasonable grounds that the Collateral will decline speedily in value;
  - (iii) the Collateral is of a type customarily sold on a recognized market;
  - (iv) the cost of care and storage of the Collateral is disproportionately large relative to its value;
  - (v) every person entitled by law to receive a notice of disposition consents in writing to the immediate disposition of the Collateral; or
  - (vi) the Receiver disposes of the Collateral in the course of the relevant Debtor's business;
- (k) to have Securities included in the Collateral registered on the books of the issuers of such Securities in the name of the Lender or such nominee of the Lender as the Lender shall direct;
- (l) to commence, continue or defend proceedings in any court of competent jurisdiction in the name of the Lender, the Receiver or any Debtor for the purpose of exercising any of the rights, powers and remedies set out in this Section 5.2, including the institution of proceedings for the appointment of a receiver, manager or receiver and manager of the Collateral; and
- (m) at the sole option of the Lender, provided notice is given in the manner required by the PPSA to each Debtor and to any other person to whom the PPSA requires notice be given, to elect to retain all or any part of the Collateral in satisfaction of the Secured Obligations of the relevant Debtor.

### **5.3 License**

The Lender is hereby granted a license or other right to use, subject to the terms of the Intercreditor Agreement, after the security hereby constituted becomes enforceable, without charge, each Debtor's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, customer lists and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral, and after the security hereby constituted becomes enforceable, each Debtor's rights under all licenses and all franchise agreements shall inure to the Lender's benefit. In addition, each Debtor hereby irrevocably agrees that the Lender may, after the security hereby constituted becomes enforceable, sell any of such Debtor's Inventory directly to any person, including without limitation, persons who have previously purchased such Debtor's Inventory from such Debtor and in connection with any such sale or other enforcement of the Lender's rights



under this Agreement, may sell Inventory which bears any trademark owned by or licensed to such Debtor and any Inventory that is covered by any copyright owned by or licensed to such Debtor and any Inventory that is covered by any copyright owned by or licensed to such Debtor and the Lender may finish any work in process and affix any trademark owned by or licensed to such Debtor and sell such Inventory as provided herein.

#### **5.4 Receiver as Lender**

The Receiver shall be deemed to be the agent of the Debtors for the purpose of establishing liability for the acts or omissions of the Receiver and the Lender shall not be liable for such acts or omissions and, without restricting the generality of the foregoing, each Debtor hereby irrevocably authorizes the Lender to give instructions to the Receiver relating to the performance of its duties as set out herein.

#### **5.5 Expenses of Enforcement**

Each Debtor shall pay to the Receiver the reasonable remuneration of the Receiver and all reasonable costs and expenses (including, without limitation, legal fees and disbursements on a solicitor and his own client basis) incurred by the Receiver pursuant to its appointment and the exercise of its powers hereunder, and shall pay to the Lender and the Receiver as required all amounts of money (including interest thereon) borrowed or advanced by either of them pursuant to the powers set out herein, and the obligations of each Debtor to the Lender and the Receiver pursuant to this Section 5.5 shall be payable on demand and shall bear interest at an annual rate equal to the Applicable Rate in effect at the time such obligation to pay arose which interest shall be calculated and compounded monthly and payable on demand.

#### **5.6 Indulgences and Releases**

Either the Lender or the Receiver may grant extensions and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release any part of the Collateral to third parties and otherwise deal with the Debtors, debtors of the Debtors, sureties and others and with the Collateral and other security as the Lender or the Receiver may see fit without prejudice to the Secured Obligations of the Debtors or the right of the Lender and the Receiver to repossess, hold, collect and realize the Collateral.

#### **5.7 No Liability for Failure to Exercise Remedies**

The Lender and the Receiver shall not be liable or accountable to the Debtors or to any other person for any failure to exercise any of the rights, powers and remedies set out in Section 5.2, and shall not be bound to commence, continue or defend proceedings for the purpose of preserving or protecting any rights of the Lender, the Receiver, the Debtors or any other party in respect of the same.

#### **5.8 Proceeds of Disposition**

All monies received by the Lender or by the Receiver pursuant to Section 5.2 shall be applied in accordance with Section 12.5 of the Facility Agreement, and subject to the terms of the Intercreditor Agreement.

**5.9 Debtor Liable for Deficiency**

If the monies received by the Lender or the Receiver pursuant to Section 5.2 are not sufficient to pay the claims set out in Section 12.5(b)(i)-(iv) of the Facility Agreement, the Debtors shall immediately pay the Lender the amount of such deficiency.

**5.10 Restriction on Debtor**

After the security hereby constituted becomes enforceable and upon the Lender taking possession of the Collateral or the appointment of a Receiver, all the powers, functions, rights and privileges of each Debtor or any officer, director, servant or agent of such Debtor with respect to the Collateral shall, to the extent permitted by law, be suspended unless specifically continued by the written consent of the Lender.

**5.11 Rights Cumulative**

All rights and remedies of the Lender set out in this Agreement shall be cumulative and no right or remedy contained herein is intended to be exclusive but each shall be in addition to every other right or remedy contained herein or in any existing or future security document or now or hereafter existing at law or in equity or by statute. The taking of a judgment or judgments with respect to any of the Secured Obligations of the Debtors shall not operate as a merger of any of the covenants contained in this Agreement.

**5.12 Care by the Lender**

The Lender shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in the Lender's possession if it takes such action for that purpose as the Debtors request in writing, but failure of the Lender to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of the Lender to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by the Debtors, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

**5.13 Standards of Sale**

Without prejudice to the ability of the Lender to dispose of the Collateral in any manner which is commercially reasonable, the Debtors acknowledge that a disposition of Collateral by the Lender which takes place substantially in accordance with the following provisions shall not be deemed to have been made in a commercially unreasonable manner solely by reason thereof:

- (a) Collateral may be disposed of in whole or in part;
- (b) Collateral may be disposed of by public sale following one advertisement in a newspaper or trade publication having general circulation appropriate to the public sale of such Collateral at least seven days prior to such sale;
- (c) Collateral may be disposed of by private sale after receipt by the Lender of two written offers;

- (d) the purchaser or lessee of such Collateral may be a customer of the Lender;
- (e) the disposition may be for cash or credit, or part cash and part credit; and
- (f) the Lender may establish a reserve bid in respect of all or any portion of the Collateral.

#### **5.14 Securities of Public Company**

The Debtors recognize that the Lender may be unable to effect a public sale of any or all of the Collateral by reason of certain prohibitions contained in the applicable securities laws or otherwise, but may be compelled to resort to any or more private sales thereof to a restricted group of purchasers who will be obliged to agree, among other things, to acquire such Securities for their own account for investment and not with a view to the distribution or resale thereof. The Debtors acknowledge and agree that any such private sale may result in prices and other terms less favourable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by reason of its being a private sale. The Lender shall be under no obligation to delay a sale of any of the Collateral for the period for time necessary to permit the issuer of such Securities to register such Securities for public sale under the applicable securities law, or otherwise, even if the issuer would agree to do so.

### **ARTICLE 6 GENERAL**

#### **6.1 Waiver**

Any breach by the Debtors of any of the provisions contained in this Agreement or any default by the Debtors in the observance or performance of any covenant or condition required to be observed or performed by the Debtors hereunder, may only be waived by the Lender in writing, provided that no such waiver by the Lender shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

#### **6.2 The Lender as Attorney**

Each Debtor hereby irrevocably appoints the Lender and any person further designated by the Lender, with full power of substitution, to be the attorney of such Debtor for and in the name of such Debtor to execute and do any deeds, documents, transfers, demands, assignments, assurances, consents and things which such Debtor is obliged to sign, execute or do hereunder and, at any time that an Event of Default shall have occurred and be continuing, to commence, continue and defend any proceedings authorized to be taken hereunder and generally to use the name of such Debtor in the exercise of all or any of the powers hereby conferred on the Lender. The Lender shall give such Debtor prior written notice of any exercise by the Lender of the power of attorney hereby granted. The power of attorney hereby granted is coupled with an interest, is irrevocable and shall extend to the successor and assigns of each Debtor. Each Debtor agrees to be bound by any representations and actions made or taken in good faith by the Lender pursuant to this power of attorney in accordance with the terms thereof and hereby waives any and all defences which may be available to it to contest, negate or disaffirm the actions of the Lender taken in good faith under this power of attorney.

### **6.3 Further Assurances**

Each Debtor shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such further acts, deeds, mortgages, transfers and assurances and take all such further action or cause such further action to be taken as the Lender shall reasonably require for the better assuring, charging, assigning and conferring unto the Lender a security interest in the Collateral or property intended to be charged hereunder, or which such Debtor may hereafter become bound to charge in favour of the Lender, for the purpose of accomplishing and effecting the intention of this Agreement.

### **6.4 Continuing Security**

The security interest constituted hereby shall be deemed to be a continuing security for the Secured Obligations of the Debtors until the Secured Obligations Termination Date.

### **6.5 No Obligation to Advance**

Neither the execution nor delivery of this Agreement shall obligate the Lender to advance any moneys to the Debtors.

### **6.6 Consumer Goods**

Notwithstanding any other clause in this Agreement, in no event shall goods that are used or acquired for use primarily for personal, family or household purposes form part of the Collateral.

### **6.7 Notices**

All notices or other communications provided for herein shall be given or delivered in accordance with Section 13.1 of the Facility Agreement which shall apply hereto *mutatis mutandis*.

### **6.8 Successors and Assigns**

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

### **6.9 Entire Agreement**

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

### **6.10 Receipt of Financing Statement, etc.**

The receipt by a Debtor's legal counsel of a financing statement or financing change statement shall be deemed to be receipt of same by such Debtor.

**6.11 Acknowledgement**

Each Debtor hereby acknowledges receipt of an executed copy of this Agreement.

**6.12 Paramountcy**

In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and the Facility Agreement, the provisions of the Facility Agreement shall prevail and be paramount, and such provision of this Agreement shall be deemed to be amended to the extent only to eliminate any such conflict, inconsistency, ambiguity or difference. If, strictly in connection with the interpretation of this Agreement, there is any conflict or inconsistency between the provisions of this Agreement and the Facility Agreement and the provisions of the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall govern and prevail, and such provision of this Agreement shall be deemed to be amended to the extent only to eliminate any such conflict, inconsistency, and ambiguity of difference. Any right or remedy in this Agreement which may be in addition to the rights and remedies contained in the Facility Agreement or in the Intercreditor Agreement shall not constitute a conflict, inconsistency, ambiguity or difference.

**6.13 Authority of Lender**

The rights, powers, authority, duties and responsibilities of the Lender for the purposes of this Agreement shall be as provided in the Facility Agreement.

**6.14 Intercreditor Subordination**

Notwithstanding anything herein to the contrary, the lien and security interest granted to the Lender pursuant to this Agreement and the exercise of any right or remedy by the Lender hereunder are subject to the provisions of the Intercreditor Agreement. If there is a conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement will control.

**6.15 Counterparts**

This agreement may be executed in any number of counterparts, all of which shall be deemed to be an original and such counterparts taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart.

**6.16 Judgment Currency**


- (a) If, for the purpose of obtaining or enforcing judgment against a Debtor in any court in any jurisdiction, it becomes necessary to convert into a particular currency (such currency being hereinafter in this Section 6.16 referred to as the “**Judgment Currency**”) an amount due in another currency (such other currency being hereinafter in this Section 6.16 referred to as the “**Indebtedness Currency**”) under this Agreement, the conversion shall be made at the rate of exchange prevailing on the Banking Day immediately preceding:
  - (i) the date of actual payment of the amount due, in the case of any proceeding in the courts of a jurisdiction that will give effect to such conversion being made on such date; or

- (ii) the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the date as of which such conversion is made pursuant to this Section 6.16(a)(ii) being hereinafter in this Section 6.16 referred to as the “**Judgment Conversion Date**”).
- (b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 6.16(a)(ii), there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual payment of the amount due, the relevant Debtor shall pay to the appropriate judgment creditor or creditors such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Indebtedness Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date.
- (c) Any amount due from a Debtor under the provisions of Section 6.16(b) shall be due to the appropriate judgment creditor or creditors as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of this Agreement.
- (d) The term “rate of exchange” in this Section 6.16 means the Exchange Equivalent.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]***

IN WITNESS WHEREOF each party has executed this Agreement as of the date first written above.

**GLENCORE CANADA CORPORATION, as  
Lender**

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

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

**TREVALI MINING CORPORATION**

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

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

**TREVALI MINING (NEW BRUNSWICK) LTD.**

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

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

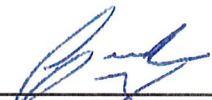
IN WITNESS WHEREOF each party has executed this Agreement as of the date first written above.

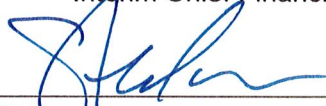
**GLENCORE CANADA CORPORATION, as  
Lender**

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

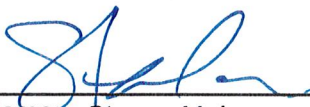
By: \_\_\_\_\_  
Name:  
Title:

**TREVALI MINING CORPORATION**

By:  \_\_\_\_\_  
Name: Brendan Creaney  
Title: Interim Chief Financial Officer

By:  \_\_\_\_\_  
Name: Steven Molnar  
Title: Chief Legal Officer

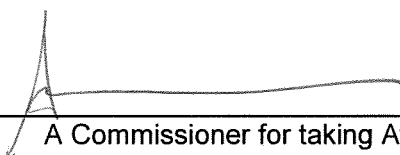
**TREVALI MINING (NEW BRUNSWICK) LTD.**

By:  \_\_\_\_\_  
Name: Steven Molnar  
Title: President

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



This is **Exhibit "B"** referred to in the Affidavit #1 of Katerina Doumakis made before me at Vancouver, British Columbia, on this 4<sup>th</sup> day of January, 2023.

A handwritten signature in black ink, consisting of a tall, thin vertical stroke on the left, a horizontal line extending to the right, and a small loop at the end of the horizontal line.

---

A Commissioner for taking Affidavits  
for the Province of British Columbia

**Form 56  
DEBENTURE**

***Land Titles Act, S.N.B. 1981, c.L-1.1, s.26.1  
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2***

Parcel Identifier:	50072032 Apparent PID 50237924 see also Schedule "A" Apparent PID 50252766 see also Schedule "A"
Corporation:	Trevali Mining (New Brunswick) Ltd. 2300-1177 West Hastings Street, Vancouver BC V6E 2K3
Place of Incorporation:	New Brunswick
Lender:	Glencore Canada Corporation 100 King Street West Suite 6900, P.O. Box 403 Toronto, ON M5X 1E3
Principal Sum:	One Billion Dollars (\$1,000,000,000.00) USD
Interest Rate:	See Schedule "C"
How Interest Calculated:	As provided for in the Facility Agreement (as defined herein)
Place of Payment:	As provided for in the Facility Agreement (as defined herein)
Covenants and Conditions Set Out in the <i>Debentures Regulation — Standard Forms of Conveyances Act</i>	
Included:	None
Optional Debenture Covenants Included:	None
Other Covenants and Conditions Included:	See Schedule "C"

For value received, the Corporation promises to pay on demand to or to the order of the Lender the principal sum and interest as specified.

As security for the payment of all money payable hereunder and the performance of the covenants and conditions herein contained, the corporation grants, mortgages and charges, as applicable, to and in favour of the Lender:

- 2 -

- (a) as and by way of a fixed and specific mortgage and charge the specified parcel under the *Land Titles Act* and other lands and premises described in Schedule "A".
- (b) [intentionally deleted]
- (c) [intentionally deleted]
- (d) [intentionally deleted]
- (e) [intentionally deleted]
- (f) in accordance with Schedule "F".

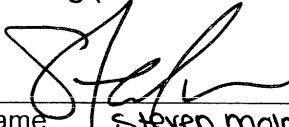
This debenture contains the covenants and conditions as specified.

- (a) [intentionally deleted]
- (b) Schedule "C" attached hereto.

Date: October 1<sup>st</sup>, 2020

In witness whereof the Corporation has executed this Debenture.

Trevali Mining (New Brunswick) Ltd.

Per:   
 Name: Steven Molnar  
 Title: President, Director

## SCHEDULE "A"

This is Schedule "A" to a Debenture between Trevali Mining (New Brunswick) Ltd, as Grantor, and Glencore Canada Corporation, as Lender, which debenture is dated the 1st day of October, 2020.

### **Apparent PID 50237924**

All that certain lot, piece or parcel of land situate, lying and being in the Parish of Colborne, County of Restigouche, Province of New Brunswick, lying East of Caribou Lake and being more particularly described as follows:

NOTE: Azimuths stated are referenced to the New Brunswick Provincial Co-ordinate System, with control derived from scaled map points from Map 210/09S.

Beginning at a standard survey marker set in concrete and shown as point 270 on a subdivision Plan titled "Department of Natural Resources and Energy Subdivision 93-7" as prepared by David Green, NBLs, dated September 10th, 1990 and filed in the Restigouche County Registry Office on November 24th, 1993 under Number 3255, said marker located near the southerly end of the dam creating Caribou Lake;

thence, in a northerly direction following along the upstream face of said dam and its prolongation to intersect with a yellow painted blazed line extended on an azimuth of 238° 40' 31" from a Survey Marker shown as point 321 on said filed plan;

thence, 58° 40' 31" to said Survey Marker (321);

thence, 341° 23' 23" a distance of 345.701 metres to a Survey Marker;

thence, 67° 41' 15" a distance of 102.271 metres to a Survey Marker set in concrete (332);

thence, 65° 37' 41" a distance of 863.048 metres to a Survey Marker set in concrete (360);

thence, 68° 45' 50" a distance of 133.715 metres to a Survey Marker;

thence, 142° 35' 16" a distance of 132.526 metres to a Survey Marker;

thence, 120° 26' 44" a distance of 328.463 metres to a Survey Marker;

thence, 143° 46' 20" a distance of 208.736 metres to a Survey Marker;

thence 136° 09' 20" a distance of 64.873 metres to a Survey Marker;

thence, 117° 29' 02" a distance of 39.667 metres to a Survey Marker (80);

thence 98° 32' 12" a distance of 42.634 metres to a Survey Marker;

thence, 86° 31' 42" a distance of 88.264 metres to a Survey Marker;

thence, 104° 21' 14" a distance of 250.151 metres to a Survey Marker;

thence, 131° 22' 35" a distance of 450.830 metres to a Survey Marker;

thence, 177° 34' 42" a distance of 172.762 metres to a Survey Marker;

thence, 176° 42' 48" a distance of 222.553 metres to a Survey Marker;

thence, 162° 18' 46" a distance of 248.426 metres to a Survey Marker (150);

thence, 161° 57' 28" a distance of 151.984 metres to a Survey Marker;

thence, 235° 13' 59" a distance of 359.964 metres to a Survey Marker;

thence, 254° 56' 19" a distance of 280.232 metres to a Survey Marker;

thence, 349° 17' 27" a distance of 261.035 metres to a Survey Marker;

thence, 329° 37' 30" a distance of 121.666 metres to a Survey Marker(200);

thence, 309° 55' 57" a distance of 90.787 metres to a Survey Marker;

thence, 80° 2' 41" a distance of 162.094 metres to a Survey Marker;

thence, 294° 02' 46" a distance of 194.630 metres to a Survey Marker;

thence, 266° 54' 49" a distance of 55.734 metres to a Survey Marker;

thence, 259° 48' 41" a distance of 500.044 metres to a Survey Marker (250);  
thence, 245° 15' 29" a distance of 683.676 metres to a Survey Marker;  
thence, 341° 23' 45" a distance of 229.739 metres to the Place of Beginning,

The hereinbefore described parcel of land is estimated to contain an area of 254.260 hectares, more or less. The said plan also filed in the records of the Minister of Natural Resources and Energy on October 28, 1993 as Number 293-1.

Apparent PID 50252766

All that certain lot, piece or parcel of land situate, lying and being in the Parish of Balmoral, Restigouche County and Province of New Brunswick, and being a portion of ungranted Crown Land situate at Portage Lakes, said lot being more particularly described as follows:

Being all that lot 96-2 as shown on a Subdivision Plan prepared by David G. Green, N.B.L.S., dated September 18, 1996, said Subdivision Plan was accepted and filed in the records of the Minister of Energy and Resource Development on May 20, 1997 under number 347-1.

The above described lot containing 128 hectares in area be it slightly more or less.

## SCHEDULE "C"

This is Schedule "C" to a Debenture between Trevali Mining (New Brunswick) Ltd, as Grantor, and Glencore Canada Corporation, as Lender, which debenture is dated the 1st day of October, 2020.

### 1. Definitions

1.1 In this Debenture, the following terms shall have the meanings indicated

- (a) "Facility Agreement" means the facility agreement dated as of August 6, 2020 between Trevali Mining Corporation and the Lender, as the same may be amended, restated, supplemented, replaced or otherwise modified from time to time, together with all Schedules thereto and any other document, instrument or agreement now or hereafter entered into in connection with the Facility Agreement;
- (b) "Grantor" means Trevali Mining (New Brunswick) Ltd.;
- (c) "Improvements" means all buildings, structures and other improvements now owned or hereafter acquired by the Grantor and now or at any time situated, placed or constructed upon the Land;
- (d) "Intercreditor Agreement" means the intercreditor agreement dated September 30<sup>th</sup>, 2020 between, *inter alios*, The Bank of Nova Scotia, as first lien creditor agent, Glencore Canada Corporation, as second lien creditor, Scotiabank Peru S.A.A., as Peruvian collateral agent, Guinea Fowl Investments Fifty Eight (Proprietary) Limited, as Namibian debt guarantor and Trevali Mining Corporation, as borrower;
- (e) "Interest Rate" means an annual rate equal to the Applicable Rate in effect at the time an obligation to pay arose, which interest shall be calculated and compounded monthly and payable on demand;
- (f) "Land" means the fee or leasehold interest in the real property subject to the security interest of this Debenture;
- (g) "Lender" means Glencore Canada Corporation;
- (h) "Mining Properties" means the specified parcels, leases and mining rights specified in Schedule "F-1";
- (i) "Obligations" shall have the meaning assigned under Section 2; and
- (j) "Secured Property" means all of the property and assets mortgaged, charged, pledged, assigned, transferred and set over pursuant to this Debenture including without limitation all of the properties and interests described in Schedule "F".

1.2 Capitalized terms used but not otherwise defined in this Debenture shall have the meaning assigned under the Facility Agreement. Unless otherwise defined in this Debenture or in the Facility Agreement, terms used in this Debenture that are defined in the *Personal Property Security Act* (New Brunswick) shall have the meanings assigned under the

*Personal Property Security Act (New Brunswick)*. Any reference herein to any contract, agreement, lease or instrument shall mean such contract, agreement, lease or instrument as amended, modified, supplemented or restated from time to time.

## 2. Secured Obligations

- 2.1 This Debenture secures the payment and performance by the Grantor to the Lender of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Grantor, in any currency, pursuant to the Credit Documents to which it is a party, as the same may be amended, supplemented, restated, extended, renewed, or superseded from time to time, whether arising from dealings between the Grantor and the Lender or from any other dealings or proceedings by which the Lender may be or become in any manner whatsoever a creditor of the Grantor, as well as all legal and other costs, charges and expenses payable by the Grantor pursuant to the Credit Documents to which it is a party, and the performance of all obligations of the Grantor contained in the Credit Documents to which it is a party (all of the foregoing being herein collectively referred to as the "Obligations").

## 3. Exception as to Leasehold Interest and Restricted Assets

- 3.1 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Grantor, as lessee, and forming part of the Secured Property is hereby excepted out of the mortgages, charges, subleases, assignments and security interests hereby created or granted or any instrument in implementations hereof. As further security for the payment of the Obligations, the Grantor agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Debenture and to assign and dispose thereof in such manner as the Lender shall by notice in writing, for such purpose, direct, subject to the terms of the Intercreditor Agreement. Upon any sale of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser thereof or any other person, firm or corporation, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person, firm or corporation as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Grantor and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

- 3.2 To the extent that the creation of the security would constitute a breach or permit the acceleration or termination of any leasehold interest of the Grantor (each, a "Restricted Asset"), the security shall not attach to the Restricted Asset but such Grantor shall hold its interest in the Restricted Asset in trust for the Lender, and shall assign such Restricted Asset to the Lender or as it may direct immediately upon obtaining the consent of the other party.

## 4. Registration

- 4.1 The Grantor shall, at its sole expense, take all actions that are reasonably requested by the Lender to confirm the Lender holds duly created, enforceable and perfected second priority Liens (and first priority Liens in accordance with the terms of the Intercreditor Agreement upon discharge of the First Lien Obligations (as defined in the Intercreditor Agreement)) upon the Secured Property (subject to Permitted Liens). Notwithstanding the

foregoing, subject to the terms of the Facility Agreement, the Lender shall and without notice to the Grantor cause this Debenture or notice thereof to be registered or filed in any place or office where the Lender or its counsel may deem necessary.

5. Enforceability

- 5.1 The security in the Secured Assets hereby constituted shall immediately become enforceable by the Lender on or after the Enforcement Date without any notice of any kind which notice is expressly waived by the Grantor.

6. Rights Until Demand

- 6.1 Subject to the terms of the Facility Agreement, prior to the Enforcement Date, the Grantor may sell its inventory, collect its accounts and generally deal with its other assets, each in the ordinary course of its business. On and after the Enforcement Date, the Grantor's entitlement to sell their inventory, collect their accounts and deal with their other assets shall cease, and the proceeds from any inventory, accounts or other assets received by the Grantor thereafter shall be held by such Grantor as agent and in trust for the Lender and shall be paid to the Lender immediately upon receipt, subject to the terms of the Intercreditor Agreement.

7. Title to Secured Property and Lien of Debenture.

- 7.1 The Grantor (i) either holds good and indefeasible title to the Secured Property, in fee simple, or holds a valid leasehold interest in the Secured Property, as applicable, free and clear of any liens, claims or interests, except the Permitted Liens, and (ii) has full power and lawful authority to encumber the Secured Property in the manner and form set forth in this Debenture. This Debenture, subject to the said consent, as applicable, creates valid, enforceable second priority liens and security interests against the Secured Property and valid, enforceable first priority liens and security interests against the Secured Property upon discharge of the First Lien Obligations (as defined in the Intercreditor Agreement).
- 7.2 The Grantor shall preserve and protect the lien and security interest of this Debenture. If any lien or security interest other than the Permitted Liens is asserted against any of the Secured Property, the Grantor shall promptly, and at its expense, (a) give the Lender a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Facility Agreement.

8. Payment and Performance.

- 8.1 The Grantor shall pay and perform the Obligations when due under the Credit Documents to which it is a party in full when they are required to be paid or performed.

9. Fixtures.

- 9.1 Subject to the terms of the Facility Agreement, the Grantor shall not, without the prior written consent of the Lender, permit any fixtures to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and



repair or, if removed permanently, is obsolete and is replaced by an article of equal or better suitability and value, owned by the Grantor subject to the liens and security interests of this Debenture and the Facility Agreement, and free and clear of any other lien or security interest except Permitted Liens.

10. Other Covenants.

10.1 All of the covenants of the Grantor contained in the Credit Documents to which it is a party, and all of the protections, rights and indemnities afforded to the Lender under the Facility Agreement, are incorporated herein by reference.

11. Expropriation Awards and Insurance Proceeds.

11.1 The Grantor, immediately upon obtaining knowledge of the institution of any proceedings for the expropriation of the Secured Property or any portion thereof, will notify the Lender. Subject to the terms of the Facility Agreement, the Lender may participate in any such proceedings and the Grantor from time to time will deliver to the Lender all instruments requested by it as advised necessary by counsel to permit such participation. The Grantor assigns all awards and compensation to which it is entitled for any condemnation or other taking, or any purchase in lieu thereof, to the Lender and authorizes the Lender to collect and receive such awards and compensation and to give proper receipts therefor, subject to the terms of the Facility Agreement. The Grantor hereby waives all rights to such awards and compensation described in the foregoing sentence. The Grantor shall make, execute and deliver any and all instruments requested for the purpose of confirming the assignment of the aforesaid awards and compensation to the Lender free and clear of any liens, charges or encumbrances of any kind or nature whatsoever.

11.2 All proceeds of any insurance policies insuring against loss or damage shall be dealt with by the Lender as more specifically provided for in the Facility Agreement.

12. Remedies

12.1 On and after the Enforcement Date, and subject to the terms of the Facility Agreement and the Intercreditor Agreement and the approval from the requisite government authorities, as required, upon and so long as the security constituted hereby is enforceable, the Lender pursuant to the terms of the Credit Documents, may realize thereupon and enforce its rights in the following manner:

- (a) commence legal action to enforce payment or performance of the Obligations by the Grantor to the Lender;
- (b) require the Grantor to disclose to the Lender the location or locations of the Secured Property and to assemble, at the Grantor's expense, tangible personal property which composes part of the Secured Property at a place or places designated by the Lender and the Grantor agrees to cooperate, in each case, as required by the Lender;
- (c) immediately take possession of all of the Secured Property or any part or parts thereof by action, distress or otherwise, with power, among other things, to exclude the Grantor, to preserve and maintain the Secured Property and make additions and replacements thereto, to collect or receive rents, income and profits of all kinds

(including taking proceedings in the name of the Grantor for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Secured Property (payment of which may be necessary to preserve or protect the Secured Property), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Obligations and shall bear interest at the Interest Rate;

- (d) carry on or concur in the carrying on of all or any part of the business of the Grantor and in connection therewith, to employ and discharge any person on the terms and at the remuneration the Lender considers proper;
- (e) to the exclusion of all others including the Grantor, enter upon, occupy and use all premises of or occupied or used by the Grantor and use any of the property (which shall include fixtures) of the Grantor for such time and such purposes as the Lender sees fit. The Lender shall not be liable to the Grantor for any neglect in so doing or in respect of any rent, costs, charges, depreciation or damages in connection therewith except in case of gross negligence or wilful misconduct of the Lender;
- (f) pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Secured Property; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Obligations and shall bear interest at the Interest Rate;
- (g) take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Secured Property;
- (h) file proofs of claim and other documents to establish its claim in any proceedings relative to the Grantor;
- (i) operate, manage, repair, alter and extend the Secured Property and continue with the construction and development of any or all projects being undertaken by the Grantor on the Secured Property with such variations, additions or deletions thereto as the Lender may approve and repair, process, complete, modify or otherwise deal with the Secured Property and prepare for the disposition of the Secured Property, whether on the premises of the Grantor or otherwise;
- (j) with or without taking possession of all or any part of the Secured Property and at the Grantor's expense, take any action or proceedings to observe or perform or cause to be observed or performed any covenant, agreement, proviso or stipulation relating to any of the Secured Property, when and to the extent the Lender deems advisable;
- (k) with or without taking possession of all or any part of the Secured Property, sell, lease or otherwise dispose of the whole or any part of the Secured Property, as agent for the Grantor and not the Lender, and in exercising the foregoing power, the Lender may, in such manner and on such terms as the Lender considers commercially reasonable;

- (l) sell, lease, effect an assignment of lease, sublet or otherwise dispose of the whole or any part of the Secured Property by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Grantor) or otherwise, with such notice, advertisement or other formality as is required by law;
- (m) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Secured Property and give receipts for the purchase money, and 'any such sale once effected shall be a perpetual bar, both at law and in equity, to the Grantor and all those claiming an interest in the Secured Property by, from, through or under the Grantor making any claim against the purchaser of the Secured Property;
- (n) grant, rescind, vary or complete any contract for sale, lease, assignment of lease, sublet, or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Secured Property, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related Grantor in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
- (o) make any stipulation as to title or conveyance or commencement of title;
- (p) re-sell or re-lease, or effect an assignment of lease or sublet without being answerable for any loss occasioned thereby;
- (q) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Debenture, and to exchange any part or parts of the Secured Property for any other property suitable for the purpose of the Lender on such terms as the Lender considers commercially reasonable based on the advice of counsel, either with or without payment of money for equality or exchange or otherwise;
- (r) to borrow or raise money on the security of the Secured Property or any part thereof in priority to this Debenture or otherwise, for the purpose of the maintenance, preservation or protection of the Secured Property or any part thereof or for carrying on all or any part of the business of the Grantor relating to the Secured Property;
- (s) where the Secured Property has been disposed of by the Lender as provided in subsection (k) above, commence legal action against the Grantor for the deficiency between the aggregate of the principal and interest owing on this Debenture and all other monies and liabilities secured hereby (including costs and expenses incurred in connection with such disposition) and the proceeds of any such disposition;
- (t) take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Debenture includes an interim receiver, a receiver, a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Secured Property;

- (u) by instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Secured Property or of any part thereof and may remove any Receiver so appointed and appoint another in his stead; and the following shall apply in respect of any such Receiver so appointed:
  - (i) the remuneration of the Receiver shall be entitled to be deducted out of the revenue from the Secured Property or the proceeds thereof;
  - (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the Lender or attorney of the Grantor for all purposes and the Lender shall not be in any way responsible for any actions, of any Receiver, and the Grantor hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, wilful misconduct or fraud;
  - (iii) the appointment of the Receiver by the Lender shall not incur or create any liability on the part of the Lender to the Receiver in any respect and such appointment or anything which may be done by the Receiver or the removal of the Receiver or the termination of any such Receivership shall not have the effect of constituting the Lender a mortgagee in possession in respect of the Land or any part thereof;
  - (iv) and for the purposes above, the Grantor hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Grantor and have the same effect as if such deeds were executed by the Grantor) and to affix the Grantor's respective seal, if necessary, or a duplicate thereof to any of the same;
- (v) on its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Grantor from and after the security hereby constituted becomes enforceable, shall be held by the Grantor in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Grantor and shall, at the request of the Lender be turned over to the Lender not later than the next business day following the day of their receipt; and
- (w) exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Debenture authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Debenture.

Such remedies may be exercised from time to time separately or in combination. Nothing in this Debenture shall curtail or limit the remedies of the Lender as permitted by any law or statute to a mortgagee or creditor, all such remedies being in addition to

and not in substitution for any other rights or remedies of the Lender howsoever created.

13. Powers of Receiver and Application of Proceeds

13.1 A Receiver appointed in accordance with subsection 12.1(u) shall have the power to exercise and be vested with, all the powers and discretions of the Lender under this Debenture and the Credit Documents.

13.2 The net revenues of the business of the Grantor and the net proceeds of any sale, lease or other disposition of the Secured Property shall be applied by the Receiver, when realizing and enforcing the rights of the Lender in accordance with the terms of this Debenture, subject to the claims of all creditors ranking in priority to this Debenture, in payment pursuant to the terms of the Facility Agreement.

14. Limitation of Liability

14.1 The Lender shall not be liable by reason of any entry into or taking possession of any of the Secured Property hereby charged or intended so to be or any part thereof, to account as mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or any act or omission for which a secured party in possession might be liable, unless the result of gross negligence, wilful misconduct or fraud. The Lender shall not, by virtue of these presents, be deemed to be a mortgagee in possession of the Secured Property. The Lender shall not be liable or accountable for any failure to exercise its remedies, take possession of, seize, collect, realize, sell, lease or otherwise dispose of or obtain payment for the Secured Property and shall not be bound to institute proceedings for such purposes or for the purpose of preserving any rights, remedies or powers of the Lender, the Grantor or any other person in respect of same. The Grantor hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Grantor or any person claiming through or under the Grantor by reason or as a result of anything done or omitted to be done, as the case may be, by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this Debenture, unless such claim be the result of gross negligence, wilful misconduct or fraud. This Section shall survive the discharge or other termination of this Debenture and the Credit Documents.

15. Extension of Time/Forbearance

15.1 Subject to the terms of the Facility Agreement, the Lender may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release the Secured Property to third parties and otherwise deal with the Grantor's guarantors or sureties and others and with the Secured Property as the Lender may see fit without prejudice to the liability of the Grantor to the Lender or its rights, remedies and powers under this Debenture. No extension of time, forbearance, indulgence or other accommodation now, previously or hereafter given by the Lender to the Grantor shall operate as a waiver, alteration or amendment of the rights of the Lender or to otherwise preclude the Lender from enforcing such rights.

16. Power of Attorney

16.1 The Grantor hereby irrevocably constitutes and appoints each officer or director of the Lender from time to time, or of any Receiver appointed (as agent of such Grantor) as provided for in this Debenture, as the true and lawful attorney of the Grantor with full power of substitution in the name of such Grantor to do, at any time that an Event of Default has occurred and is continuing, all such acts and things and to execute and deliver all such deeds, transfers, leases, contracts, agreements and other documents or instruments on its behalf and in its place (and the same shall bind such Grantor and have the same effect as if such documents were executed by such Grantor) and with the right to use the name of such Grantor, whenever and wherever it may be deemed necessary or expedient in the sole discretion of the Lender in connection with carrying out the provisions of this Debenture or the exercise of the rights and remedies set forth in this Debenture. Without limiting the generality of the foregoing, the Lender is authorized to sign any financing statements on behalf of the Grantor pursuant to the power of attorney hereby constituted. The Grantor hereby ratifies and agrees to ratify all acts of any such attorney taken or done in accordance with the terms hereof. The Grantor hereby declares that the irrevocable power of attorney granted hereby, being coupled with an interest in favour of the Lender, is given for valuable consideration and shall remain in full force and effect until this Debenture is discharged in accordance with the terms of this Debenture.

17. Default Under Other Encumbrances

17.1 Any amount paid by the Lender after the occurrence of a default on account of monies payable under any encumbrance upon the Secured Property or any part thereof shall:

- (a) be added to the Obligations and constitute a charge upon the Secured Property;
- (b) bear interest at the Interest Rate; and
- (c) be repaid by the Grantor to the Lender on demand.

18. Judgment

18.1 Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Grantor to perform the Obligations nor shall such operate as a merger of any covenant or affect the right of the Lender to receive interest at the Interest Rate, and any judgment shall bear interest at such rate.

19. Expenses

19.1 The Grantor shall pay the Lender all reasonable costs, charges and expenses as provided in the Facility Agreement. The total of the subject amounts so payable by the Grantor (including applicable interest as set out in the Facility Agreement) shall be added to the Obligations and shall be secured by this Debenture.

20. After Acquired Property

20.1 The Grantor covenants and agrees that if and to the extent that any of its right, title, estate and interest in any of the Secured Property is not acquired until after delivery of this Debenture, this Debenture shall nonetheless apply thereto and the security interests,

mortgages, charges, pledges and assignments of the Lender hereby created shall attach to such Secured Property at the same time as the Grantor acquire rights therein, without the necessity of any further mortgage, charge, pledge, assignment or assurance, and thereafter the security interests, mortgages, charges, pledges and assignments created hereby in respect of such Secured Property shall be absolute, fixed and specific.

21. Attachment

- 21.1 The Grantor hereby acknowledges and agrees that there is no agreement between the parties hereto, express or implied, to postpone the attachment of the security interests, mortgages, charges, pledges and assignments created hereby in the Secured Property.

22. Claims Under this Debenture

- 22.1 The Lender shall not, at any time, claim payment from the Grantor under this Debenture (whether principal, interest or both) in an amount greater than the amount of indebtedness forming part of the Obligations at such time. Notwithstanding that this Debenture is stated to be payable on demand, no demand shall be made under this Debenture unless demand is concurrently being made or has been made for payment of indebtedness forming part of the Obligations in an amount not less than the amount demanded under this Debenture.

23. Satisfaction of Interest Payment Obligations

- 23.1 Despite any other provision of this Debenture and subject to the terms of the Facility Agreement, payment by the Grantor to the Lender of interest on all indebtedness comprising or forming part of the Obligations at the then current rate at which such indebtedness bears interest for any period of time shall constitute satisfaction of interest payable pursuant to this Debenture for the equivalent period of time.

24. Severability

- 24.1 If any term, covenant, obligation or agreement contained in this Debenture, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Debenture or the application of such term, covenant, obligation or agreement to persons or circumstances other than those held to be invalid or unenforceable, shall not be affected thereby and each term, covenant, obligation or agreement herein contained shall be separately valid and enforceable to the fullest extent permitted by law.

25. Further Assurances

- 25.1 The Grantor hereby covenants and agrees that it will at all times, at its own cost and expense, do execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, mortgages, charges, assignments or assurances in law, in each case consistent with the terms of this Debenture, for the better mortgaging, charging, pledging, securing and assigning unto the Lender the property and assets hereby mortgaged, charged, pledged, secured or assigned or intended so to be or which the Grantor may hereafter become bound to mortgage, charge, pledge, grant a security interest in or assign in favour of the Lender and for the better accomplishing, effectuating and perfecting of this Debenture, including, without limitation, such as may be required in order to register or file this Debenture or

perfect the registration of this Debenture, in its discretion considers that the same or notice of the same ought to be registered or filed, or in the event of any sale of the whole or any part of the Secured Property by the Lender or the Receiver or under judicial proceedings, such deeds, assurances, conveyances and receipts as may be necessary to transfer good title to the Secured Property to the purchaser thereof.

26. Consents

- 26.1 Nothing herein shall constitute an assignment of any agreement, right, franchise, license or permit to which the Grantor is a party or of which the Grantor has the benefit (the “contractual rights”), to the extent that the creation of the security interest therein would constitute a breach of the terms of or permit any Person to terminate the contractual rights or otherwise would be in contravention of any applicable law, but shall (unless and to the extent such contractual rights contain an enforceable prohibition against the creation of a security interest in accounts or the creation of a security interest in accounts is otherwise prohibited by applicable law), include all accounts arising thereunder or related thereto and shall, in any event, extend to the proceeds thereof. To the extent that the security interest does not extend to any contractual rights or any Account arising thereunder or related thereto, the Grantor shall hold its interest therein in trust for the Lender, and shall assign such contractual rights or any Account arising thereunder or related thereto to the Lender or as it may direct immediately upon obtaining the consent of the other party. To the extent that the holding in trust of the Grantor’s interests in any contractual rights or any Account arising thereunder or related thereto, as provided in the preceding sentence, would constitute a breach or permit the termination of the contractual rights, the security shall not include such contractual rights until such time as the third party or parties which would have the right to so declare a breach or terminate such interest shall have granted its or their consent to the creation of the security over such interest and the Grantor shall, subject to, and pursuant to, the express provisions of the Facility Agreement, use commercially reasonable efforts to obtain the appropriate consents to the attachment of the said security interest in any such contractual rights or any Accounts arising thereunder or related thereto and shall grant a security interest in such contractual rights or any Accounts arising thereunder or related thereto to the Lender forthwith upon obtaining the appropriate consents to the attachment of the said security interest.

27. Statutory Waivers

- 27.1 To the fullest extent permitted by law, the Grantor waives all of the rights, benefits and protections given by the provisions of any existing or future statute which imposes limitations upon the powers, rights or remedies of the Lender or upon the methods of realization of security, including any seize or sue or anti-deficiency statute or any similar provisions of any other statute.

28. Provisions Reasonable

- 28.1 The Grantor acknowledges that the provisions of this Debenture and, in particular, those respecting rights, remedies and powers of the Lender and any Receiver which may be exercised against the Grantor, its business and any Secured Property upon the security hereby constituted becoming enforceable, are commercially reasonable and not manifestly unreasonable.



29. Notices

29.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:

(a) if to Trevali Mining (New Brunswick) Ltd., at:  
c/o Trevali Mining Corporation  
Suite 2300 - 1177 West Hastings Street  
Vancouver, BC V6E 2K3

Attention: Steven Molnar  
Phone: 1-778-655-6068

Email: smolnar@trevali.com

(b) if to the Lender, at:

Glencore Canada Corporation  
100 King Street West  
Suite 6900, P.O. Box 403  
Toronto, ON M5X 1E3

to the care of:

Glencore International AG  
Baarer mattstrasse 3  
P.O. Box 1363  
Baar 6341  
Switzerland

Attention: General Counsel  
Email: general.counsel@glencore.com

Attention: Carlos Francisco Fernandez  
Email: Carlos.Fernandez@glencore.com

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in New Brunswick, following the transmittal thereof.

30. Valid And Continuing Security

30.1 The security interests, mortgages, charges, pledges and assignments hereby created shall be and be deemed to be effective and shall have effect whether or not the moneys hereby secured or any part thereof shall have been advanced before or after or at the same time as the issue of this Debenture or before or after or upon the date of the

execution by the Grantor of this Debenture. This Debenture shall not be considered as satisfied or discharged by an intermediate payment of part of the Obligations but shall constitute and be a continuing security to the Lender for a current or running account and shall be in addition to and not in substitution for any other security now or hereafter held by the Lender. The Lender shall be under no obligation to marshal in favour of the Grantor any other security, lien or any moneys or other assets which they may be entitled to receive or may have a claim upon.

31. Receipt and Discharge

31.1 The Lender is the person entitled to receive the money payable hereunder and to give a discharge hereof. If the Grantor pays to the Lender the moneys secured by this Debenture and otherwise observes and performs the terms and conditions hereof and of the Credit Documents, then, subject to the terms of the Credit Documents, the Lender shall, at the request and expense of the Grantor, cancel and discharge the mortgages, charges, assignments and security interests of or created by this Debenture and execute and deliver to the Grantor such deeds and other instruments as shall be requisite therefor.

32. Indemnification

32.1 The Grantor shall indemnify and hold harmless the Lender as more particularly set out in the Facility Agreement.

33. No Set-Off

33.1 The Obligations secured by this Debenture shall be paid by the Grantor without regard to any set-off, counterclaim or equities between the Grantor and the Lender.

34. Paramountcy

34.1 In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Debenture and the Facility Agreement, the provisions of the Facility Agreement shall prevail and be paramount, and such provision of this Debenture shall be deemed to be amended to the extent only to eliminate any such conflict, inconsistency, ambiguity or difference. If, strictly in connection with the interpretation of this Debenture, there is any conflict or inconsistency between the provisions of this Debenture and the Facility Agreement and the provisions of the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall govern and prevail, and such provisions of this Debenture shall be deemed to be amended to the extent only to eliminate any such conflict, inconsistency, and ambiguity of difference. Any right or remedy in this Debenture which may be in addition to the rights and remedies contained in the Facility Agreement or in the Intercreditor Agreement shall not constitute a conflict, inconsistency, ambiguity or difference.

34.2 Notwithstanding anything hereinto the contrary, the Lien granted to the Lender pursuant to this Debenture and the exercise of any right or remedy by the Lender hereunder are subject to the provisions of the Intercreditor Agreement. If there is a conflict between the terms of the Intercreditor Agreement and this Debenture, the terms of the Intercreditor Agreement will control.

35. Rights of the Lender

35.1 All the rights, powers, authority, duties, responsibilities and protection of the Lender as set forth in the Facility Agreement are incorporated by reference and shall be binding upon the Grantor.

36. Governing Law

36.1 This Debenture shall be construed and enforceable under and in accordance with the laws of the Province of New Brunswick and the federal laws of Canada applicable therein. Each of the parties hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of New Brunswick for the purpose of any legal or equitable suit, action or proceeding in connection with this Debenture.

37. Modifications

37.1 No amendment, modification, consent or waiver by the Lender shall be effective unless made in writing and signed by an authorized officer of the Lender.

38. Binding Effect

38.1 This Debenture shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns. This Debenture may only be assigned to a successor Lender under the Facility Agreement.

39. Acknowledgement

39.1 The Grantor acknowledges having received a true copy of this Debenture.

## SCHEDULE "F"

This is Schedule "F" to a Debenture between Trevali Mining (New Brunswick) Ltd, as Grantor, and Glencore Canada Corporation, as Lender, which debenture is dated October 1st, 2020.

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### Security

As general and continuing collateral security for the performance of the Obligations, the Grantor hereby grants, assigns, pledges, mortgages and charges to and in favour of the Lender, as and by way of a second fixed mortgage, charge and security interest (and a first fixed mortgage, charge and security interest in accordance with the terms of the Intercreditor Agreement upon discharge of the First Lien Obligations (as defined in the Intercreditor Agreement)) to and in favour of the Lender, its successors and assigns, all right, title, estate and interest, present and future, in and to:

1. the Mining Properties;
2. all present and after acquired personal property of whatsoever nature and kind and wheresoever situated including, without limitation:
  - (a) all chattels, machinery, plant, equipment, vehicles, apparatus and fittings and other fixtures and all other personal property situated on the Mining Properties or used in connection therewith, which are owned by the Grantor;
  - (b) all licenses, easements, agreements, rights-of-way and rights in the nature of easements, in each case appurtenant or appertaining to the Mining Properties;
  - (c) all contracts, choses in action, intangibles and good will pertaining to the use, operation and ownership of the Mining Properties;
  - (d) all metals and minerals extracted from the Mining Properties;
  - (e) all other property or assets of whatsoever kind, nature or description pertaining to the Mining Properties;
  - (f) all money maintained in any deposit account in the Grantor's name with any financial institution and all certificates, instruments and other writings, if any, from time to time representing, evidencing or deposited into such accounts, and all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the foregoing;
3. all other present and future mineral exploration properties and rights; and
4. all proceeds in any form of personal property derived directly or indirectly from any of the foregoing including all insurance proceeds relating to any of the foregoing and including all proceeds of such proceeds.

**SCHEDULE “F-1”**

This is Schedule “F-1” to a Debenture between Trevali Mining (New Brunswick) Ltd, as Grantor, and Glencore Canada Corporation, as Lender, which debenture is dated October 1st, 2020.

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5. Mining Properties

5.1 The Mining Properties consist of:

- (a) Mining Lease No. ML-246 and Mining Lease No. ML-255;
- (b) Industrial Surface Lease No. SIML 2271 (also referred to as Crown Lands Lease #415060027) over the lands identified as apparent PID 50237924 and described in Schedule “A”;
- (c) the freehold parcel of real estate identified by Property Identification Number 50072032;
- (d) all mineral claims including Mineral Claim Group 1773 — Woodside Brook representing thirty eight (38) mining claims and Mineral Claim Group 7403 — Restigouche representing six (6) mining claims;
- (e) the Industrial Surface Lease referred to as Crown Lands Lease #415040158 over the lands identified as apparent PID 50252766 and described in Schedule “A”; and
- (f) all cash security deposits relating to any of the foregoing held by the Minister of Energy and Mines of New Brunswick, the Minister of the Environment of New Brunswick, and any other branch or agency of the government of New Brunswick.

## Form 45

## AFFIDAVIT OF CORPORATE EXECUTION

*Land Titles Act, S.N.B. 1981, c-L-1.1, s.55**Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2*

Deponent: Steven Molnar  
 Address: 1-1209 WOODLAND DR.  
VANCOUVER, BC  
VSL 352

Office Held by Deponent: President, Director  
 Corporation: Trevali Mining (New Brunswick) Ltd.  
 Place of Execution: Vancouver, British Columbia

Date of Execution: September 23, 2020

I, the deponent, make oath and say:

1. That I hold the office specified above in the Corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me as the officer duly authorized to execute the instrument on behalf of the Corporation;
3. That the seal of the Corporation was affixed to the instrument by order of the Board of Directors of the Corporation;
4. That the instrument was executed at the place and on the date specified above; and
5. That the ownership of a share of the Corporation does not entitled the owner thereof to occupy the parcel described in the attached instrument as a marital home.

SWORN TO at Vancouver, BC )

on the 23<sup>rd</sup> day of September )

2020, before me: )

  
\_\_\_\_\_ )

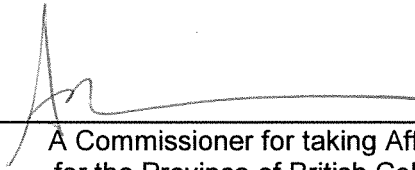
NOTARY PUBLIC )

  
\_\_\_\_\_

[affix seal]

**SARAH C. MANFOLD**  
*Barrister & Solicitor*  
**BLAKE, CASSELS & GRAYDON LLP**  
Suite 2600, Three Bentall Centre  
595 Burrard St., P.O. Box 49314  
Vancouver, B.C. V7X 1L3  
(604) 631-4163

This is **Exhibit "C"** referred to in the Affidavit #1 of Katerina Doumakis made before me at Vancouver, British Columbia, on this 4<sup>th</sup> day of January, 2023.

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a horizontal line that extends to the right.

---

A Commissioner for taking Affidavits  
for the Province of British Columbia



**TREVALI MINING CORPORATION**  
as Borrower

and

**GLENCORE CANADA CORPORATION**  
as Lender

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**FACILITY AGREEMENT**

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**Dated as of August 6, 2020**

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**FACILITY AGREEMENT** dated as of August 6, 2020 between Trevali Mining Corporation, a corporation existing under the laws of British Columbia (together with its successors and permitted assigns, the “**Borrower**”) and Glencore Canada Corporation, as Lender.

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

## **ARTICLE 1 INTERPRETATION**

### **1.1 Defined Terms**

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

“\$” denotes U.S. Dollars.

“**Accommodation**” means any extension of credit by the Lender to the Borrower under this agreement including, for greater certainty, the extension of credit by way of a Loan.

“**Acquisition**” means:

- (a) if the acquisition is a share purchase, the Borrower acquires beneficial or legal control of Shares representing more than 50% of the ordinary voting power for the election of directors or other governing position (if no board of directors) or otherwise shall Control the entity being acquired immediately following the completion of such acquisition (but not before); or
- (b) if the acquisition is an asset purchase, all or substantially all of the assets of the vendor (or of a division or unit of the vendor) are being acquired.

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

“**Aggregate Monthly Price**” means with respect to any day during the Delivery Period, the Benchmark TC *less the* Monthly Spot TC for zinc concentrate determined for the calendar month preceding such day, provided that if the Monthly

Spot TC is greater than the Benchmark TC, the Aggregate Monthly Price shall be deemed to be zero.

“**Anti-Corruption Laws**” means all laws, rules, and regulations having force of law of any jurisdiction applicable to the Companies from time to time concerning or relating to bribery or corruption, including without limitation the *Corruption of Foreign Public Officials Act* (Canada), the *U.S. Foreign Corrupt Practices Act*, and the *U.K. Bribery Act 2010*.

“**Anti-Money Laundering Legislation**” means (as the context requires) (i) Part II.1 of the *Criminal Code* (Canada) and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), including any guidelines or orders thereunder or (ii) any other applicable anti-money laundering, anti-terrorist financing and economic sanction laws of Canada or any other applicable jurisdiction, in each case having force of law.

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

“**Applicable Law**” means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgement, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, request, guideline or directive; or (d) consent or approval of any Official Body, in each case, having the force of law and binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person.

“**Applicable Monthly Tonnage**” means, in respect of each calendar month during the Delivery Period, each of the relevant total Perkoa Rosh Pinah Tonnages or the total Santander Tonnages, as applicable, under each Offtake Contract delivered in such calendar month in respect of which a Drawdown Amount is being calculated under this agreement, as evidenced by the bill of lading for the Perkoa Rosh Pinah Tonnages and the Perubar warehouse certificate for the Santander Tonnages.

“**Applicable Prepayment Amount**” means, (i) with respect to any Asset Disposition Prepayment Trigger Event, an amount equal to the gross cash proceeds realized from any subject Disposition, (ii) with respect to any Excess Cash Flow Prepayment Trigger Event, an amount equal to 50% of CFADS for the relevant Fiscal Quarter, (iii) with respect to any Insurance Prepayment Trigger Event, an amount equal to the gross cash proceeds in excess of the amount stipulated therein received by or on behalf of an Obligor in respect of such Prepayment Trigger Event and (iv) with respect to any Change of Control Prepayment Trigger Event, an amount equal to all Secured Obligations outstanding under the Credit Documents at the time of such Change of Control, less, in the case of any Asset Disposition Trigger Event or Insurance Prepayment Trigger Event, the sum of:

- (a) the amount, if any of all Taxes paid or estimated to be payable by or on behalf of the relevant Company in connection with any such Prepayment Trigger Event; and
- (b) reasonable and customary fees, commissions, expenses, issuance costs, discounts and other costs paid by or on behalf of the relevant Company in connection with such Prepayment Trigger Event.

“**Applicable Rate**” means the aggregate of:

- (i) the applicable interest rate margin or fee rate, as the case may be, expressed as a percentage per annum as set forth in the table in Schedule H hereto plus,
- (ii) at all times during the continuance of an Event of Default, 2% per annum (in order to compensate the Lender for the additional risk), provided that (x) changes to the Applicable Rate on account of an Event of Default shall be effective immediately upon the occurrence of such Event of Default and for the duration thereof and (y) changes in the Applicable Rate shall apply, as at the effective dates of such changes, to Accommodations outstanding on such dates.

“**Approvals**” means all material authorizations, consents, orders and other approvals having force of law required to be obtained from any person, including any Official Body, in connection with the completion of the transactions contemplated by this agreement or for the construction, development, operation and reclamation of any Material Mine.

“**Approved Fund**” means any Person (other than a natural Person) that (a) is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business, and (b) is administered or managed by the Lender, an Affiliate of the Lender or an entity or an affiliate of an entity that administers or manages the Lender.

“**Asset Disposition Prepayment Trigger Event**” means any Disposition of all or a material portion of a Material Mine and/or the Shares of a Company that owns, in whole or in part, a Material Mine to the extent any such sale is permitted pursuant to this Agreement or is otherwise consented to by the Lender in accordance with Section 12.3.

“**Availability Period**” means the period from the Initial Closing Date until the final Provisional Invoice Payment Date in respect of the Applicable Monthly Tonnage of no later than December 2020.

“**Available Credit**” means, during the Availability Period, with respect to the Credit Facility, the amount, if any, by which the Credit Limit at such time exceeds the amount of credit outstanding under the Credit Facility at such time.



“**Banking Day**” means any day of the year, other than a Saturday, Sunday or other day on which banks are required or authorized to close in Toronto, Ontario and where used in the context of (i) an advance in U.S. Dollars, is also a day on which banks are not required or authorized to close in New York, New York; and (ii) the Loan, is also a day on which banks are not required or authorized to close in New York, New York and on which dealings are carried on in the London interbank market in respect of transactions in U.S. Dollars.

“**Basel III**” means the comprehensive set of voluntary reform measures, developed by the Basel Committee on Banking Supervision, which establishes a regulatory framework on bank capital adequacy, stress testing and market liquidity risk.

“**Benchmark TC**” means \$299.75 for the year 2020.

“**Borrower**” shall have the meaning ascribed thereto in the first recital to this agreement.

“**Canadian Pension Plan**” means a Plan established, maintained or contributed to by any Obligor for such Obligor’s Canadian employees or former employees and that is a “registered pension plan” as such term is defined in the Tax Act, other than a pension plan or arrangement administered by an Official Body.

“**Capital Lease**” means a lease that would, in accordance with GAAP, be treated as a balance sheet liability.

“**Capital Reorganization**” means any change in the capital structure of the issued and outstanding Shares of an Obligor and/or Subject Entity.

“**Caribou Mine**” means the zinc, lead, silver, copper and gold project located approximately 50-km west of Bathurst, New Brunswick involving the exploration and exploitation of a mining license and the operation of the Caribou mill.

“**Cash**” means cash and Cash Equivalents of the Borrower determined on a consolidated basis.

“**Cash Equivalents**” means (i) securities issued or directly and fully guaranteed or insured by the United States (or any state) or Canadian (or any provincial) governments or any agency or instrumentality thereof with maturities of 12 months or less from the date of acquisition, (ii) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank incorporated in the United States or Canada having capital and surplus in excess of \$500,000,000 (or the Exchange Equivalent thereof), (iii) repurchase obligations for underlying securities of the types described in clauses (i) and (ii) entered into with any financial institution meeting the qualifications specified in clause (ii) above, (iv) commercial paper rated A1 or the equivalent thereof by Moody’s or S&P and in each case maturing within one year after the date of acquisition, (v) investment funds

investing at least 95% of their assets in securities of the types described in clauses (i) to (iv) above and (vi) readily marketable direct obligations issued by any state of the United States or province of Canada or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 12 months or less from the date of acquisition.

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

**“CFADS”** means, for any particular Fiscal Quarter, an amount equal to the Borrower's consolidated revenue (including, without limitation, from the sale of inventory, product or produced or unprocessed minerals, metals or other mineral or extracted materials) during such Fiscal Quarter (plus interest income and any amounts received from business interruption or comparable insurance policies):

- (a) plus or minus, as applicable, payments made or received by the Borrower on a consolidated basis with respect to its hedging activities under Risk Management Agreements (as defined under the Senior Credit Agreement); and
- (b) plus or minus, as applicable, changes in the Borrower's consolidated working capital during such Fiscal Quarter; and
- (c) minus:
  - (i) all Operating Expenditures during such Fiscal Quarter;
  - (ii) all Sustaining Capital expenditures during such Fiscal Quarter;
  - (iii) all Taxes paid in cash by the Obligors on a consolidated basis during such Fiscal Quarter;
  - (iv) royalties payable during such Fiscal Quarter;
  - (v) Interest Expenses and the aggregate of all scheduled principal payments on Indebtedness, in each case, during such Fiscal Quarter; and
  - (vi) restructuring expenses as set out in the Borrower's financial statements.

**“Change in Law”** means the occurrence, after the date of this agreement, of any of the following: (a) the adoption or taking effect of any Applicable Law, (b) any change in any Applicable Law or in the administration, interpretation or application thereof by any Official Body or (c) the making or issuance of any Applicable Law by any Official Body.

**“Change of Control”** means (a) one Person or more than one Person acting jointly and in concert (other than Glencore PLC and its Affiliates) acquires the power to, directly or indirectly, (i) vote more than 50% of the Shares in the Borrower; (ii) direct management, business or policies of the Borrower, whether through the ability to exercise voting power in accordance with the threshold set out in (i) or by contract the effect of which is substantially the same as the threshold set out in (i); or (iii) elect, or appoint, a majority of the directors of the Borrower or (b) any of the Guarantors ceases to be a direct or indirect wholly-owned Subsidiary of the Borrower.

**“Change of Control Prepayment Trigger Event”** means and shall be deemed to occur if a Change of Control occurs and, after the receipt of prior written notice of such impending Change of Control from the Borrower to the Lender at least 30 days prior to the occurrence of the same, the Lender has confirmed in writing 15 days in advance of such proposed Change of Control that prepayment of all Secured Obligations is required in connection therewith.

**“CIM Definition Standards”** means definition standards on mineral resources and reserves established by the Canadian Institute of Mining, Metallurgy and Petroleum, as updated from time to time.

**“Closing Certificate”** of a particular Obligor means a certificate of a senior officer of such Obligor, without personal liability, addressed to the Lender, in form and substance satisfactory to the Lender, acting reasonably, and certifying (a) the truth and correctness of attached copies of the articles of incorporation and by-laws of such Obligor (or the equivalent in the jurisdiction of formation of the Obligor) and the resolution of the board of directors of such Obligor (or the equivalent in the jurisdiction of formation of the Obligor) authorizing it to execute, deliver and perform its obligations under the Credit Documents to which it is a party, (b) specimen signatures of the individuals signing the Credit Documents on behalf of each Obligor, (c) names and titles of the officers and directors of such Obligor and (d) in the case of the Closing Certificate of the Borrower delivered on the Initial Closing Date, that no Default or Event of Default has occurred and is continuing or would arise immediately after or as a result of the initial drawdown under this agreement and there exists no judgment or injunction which enjoins the entering into of this agreement.

**“Companies”** means, collectively, the Borrower and all of its Subsidiaries and **“Company”** means any one of the Companies.

**“Compliance Certificate”** means a compliance certificate, in the form attached as Schedule B and signed by a senior financial officer of the Borrower without personal liability, evidencing compliance with the terms of this agreement.

**“Control”** when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through ownership of voting equity, by contract or otherwise (other than by way of security) and **“Controlled”** shall have a similar meaning.

“**Corporate Reorganization**” means any change in the legal existence of any Obligor or Subject Entity (other than a Capital Reorganization) by way of amalgamation, merger, winding up, dissolution, continuance or plan of arrangement, or similar proceeding or arrangement.

“**Credit Documents**” means this agreement, the Guarantees, the Security Documents, the Intercreditor Agreement, the most recently delivered Perfection Certificates (or updated version thereof), the Intercorporate Postponement and Subordination Agreement and all instruments, confidentiality agreements and other agreements executed and delivered by any one or more of the Obligors in favour of the Lender from time to time in connection with this agreement or any other Credit Document.

“**Credit Facility**” shall have the meaning ascribed thereto in Section 2.1.

“**Credit Facility Termination Date**” means the date on which all Secured Obligations of the Borrower under or in connection with the Credit Facility have been permanently paid in full and the Lender has no commitment to provide credit to the Borrower under or in connection with the Credit Facility.

“**Credit Limit**” means, at any particular time, \$20,000,000.

“**DB Pension Plan**” means (a) a Canadian Pension Plan with a “defined benefit provision” as such term is defined in the Tax Act, or (b) a Non-Canadian Pension Plan under which any defined benefits are payable.

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

“**Derivative Exposure**” in relation to any Person (the “**relevant party**”) and any counterparty of the relevant party at any time means the amount which would be payable by the relevant party to that counterparty, or by that counterparty to the relevant party, as the case may be, pursuant to all Risk Management Agreements (as defined under the Senior Credit Agreement) entered into between them and in effect at that time if the transactions governed thereby were to be terminated as the result of the early termination thereof. If the Derivative Exposure would be payable by the relevant party to the counterparty of the relevant party at the relevant time of determination, it is referred to herein as “**Out-of-the-Money Derivative Exposure**”.

“**Delivery Period**” means the period from July 1, 2020 until December 31, 2020.

“**Disposition**” shall mean any sale, Sale Leaseback, assignment, transfer, conveyance, lease, license or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb “**Dispose**” shall have a correlative meaning; for the avoidance of doubt, a return of capital by one Obligor to another Obligor shall not constitute a Disposition.

**“Distribution”** means:

- (a) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any shares in the capital of the Borrower or a Subject Entity, as the case may be, other than a dividend declared, paid or set aside for payment by the Borrower or a Subject Entity, as the case may be, which is payable in shares of such Borrower or Subject Entity;
- (b) the redemption, retraction, purchase, retirement or other acquisition, in whole or in part, of any shares in the capital of the Borrower or a Subject Entity, as the case may be, or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for shares in the capital of the Borrower or a Subject Entity, as the case may be, including options, warrants, conversion or exchange privileges and similar rights; and
- (c) the payment of interest or the repayment of principal with respect to any Indebtedness of the Borrower which is subordinated and/or postponed to the Secured Obligations.

**“Drawdown Amount”** means the amounts to be advanced by the Lender to the Borrower on each Drawdown Date in respect of each Offtake Contract and each Provisional Invoice Payment Date, which in each case shall be an amount equal to the relevant Applicable Monthly Tonnage for the particular calendar month under that Offtake Contract and such relevant Provisional Invoice Payment Date multiplied by the relevant Aggregate Monthly Price for such calendar month in respect of that Offtake Contract and Provisional Invoice Payment Date.

**“Drawdown Date”** shall have the meaning ascribed thereto in Section 4.1(a)(ii).

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

**“EBITDA”** means, for any particular Fiscal Quarter, Net Income for such Fiscal Quarter:

- (a) plus (to the extent otherwise deducted) income and mining tax expenses for such Fiscal Quarter;
- (b) plus (to the extent otherwise deducted) Interest Expenses for such Fiscal Quarter;
- (c) minus (to the extent otherwise included) Interest Income for such Fiscal Quarter;
- (d) plus (to the extent otherwise deducted) any extraordinary or unusual losses and unrealized losses for such Fiscal Quarter;
- (e) minus (to the extent otherwise included) any extraordinary or unusual gains and unrealized gains for such Fiscal Quarter;

- (f) plus (to the extent otherwise deducted) any loss against book value or reserves incurred by a Company on the disposal or abandonment of any business or asset (not being a disposal made in the ordinary course of business) during such Fiscal Quarter or any discontinued operations;
- (g) minus (to the extent otherwise included) any gain over book value or reserves incurred by a Company on the disposal or abandonment of any business or asset (not being a disposal made in the ordinary course of business) during such Fiscal Quarter or any discontinued operations;
- (h) plus (to the extent otherwise deducted) depreciation of fixed assets and amortization of goodwill or intangible assets during such Fiscal Quarter;
- (i) plus (to the extent otherwise deducted) depletion expense during such Fiscal Quarter;
- (j) plus (to the extent otherwise deducted) the amount of capitalized expenditures during such Fiscal Quarter;
- (k) plus (to the extent otherwise deducted) other non-cash expenses deducted in calculating Net Income, including non-cash stock expenses relating to stock-based compensation, and unrealized losses incurred in connection with Risk Management Agreements (as defined in the Senior Credit Agreement) during such Fiscal Quarter;
- (l) minus (to the extent otherwise included) any unrealized gains incurred in connection with Risk Management Agreements (as defined in the Senior Credit Agreement) during such Fiscal Quarter;
- (m) plus (to the extent otherwise deducted) any losses from operations held for sale and any foreign exchange losses during such Fiscal Quarter;
- (n) minus (to the extent otherwise included) any gains from operations held for sale and any foreign exchange gains during such Fiscal Quarter;
- (o) minus (to the extent otherwise included) any non-cash income and gains; and
- (p) plus (to the extent otherwise deducted) any other non-cash expenses and losses.

**“Eligible Assignee”** means (a) an Affiliate of the Lender, (b) an Approved Fund and (c) any other Person (other than a natural person), in each case, in respect of which the consent of the Borrower, as required by Section 13.5(b) has been obtained.

**“Employee Benefit Plan”** means any employee benefit plan maintained or contributed to by, or to which there is or may be an obligation to contribute by, any Obligor that is not a Pension Plan, including any profit sharing, savings,

supplemental retirement, retiring allowance, severance, deferred compensation, welfare, bonus, incentive compensation, phantom stock, supplementary unemployment benefit plan or arrangement and any life, health, dental and disability plan or arrangements in which the employees or former employees of any Obligor participate or are eligible to participate, in each case whether funded or unfunded, insured or self-insured, registered or unregistered, but excluding all stock option or stock purchase plans.

**“Enforcement Date”** means, (a) at all times prior to the Credit Facility Termination Date, the date on which the Lender notifies the Borrower, pursuant to Section 11.1, that all Indebtedness of the Borrower to the Lender hereunder has become immediately due and payable or on which such indebtedness automatically becomes due and payable pursuant to Section 11.1, whichever occurs first; or (b) on and at all times after the Credit Facility Termination Date, the date on which the Lender notifies an Obligor that all indebtedness of such Obligor to the Lender under the relevant Credit Document has become immediately due and payable or on which such indebtedness automatically becomes due and payable, whichever occurs first.

**“Environment”** means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

**“Environmental and Social Laws”** means any Applicable Law which relates to (A) the pollution or protection of the Environment, (B) the protection of occupational and public health and safety (C) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment including any Hazardous Materials, (D) the protection and empowerment of indigenous peoples, (E) the protection, restoration and promotion of cultural heritage or (F) resettlement or economic displacement of persons.

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

**“Equity”** means, at any particular time, the amount, expressed in U.S. Dollars, which would, in accordance with GAAP, be classified on the consolidated balance sheet of the Borrower at such time as shareholders’ equity of the Borrower.

**“Event of Default”** means the occurrence and continuance of any one of the events set forth in Section 11.1.

**“Excess Cash Flow Prepayment Trigger Event”** the twentieth Banking Day after the last day of a Fiscal Quarter in which the Borrower had positive CFADS.

**“Exchange Control Approval”** means the exchange control approval granted by the Bank of Namibia (initially on or before the Subsequent Closing Date and annually thereafter on or before the anniversary of such initial grant) in relation to the security in the form of guarantees and share pledges to be granted by, or in respect of, (i) Wilru, (ii) Rosh Pinah Base Metals and (iii) Rosh Pinah Mine Holdings.

**“Exchange Equivalent”** means, as of any date of determination, with reference to any amount expressed in one currency, the amount of another applicable currency required to purchase such amount in the first currency on such date either (i) in the case of any amount derived directly or indirectly from any financial statements of the Borrower, the exchange rate used to convert from one currency to another, as applicable, in the preparation of such financial statements, or (ii) in all other cases, rate of exchange quoted by the Bank of Canada on the Banking Day preceding the day as of which any determination of such rate is required to be made under the terms hereof, as (A) the 4:30 pm (Toronto time) spot rate for conversions of any currency into another currency or (B) if the Bank of Canada ceases to publish the rates referred in (A), any other exchange rate determined in good faith in the normal course of its business by the Lender and communicated to the Borrower from time to time.

**“Excluded Assets”** has the meaning ascribed to such term in Schedule R.

**“Excluded Subsidiaries”** means all Subsidiaries of the Borrower other than the Material Subsidiaries and the Subject Entities. As of the date of this agreement, the Borrower’s Excluded Subsidiaries shall consist of Trevali Mining (Maritimes) Ltd., Trevali Renewable Energy Inc. and Nantou Exploration S.A.

**“Excluded Taxes”** means, with respect to the Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any Credit Document, (a) taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), (A) by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or (B) by any jurisdiction as a result of a present or former connection between it and such jurisdiction other than a connection arising solely from any Credit Documents or any transaction contemplated thereby, or in which its applicable lending office is located, (b) any capital taxes and branch profits taxes or any similar tax imposed by any jurisdiction in which the Lender is located or conducts business, (c) [Reserved], and (d) any U.S. federal withholding taxes imposed under FATCA.

**“Facility Amount”** means the working capital facility established hereunder in the principal amount up to the Credit Limit.

**“Factoring Facility”** means, in respect of an Obligor or Subject Entity any transaction providing for the factoring, reverse factoring, sale, securitization or financing of receivables owing to or from such Obligor or Subject Entity.



“**FATCA**” shall mean (i) Sections 1471 through 1474 of the US Internal Revenue Code, (ii) any regulations promulgated thereunder, official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the US Internal Revenue Code, and (iii) any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing or any amended or successor version.

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

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

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

“**GLCR Limited**” means GLCR Limited, company with limited liability registered in accordance with the laws of the United Kingdom, with registration number 09400628.

“**Guarantees**” means the guarantee entered into or to be entered into by each Guarantor in favour of the Lender, each in form and substance satisfactory to the Lender and substantively equivalent to the guarantees in favour of the Senior Lenders, and pursuant to which such Obligor shall guarantee all of the Secured Obligations of each other Obligor and “**Guarantee**” means any one of the Guarantees.

“**Guarantors**” means, collectively, all present and future Material Subsidiaries.

“**Hazardous Materials**” means any Waste or other substance that is hazardous, radioactive, toxic, a pollutant or a contaminant, or that is regulated, listed, defined, designated, or classified, or otherwise determined to be, as such under or pursuant to any Environmental and Social Laws, including any mixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes thereof and asbestos or asbestos-containing materials.

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

“**Indebtedness**” of any Person means, without duplication, (i) indebtedness of such Person for borrowed money or for the deferred purchase price of property and services, other than trade payables incurred in the ordinary course of business and payable in accordance with customary practices, (ii) other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (iii) obligations of such Person under any Capital Lease, (iv) reimbursement obligations

of such Person under bankers' acceptances and contingent obligations of such Person in respect of any letter of credit, bank guarantee or surety bond, (v) to the extent accelerated, the Out-of-the-Money Derivative Exposure of such Person, and (vi) the contingent obligations of such Person under any guarantee or other agreement assuring payment of any obligations of any Person of the type described in the foregoing clauses (i) to (v) (for greater certainty, the contingent obligations assuring payment of any Out-of-the-Money Derivative Exposure will only be treated as Indebtedness if such Out-of-the-Money Derivative Exposure has in fact been accelerated). Indebtedness for purposes of calculating the Net Senior Secured Leverage Ratio and the Total Net Leverage Ratio shall not include any Indebtedness under clause (iv) above (other than any Secured Obligations) that is cash collateralized.

**"Indemnified Liabilities"** has the meaning ascribed to such term in Section 6.4(a) or Section 6.4(b), as applicable.

**"Indemnified Taxes"** means Taxes other than Excluded Taxes.

**"Initial Advance Amount"** means an amount equal to \$3,600,000 to be made available to the Borrower on the Initial Closing Date.

**"Initial Closing Date"** means the date on which the last condition precedent pursuant to Section 10.2 is satisfied or waived.

**"Insurance Prepayment Trigger Event"** means the receipt by any Obligor of any insurance proceeds in excess of \$20,000,000 or the Exchange Equivalent thereof, where such proceeds or any portion thereof have not been used or committed (being, for the avoidance of doubt, the entering into of purchase contracts or similar instruments with respect to the replacement or repair of the relevant asset) by such Obligor to repair or replace the subject assets within 180 days of such Obligor's receipt thereof providing that such repairs or replacement will generate materially the same performance as prior to such insurance claim.

**"Intercompany Postponement and Subordination Agreement"** means the intercompany postponement and subordination agreement dated as of or prior to the Subsequent Closing Date entered into by each Company (other than the Subject Entities) in favour of the Lender and as may be adhered to by companies in the future pursuant to Schedule A thereto.

**"Intercreditor Agreement"** means the intercreditor agreement to be entered into among the administrative agent under the Senior Credit Agreement for and on behalf of the Finance Parties, as first lien creditor, the Lender, as second lien creditor, the Debt Guarantor (as defined under the Senior Credit Agreement) and the Obligors.

**"Interest Expense Coverage Ratio"** means, for any Fiscal Quarter, the ratio of (i) Rolling EBITDA for such Fiscal Quarter to (ii) Rolling Interest Expense for such Fiscal Quarter.

“**Interest Expenses**” means, for any particular period, the amount which would in accordance with generally accepted accounting principles, be classified on the consolidated income statement of the Borrower for such period as gross interest expenses on Indebtedness.

“**Interest Income**” means, for any particular period, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated income statement of the Borrower for such period as interest accrued due to the Borrower during such period.

“**Interest Period**” means a period of one month.

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

“**Investor Rights Agreement**” shall have the meaning ascribed thereto in Section 13.6(b).

“**Judgment Conversion Date**” shall have the meaning ascribed thereto in Section 13.7(a)(ii).

“**Judgment Currency**” shall have the meaning ascribed thereto in Section 13.6.

“**Knowledge of the Borrower**” means, at any particular time, the conscious knowledge of (i) the senior management of the Borrower, and (ii) the senior mine manager or operations manager (general manager) at each of the Material Mines.

“**Lender**” means Glencore Canada Corporation, and any successor thereto.

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

“**LIBOR**” means, with respect to a particular Interest Period, the rate of interest per annum which appears on LIBOR01 page of the Reuters screen (or, if not available, on any successor or substitute page providing rate quotations comparable to those provided on such page) at approximately 11:00 a.m. (London time) two Banking Days before the first day of such Interest Period; or if such LIBOR01 page is not available, then the rate of interest per annum equal to the rate per annum which The Bank of Nova Scotia offers U.S. dollar deposits to leading banks in the London interbank market at approximately 11:00 a.m. (London time), two Banking Days before the first day of such Interest Period, for a period comparable to such Interest Period and in an amount approximately equal to the amount of such Loan. If at any time LIBOR is less than zero, LIBOR shall be deemed to be equal to zero.

“**LIBOR Scheduled Unavailability Date**” shall have the meaning ascribed thereto in Section 5.4(a)(iii).

“**LIBOR Screen Rate**” shall have the meaning ascribed thereto in Section 5.4(a)(i).

“**LIBOR Successor Rate**” shall have the meaning ascribed thereto in Section 5.4(a).

“**Lien**” means (i) any right of set-off intended to secure the payment or performance of an obligation, (ii) any interest in property created by way of mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, hire purchase agreement, conditional sale agreement, title retention, Capital Lease, sale-lease-back transaction, or discount, factoring or securitization arrangement on recourse terms, (iii) any statutory deemed trust or lien, (iv) execution, seizure, attachment, garnishment or other encumbrance, in each case, which binds property (v) any agreement to grant any of the foregoing rights or interests described in clauses (i) to (iv) of this definition and (vi) any other similar arrangement, in each case of clauses (i) through (vi) of this definition, which secures the payment or performance of, any debt, liability or obligation.

“**Life of Mine**” means, for any particular Material Mine, the period during which all Reserves and Resources at such Material Mine as reported in the Borrower’s most recent reserve statement or mine plan or other project description filed from time to time with Official Bodies in respect of such Material Mine is projected to be extracted through planned mining activities at or in connection with such Material Mine.

“**Limited Recourse Indebtedness**” means Indebtedness incurred by a Company in respect of which the recourse of the creditor thereunder, whether on account of principal, interest or lease payments or guarantees thereof, is limited to Shares issued by, and assets owned or leased by, an Excluded Subsidiary without further recourse to any Obligor or its other assets.

“**Liquidity**” shall have the meaning ascribed thereto under the Senior Credit Agreement.

“**Loans**” means monies lent by the Lender to the Borrower in U.S. Dollars and upon which interest accrues at a rate referable to LIBOR.

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

“**Material Adverse Effect**” means a material adverse effect (or a series of adverse effects, none of which is material in and of itself but which, cumulatively, result in a material adverse effect) on:

- (a) the business, property, assets, liabilities, condition (financial or otherwise) or prospects of the Obligor taken as a whole;
- (b) the ability of any Obligor taken as a whole to perform their material obligations under the Credit Documents taken as a whole; or
- (c) the ability of the Lender to enforce its material rights and remedies under the Credit Documents, taken as a whole.

Notwithstanding the foregoing, normal course adverse price fluctuations in the commodity markets shall not, in and of themselves, be deemed to constitute a Material Adverse Effect.

“**Material Agreements**” means (i) those contracts of any Obligor involving aggregate consideration payable to or by any Obligor of \$20,000,000 in any one year period, and (ii) any other contract to which an Obligor is a party, for which there is no readily available substitute, and the breach or termination of which would reasonably be expected to result in a Material Adverse Change and “**Material Agreement**” means any of the Material Agreements.

“**Material Mines**” means

- (a) the Caribou Mine, the Santander Mine, the Rosh Pinah Mine and the Perkoa Mine; and
- (b) after the Initial Closing Date, each other operating mine (not on care and maintenance) owned by a Company if (i) the Rolling EBITDA of such Company attributable to such mine (such Rolling EBITDA, where not the Rolling EBITDA of the Borrower, to be calculated for such Company by substituting each reference to the Borrower in such definition and each constituent definition thereof with a reference to such Company mutatis mutandis, provided that such calculation shall not be on a consolidated basis) for a Fiscal Quarter constitutes at least 15% of the Rolling EBITDA of the Borrower on a consolidated basis for such Fiscal Quarter or (ii) the book value of such operating mine as at the last day of the most recently completed Fiscal Year of such Company constitutes at least 15% of the book value of the assets of the Borrower on a consolidated basis as at the last day of the most recently completed Fiscal Year; or
- (c) such other mine or mining project designated as a “**Material Mine**” by the Borrower and notified to the Lender from time to time.

“**Material Subsidiaries**” means Trevali Holdings (Bermuda) Ltd., GLCR Limited, Trevali Mining (New Brunswick) Ltd., Boundary Ventures Limited, Trevali Peru S.A.C., Wilru, Rosh Pinah Base Metals and Rosh Pinah Mine Holdings and each other present or future wholly-owned Subsidiary of the Borrower which has a direct or indirect ownership interest in a Material Mine. For certainty, a direct or indirect

Subsidiary of the Borrower which is a holding company of a Subsidiary which satisfies the foregoing criteria shall also constitute a **“Material Subsidiary”**.

**“Maturity Date”** means, subject to the Intercreditor Agreement, September 18, 2022 or, if such date is not a Banking Day, the immediately preceding Banking Day.

**“Mine Plan”** means (i) in respect of each Material Mine, the updated individual mine plan in a format approved by the Borrower and the Lender prior to the Subsequent Closing Date for such mine’s relevant Life of Mine and (ii) the consolidated annual budget of the Borrower which shall include projected exploration and corporate expenses (including sales, general and administrative expenses), delivered by or on behalf of the Borrower to the Lender.

**“Mining Licenses”** means, collectively, at any time, the mining or mineral concessions, mining claims and mining leases or mining lease agreements, whether owned or held under any other title, which are material to conduct of exploration, mining and processing activities on or in each of the Material Mines and all extensions, renewals, replacements, conversions or substitutions thereof, a complete and accurate inventory of which in respect of the Caribou Mine and the Santander Mine is set forth in the Perfection Certificates as updated from time to time in accordance with Section 9.1(b)(iii).

**“Mining Operations”** means, at any particular time, the exploration, development, mining, construction, processing and milling operations carried out at the Material Mines at such time.

**“Monthly Spot TC”** means the average market based treatment charge for zinc for a particular calendar month as published in the CRU Lead and Zinc Concentrates Monitor as “imported spot TC” for [the calendar month] Main Chinese Port and the Wood Mackenzie Global Zinc Short-term Outlook as “spot TC per tonne conc” for [the calendar month] under Spot business of Main Chinese Port.

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

**“Net Income”** means, for any particular period, the amount which would, in accordance with generally accepted accounting principles, be classified on the consolidated income statement of the Borrower for such period as the net income of the Borrower excluding any extraordinary items provided; that during any point in time that any such income is earned but is subject to currency controls or other similar Applicable Laws which prohibit the transfer of Cash from the jurisdiction where such income was earned to any other jurisdiction in which one or more Obligors operate, are resident for tax purposes and/or are otherwise incorporated, such income shall not be considered Net Income notwithstanding generally accepted accounting principles.

“**Net Indebtedness**” means, at any particular time, Total Indebtedness at such time less an amount equal to all Unrestricted Cash at such time.

“**Net Senior Secured Indebtedness**” means, at any particular time and without duplication, the aggregate amount of the Companies’ Indebtedness referenced in paragraphs (a), (b), (h) and (l) of Permitted Indebtedness at such time (“**Senior Secured Indebtedness**”) less an amount equal to all Unrestricted Cash at such time.

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

“**Non-Canadian Pension Plan**” shall mean any Plan that (a) is established or maintained outside Canada by any of the Companies primarily for the benefit of employees of such Company residing outside Canada, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and (b) is not a Canadian Pension Plan.

“**Obligors**” means the Borrower and the Guarantors and “**Obligor**” means any one of the Obligors, and expressly excludes the Excluded Subsidiaries and any non-wholly owned Subsidiary.

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

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

“**Offtake Contracts**” means, collectively, the Perkoa Rosh Pinah Offtake and the Santander Offtake.

“**Offtake Seller**” means, each of Nantou Mining Burkina Faso S.A. and Rosh Pinah Zinc Corporation (Proprietary) Limited, as applicable in respect of the Perkoa Rosh Pinah Offtakes and Trevali Peru S.A.C., in respect of the Santander Offtake.

“**Operating Expenditures**” shall mean, for any particular period and without duplication, those cash expenditures of the Borrower on a consolidated basis for mining for, and transportation and milling of, minerals and for all consolidated general and administrative costs, all calculated in accordance with generally accepted accounting principles and the Borrower’s applicable financial statements.

“**Other Taxes**” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made

hereunder or under any other Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to, this agreement or any other Credit Document and the transactions contemplated thereby.

**“Out-of-the-Money Derivative Exposure”** has the meaning given to it in the definition of “Derivative Exposure”.

**“Party”** means a party to this agreement.

**“Pension Event”** means any of the following: (i) the termination or wind-up in whole or in part of a Canadian Pension Plan, (ii) the occurrence of any circumstance or event that would provide any basis for a governmental authority to take steps to cause the termination or wind-up, in whole or in part, of any Canadian Pension Plan, the issuance of a notice (or a notice of intent to issue such a notice) to terminate in whole or in part any Canadian Pension Plan or the receipt of a notice of intent from a governmental authority to require the termination in whole or in part of any Canadian Pension Plan, revoking the registration of same or appointing a new administrator of such a plan, (iii) the withdrawal of an Obligor from a Canadian Pension Plan or the receipt by an Obligor of notice requiring or threatening to require the withdrawal of an Obligor from a Canadian Pension Plan, (iv) the failure to make any required contribution or payment to a Canadian Pension Plan when due unless such failure is (A) promptly remedied and (B) cannot, after so being remedied, be reasonably be expected to have a Material Adverse Effect, or (v) the occurrence of any circumstance or event related to a Non-Canadian Pension Plan that could reasonably be expected to have a Material Adverse Effect.

**“Pension Plan”** means any Canadian Pension Plan or Non-Canadian Pension Plan.

**“Perfection Certificate”** means, in respect of each Obligor, the certificate of a senior officer of such Obligor, addressed to the Lender, in form and substance satisfactory to the Lender and pursuant to which certain factual matters relating to such Obligor and the Secured Assets of such Obligor are certified true and correct, together with all schedules and exhibits attached thereto or referred to therein, as the same may be updated from time to time pursuant to Section 9.1(b).

**“Perkoa Mine”** means the zinc mine located in the Sanguie Province, Burkina Faso, approximately 120-km west of the capital city of Ouagadougou.

**“Perkoa Rosh Pinah Offtake”** means each of the following contracts:

- (a) Contract No. 062-10-12611-P between Nantou Mining Burkina Faso S.A. and Glencore International AG, dated June 30, 2010, as amended;
- (b) Contract No. 180-11-11996-P between Nantou Mining Burkina Faso S.A. and Glencore International AG, dated March 22, 2011, as amended;



- (c) Contract No. 062-12-12076-P between Rosh Pinah Zinc Corporation (Proprietary) Limited and Glencore International AG, dated July 3, 2012, as amended; and
- (d) Contract No. 180-13-11417-P between Rosh Pinah Zinc Corporation (Proprietary) Limited and Glencore International AG, dated February 18, 2013, as amended.

**“Perkoa Rosh Pinah Tonnages”** means the total tons of zinc concentrate in each lot of materials shipped from time to time pursuant to the Perkoa Rosh Pinah Offtake by the applicable Offtake Seller to Glencore International AG for which provisional payment is made by Glencore International AG to such Offtake Seller in accordance with the applicable Perkoa Rosh Pinah Offtake on a particular Provisional Invoice Payment Date.

**“Permits”** means all material licenses, permits, Approvals of Official Bodies (including environmental Approvals), rights (including surface and access rights), privileges, concessions or franchises necessary for the construction, development, operation and reclamation of any Material Mines.

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

- (a) the business of the entity being acquired is, (in the case of an Acquisition of Shares) or the assets being acquired are used in or relate to, (in the case of an asset Acquisition) a business engaged in the exploration or mining of base or precious metals or such other line of business as is substantially similar, ancillary or related thereto or a reasonable extension thereof;
- (b) no Default or Event of Default exists at the time of such proposed Acquisition and no Default or Event of Default would exist immediately after the implementation of any such proposed Acquisition;
- (c) the financial covenants set out in Sections 9.1(m), (n), (o) and (p) would be met, on a *pro forma* basis, immediately after giving effect to the implementation of any such Acquisition, and for the avoidance of doubt, such financial covenants are to be met notwithstanding any covenant waiver that may be in effect as at the time of such Acquisition;
- (d) the Liquidity would be in an amount equal to or greater than \$20,000,000 after giving effect to the implementation of any such Acquisition;
- (e) the assets acquired are situate in, or the entity acquired is incorporated or otherwise formed in, a Permitted Jurisdiction;
- (f) no Cash consideration is offered or paid in connection with the subject Acquisition; and

- (g) the Acquisition does not constitute a hostile takeover (being, for the avoidance of doubt, a takeover bid of the target company that the board of directors of such company does not support).

**“Permitted Capital Reorganization”** means any of (a) any change in the capital structure of the issued and outstanding Shares of the Borrower (other than a change in connection with an Acquisition that is not a Permitted Acquisition or a change that would result in an Event of Default); (b) any Capital Reorganization that does not result in (i) any decrease in the combined direct and indirect percentage ownership interest of the Borrower in any Obligor or Subject Entity or (ii) a change in the shareholders of an Obligor; and (c) any other Capital Reorganization (i) that does not result in any decrease in the combined direct and indirect percentage ownership interest of the Borrower in any Obligor or Subject Entity and (ii) notice of which (and reasonable details thereof) has been provided by the Borrower to the Lender in writing not later than ten Banking Days before its proposed completion date, and which notice (A) includes a certification that the completion of the Capital Reorganization will not have a Material Adverse Effect and (B) includes the Borrower’s covenant to deliver or cause to be delivered to the Lender, contemporaneously with the completion of such Capital Reorganization (or such later date as may be agreed by the Lender), any Credit Documents and/or amendments thereto, certificates, opinions and other things as the Lender may reasonably request to ensure the completion of such Capital Reorganization shall not adversely affect any rights of the Lender under any Credit Document and (C) certifying that no Default or Event of Default has occurred and is outstanding at the time of the completion of the Capital Reorganization or would arise immediately upon giving effect thereto.

**“Permitted Corporate Reorganization”** means (i) any Corporate Reorganization resulting from a Permitted Disposition pursuant to paragraph (c) of such defined term and (ii) any other Corporate Reorganization notice of which (and reasonable details thereof) has been provided by the Borrower to the Lender in writing not later than ten Banking Days before its proposed completion date, and which notice (A) includes a certification that the completion of the Corporate Reorganization will not have a Material Adverse Effect and (B) includes the Borrower’s covenant to deliver or cause to be delivered to the Lender, contemporaneously with the completion of such Corporate Reorganization (or such later date as may be agreed by the Lender), any Credit Documents and/or amendments thereto, certificates, opinions and other things as the Lender may reasonably request to ensure the completion of such Corporate Reorganization shall not adversely affect any rights of the Lender under any Credit Document and (C) certifying that no Default or Event of Default has occurred and is outstanding at the time of the completion of the Corporate Reorganization or would arise immediately upon giving effect thereto; provided that, (x) with respect to any merger or amalgamation involving the Borrower, the continuing or surviving Person shall be the Borrower hereunder, (y) with respect to any merger or amalgamation involving any other Obligor, the continuing or surviving Person shall be an Obligor hereunder, and (z) no liquidation, winding up, dissolution, bankruptcy or insolvency proceeding or

compromise of debts of any Obligor shall constitute a “Permitted Corporate Reorganization” unless (I) such Obligor is not an operating entity and has only nominal assets and nominal liabilities, or (II) all of the assets of such Obligor or Subject Entity (including any interest in any Shares) are transferred to an Obligor or Subject Entity, as the case may be, that is not liquidating, winding up or dissolving.

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

- (a) Dispositions of inventory, product or produced or unprocessed minerals, metals or other mineral or extracted materials Disposed of in the ordinary course of business;
- (b) Dispositions of worn out, unserviceable, redundant, uneconomical or obsolete tangible assets;
- (c) Dispositions of assets owned by one Obligor to another Obligor provided such disposition does not result in a Secured Asset no longer being subject to the Security;
- (d) Dispositions of publicly-traded securities Disposed of for the fair market value thereof;
- (e) Dispositions of assets owned by a Subject Entity to an Obligor; and
- (f) the Disposition of all or a material portion of the Caribou Mine or the Santander Mine provided the proceeds of such Disposition are used to mandatorily prepay the Credit Facility pursuant to Section 7.3;

in each case of (b) through (e), further provided that a Disposition will be deemed not to be a Permitted Disposition if a Default or Event of Default has occurred and is continuing at the time of such Disposition or would arise immediately after such Disposition as a result thereof. For the avoidance of doubt, a Restricted Forward Sale Transaction shall not constitute a commodity sale transaction in the ordinary course of business for the purposes hereof.

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

- (a) the Secured Obligations;
- (b) the Secured Obligations as defined under the Senior Credit Agreement;
- (c) Indebtedness of the Obligors arising under Capital Leases and Purchase Money Indebtedness which exists as of the Initial Closing Date plus, at any particular time, an additional aggregate amount of such Indebtedness of up to \$25,000,000 or the Exchange Equivalent thereof;
- (d) Indebtedness owed by an Obligor to another Obligor;

- (e) trade payables and other accrued liabilities incurred in the ordinary course of business and payable in accordance with customary practices;
- (f) Indebtedness secured by a Permitted Lien;
- (g) Indebtedness in respect of bonds, letters of credit or bank guarantees in favour of a public utility or any other Official Body when required by such utility or other Official Body in connection with the operations of any Company (including for the reclamation or remediation of mining properties), all in the ordinary course of business, the aggregate amount of such Indebtedness not to exceed \$20,000,000 or the Exchange Equivalent thereof at any time;
- (h) Guarantees by any Obligor of Permitted Indebtedness of another Obligor;
- (i) Indebtedness in an aggregate amount not exceeding at any particular time \$15,000,000 or the Exchange Equivalent thereof incurred by the Obligors and Subject Entities in respect of one or more VAT Facilities, recourse for which is limited to the corresponding VAT Receivable;
- (j) Indebtedness in an aggregate amount not exceeding at any particular time \$10,000,000 or the Exchange Equivalent thereof incurred or guaranteed by the Obligors and Subject Entities in respect of one or more Factoring Facilities, recourse for which is limited to the corresponding receivables financed thereunder;
- (k) Indebtedness pursuant to Permitted Risk Management Agreements (as defined under the Senior Credit Agreement);
- (l) unsecured Indebtedness of the Obligors on a consolidated basis not otherwise referenced in paragraphs (a) to (k) in an aggregate amount of not more than \$10,000,000 or the Exchange Equivalent thereof at any particular time;
- (m) Indebtedness owed by an Obligor to any Subsidiary of the Borrower that is not an Obligor provided that such Indebtedness is subject to the Intercorporate Postponement and Subordination Agreement; and
- (n) Indebtedness in an aggregate amount not exceeding at any particular time \$25,000,000 or the Exchange Equivalent thereof incurred by Rosh Pinah Zinc Corporation (Proprietary) Limited under the SB Facility.

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

- (a) Investments in Cash; and
- (b) Investments in Obligors and Subject Entities;

provided that, in each case, no Default or Event of Default exists or would exist at the time of making any such Investment and immediately after making any such Investment.

**“Permitted Jurisdictions”** means Canada, the United States of America and any other country which is not subject to Sanctions from Canada or the United States of America at the time the subject Acquisition is consummated, and **“Permitted Jurisdiction”** means any of the Permitted Jurisdictions.

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

- (a) the Security and any Lien permitted pursuant and defined under the Senior Credit Agreement;
- (b) the Security and any Lien permitted pursuant to the Credit Documents;
- (c) Liens for Taxes, assessments or governmental charges or levies not at the time due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles;
- (d) attachments, judgments and other similar Liens arising in connection with court proceedings; provided, however, that the Liens are in existence for less than 10 days after their creation or the execution or other enforcement of the Liens is effectively stayed or the claims so secured are being actively contested in good faith and by proper legal proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles;
- (e) Liens and charges incidental to construction or current operations, including carrier’s, warehousemen’s, mechanics’, materialmen’s, repairmen’s, construction and other like Liens arising by operation of Applicable Law, which have not at such time been filed pursuant to law or which relate to obligations not due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles;
- (f) restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other persons which in the aggregate do not materially impair the usefulness, in the operation of the business of any Obligor or Subject Entity, of the property subject to such restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other persons;
- (g) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, licence, franchise, grant or permit

acquired by any Company or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;

- (h) the Lien resulting from the deposit of cash or securities (i) in connection with contracts, tenders or expropriation proceedings, or (ii) to secure workers' compensation, costs of litigation when required by law and public and statutory obligations, or (iii) in connection with the discharge of Liens or claims incidental to construction and mechanics', warehouseman's, carriers' and other similar liens;
- (i) security given to a public utility or other Official Body (including for the reclamation or remediation of mining properties) in connection with the operations of any Obligor or Subject Entity, all in the ordinary course of business;
- (j) without duplication of the Liens referenced in paragraph (i), above, Liens on Cash in an amount not exceeding, at any particular time, \$10,000,000 or the Exchange Equivalent thereof, as collateral security for letters of credit, bonds or bank guarantees in favour of a public utility or other Official Body (including for the reclamation or remediation of mining properties) in connection with the operations of any Company, all in the ordinary course of business;
- (k) the reservations, limitations, provisos and conditions, if any, expressed in any original patents or grants from any Official Body;
- (l) title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use of the property for the purpose for which it is held;
- (m) servicing agreements, development agreements, site plan agreements, subdivision agreements and agreements with Official Bodies pertaining to the use or development of any of the assets of an Obligor or Subject Entity, provided same are complied with and do not materially reduce the value of the assets of an Obligor or Subject Entity or materially interfere with the use of such assets in the operation of the business of an Obligor or Subject Entity;
- (n) applicable municipal and other governmental restrictions affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and will not materially impair the use of the property for the purpose for which it is held;
- (o) Liens securing appeal bonds and other similar Liens arising in connection with court proceedings (including surety bonds, security for costs of litigation where required by Applicable Law and letters of credit) or any other instruments serving a similar purpose;

- (p) Liens securing Indebtedness under clause (b) of the definition of Permitted Indebtedness (for the avoidance of doubt such Liens shall only be permitted on the assets financed pursuant to such Capital Leases and/or Purchase Money Indebtedness, as the case may be), and the proceeds thereof and insurance proceeds related thereto);
- (q) landlords' Liens arising in the ordinary course of business;
- (r) Liens on minerals or the proceeds of sale of such minerals arising or granted pursuant to, or in respect of, a processing or refining arrangement entered into in the ordinary course and upon usual market terms, securing the payment of any Obligor's or Subject Entity's portion of the fees, costs and expenses attributable to the processing or refining of such minerals under any such processing or refining arrangement or other obligations of an Obligor under such arrangement, but only insofar as such Liens relate to obligations which are at such time not past due;
- (s) Liens securing Indebtedness under clause (n) of the definition of Permitted Indebtedness, provided that any such Lien is limited strictly to any inventory and receivables of Rosh Pinah Zinc Corporation (Proprietary) Limited (including any collection account into which such receivables are deposited) from time to time subject to a Lien in favour of Standard Bank Namibia Limited pursuant to the terms of the SB Facility, and the proceeds thereof and insurance proceeds related thereto;
- (t) any residential tenancy agreement in respect of residential properties;
- (u) Liens on assets acquired by any Obligor or Subject Entity which existed prior to, and not in connection with or in contemplation of, any Permitted Acquisition;
- (v) Liens on any property or asset which existed prior to the Acquisition thereof by any Obligor or Subject Entity provided that (i) such Lien is not created in contemplation of or in connection with such Acquisition, (ii) such Lien shall not apply to any other property or assets of any Obligor or Subject Entity and (iii) such Lien shall secure only those obligations which it secures on the date of such Acquisition;
- (w) undetermined or inchoate Liens and charges arising or potentially arising under statutory provisions which have not at the time been filed or registered in accordance with Applicable Law or of which written notice has not been duly given in accordance with Applicable Law or which although filed or registered, relate to obligations not due or delinquent, including without limitation statutory Liens incurred, or pledges or deposits made, under worker's compensation, employment insurance and other social security legislation;

- (x) Liens consisting of royalties payable with respect to any asset or property of the Obligors or Subject Entities existing as of the Initial Closing Date or otherwise acquired pursuant to a Permitted Acquisition;
- (y) customary rights of set-off or combination of accounts with respect to deposits and/or accounts, in any case, arising or granted pursuant to an arrangement entered into in the ordinary course of business that does not apply to Indebtedness;
- (z) Liens securing Indebtedness under clause (c) of the definition of Permitted Indebtedness provided that such Liens are subordinated to the Liens granted in respect of the Secured Obligations;
- (aa) the extension, renewal or refinancing of any Permitted Lien, provided that the amount so secured does not exceed the original amount secured immediately prior to such extension, renewal or refinancing and the Lien is not extended to any additional property; and
- (bb) Liens securing Indebtedness under clauses (h) and (i) of the definition of Permitted Indebtedness, provided that any such Lien is limited strictly, in the case of a VAT Facility to the corresponding VAT Receivable financed under that VAT Facility, and in the case of the Factoring Facility, the corresponding receivables financed under that Factoring Facility.

**“Permitted Reorganizations”** means Permitted Corporate Reorganizations and Permitted Capital Reorganizations.

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

**“Peruvian Collateral”** means property of any Obligor, real or personal, or mixed, located in Peru as to which security is granted for the Secured Obligations, including any equity, shares or evidences of indebtedness issued by a Peruvian Obligor and any other property subject to the Liens created under any of the Peruvian Security Documents where the validity, effect and perfection of such Lien is, in accordance with the conflict of law rules of Peruvian Law, governed by Peruvian Law.

**“Peruvian Law”** means Applicable Laws applicable and in force in Peru.

**“Peruvian Security Documents”** means the documents or instruments granting a Lien in favour of the Lender on Peruvian Collateral and governed by Peruvian Law.

**“Plan”** means any plan, program or arrangement which is considered to be a pension plan for the purposes of any applicable pension benefits standards, or any applicable tax, statute and/or regulation thereof established, maintained or



contributed to by, or to which there is or may be an obligation to contribute by, any relevant Person, its employees or former employees, in each case whether written or oral, funded or unfunded, insured or self-insured, reported or unreported.

“**Pledgors**” means GLCR Limited, Wilru, Rosh Pinah Base Metals and Rosh Pinah Mine Holdings;

“**PPSA**” means the *Personal Property Security Act* (Ontario), as amended.

“**Prepayment Notice**” shall have the meaning ascribed thereto in Section 7.4.

“**Prepayment Trigger Events**” means any Asset Disposition Prepayment Trigger Event, any Excess Cash Flow Prepayment Trigger Event, the Change of Control Prepayment Trigger Event and any Insurance Prepayment Trigger Event and “**Prepayment Trigger Event**” means any Prepayment Trigger Event.

“**Proceeds of Realization**” means all cash and non-cash proceeds derived from any sale, disposition or other realization of the Secured Assets or received from, directly or indirectly, any Obligor pursuant to the Credit Documents or from the administrative agent under the Senior Credit Agreement, the Debt Guarantor (as defined under the Senior Credit Agreement) or the Lender pursuant to the Intercreditor Agreement, in each case (i) after any Enforcement Date, (ii) upon any dissolution, liquidation, winding-up, reorganization, bankruptcy, insolvency or receivership of any Obligor (or any other arrangement or marshalling of the Secured Assets that is similar thereto) or (iii) upon the enforcement of, or any action taken with respect to any Credit Document. For greater certainty, insurance proceeds derived as a result of the loss or destruction of any of the Secured Assets or cash or non-cash proceeds derived from any expropriation or other condemnation of any of the Secured Assets shall not constitute Proceeds of Realization prior to the Enforcement Date.

“**Provisional Invoice Payment Date**” means each date upon which Glencore International AG or its Affiliates makes provisional payment to an Offtake Seller in accordance with the terms of an Offtake Contract in respect of a delivery or shipment of zinc concentrate made under that Offtake Contract during the Delivery Period.

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

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

“**Replacement Material Agreement**” means any agreement replacing a Material Agreement which is substantially similar to the Material Agreement that it is

replacing and otherwise in form and substance satisfactory to the Lender, acting reasonably.

“**Release**” means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

“**Reserves**” means “**Proven Mineral Reserves**” and “**Probable Mineral Reserves**” as such terms are defined in the CIM Definition Standards.

“**Resources**” means “**Measured Mineral Resources**” and “**Indicated Mineral Resources**” as such terms are defined in the CIM Definition Standards.

“**Restricted Forward Sale Transaction**” means a forward sale of a quantity of metal or other commodity (allocated or unallocated) at a fixed price where the purchase price (or any substantial part thereof) is paid prior to the date on which such metal or commodity (allocated or unallocated) is to be delivered.

“**Rolling EBITDA**” means:

- (a) for the Fiscal Quarter ending December 31, 2020, EBITDA for such Fiscal Quarter multiplied by four;
- (b) for the Fiscal Quarter ending March 31, 2021, the aggregate amount of EBITDA for such Fiscal Quarter and for the immediately preceding Fiscal Quarter multiplied by two;
- (c) for the Fiscal Quarter ending June 30, 2021, the aggregate amount of EBITDA for such Fiscal Quarter and for the two immediately preceding Fiscal Quarters multiplied by 4/3;
- (d) for each Fiscal Quarter thereafter, the aggregate amount of EBITDA for such Fiscal Quarter and for the three immediately preceding Fiscal Quarters; and
- (e) any Rolling Permitted Acquisition EBITDA for such Fiscal Quarter.

“**Rolling Interest Expense**” means:

- (a) for the Fiscal Quarter ending December 31, 2020, Interest Expenses for such Fiscal Quarter multiplied by four but, for the avoidance of doubt, excluding any such Interest Expense related to Indebtedness repaid during such Fiscal Quarter;
- (b) for the Fiscal Quarter ending March 31, 2021, the aggregate amount of Interest Expenses for such Fiscal Quarter and for the immediately preceding Fiscal Quarter multiplied by two;

- (c) for the Fiscal Quarter ending June 30, 2021, the aggregate amount of Interest Expenses for such Fiscal Quarter and for the two immediately preceding Fiscal Quarters multiplied by 4/3; and
- (d) for each Fiscal Quarter thereafter, the aggregate amount of Interest Expenses for such Fiscal Quarter and for the three immediately preceding Fiscal Quarters.

**“Rolling Permitted Acquisition EBITDA”** means, for any Fiscal Quarter as concerns any Permitted Acquisition or any other asset acquisition if such asset acquisition is accounted for in accordance with generally accepted accounting principles on a proportionate or consolidated accounting basis with respect to which four Fiscal Quarter ends or less have occurred since the date of the completion of such Permitted Acquisition or other asset acquisition,

- (a) for the Fiscal Quarter during which such date occurs (the **“Initial Fiscal Quarter”**), EBITDA attributable to such Permitted Acquisition or other asset acquisition during such Fiscal Quarter multiplied by a fraction the numerator of which is the number of days in the Initial Fiscal Quarter and the denominator of which is the number of days in the Initial Fiscal Quarter following the completion of such Permitted Acquisition or other asset acquisition (such product, the **“Initial Fiscal Quarter EBITDA”**) multiplied by four;
- (b) for the first Fiscal Quarter following the Initial Fiscal Quarter, the aggregate of EBITDA attributable to such Permitted Acquisition or other asset acquisition during such Fiscal Quarter and the Initial Fiscal Quarter EBITDA multiplied by two;
- (c) for the second Fiscal Quarter following the Initial Fiscal Quarter, the aggregate of EBITDA attributable to such Permitted Acquisition or other asset acquisition during such Fiscal Quarter and the immediately preceding Fiscal Quarter and the Initial Fiscal Quarter EBITDA multiplied by 4/3; and
- (d) for the third Fiscal Quarter following the Initial Fiscal Quarter, the aggregate of EBITDA attributable to such Permitted Acquisition or other asset acquisition during such Fiscal Quarter and the two immediately preceding Fiscal Quarters and the Initial Fiscal Quarter EBITDA.

**“Rosh Pinah Base Metals”** means Rosh Pinah Base Metals (Proprietary) Limited, company with limited liability registered in accordance with the laws of the Republic of Namibia, with registration number CY/2005/0679.

**“Rosh Pinah Mine”** means the zinc mine located in Rosh Pinah, Il Karas Region, Namibia 600-km south of Windhoek.

“**Rosh Pinah Mine Holdings**” means Rosh Pinah Mine Holdings (Proprietary) Limited, company with limited liability registered in accordance with the laws of the Republic of Namibia, with registration number CY/1999/0186.

“**S&P**” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw Hill Companies Inc. and its successors.

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

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

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

“**Sanctions**” means any legislation, regulations, orders, economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by OFAC (or any other part of the US Treasury Department), the US Department of State, the United Nations Security Council, the Parliament of Canada (including Global Affairs Canada), the European Union, and/or any present or future member state thereof and/or the United Kingdom’s Her Majesty’s Treasury; in each case, having the force of law and binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person.

“**Santander Mine**” means the zinc, lead and silver project located approximately 200-km northeast of Lima, Peru involving the exploration and exploitation of certain mining concessions and the operation of the Trevali plant in Peru.

“**Santander Offtake**” means Contract No. 062-11-10035-P between Trevali Peru S.A.C., the Borrower and Glencore International AG, dated September 3, 2010, as amended and as assigned to Glencore Peru S.A.C. as new Contract No. 062-15-33356-P; and Contract No. 180-11-10036-P between Trevali Peru S.A.C., the Borrower and Glencore International AG dated September 3, 2010, as amended and as assigned to Glencore Peru S.A.C. as new Contract No. 180-15-33358-P.

“**Santander Tonnages**” means the total tons of zinc concentrate in each lot of materials delivered from time to time pursuant to the Santander Offtake by the applicable Offtake Seller to those warehouses nominated by Glencore International AG in accordance with the Santander Offtake and for which provisional payment is made by Glencore International AG to such Offtake Seller in accordance with the Santander Offtake on a particular Provisional Invoice Payment Date.

“**SB Facility**” means the borrowing base facility established by Standard Bank Namibia Limited for the benefit of Rosh Pinah Zinc Corporation (Proprietary) Limited to be used solely for working capital purposes.

“**Secured Assets**” means, the present and future assets, property and undertaking of each Obligor, as set forth in Schedule R hereto, other than the Excluded Assets. For certainty, the Secured Assets shall cease to be Secured Assets to the extent such assets are sold or otherwise disposed of in a manner in which is permitted, or otherwise not prohibited, by any relevant Credit Document.

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

“**Secured Obligations Termination Date**” means the date on which all Secured Obligations of the Obligors (other than those provisions which by their terms survive the termination of the Credit Documents) have been permanently paid in full and Lender has no commitment to provide credit to any Obligor under any Credit Document.

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

“**Security Documents**” means the security documents which, in the reasonable opinion of the Lender are required to be entered into from time to time by each Obligor in favour of the Lender in order to grant to the Lender a Lien on the Secured Assets as continuing collateral security for the payment and performance of the Secured Obligations of such Obligor, such security documents to be in form and substance satisfactory to the Lender, acting reasonably, and substantively equivalent to the security documents in favour of the Senior Lenders, and to include the security documents described in Schedule J hereto at the times stated therein.

**“Senior Credit Agreement”** means the amended and restated credit agreement dated on or about the date hereof between the Borrower, as borrower, The Bank of Nova Scotia and HSBC Bank Canada, as co-lead arrangers and joint bookrunners, The Bank of Nova Scotia, as administrative agent, and the Senior Lenders as such agreement may be further amended, restated, extended, supplemented or otherwise modified from time to time.

**“Senior Lenders”** means The Bank of Nova Scotia, HSBC Bank Canada, Société Générale, Bank of Montreal, The Toronto-Dominion Bank, National Bank of Canada, ING Capital LLC and any other lenders party to the Senior Credit Agreement from time to time, and their respective successors and assigns.

**“Senior Secured Indebtedness”** shall have the meaning ascribed thereto in the definition of “Net Senior Secured Indebtedness”.

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

**“Subject Entities”** means Rosh Pinah Zinc Corporation (Proprietary) Limited, Nantou Mining Burkina Faso S.A. and each other Person that is not a Subsidiary of the Borrower that maintains any direct or indirect ownership interest in a Material Mine from time to time.

**“Subsequent Closing Date”** means the date on which the last condition precedent pursuant to Section 10.3 is satisfied or waived, which shall occur not later than 45 days from the Initial Closing Date, unless extended by the Lender in its sole discretion.

**“Subsidiary”** means, with respect to any Person, any corporation, company or other business entity (including, for greater certainty, a chartered bank) of which more than fifty per cent (50%) of the outstanding Shares or other equity interests (in the case of Persons other than corporations) having ordinary voting power to elect a majority of the board of directors or the equivalent thereof of such corporation, company or business entity (irrespective of whether at the time Shares of any other class or classes of the Shares of such corporation, company or business entity shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned by such Person, by such Person and one or more other Subsidiaries of such Person, or by one or more other Subsidiaries of such Person. For greater certainty, “Subsidiary” shall include, with respect to any Person, any partnership, the sole general partner or the managing general partner of which is such Person or one or more Subsidiaries of such Person.

“**Sustaining Capital expenditures**” means, for any particular period, Capital expenditures for such period that are incurred in connection with the sustaining (including care and maintenance costs) of the then existing facilities and business of the Borrower on a consolidated basis, all calculated in accordance with the Borrower’s applicable financial statements.

“**Tangible Net Worth**” means, at any particular time, the aggregate amount of Equity at such time less the aggregate of the amounts, at such time, which would, in accordance with generally accepted accounting principles, be classified upon the consolidated balance sheet of the Borrower as (i) minority interests and (ii) intangible assets (which intangible assets include, for the avoidance of doubt, goodwill).

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Taxes**” means all taxes, assessments, fees, rates, levies, imposts, deductions, dues, duties and other charges of any nature of a tax, including any interest, fines, penalties or other liabilities with respect thereto, imposed, levied, collected, withheld or assessed by any applicable Official Body (including a federal, state, provincial, municipal or foreign Official Body) that is a taxing authority, and whether disputed or not.

“**Total Indebtedness**” means, at any particular time, the aggregate Indebtedness of the Borrower on a consolidated basis.

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

“**Unrestricted Cash**” means, at any particular time, the aggregate of all Cash of the Obligors at such time which (A) is not listed on the Borrower’s consolidated balance sheet as restricted cash (or other designation of similar effect) and (B) which is subject to a Lien pursuant to the Security Documents.

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

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

supports “terrorism” as defined in US Executive order No. 13224; or (v) a person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list.

“**U.S. Dollars**” means the lawful currency of the United States of America.

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

“**VAT Facility**” means a credit facility established for an Obligor or Subject Entity solely to bridge the payment of value added tax or other similar consumption tax refunds from an Official Body.

“**VAT Receivable**” means an amount claimed or demanded for refund in accordance with Applicable Law from an Official Body in respect of value added tax or similar consumption tax paid by an Obligor or Subject Entity. For the avoidance of doubt, a VAT Receivable shall cease to be a VAT Receivable once the subject claim or demand for refund has either been paid or declined (with all appeal rights exhausted) by the relevant Official Body.

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

“**Wilru**” means Wilru Investments One Hundred and Thirty Four (Proprietary) Limited, company with limited liability registered in accordance with the laws of the Republic of Namibia, with registration number 2011/0415.

## 1.2 Other Usages

References to “this agreement”, “the agreement”, “hereof”, “herein”, “hereto” and like references refer to this agreement and not to any particular Article, Section or other subdivision of this agreement. Subject to the following sentence, any references herein to any agreements or documents shall mean, unless otherwise explicitly stated, such agreements or documents as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof and thereof.

## 1.3 Plural and Singular

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

## 1.4 Headings

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



## **1.5 Currency**

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

## **1.6 Applicable Law**

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any legal action or proceeding with respect to this agreement may be brought in the courts of the Province of Ontario and, by execution and delivery of this agreement, the parties hereby accept for themselves and in respect of their property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts. Each party irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party to the address prescribed by Section 13.1, such service to become effective seven Banking Days after such mailing. Nothing herein shall limit the right of any party to serve process in any manner permitted by law or to commence legal proceedings or otherwise proceed against any other party in any other jurisdiction.

## **1.7 Time of the Essence**

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

## **1.8 Non-Banking Days**

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

## **1.9 Consents and Approvals**

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

## **1.10 Amount of Credit**

Any reference herein to the “amount of credit outstanding” or “outstanding amount of credit” or any similar phrase shall mean, at any particular time, the principal amount thereof.

## **1.11 Schedules**

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

**1.12 Extension of Credit**

For the purposes hereof, each drawdown shall be deemed to be an extension of credit to the Borrower hereunder.

**1.13 Meaning of Include.**

The words “include”, “includes” and “including”, when used in this agreement, shall be deemed to be followed by the phrase, “without limitation”.

**1.14 Rule of Construction**

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

**1.15 Accounting Terms – GAAP; Calculations, Computations, Changes in Accounting Policies**

Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. Whereas the Borrower may adopt new accounting policies from time to time (including with respect to IFRS), whereby such adoption is compelled by accounting or regulatory bodies having jurisdiction or at its own discretion, and whereas these accounting changes may result in a material change in the calculation of the financial covenants or financial covenant thresholds or terms used in this agreement or any other Credit Document, then the Borrower and the Lender agree to enter into good faith negotiations in order to amend such provisions of this agreement or such other Credit Document, as applicable, so as to equitably reflect such accounting changes with the desired result that the criteria for evaluating the Borrower’s or any of its Subsidiary’s financial condition, financial covenants, financial covenant thresholds or terms used in this agreement or any other Credit Document shall be the same after such accounting changes as if such accounting changes had not been made. If the Borrower and the Lender cannot agree upon the required amendments, then all calculations of financial covenants, financial covenant thresholds or terms used in this agreement or any other Credit Document shall be prepared and delivered without reflecting the accounting policy change.

**1.16 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this agreement and the Intercreditor Agreement, the Intercreditor Agreement shall prevail and be paramount. In the event of any conflict or inconsistency between the provisions of this agreement and the provisions of the other Credit Documents (other than the Intercreditor Agreement), the provisions of this agreement shall prevail and be paramount. If any covenant, representation, warranty or event of default contained in any Credit Document is in conflict with or is inconsistent with a provision of this agreement relating to the same specific matter, such covenant, representation, warranty or event of default shall be deemed to be amended to the extent necessary to ensure that it is not in conflict with or inconsistent with the provision of this agreement relating

to the same specific matter. For the avoidance of doubt, nothing in the Credit Documents shall limit the Lender's nor its Affiliates' rights under any other agreement with the Obligors or Subject Entities, including the Offtake Contracts.

### **1.17 Permitted Liens**

Any reference herein to a Permitted Lien shall not serve to subordinate or postpone any Lien created by any Security Document to such Permitted Lien.

### **1.18 Ordinary Course of Business**

Any transaction herein qualified as to a Person's "ordinary course of business" means the ordinary course of such Person's business, as conducted by any such Person in accordance with generally accepted practice in the mining industry or with the past practice of such Person, in each case and undertaken by such Person for commercial reasons and not for purposes of evading any obligation or restriction contained in any Credit Document.

### **1.19 Peruvian Collateral Agent**

Any reference herein to the Lender shall include reference to the Peruvian collateral agent with respect to the Peruvian Collateral, if applicable.

## **ARTICLE 2 CREDIT FACILITY**

### **2.1 Establishment of Credit Facility**

Subject to the terms and conditions of this agreement, the Lender hereby establishes in favour of the Borrower a working capital facility (the "**Credit Facility**") in the amount of the Facility Amount, which facility will, subject to the terms and conditions of this agreement, be available for draws on each applicable Drawdown Date during the Availability Period.

### **2.2 Termination of Credit Facility**

- (a) The Credit Facility shall terminate upon the earliest to occur of:
  - (i) the termination of the Credit Facility in accordance with Section 11.1; and
  - (ii) the Maturity Date.
- (b) Upon the termination of the Credit Facility, the right of the Borrower to obtain any credit under the Credit Facility and all of the obligations of the Lender to extend credit thereunder shall automatically terminate.

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

#### **3.1 Drawdowns**

Subject to the terms and conditions of this agreement, following the receipt by the Borrower of the Initial Advance Amount on the Initial Closing Date, and provided that there is no Event of Default continuing and that each condition precedent pursuant to Section 10.3 has been and remains satisfied as of the relevant Drawdown Date in accordance with this agreement, during the Availability Period, the Lender, in accordance with any Drawdown Notice received by the Lender, shall advance to the Borrower the relevant Drawdown Amounts, by making available by wire transfer to the account of the Borrower, prior to 6:00 p.m. (Toronto time) on each Drawdown Date, such Drawdown Amount in immediately available funds; provided that in no event shall the total outstanding Drawdown Amounts drawn under this agreement from time to time, together with the outstanding Initial Advance Amount, at any time exceed the Facility Amount.

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

If the Lender determines in good faith, which determination shall be final, conclusive and binding on the Borrower, and the Lender notifies the Borrower that (i) by reason of circumstances affecting financial markets inside or outside Canada, deposits of United States dollars are unavailable to the Lender in Canada, (ii) adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided in the definition of LIBOR, (iii) the making or continuation of United States dollar advances in Canada has been made impracticable by the occurrence of a contingency (other than a mere increase in rates payable by the Lender to fund the advance) which materially and adversely affects the funding of the advances at any interest rate computed on the basis of LIBOR, or by reason of a change in any Applicable Law or government regulation, guideline or order (whether or not having the force of law but, if not having the force of law, one with which a responsible Canadian chartered bank would comply) or in the interpretation thereof by any Official Body affecting the Lender or any relevant financial market, which results in LIBOR no longer representing the effective cost to the Lender of deposits in such market for a relevant Interest Period, or (iv) any change to present law or any future law, regulation, order, treaty or official directive (whether or not having the force of law but, if not having the force of law, one with which a responsible Canadian chartered bank would comply) or any change therein or any interpretation or application thereof by any Official Body has made it unlawful for the Lender to make or maintain or give effect to its obligations in respect of United States dollar advances in Canada as contemplated herein, then:

- (a) the right of the Borrower to obtain a Loan from the Lender shall be suspended until the Lender determines, acting reasonably, that the circumstances causing such suspension no longer exist and the Lender so notifies the Borrower;
- (b) if any affected Loan is not yet outstanding, any applicable Drawdown Notice shall be cancelled and the advance requested therein shall not be made; and
- (c) if any Loan is already outstanding at any time when the right of the Borrower to obtain credit by way of a Loan is suspended, such Loan shall be converted on the last day of the Interest Period applicable thereto (or on such earlier date as may be

required to comply with any applicable law) to a loan in such other currency as may be mutually agreed upon in the principal amount equal to the Exchange Equivalent of such Loan.

### 3.3 Time and Place of Payments

Unless otherwise expressly provided herein, the Borrower shall make all payments pursuant to this agreement or pursuant to any document, instrument or agreement delivered pursuant hereto by wire transfer to the account of the Lender before 6:00 p.m. (Toronto time) on the day specified for payment.

### 3.4 Evidence of Indebtedness

The Lender shall open and maintain accounts wherein it shall record the amount and type of credit outstanding, each advance and each payment of principal and interest on account of each Loan and all other amounts becoming due to and being paid to the Lender hereunder. The Lender's accounts constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Lender hereunder.

### 3.5 Notice Periods

Each Drawdown Notice and Prepayment Notice shall be given to the Lender prior to 10:00 a.m. (Toronto time) on the third Banking Day prior to the date of a drawdown of or voluntary prepayment of the Loans.

## ARTICLE 4 DRAWDOWNS

### 4.1 Drawdown Notice

- (a) Subject to Sections 3.1 and 3.5 and provided that all of the applicable conditions precedent set forth in Article 10 have been fulfilled by the Borrower or waived by the Lender as provided in Section 12.3, the Borrower may, from time to time, obtain credit hereunder in U.S. Dollars by giving to the Lender an irrevocable notice in substantially the form of Schedule D hereto ("**Drawdown Notice**") specifying, as applicable:
- (i) the relevant Offtake Contract;
  - (ii) the Banking Day the credit is to be obtained (the "**Drawdown Date**") which, subject to Section 4.1(c), shall be the same date as the Provisional Invoice Payment Date under the Offtake Contract; and
  - (iii) the Drawdown Amount, being the principal amount thereof.
- (b) During the Availability Period, the Borrower shall be permitted to submit a Drawdown Notice in respect of each Provisional Invoice Payment Date under each Offtake Contract (which, for the avoidance of doubt, may occur more than once per calendar month during the Availability Period).

- (c) In the event that a Provisional Invoice Payment Date occurs during the same month of delivery or shipping of the Applicable Monthly Tonnage to which such Provisional Invoice Payment Date relates, then the Drawdown Date shall be the first Business Day following the end of such calendar month.

## **ARTICLE 5 INTEREST AND FEES**

### **5.1 Interest Rate**

The Borrower shall pay to the Lender, in accordance with Section 3.3, interest on the outstanding principal amount from time to time of the Loan and on overdue interest thereon, at the rate per annum equal to LIBOR plus the Applicable Rate.

### **5.2 Calculation and Payment of Interest**

- (a) Interest on the outstanding principal amount from time to time of the Loans and on overdue interest thereon shall accrue from day to day from and including the date on which credit is obtained by way of the Loans or on which such overdue interest is due, as the case may be, to but excluding the date on which each of the Loans or overdue interest, as the case may be, is repaid in full (both before and after maturity and judgment) and shall be calculated on the basis of the actual number of days elapsed divided by 360.
- (b) Accrued interest shall be paid in arrears on the last day of each calendar month, or, if such day is not a Business Day, on the next succeeding Business Day (with interest accrued through such date).
- (c) For the purposes hereof, whenever interest is calculated on the basis of a year of 360, 365 or 366 days, each rate of interest determined pursuant to such calculation expressed as an annual rate for the purposes of the *Interest Act* (Canada) is equivalent to such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360, 365 or 366 days, respectively.
- (d) Interest on the Loans and on overdue interest thereon shall be payable in the currency in which the Loans are denominated during the relevant period.
- (e) If the Borrower fails to pay any fee or other amount (other than principal or interest) of any nature payable by it to the Lender hereunder or under any document, instrument or agreement delivered pursuant hereto on the due date therefor, the Borrower shall pay to the Lender interest on such overdue amount in the same currency as such overdue amount is payable from and including such due date to but excluding the date of actual payment (as well before and after judgment) at the rate per annum, calculated and compounded monthly, which is equal to LIBOR plus the Applicable Rate then in effect at all times that an Event of Default has occurred and is continuing. Such interest on overdue amounts shall become due and be paid on demand made by the Lender.

- (f) No interest or fee to be paid hereunder shall be paid at a rate exceeding the maximum rate permitted by Applicable Law. In the event that such interest or fee exceeds such maximum rate, such interest or fees shall be reduced or refunded, as the case may be, so as to be payable at the highest rate recoverable under Applicable Law.

For the purposes of the *Interest Act* (Canada), any rate of interest made payable under the terms of this agreement at a rate or percentage (the “**Contract Rate**”) for any period that is less than a consecutive 12 month period, such as a 360 or 365 day basis (the “**Contract Rate Basis**”), is equivalent to the yearly rate or percentage of interest determined by multiplying the Contract Rate by a fraction, the numerator of which is the number of days in the consecutive 12 month period commencing on the date such equivalent rate or percentage is being determined and the denominator of which is the number of days in the Contract Rate Basis. The Borrower confirms that it fully understands and is able to calculate the rates of interest and fees applicable to Accommodations based on the methodology for calculating per annum rates provided for in this agreement. The Lender agrees that if requested in writing by the Borrower it will calculate the nominal and effective per annum rate of interest or fees on any Accommodation outstanding at the time of such request and provide such information to the Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve the Borrower of any of its obligations under this agreement or any other Credit Document, nor result in any liability to the Lender. To the extent permitted by law, the Borrower hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to any Credit Document, that the interest or fees payable under any Credit Document and the calculation thereof has not been adequately disclosed to the Borrower, whether pursuant to section 4 of the *Interest Act* (Canada) or any other Applicable Law or legal principle.

### 5.3 Standby Fees

Upon the first Banking Day following the completion of the Fiscal Quarter immediately following the Initial Closing Date and on the termination of the Availability Period, the Borrower shall pay, in accordance with Section 3.3, to the Lender, in arrears, a standby fee calculated at the rate per annum, on the basis of a year of 365 days, equal to the Applicable Rate on the Available Credit, such fee to accrue daily from the date of the execution and delivery of this agreement to and including the date of payment.

### 5.4 LIBOR Successor Rate

- (a) If the Lender determines (which determination shall be conclusive absent manifest error), or the Borrower notifies the Lender that the Borrower has determined that:
- (i) adequate and reasonable means do not exist for ascertaining LIBOR, including because the LIBOR01 page of the Reuters screen (or any successor source from time to time for such rate) (the “**LIBOR Screen Rate**”) is not available or published on a current basis for an advance or for the applicable Interest Period and such circumstances are unlikely to be temporary;

- (ii) the administrator of the LIBOR Screen Rate or a governmental authority having jurisdiction over the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be made available or permitted to be used for determining the interest rate of loans;
- (iii) a governmental authority having jurisdiction over the Lender has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be permitted to be used for determining the interest rate of loans (each such specific date in clause (ii) above and in this clause (iii) a “**LIBOR Scheduled Unavailability Date**”); or
- (iv) loans currently being executed, or that include language similar to that contained in this Section 5.4, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then reasonably promptly after such determination by the Lender or receipt by the Lender of such notice, as applicable, the Lender and the Borrower may mutually agree upon a successor rate to LIBOR, and the Lender and the Borrower may amend this agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar United States dollars denominated credit facilities for such alternative benchmarks (any such proposed rate, a “**LIBOR Successor Rate**”), together with any proposed LIBOR Successor Rate conforming changes and any such amendment shall become effective at 5:00 p.m. (Toronto time) on the fifth Business Day after the Lender shall have posted such proposed amendment to the Borrower.

- (b) If no LIBOR Successor Rate has been determined and the circumstances under Section 5.4(a)(i) above exist or a LIBOR Scheduled Unavailability Date has occurred (as applicable), the Lender will promptly so notify the Borrower. Thereafter, the obligation of the Lender to make or maintain Loans shall be suspended (to the extent of the affected Loans or Interest Periods). Upon receipt of such notice, the Borrower may revoke any pending request for an advance of Loans (to the extent of the affected Loans or Interest Periods).
- (c) Notwithstanding anything else herein, any definition of the LIBOR Successor Rate (exclusive of any margin) shall provide that in no event shall such LIBOR Successor Rate be less than zero for the purposes of this agreement.

## **ARTICLE 6**

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

#### **6.1 Conditions of Credit**

The obtaining or maintaining of credit hereunder shall be subject to the terms and conditions contained in this Article 6.



## 6.2 Change of Circumstances

- (a) If, with respect to any type of credit, the introduction or adoption of any law, regulation, guideline, request or directive (whether or not having the force of law) of any governmental authority, central bank or comparable agency (“**Restraint**”) or any change therein or in the application thereof to the Borrower or to the Lender or in the interpretation or administration thereof or any compliance by the Lender therewith:
- (i) prohibits or restricts extending or maintaining such type of credit or the charging of interest or fees in connection therewith, the Borrower agrees that the Lender shall have the right to comply with such Restraint, shall have the right to refuse to permit the Borrower to obtain such type of credit and shall have the right to require, at the option of the Borrower, the conversion of such outstanding credit to another type of credit to permit compliance with the Restraint or repayment in full of such credit together with accrued interest thereon on the last day on which it is lawful for the Lender to continue to maintain and fund such credit or to charge interest or fees in connection therewith, as the case may be; or
  - (ii) shall impose or require any reserve, capital adequacy, liquidity, special deposit requirements or tax (excluding Taxes in respect of which amounts are payable by the Borrower to the Lender under Section 6.5 and Taxes described in paragraphs (a) and (b) of the definition of Excluded Taxes), shall establish an appropriate amount of capital to be maintained by the Lender or in accordance with Dodd-Frank Wall Street Reform and Consumer Protection Act or Basel III (or other Applicable Law of similar purpose and effect binding on the Lender), shall impose any other requirement or condition which results in an increased cost to the Lender of extending or maintaining a credit or obligation hereunder or reduces the amount received or receivable by the Lender with respect to any credit under this agreement or reduces the Lender’s effective return hereunder or on its capital or causes the Lender to make any payment or to forego any return based on any amount received or receivable hereunder, then, on notification to the Borrower by the Lender, the Borrower shall pay immediately to the Lender such amounts as shall fully compensate the Lender for all such increased costs, reductions, payments or foregone returns which accrue up to and including the date of receipt by the Borrower of such notice and thereafter, upon demand from time to time, the Borrower shall pay such additional amount as shall fully compensate the Lender for any such increased or imposed costs, reductions, payments or foregone returns. The Lender shall notify the Borrower of any actual increased or imposed costs, reductions, payments or foregone returns forthwith on becoming aware of same and shall concurrently provide to the Borrower a certificate of an officer of the Lender setting forth the amount of compensation to be paid to the Lender and the basis for the calculation of such amount. Notwithstanding this Section 6.2(a)(ii), the Borrower shall

not be liable to compensate the Lender for any such cost, reduction, payment or foregone return occurring more than 90 days before receipt by the Borrower of the aforementioned notification from the Lender; provided, however, that the aforementioned limitation shall not apply to any such cost, reduction, payment or foregone return of a retroactive nature.

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

- (b) The Lender agrees that, as promptly as practicable after it becomes aware of the occurrence of an event or the existence of a condition that would cause it to seek additional amounts from the Borrower pursuant to Section 6.2(a), it will use reasonable efforts to make, fund or maintain the affected credit of the Lender through another lending office or take such other actions as it deems appropriate, in its sole discretion, if as a result thereof the additional monies which would otherwise be required to be paid in respect of such credit pursuant to Section 6.2(a), would be reduced and if, as determined by the Lender in its sole discretion, the making, funding or maintaining of such affected credit through such other lending office or the taking of such other actions would not otherwise adversely affect such credit or the Lender and would not, in the Lender’s sole discretion, be commercially unreasonable.

### **6.3 Indemnity Relating to Credits**

Upon notice from the Lender to the Borrower (which notice shall be accompanied by a detailed calculation of the amount to be paid by the Borrower), the Borrower shall pay to the Lender such amount or amounts as will compensate the Lender for any loss, cost or expense incurred by it:

- (a) in the liquidation or redeposit of any funds acquired by the Lender to fund or maintain any portion of a Loan as a result of:
  - (i) the failure of the Borrower to borrow or make repayments on the dates specified under this agreement or in any notice from the Borrower to the Lender (provided that if any notice specifies the repayment of a Loan at any time other than its maturity date, then the Borrower shall be responsible for any loss, costs or expenses referred to above); or
  - (ii) the repayment or prepayment of any amounts on a day other than the payment dates prescribed herein or in any notice from the Borrower to the Lender (provided that if any notice specifies the repayment of a Loan at any time other than its maturity date, then the Borrower shall be responsible for any loss, costs or expenses referred to above).

#### 6.4 Indemnity for Transactional and Environmental Liability

- (a) The Borrower hereby agrees to indemnify and hold the Lender and each of its Affiliates, shareholders, officers, directors, employees, and agents (collectively, the “**Indemnified Parties**”) free and harmless from and against any and all claims, demands, actions, causes of action, suits, losses, costs, charges, liabilities and damages, and expenses in connection therewith (irrespective of whether such Indemnified Party is a party to the action for which indemnification hereunder is sought), and including reasonable legal fees and out of pocket disbursements and amounts paid in settlement which are approved by the Borrower (collectively in this Section 6.4(a), the “**Indemnified Liabilities**”), incurred or suffered by, or asserted against, the Indemnified Parties or any of them as a result of, or arising out of, or relating to (i) the extension of credit contemplated herein, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of any credit extended hereunder, (iii) any actual or threatened investigation, litigation or other proceeding relating to any credit extended or proposed to be extended as contemplated herein or (iv) the execution, delivery, performance or enforcement of the Credit Documents and any instrument, document or agreement executed pursuant hereto; provided such indemnity (x) does not extend to any such Indemnified Liabilities that a court of competent jurisdiction determined arose on account of the relevant Indemnified Party’s gross negligence, criminal act or willful misconduct or breach by such Indemnified Party of its obligations under the Credit Documents, (y) does not extend to any loss of profit, income, revenue or business opportunities (it being agreed, however, for certainty, that such exclusion shall not apply to the repayment of principal, the payment of interest, fees and other related costs and expenses, or any other amount expressly required to be paid, repaid or reimbursed (as applicable) under or pursuant to Credit Documents), and (z) shall not apply to disputes solely between or among Indemnified Parties.
- (b) Without limiting the generality of the indemnity set out in the preceding clause (a), the Borrower hereby further agrees to indemnify and hold the Indemnified Parties free and harmless from and against any and all claims, demand, actions, causes of action, suits, losses, costs, charges, liabilities and damages, and expenses in connection therewith, including reasonable and documented legal fees and out of pocket disbursements and amounts paid in settlement which are approved by the Borrower, of any and every kind whatsoever paid (collectively in this Section 6.4(b), the “**Indemnified Liabilities**”), incurred or suffered by, or asserted against, the Indemnified Parties or any of them for, with respect to, or as a direct or indirect result of, (i) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or Release from, any real property legally or beneficially owned (or any estate or interest which is owned), leased, used or operated by any Obligor of any Hazardous Material, contaminant, pollutant or Waste, and (ii) any other violation of or liability pursuant to an Environmental and Social Law with respect to any Obligor, and regardless of whether caused by, or within the control of, such Obligor, except for any such Indemnified Liabilities that

a court of competent jurisdiction determined arose on account of the relevant Indemnified Party's gross negligence or willful misconduct.

- (c) All obligations provided for in this Section 6.4 shall survive indefinitely the permanent repayment of the outstanding credit hereunder and the termination of this agreement. The obligations provided for in this Section 6.4 shall not be reduced or impaired by any investigation made by or on behalf of the Lender. This Section 6.4 shall not apply with respect to Taxes other than Taxes that represent claims, demands, actions, causes of action, suits, losses, costs, charges, liabilities and damages, or expenses arising from any non-Tax claim.
- (d) The Borrower hereby agrees that, for the purposes of effectively allocating the risk of loss placed on the Borrower by this Section 6.4, the Lender shall be deemed to be acting as the agent or trustee on behalf of and for the benefit of its shareholders, officers, directors, employees and agents.
- (e) If, for any reason, the obligations of the Borrower pursuant to this Section 6.4 shall be unenforceable, the Borrower agrees to make the maximum contribution to the payment and satisfaction of each obligation that is permissible under Applicable Law.

## **6.5 Gross-Up for Taxes**

- (a) Any and all payments made by or on behalf of the Borrower under this agreement or under any other Credit Document (any such payment being hereinafter referred to as a "**Payment**") to or for the benefit of the Lender shall be made without set-off or counterclaim, and free and clear of, and without deduction or withholding for, or on account of, any and all present or future Taxes except to the extent that such deduction or withholding is required by law or the administrative practice of any Official Body. If any such Taxes are so required to be deducted or withheld from or in respect of any Payment made to or for the benefit of the Lender, the Borrower shall:
  - (i) promptly notify the Lender of such requirement;
  - (ii) with respect to Indemnified Taxes, pay to the Lender in addition to the Payment to which the Lender is otherwise entitled, such additional amount as is necessary to ensure that the net amount actually received by the Lender (free and clear of, and net of, any such Indemnified Taxes, including the full amount of any Indemnified Taxes required to be deducted or withheld from any additional amount paid by the Borrower under this Section 6.5(a), whether assessable against the Borrower or the Lender) equals the full amount the Lender, would have received had no such deduction or withholding been required;
  - (iii) make such deduction or withholding;

- (iv) pay to the relevant Official Body in accordance with Applicable Law the full amount of Taxes required to be deducted or withheld (including the full amount of Taxes required to be deducted or withheld from any additional amount paid by the Borrower, to the Lender under this Section 6.5(a)), within the time period required by Applicable Law; and
  - (v) as promptly as possible thereafter, forward to the Lender an original official receipt (or a certified copy), or other documentation reasonably acceptable to the Lender, evidencing such payment to such Official Body.
- (b) In addition, the Borrower agrees to pay any and all present or future Other Taxes.
  - (c) The Borrower hereby indemnifies and holds harmless the Lender, on an after-Taxes basis, for the full amount of Taxes and Other Taxes, interest, penalties and other liabilities, levied, imposed or assessed against (and whether or not paid directly by) the Lender and for all expenses, resulting from or relating to the Borrower's failure to:
    - (i) remit to the Lender the documentation referred to in Section 6.5(a)(v); or
    - (ii) pay any Taxes or Other Taxes when due to the relevant Official Body (including any Taxes imposed by any Official Body on amounts payable under this Section 6.5).

The provisions of this Section 6.5(c) shall apply whether or not such Taxes or Other Taxes were correctly or legally assessed. The Lender shall promptly notify the Borrower of any payment of Taxes or Other Taxes, provided, however, that failure to provide such notice shall not detract from, or compromise, the obligations of the Borrower under this Section 6.5. Payment pursuant to this indemnification shall be made within 20 days from the date the Lender makes written demand therefor accompanied by a certificate as to the amount of such Taxes or Other Taxes and the calculation thereof, which calculation shall be prima facie evidence of such amount.

- (d) If the Borrower determines in good faith that a reasonable basis exists for contesting any Indemnified Taxes for which a payment has been made under this Section 6.5, the Lender shall, if so requested by the Borrower, cooperate with the Borrower in challenging such Indemnified Taxes at the Borrower's expense.
- (e) If the Lender receives a refund of, or credit for, Taxes for which a payment has been made by the Borrower under this Section 6.5, which refund or credit in the good faith judgment of the Lender is attributable to the Indemnified Taxes giving rise to such payment made by the Borrower, then the Lender shall reimburse the Borrower for such amount (if any, but not exceeding the amount of any payment made under this Section 6.5 that gives rise to such refund or credit), net of out-of-pocket expenses of the Lender which the Lender determines in its absolute discretion will leave it, after such reimbursement, in no better or worse position than it would have been in if such Indemnified Taxes had not been exigible. The

Borrower, upon the request of the Lender, agrees to repay the Lender any portion of any such refund or credit paid over to the Borrower that the Lender is required to pay to the relevant Official Body and agrees to pay any interest, penalties or other charges paid by the Lender as a result of or related to such payment to such Official Body. The Lender shall not be under any obligation to arrange its tax affairs in any particular manner so as to claim any refund or credit. The Lender shall not be obliged to disclose any information regarding its tax affairs or computations to the Borrower or any other Person in connection with this Section 6.5(e) or any other provision of this Section 6.5.

- (f) If the Lender is entitled to an exemption from or reduction of withholding Taxes or Other Taxes (collectively, “**Relevant Taxes**”) under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to Payments, the Lender shall deliver to the Borrower, at the time or times prescribed by Applicable Law and reasonably requested by the Borrower, such properly completed and executed documentation prescribed by Applicable Law (if any) as will permit such payments to be made without withholding or at a reduced rate of withholding or a reduced rate of Relevant Taxes. In addition, (i) the Lender, if requested by the Borrower, shall deliver such other documentation prescribed by Applicable Law (if any) or reasonably requested by the Borrower as will enable the Borrower to determine whether or not the Lender is subject to withholding or information reporting requirements, and (ii) if the Lender ceases to be, or to be deemed to be, resident in Canada for purposes of Part XIII of the *Tax Act* or any successor provision thereto in respect of Payments, the Lender shall within five Banking Days thereof notify the Borrower in writing. Notwithstanding the foregoing, the Lender shall not be required to deliver any documentation pursuant to this Section 6.5(f) that the Lender is not legally able to deliver.
- (g) Additional amounts payable under Section 6.5(a) have the same character as the Payments to which they relate. For greater certainty, for example, additional amounts payable under Section 6.5(a), in respect of interest payable under a Credit Document, shall be payments of interest under such Credit Document. All payments made under this Section 6.5 shall be subject to the provisions of this Section 6.5.
- (h) The Borrower’s obligations under this Section 6.5 shall survive without limitation the termination of the Credit Facility and this agreement and all other Credit Documents and the permanent repayment of the outstanding credit and all other amounts payable hereunder or thereunder.

## **ARTICLE 7 REPAYMENTS AND PREPAYMENTS**

### **7.1 Repayment of Credit Facility**

The Borrower shall repay to the Lender in full the outstanding credit under the Credit Facility, which, for greater certainty, shall consist of the Initial Advance Amount and all

advances drawn by the Borrower on each applicable Drawdown Date during the Availability Period, on the Maturity Date together with all accrued and unpaid interest thereon and all accrued and unpaid fees with respect thereto.

## **7.2 Voluntary Prepayments**

Subject to Section 7.4, the Borrower shall be entitled to prepay all or any portion of the outstanding Loans under the Credit Facility at any time, without penalty, provided that Section 6.3 shall be complied with in connection with any such prepayment and any such prepayment of all or any portion of the Loans shall be in an amount of no less than \$1,000,000 and otherwise in integral multiples of \$100,000 in excess thereof and further provided that any such prepayment shall only be made if permitted under the terms of the Intercreditor Agreement. Amounts under the Credit Facility which have been prepaid as aforesaid may not be re-borrowed. Other than any payments required pursuant to Section 6.3, there are no premiums, penalties or other additional payments associated with any voluntary prepayments under this Section 7.2.

## **7.3 Mandatory Prepayments**

The Borrower shall, within five Banking Days of the occurrence of a Prepayment Trigger Event, prepay outstanding credit under the Credit Facility in an amount equal to 100% of the Applicable Prepayment Amount in respect of such Prepayment Trigger Event provided that any such prepayment shall only be made if permitted under the terms of the Intercreditor Agreement. Amounts which are prepaid under the Credit Facility as aforesaid on account of any relevant Prepayment Trigger Event may not be reborrowed. Section 6.3 shall be complied with in connection with any prepayment pursuant to Section 7.3.

## **7.4 Prepayment Notice**

The Borrower shall give written notice to the Lender of each voluntary prepayment pursuant to Section 7.2. Such notice shall be substantially in the form set forth in Schedule Q hereto (a “**Prepayment Notice**”) shall be irrevocable, shall be given in accordance with Section 3.5 and shall specify:

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

## **7.5 Currency of Repayment**

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

## **7.6 Total Commitment; Alternative Equity Financing**

In the event that the Lender pays subscription proceeds for common shares or other securities in the Borrower, the Lender may elect to reduce the amount of the commitments under the Credit Facility by the amount of such subscription proceeds. To the extent that the commitment under the Credit Facility has been fully drawn, the Lender may elect, notwithstanding any other

restrictions on repayment of the Credit Facility, that such subscription proceeds paid by the Lender shall be applied to repay an equivalent amount under the Credit Facility.

## **ARTICLE 8 REPRESENTATIONS AND WARRANTIES**

### **8.1 Representations and Warranties**

To induce the Lender to enter into this agreement and to induce the Lender to extend credit under the Credit Documents, the Borrower hereby represents and warrants to the Lender, as of the date of this agreement, as of each Drawdown Date as of the last day of each Fiscal Quarter and as of the consummation date of each Permitted Acquisition, as follows and acknowledges and confirms that the Lender is relying upon such representations and warranties in entering into this agreement and in extending credit under the Credit Documents:

- (a) **Status and Power.** Each Obligor and Subject Entity is a corporation duly incorporated or continued and organized and validly subsisting in good standing under the laws of its governing jurisdiction and each Obligor and Subject Entity is duly qualified, registered or licensed in all jurisdictions where the nature of its business makes such qualification, registration or licensing necessary, except where the failure to be in such standing or so qualified, registered or licensed would not reasonably be expected to have a Material Adverse Effect. Each Obligor has all requisite corporate capacity, power and authority to own, hold under licence or lease its properties, and to carry on its business as now conducted. Each Obligor has all necessary corporate capacity to enter into, and carry out the transactions contemplated by, the Credit Documents to which it is a party.
- (b) **Authorization and Enforcement.** All necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance by each Obligor of the Credit Documents to which it is a party. Each Obligor has duly executed and delivered the Credit Documents to which it is a party. The Credit Documents to which each Obligor is a party are legal, valid and binding obligations of such Obligor, enforceable against such Obligor in accordance with its terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditors' rights generally and (ii) the fact that the courts may deny the granting or enforcement of equitable remedies.
- (c) **Compliance with Other Instruments.**
  - (i) The execution, delivery and performance by each Obligor of the Credit Documents to which it is a party, and the consummation of the transactions contemplated herein and therein, do not and will not conflict with, result in any breach or violation of, or constitute a default under, the terms, conditions or provisions of, the charter or constating documents or by-laws of, or any shareholder agreement or declaration relating to, such Obligor.



- (ii) The execution, delivery and performance by each Obligor of the Credit Documents to which it is a party, and the consummation of the transactions contemplated herein and therein, (i) do not and will not conflict with, result in any breach or violation of, or constitute a default under, the terms, conditions or provisions of, (x) any law, regulation, judgment, decree or order binding on or applicable to such Obligor or (y) any Material Agreement, Mining License or Permit to which such Obligor is a party or is otherwise bound or by which such Obligor benefits or to which its property is subject which conflict, breach, violation or default would result in a Material Adverse Effect, and (ii) do not require the Approval of any Official Body, other than any necessary Approval which has been obtained and remains in full force and effect.
  
- (d) **Financial Statements.** The consolidated financial statements of the Borrower for the most recently completed Fiscal Quarter or Fiscal Year, as the case may be, were prepared in accordance with GAAP. The balance sheet of the aforesaid financial statement presents in all material respects a fair statement of the consolidated financial condition and assets and liability of the Borrower as at the date thereof and the statements of operations, retained earnings and cash flow contained in the aforesaid financial statements fairly presents in all material respects the results of the consolidated operations of the Borrower throughout the period covered thereby. Except to the extent reflected or reserved against in the aforesaid balance sheet (including the notes thereto) and except as incurred in the ordinary and usual course of the consolidated business of the Borrower, the Borrower does not have, as at the date of such balance sheet, any outstanding Indebtedness or any liability or obligations (whether accrued, absolute, contingent or otherwise) of a material nature required to be reflected or reserved against in a balance sheet (including the notes thereto) prepared in accordance with generally accepted accounting principles.
  
- (e) **Litigation.** Except as disclosed in Schedule L, there are no actions, suits, inquiries, claims or proceedings (whether or not purportedly on behalf of any Obligor) pending or threatened in writing against or affecting any Obligor before any Official Body which in any case or in the aggregate would reasonably be expected to have a Material Adverse Effect.
  
- (f) **Title to Assets.** Each Obligor has good and marketable title to its property, assets and undertaking, free from any Lien other than the Permitted Liens.
  
- (g) **Conduct of Business.** No Company is in violation of any Applicable Laws, save (except in the case of Anti-Corruption Laws) for non-compliance which would not reasonably be expected to have a Material Adverse Effect. Each Obligor and Subject Entity holds all licenses, certificates of approval, approvals, registrations, permits and consents which are required to operate its businesses where they are currently being operated except where the failure to have such licenses, certificates of approval, approvals, registrations, permits and consents would not reasonably be expected to have a Material Adverse Effect.

- (h) **Outstanding Defaults.** No Default or Event of Default exists or would result from the incurring of any Secured Obligations by any Obligor. No event has occurred which constitutes or which, with the giving of notice, lapse of time or both, would constitute a default under or in respect of, or a lapse of, any Mining Licenses other than (i) a lapse of any Mining License which would not reasonably be expected to have a Material Adverse Effect and (ii) any default under or in respect of any Mining License which does not afford the grantor of any such Mining License the right to revoke such Mining License or impose more restrictive conditions thereon which would reasonably be expected to have a Material Adverse Effect or as otherwise disclosed in the Perfection Certificates.
- (i) **Tax Returns and Taxes.** Except as disclosed on Schedule N, each Obligor and Subject Entity has filed all material Tax returns and Tax reports required by law to have been filed by it and has paid all Taxes thereby shown to be owing, except any such Taxes which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with generally accepted accounting principles shall have been set aside on its books.
- (j) **Expropriation or Condemnation.** There is no present or threatened (in writing to an Obligor or Subject Entity) expropriation or condemnation of the property or assets of any Obligor or Subject Entity, which expropriation or condemnation would reasonably be expected to have a Material Adverse Effect.
- (k) **Environmental Compliance.** Except as disclosed on Schedule O:
- (i) All facilities and property (including underlying groundwater) directly or indirectly owned, leased, used or operated by each Company and Subject Entity are owned, leased used or operated by such Company and Subject Entity in compliance with all Environmental and Social Laws except where any non-compliance would not reasonably be expected to have a Material Adverse Effect and to the Knowledge of the Borrower all facilities and property (including underlying groundwater) previously owned, leased, used or operated by each Company and Subject Entity were owned or leased in compliance with all Environmental and Social Laws except where any non-compliance would not reasonably be expected to have a Material Adverse Effect;
  - (ii) There are no pending or threatened (in writing)
    - (A) claims, complaints, notices or requests for information received by any Company or Subject Entity from any Official Body with respect to any alleged violation of any Environmental and Social Law which alleged violation would reasonably be expected to have a Material Adverse Effect;
    - (B) complaints, notices or inquiries to any Company or Subject Entity from any Official Body regarding potential liability under any

Environmental and Social Law which potential liability would reasonably be expected to have a Material Adverse Effect;

- (iii) To the Knowledge of the Borrower, there have been no Releases of any Hazardous Materials or any escape, seepage, leakage, spillage, discharge, emission or release of any Hazardous Materials at, on, under or from any property now or previously owned, operated, used or leased by any Company or Subject Entity in violation of Environmental and Social Laws except for Releases of any Hazardous Materials which would not reasonably be expected to have a Material Adverse Effect;
  - (iv) Each Company and Subject Entity has been issued and is in compliance with all permits, certificates, approvals, licenses and other authorizations under any Environmental and Social Laws to carry on its business except where any non-issuance or non-compliance would not reasonably be expected to have a Material Adverse Effect; and
  - (v) To the Knowledge of the Borrower, no conditions exist at, on or under any property now or previously owned, operated, used or leased by any Company or Subject Entity which, with the passage of time, or the giving of notice or both, would give rise to liability under any Environmental and Social Law except for the existence of any such conditions which would not reasonably be expected to have a Material Adverse Effect.
- (l) ***Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).*** On the Initial Closing Date: (i) the Borrower's most recent audited balance sheet states that it has total assets of at least Cdn.\$75,000,000; (ii) the Borrower's shares are traded on a Canadian stock exchange or a stock exchange designated under subsection 262(1) of the Tax Act; and (iii) the Borrower operates in a country that is a member of the Financial Action Task Force.
- (m) **Corporate Structure.** As at the date hereof, and hereafter, except as such information may change as a result of a transaction not prohibited hereby and, where required, reported to the Lender in accordance with Section 9.1(b)(iii), the chart attached hereto as Schedule G accurately sets out the corporate structure of the Borrower and all of its Subsidiaries and evidences (i) intercorporate share ownership; (ii) ownership of Material Mines and (iii) share ownership of the Subject Entities.
- (n) **Employee Benefit Plans and Pension Plans.**
- (i) Schedule M lists all Pension Plans and indicates each Pension Plan, if any, that is a DB Pension Plan.
  - (ii) There is no proceeding or claim (other than routine claims for benefits and related appeals) pending or, to the Knowledge of the Borrower, threatened against any Obligor with respect to any Employee Benefit Plan or any

Pension Plan that, individually or in the aggregate, would be reasonably expected to result in a Material Adverse Effect.

- (iii) Each Obligor has established, operated and administered (including the payment, withholding and remitting of all required contributions in a timely manner) each Employee Benefit Plan and each Pension Plan in compliance with all Applicable Law except for such instances of non-compliance as, individually and in the aggregate, have not resulted in and are not reasonably likely to result in a Material Adverse Effect.
- (iv) The expected post-retirement benefit obligation of the Obligors under the Employee Benefit Plans does not and is not reasonably likely to have a Material Adverse Effect.
- (o) **Collective Bargaining Agreements.** Each Obligor and Subject Entity is in compliance with the terms and conditions of all collective bargaining agreements except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.
- (p) **Material Agreements.** Each Material Agreement to which any Obligor is a party is in full force and effect and no material breach by any Obligor or, to the Knowledge of the Borrower, any other party thereto of any of the terms or conditions thereof has occurred and is continuing, and there have been no events that are continuing which, but for giving notice, lapse of time or any other condition subsequent, would constitute a default of a material obligation thereunder or the imposition of any material sanction on any Obligor to such Material Agreement of which it is aware; provided that this Section 8.1(p) does not apply (i) to Material Agreements that have reached the end of their term; (ii) where, within ninety (90) days of termination of a Material Agreement, such Material Agreement has been replaced by a Replacement Material Agreement, and (iii) Material Agreements (other than any off take agreement in respect of production from a Material Mine) the breach or termination of which would not result in a Material Adverse Effect.
- (q) **Solvency Proceedings.** No Obligor or Subject Entity has:
  - (i) admitted its inability to pay its debts generally as they become due or failed to pay its debts generally as they become due;
  - (ii) in respect of itself, filed an assignment or petition in bankruptcy or a petition to take advantage of any insolvency statute;
  - (iii) made an assignment for the benefit of its creditors;
  - (iv) consented to the appointment of a receiver, liquidator, judicial manager, administrator, trustee, custodian or similar official of the whole or any substantial part of its assets;

- (v) filed a petition or answer seeking a reorganization, arrangement, adjustment or composition in respect of itself under applicable bankruptcy laws or any other Applicable Law or statute of Canada or other applicable jurisdiction or any subdivision thereof;
  - (vi) other than in accordance with the terms of this agreement, had a resolution passed for its winding up, judicial management, official management, receivership or liquidation; or
  - (vii) been adjudged by a court having jurisdiction a bankrupt or insolvent, nor has a decree or order of a court having jurisdiction been entered for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy of any Obligor or Subject Entity with such decree or order having remained in force and undischarged or unstayed for a period of 30 days.
- (r) **Purpose of Credit.** No part of the proceeds of any Accommodation has been used by the Borrower, directly or, to the Knowledge of the Borrower, indirectly, (i) in violation of any Sanctions, (ii) which could result in the imposition of Sanctions against any Person (including any Person participating in the transactions contemplated hereby, whether as the Lender or otherwise), (iii) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws or (iv) to finance any hostile acquisition (being, for the avoidance of doubt, a takeover bid that the board of directors of such company does not support). No Obligor is a charity registered with the Canada Revenue Agency and no Obligor solicits charitable financial donations from the public.
- (s) **Mining Licenses.** The Mining Licenses have been validly granted and recorded in the public registry (if applicable), and are owned, leased or otherwise validly held, with enforceable title, by the applicable Obligor or Subject Entity as described in Schedule G and are in full force and effect, except where the failure to maintain such Mining Licenses in full force and effect would not reasonably be expected to result in a Material Adverse Effect. The Lender, pursuant to the Security Documents, has a Lien in its favour on the Mining Licenses in respect of the Material Mines (other than the Rosh Pinah Mine and the Perkoa Mine). The Mining Licenses grant the relevant Obligor or Subject Entity the exclusive and enforceable right to explore and/or extract minerals (as applicable) from the areas covered by the relevant Mining Licenses in accordance with the respective terms and conditions thereof and applicable thereto. All Mining Licenses have been issued in the name of an Obligor or a Subject Entity (or an Obligor or a Subject Entity has otherwise valid and recorded title to them) and, except for Permitted Liens, all fees, including maintenance fees, and other payments due to any Official Body in respect of the Mining Licenses have been paid in full on a timely basis, except as would not materially interfere with the use made by the applicable Obligor or Subject Entity of the relevant Mining Licenses. No fees, royalties or other similar payments payable to any Person other than Official Bodies are or shall become due with

respect to any of the Mining Licenses other than as set forth therein or in existence as of the date hereof or, where such payment does not result in a Material Adverse Effect.

- (t) **Authorizations for the Mining Operations.** All Permits necessary for the Mining Operations (including those required under Environmental and Social Laws), as of the relevant date this representation is made and necessary for maintaining and preserving the rights of the relevant Obligor and Subject Entities therein, are in full force and effect and are sufficient to permit such Mining Operations in effect as at such relevant date, in each case, in all material respects as contemplated by the Mine Plan, in each case other than those which (i) are not now necessary and which are expected to be obtained in the ordinary course of business by the time they are necessary or (ii) the failure to have or to obtain before the Maturity Date would not result in a Material Adverse Effect. No Obligor or Subject Entity has taken any action or omitted to take any action, and to the Knowledge of the Borrower no other person has taken any action or omitted to take any action, which would be reasonably likely to result in the forfeiture, loss, extinction, cancellation, adverse change, non-renewal or non-issuance of any Permit.
- (u) **Perfection Certificates.** All information in each Perfection Certificate is true and correct in all material respects as at the date of delivery of such Perfection Certificate. The Borrower has provided written notification to the Lender as required in accordance with Section 9.1(b) of any change in the information certified in the Perfection Certificates which change would result in a Lien on a Secured Asset becoming unperfected or, in the case of any after acquired asset, such asset not subject to a Lien under a Security Document (where such other acquired asset is, in accordance with Schedule R, to be subject to a Lien in favour of the Lender).
- (v) **Assets Insured.** The Secured Assets of each Obligor are insured with insurers, in amounts, and for risks which are reasonable and prudent and appropriate to its size, nature and stage of development. All premiums due and payable under such policies have been paid and the Obligors are in compliance in all material respects with the terms of such policies.
- (w) **Capital of Guarantors.** On the date of the delivery of the relevant Perfection Certificate, the authorized and issued capital of each Guarantor and the owner of record of all such issued capital, is as set forth in the Perfection Certificate of the relevant Obligor and all of the issued Shares have been issued by each such Guarantor and are outstanding as fully paid and, where applicable, non-assessable. There are no outstanding warrants, options or other agreements which require or may require the issuance of any Shares of any Guarantor or the issuance of any debt or securities convertible into Shares of any Guarantor, there are no outstanding debt or securities convertible into Shares of any Guarantor and there are no Shares allotted for issuance, in each case, other than those that may be outstanding to an Obligor.

- (x) **Liens and Pledges.** The Liens granted to the Lender pursuant to the Security Documents delivered on or prior to the date this representation is made are fully perfected second priority Liens in and to the Secured Assets of the relevant Obligor, subject only to Permitted Liens including, for greater certainty, the Liens granted to the Senior Lenders, and will, upon the acquisition of additional Secured Assets by such Obligor, constitute second charges or security interests upon all such Secured Assets of each such Obligor, in accordance with Schedule R, free and clear of all Liens except Permitted Liens. All Shares issued by each Guarantor have been pledged in favour of the Lender pursuant to a Security Document.
- (y) **Consents, Approvals, etc.** Save and except as set forth on Schedule T hereto, no consents, approvals, acknowledgements, undertakings, non-disturbance agreements, directions or other documents or instruments which have not already been provided to the Lender are required to be entered into by any Person (i) to make effective the Security created or intended to be created by the Obligors in favour of the Lender pursuant to the Security Documents, (ii) to ensure the perfection and the intended priority of such Security and (iii) to implement the transactions contemplated hereby.
- (z) **No Material Adverse Change.** Since the date of the most recent audited financial statements of the Borrower furnished to the Lender pursuant to or in connection with any Credit Document, there has been no Material Adverse Change.
- (aa) **Sanctions.** None of the transactions contemplated by the Credit Documents, nor the execution and delivery thereof, violates the Sanctions and each Company and Subject Entity is in compliance with all Sanctions. Furthermore, none of the Borrower, any Subsidiary or Affiliate of the Borrower or any director, officer, employee of the Borrower or any of its Subsidiaries or Affiliates is a Sanctioned Person and none of the Borrower and its Subsidiaries or Affiliates engages in any dealings or transactions with a Sanctioned Person, contrary to Sanctions.
- (bb) **Anti-Money Laundering Legislation.** The Borrower has adopted and maintains adequate procedures and controls to ensure that it and the other Companies and Subject Entities are in compliance with all Anti-Money Laundering Legislation.
- (cc) **No Omissions.** None of the representations and statements of fact set forth in this Section 8.1 omits to state any material fact necessary to make any such representation or statement of fact not misleading in any material respect.

## 8.2 Survival of Representations and Warranties

All of the representations and warranties of the Borrower contained in Section 8.1 shall survive the execution and delivery of this agreement until the Secured Obligations Termination Date, notwithstanding any investigation made at any time by or on behalf of the Lender.

## ARTICLE 9 COVENANTS

### 9.1 Affirmative Covenants

The Borrower hereby covenants and agrees with the Lender that, until the Secured Obligations Termination Date, and unless waived in writing in accordance with Section 12.3:

- (a) **Prompt Payment.** The Borrower shall duly and punctually pay, or cause to be duly and punctually paid to the Lender all amounts payable by each Obligor under the Credit Documents to which it is a party at the times and places and in the currency and manner mentioned therein.
- (b) **Financial Reporting.** The Borrower shall furnish the Lender with the following statements and reports:
  - (i) as soon as reasonably practicable and in any event within 90 days after the end of each Fiscal Year, copies of the audited consolidated financial statements of the Borrower for such Fiscal Year together with the auditors' report on such audited financial statements, as well as a chart setting out the corporate structure of the Borrower and all of its Subsidiaries, whether direct or indirect, and evidencing (i) intercorporate share ownership; (ii) mine ownership and (iii) share ownership of the Subject Entities, in each case, to the extent the information in the prior delivered chart is out of date;
  - (ii) as soon as reasonably practicable and in any event within 45 days after the end of each of the first three Fiscal Quarters in each Fiscal Year, the Borrower's unaudited consolidated financial statements for each of the first three Fiscal Quarters in each Fiscal Year;
  - (iii) concurrent with the deliveries of financial statements pursuant to clauses (i) and (ii) above, a duly executed and completed Compliance Certificate, if required in connection with the amounts and financial ratios in Sections 9.1(m), (n), (o) and (p) below, and written notification of any change in the information certified in the Perfection Certificates which change would result in any Lien in favour of the Lender on any such Secured Asset becoming unperfected or, in the case of any after acquired asset, such asset not being subject to a Lien under a Security Document where, pursuant to Schedule R, such after acquired assets are required to be subject to a Lien in favour of the Lender;
  - (iv) on or before February 15, 2021 and notwithstanding the foregoing paragraph 9.1(b)(iii), a Compliance Certificate in respect of the Fiscal Quarter ending December 31, 2020;
  - (v) as soon as reasonably practicable and in any event within 90 days after the end of each Fiscal Year, a Mine Plan;



- (vi) the Borrower's consolidated and updated twelve-week cash-flow forecast statements in form and substance satisfactory to the Lender delivered to the Lender on a bi-weekly basis commencing on the date hereof and on each fourteenth day thereafter;
- (vii) the Borrower's updated statement of unencumbered cash balances, segmented by operation and location, in form and substance satisfactory to the Lender, acting reasonably, delivered to the Lender on a bi-weekly basis commencing on the date hereof and on each fourteenth day thereafter (and, to the extent any such statement discloses a Liquidity position of less than \$7,500,000, the Borrower shall promptly provide to the Lender a written plan for replenishing its Liquidity position to a level equal to or greater than \$7,500,000); and
- (viii) such other statements, reports and information concerning the Borrower or any of its Subsidiaries as the Lender may reasonably request from time to time.

Information required to be delivered with respect to the Borrower pursuant to Section 9.1(b) shall be deemed to have been delivered on the date on which such information has been posted on the Borrower's website on the Internet, at [www.sedar.com](http://www.sedar.com) or at another website identified by the Borrower by notice to the Lender and accessible by the Lender without charge.

- (c) **Use of Proceeds.** The Borrower shall apply all of the proceeds of the Credit Facility for its working capital and general corporate purposes excluding, for the avoidance of doubt, Permitted Acquisitions. The Borrower shall not drawdown credit under the Credit Facility for the purpose of accumulating and/or maintaining cash in depository or investment accounts outside the ordinary course of business. The Borrower shall not use any part of the proceeds of any Accommodation directly or, to the Knowledge of the Borrower, indirectly, (i) in violation of any Sanctions, (ii) in any manner which will result in the imposition of Sanctions against any Person (including any Person participating in the transactions contemplated hereby, whether as Lender or otherwise) or (iii) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws.
- (d) **Insurance.** The Borrower shall, and shall cause each other Obligor and Subject Entity to, maintain on an individual or aggregate basis, with financially sound and reputable insurers, insurance with respect to the properties and business of the Obligors and Subject Entity against loss, damage, risk or liability of the kinds customarily insured against by Persons carrying on a similar business. In each such policy with respect to the Obligors (other than Obligors existing under the laws of the Republic of Namibia), the Borrower shall cause the Lender to be named as secured party or mortgagee and lender's loss payee in respect of property and casualty insurance and as additional insured in respect of liability insurance in a

manner acceptable to the Lender, acting reasonably. The Borrower shall, and shall cause each other Obligor to, comply with all of the material provisions contained in all such insurance policies. All premiums for such insurance shall be paid by the Borrower or applicable Obligor when due and certificates of insurance and, if requested, photocopies of the policies shall be delivered to the Lender.

- (e) **Access to Senior Financial Officers.** Upon the reasonable request of the Lender at reasonable intervals, the Borrower shall, and shall cause each Obligor to, make available its senior financial and technical officers to representatives of the Lender to answer questions concerning such Obligor's business and affairs.
- (f) **Reimbursement of Expenses.** The Borrower hereby agrees to reimburse the Lender from time to time, upon presentation of a summary statement, for all reasonable and documented out-of-pocket expenses (including but not limited to travel expenses, due diligence expenses and reasonable and documented fees and disbursements of one primary counsel and any local counsel or special counsel (including any restructuring advisor and mining engineer retained by or on behalf of the Lender and/or its counsel) to the Lender, in each case incurred (whether before or after the date hereof except as specifically noted) in connection with the Credit Facility and the preparation of the Credit Documents or the amendment, modification, interpretation, enforcement or waiver hereof or thereof.
- (g) **Notice of Expropriation or Condemnation, Litigation and Default/Event of Default.** The Borrower shall promptly notify the Lender in writing:
  - (i) of the commencement or the written threat of any expropriation, compulsory purchase or condemnation of any material assets, property or undertaking of any Obligor or Subject Entity or of the institution of any proceedings related thereto;
  - (ii) of any actions, suits, inquiries, disputes, claims or proceedings (whether or not purportedly on behalf of a Obligor or Subject Entity) commenced or threatened in writing against or affecting a Obligor or Subject Entity before any Official Body which in any case or in the aggregate would reasonably be expected to have a Material Adverse Effect;
  - (iii) of any material developments in respect of any litigation referenced in Schedule L hereto or otherwise disclosed to the Lender pursuant to paragraph (ii), above;
  - (iv) upon the occurrence of either a Default or an Event of Default, the nature and date of occurrence of such Default or Event of Default, the Borrower's assessment of the duration and effect thereof and the action which the Borrower proposes to take with respect thereto;
  - (v) upon the occurrence of a Material Adverse Change, the nature and date of occurrence of such Material Adverse Change, the Borrower's assessment of

the duration and effect thereof and the action which the Borrower proposes to take with respect thereto;

- (vi) of any event which has occurred or which constitutes or which, with the giving of notice, lapse of time or both, would constitute a default under or in respect of, or a lapse of, any Mining License; and
  - (vii) upon any income earned by an Obligor that is subject to currency controls or other similar Applicable Laws which prohibit the transfer of Cash from the jurisdiction where such income was earned to any other jurisdiction in which one or more Obligors operate, are resident for tax purposes and/or are otherwise incorporated.
- (h) **Inspection of Assets and Operations.** The Borrower shall, and shall cause each Obligor and Subject Entity to, permit representatives of the Lender (including, for certainty, any advisors appointed by or on behalf of the Lender and/or its counsel) from time to time to, subject to compliance with applicable health and safety protocols, inspect the assets, property or undertaking (including, for certainty, the Material Mines) of any Obligor or Subject Entity and for that purpose to enter on any property which is owned and controlled by any Obligor or Subject Entity and where any of the assets, property or undertaking of any Obligor or Subject Entity may be situated during reasonable business hours upon reasonable notice and, unless otherwise expressly agreed, at the cost of the Lender.
- (i) **Corporate Existence.** The Borrower shall, and shall cause each other Obligor and Subject Entity to, maintain its corporate existence in good standing and qualify and remain duly qualified to carry on business and own property in each jurisdiction where the nature of its business makes such qualification necessary except where failure to be so qualified would not reasonably be expected to have a Material Adverse Effect and except in connection with a Permitted Reorganization.
- (j) **Conduct of Business.** The Borrower shall, and shall cause each other Company to, conduct its business according to good, safe and prudent industry practice, and otherwise in such a manner so as to comply with all Applicable Laws, so as to observe and perform all its obligations under leases, licences and agreements necessary for the proper conduct of its business and so as to preserve and protect its property and assets and the earnings, income and profits therefrom, except where such non-compliance, non-observance or non-performance would not reasonably be expected to have a Material Adverse Effect (save and except for Anti-Corruption Laws which shall not be so qualified by a Material Adverse Effect). The Borrower shall, and shall cause each other Company to, conduct its business in such a manner so as to comply with all Environmental and Social Laws except where any non-compliance would not reasonably be expected to result in a Material Adverse Effect. The Borrower shall, and shall cause each other Obligor and Subject Entity to, perform all obligations incidental to any trust imposed upon it by statute and shall ensure that any breaches of the said obligations and the consequences of any such breach shall be promptly remedied, except failure to so remedy would not reasonably be expected to result in a Material Adverse Effect. The Borrower shall,

and shall cause each other Obligor and Subject Entity to, obtain and maintain all material licenses, permits, government approvals, franchises, authorizations and other rights necessary for the operation of its business except where failure to so obtain such licenses, permits, government approvals, franchises, authorizations and rights would not reasonably be expected to have a Material Adverse Effect. The Borrower shall, and shall cause each other Company and its and their respective officers and employees to, comply with all Anti-Corruption Laws and Sanctions.

(k) **Taxes.** The Borrower shall pay, and shall cause each other Obligor to pay, all material Taxes levied, assessed or imposed upon it and upon its property or assets or any part thereof, as and when the same become due and payable, save and except when and so long as the validity of any such Taxes is being contested in good faith by appropriate proceedings and reserves are being maintained in accordance with generally accepted accounting principles.

(l) **Environmental Matters.** The Borrower shall, and shall cause each other Obligor and Subject Entity to, promptly notify the Lender and provide copies upon receipt of all material written claims, complaints or notices received from Official Bodies relating to the condition of its facilities and properties or material compliance with Environmental and Social Laws and, save for any good faith contesting of any such claims, complaints or notices shall proceed diligently to resolve any such claims, complaints or notices relating to material compliance with Environmental and Social Laws.

(m) **Net Senior Secured Leverage Ratio.** The Borrower shall maintain the Net Senior Secured Leverage Ratio to be less than or equal to

(i) 3.25:1.00 at all times during the Fiscal Quarter ending December 31, 2020;

(ii) 2.75:1.00 at all times during the Fiscal Quarter ending March 31, 2021 to and including the Fiscal Quarter ending December 31, 2021;

(iii) at less than or equal to 2.50: 1.00 at all times thereafter;

and shall calculate the Net Senior Secured Leverage Ratio as at the last day of each Fiscal Quarter from and including the Fiscal Quarter ending December 31, 2020.

(n) **Total Net Leverage Ratio.** The Borrower shall maintain the Total Net Leverage Ratio to be less than or equal to

(i) 4.25:1.00 at all times during the Fiscal Quarter ending December 31, 2020;

(ii) 3.75:1.00 at all times during the Fiscal Quarter ending March 31, 2021 to and including the Fiscal Quarter ending December 31, 2021;

(iii) at less than or equal to 3.50:1.00 at all times thereafter;

and shall calculate the Total Net Leverage Ratio as at the last day of each Fiscal Quarter from and including the Fiscal Quarter ending December 31, 2020.

- (o) **Interest Expense Coverage Ratio.** The Borrower shall at all times maintain the Interest Expense Coverage Ratio to be greater than or equal to 4:00:1 and shall calculate such ratio as at the last day of each such Fiscal Quarter from and including the Fiscal Quarter ending December 31, 2020.
- (p) **Tangible Net Worth.** The Borrower shall, at all times from and including December 31, 2020, maintain Tangible Net Worth in an amount greater than or equal to (i) 70% of Tangible Net Worth as at December 31, 2020 plus (ii) 50% of the aggregate positive Net Income for each Fiscal Quarter beginning with the Fiscal Quarter ending on December 31, 2020. For the purpose of the foregoing, if the Net Income for a particular Fiscal Quarter is negative, the Net Income for such Fiscal Quarter shall be deemed to be zero, as at the last day of each Fiscal Quarter.
- (q) **Books and Records.** The Borrower shall, and shall cause each other Obligor to, keep proper books of account and records covering all its business and affairs on a current basis, make full, true and correct entries of its transactions in such books, set aside on its books from their earnings all such proper reserves as required by GAAP and permit representatives of the Lender to inspect such books of account, records and documents and to make copies therefrom during reasonable business hours and upon reasonable notice; provided that unless an Event of Default has occurred and is continuing, such inspection rights with respect to the Obligors shall be limited to once per calendar year.
- (r) **Change of Name or Jurisdiction.** If any Obligor changes its legal name or its jurisdiction of formation or the jurisdiction of its location for the purposes of the PPSA or adopts a French form of its legal name, the Borrower shall provide the Lender with prior written notice of such change or adoption.
- (s) **Maintenance of Secured Assets.** The Borrower shall, and shall cause each other Obligor and Subject Entity to, maintain, preserve, protect and keep all of its ownership, lease, use, licence and other interests in the assets necessary for it to be able to operate the Material Mines substantially in accordance with good, safe and prudent mining and business practice.
- (t) **Additional Guarantees and Security.**
  - (i) At least ten Banking Days prior to the direct or indirect formation or acquisition by the Borrower of a Material Subsidiary after the date hereof, the Borrower shall notify the Lender of such proposed formation or acquisition (a “**Subsidiary Notice**”).
  - (ii) On or before the date of the formation or acquisition of any Material Subsidiary referred to in a Subsidiary Notice, the Borrower shall provide to the Lender a Perfection Certificate with respect to such Material Subsidiary and such other information regarding such Material Subsidiary and its business, finances and assets as the Lender may reasonably request (including, without limitation, requisite information to identify such

Material Subsidiary under the applicable “know your client” and anti-money laundering/anti-terrorism legislation and regulations).

- (iii) Subject to the last sentence of this Section 9.1(t) and the terms of the Intercreditor Agreement, the Borrower shall, or shall cause each entity (i) which is to become a Material Subsidiary and is referred to in a Subsidiary Notice or (ii) which qualifies as a Material Subsidiary to, as soon as reasonably practicable using its commercial best efforts and in any event within fifteen Banking Days after the formation, acquisition or qualification of such Material Subsidiary, deliver to the Lender the following:
- (A) a Guarantee executed by such Material Subsidiary in favour of the Lender;
  - (B) Security Documents executed by such Material Subsidiary in favour of the Lender, and, to the extent required to perfect a pledge on the Shares of such Material Subsidiary, Security Documents (or amendments thereto) by the shareholder of such Material Subsidiary in each case consistent with the principles set out on Schedule R;
  - (C) any third party agreements, consents or acknowledgements reasonably requested by the Lender and required to perfect the Security granted by such Material Subsidiary or for such Security to have the intended priority;
  - (D) a certificate of status or good standing for such Material Subsidiary (where available) issued by the appropriate governmental body or agency of the jurisdiction in which such Material Subsidiary is incorporated;
  - (E) certificates representing all of the issued and outstanding Shares of the Material Subsidiary, duly endorsed in blank or accompanied by an executed stock transfer power of attorney (where such Shares are certificated);
  - (F) to the extent not previously delivered to the Lender by an Obligor on behalf of the Material Subsidiary, insurance certificates issued by the applicable insurance brokers with respect to the insurance policies maintained by or on behalf of the Material Subsidiary and acknowledging the interests of the Lender in such policies as referred to in Section 9.1(d);
  - (G) a Closing Certificate of such Material Subsidiary;
  - (H) opinions of such Material Subsidiary’s counsel with respect to, *inter alia*, such Material Subsidiary, the enforceability of the aforementioned Credit Documents, registration and perfection of the aforementioned Security Documents and as to such other matters

as the Lender may reasonably request, and otherwise in form and substance satisfactory to the Lender; and

- (I) a certificate of a senior officer of the Borrower certifying that no Default has occurred and is continuing or would occur or arise immediately after or as a result of such Material Subsidiary becoming a Guarantor hereunder;

whereupon such Material Subsidiary shall become a Guarantor for all purposes of this agreement. Notwithstanding the aforementioned 10 Banking Day period which the Borrower has to cause such Material Subsidiary to become a Guarantor and complete the foregoing covenants, (i) such Subsidiary shall, forthwith upon its formation or acquisition, become subject to the representations and warranties, covenants and events of default hereunder as if it had become a Guarantor hereunder on such date of formation or acquisition (provided that no Default shall arise solely as a consequence of the non-delivery of the documents and actions contemplated by this Section 9.1(t) prior to the date required pursuant hereto) and (ii) the registration and perfection of the Security Documents in respect of mortgages, equipment pledges and mineral pledges and exploitation permit pledges and delivery of related legal opinions shall be completed as soon as commercially practicable after such formation, acquisition or qualification of such Material Subsidiary.

- (u) **Security.** The Borrower shall, subject to the terms of the Intercreditor Agreement, ensure that, at all times, the Secured Obligations of the Obligor are collaterally secured by the Security in accordance with the principles set out on Schedule R and shall meet all obligations (including all filing and registration obligations) provided in the Security Documents subject to the terms hereof and thereof.
- (v) **Employee Benefit Plans and Pension Plans.** The Borrower shall, and shall cause each Obligor to:
  - (i) establish, maintain and operate (including the payment, withholding and remitting of all required contributions in a timely manner) all Employee Benefit Plans and Pension Plans so as to comply in all respects with all Applicable Laws and the respective requirements of the governing documents for such plans, except as individually and in the aggregate does not and would not reasonably be expected to have a Material Adverse Effect;
  - (ii) promptly and in any event with 10 Banking Days after the relevant event, deliver to the Lender an updated Schedule M if there are material changes to any Pension Plan with respect to information set out in such Schedule;
  - (iii) deliver to the Lender, promptly and in any event within 10 Banking Days after the relevant Obligor becoming aware of any Pension Event, a written

notice setting forth the nature thereof and the action, if any, that any Obligor proposes to take with respect thereto; and

- (iv) promptly and in any event within 10 Banking Days after request by the Lender, deliver to the Lender copies of any DB Pension Plan established after the date hereof by an Obligor or Subject Entity whose Shares have been pledged to the Lender pursuant to the Security and related actuarial valuations or financial statements.
- (w) **Violations of Anti-Terrorism Laws.** If to the Knowledge of the Borrower (i) any holder of a direct or indirect equity or financial interest in it or (ii) any Company or Subject Entity is the subject of any enforcement action or restriction under the Anti-Terrorism Laws and/or Anti-Corruption Laws, the Borrower shall promptly notify the Lender in writing thereof. Upon the request of the Lender, it shall promptly provide any information the Lender believes is reasonably necessary to be delivered to comply with any Anti-Terrorism Laws and Anti-Corruption Laws.
- (x) **Mine Plan.** By no later than September 30, 2020, the Borrower shall deliver to the Lender an updated Mine Plan which was prepared between the date of this agreement and the date of delivery to the Lender.
- (y) **Restructuring.** The Borrower covenants and agrees to:
  - (i) provide the Lender and its restructuring advisor reasonable access to the Borrower's equity and capital markets advisor, Royal Bank of Canada, and the Borrower shall cause Royal Bank of Canada to share all information requested by the Lender, acting reasonably, as it pertains to asset sales, capital raises or other revenue generating initiatives for and on behalf of the Borrower; and
  - (ii) if the Borrower is required to retain a restructuring advisor pursuant to the terms of the Senior Credit Agreement, the Borrower will consult with the Lender on the identity of such restructuring advisor and the scope of work to be completed by such restructuring advisor.
- (z) **Exchange Control Approval.** The Borrower shall furnish the Lender with:
  - (i) evidence that a duly completed application for the renewal of the Exchange Control Approval (on an annual basis after the Subsequent Closing Date) is submitted as soon as reasonably practicable and in any event within 60 days prior to the expiration of the preceding Exchange Control Approval; and
  - (ii) the renewed Exchange Control Approval as soon as is reasonably practicable but in any event no later than the expiry date of the preceding Exchange Control Approval, such renewed Exchange Control Approval being on terms no more restrictive than the Exchange Control Approval rendered on or before the Subsequent Closing Date or is otherwise acceptable to the Lender, acting reasonably.



## 9.2 Restrictive Covenants

The Borrower hereby covenants and agrees with the Lender that, until the Secured Obligations Termination Date, and unless waived in writing in accordance with Section 12.3:

- (a) **Liens.** The Borrower shall not, and shall not permit or suffer any other Obligor or Subject Entity to, enter into or grant, create, assume or suffer to exist any Lien affecting any of their respective properties, assets or undertaking, whether now owned or hereafter acquired, save and except for the Permitted Liens.
- (b) **Corporate Existence.** The Borrower shall not, and shall not permit or suffer any other Obligor or Subject Entity to, take part in any Corporate Reorganization or Capital Reorganization other than pursuant to a Permitted Reorganization. The Borrower shall not suffer or permit any Subject Entity to have any Subsidiaries other than wholly-owned Subsidiaries of a Subject Entity formed for the sole purpose of business directly related to the operation or management of the subject Material Mine.
- (c) **Disposition of Assets.** The Borrower shall not, and shall not suffer or permit any other Obligor or Subject Entity to, sell, transfer or otherwise Dispose of any of their respective assets other than pursuant to a Permitted Disposition.
- (d) **Amendments.** The Borrower shall not, nor shall it suffer or permit any other Obligor to, amend:
  - (i) their articles of incorporation (other than in connection with a transaction permitted under Section 9.2(b)) or amend, enter into or terminate any unanimous shareholder agreement applicable to an Obligor, in each case, if such amendment would reasonably be expected to have a Material Adverse Effect; or
  - (ii) terminate any Material Agreement if such amendment or termination would reasonably be expected to have a Material Adverse Effect, except if, within ninety (90) days of such amendment or termination, such Material Agreement has been replaced by a Replacement Material Agreement.
- (e) **Distributions.** The Borrower shall not declare or pay any Distributions other than Distributions consisting solely of its Shares and shall not, for the avoidance of doubt, declare or pay any cash Distributions. The Borrower shall not suffer or permit any Subject Entity to pay any Distribution to any minority shareholder of a Subject Entity unless a *pro rata* Distribution is paid concurrently according to ownership interests in such Subject Entity to each shareholder.
- (f) **Indebtedness.** The Borrower shall not, and shall not suffer or permit any other Obligor to, create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness.

- (g) **Investments.** The Borrower shall not, and shall not permit any other Obligor to, make any Investments other than Permitted Investments.
- (h) **Acquisitions.** The Borrower shall not, and shall not suffer or permit any other Obligor to, make any Acquisitions other than Permitted Acquisitions. The Borrower shall not suffer or permit any Subject Entity to make any Acquisitions.
- (i) **Transactions with Affiliates.** The Borrower shall not, and shall not permit any other Obligor to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transaction or series of transactions with, any of its shareholders, its Affiliates or shareholders of its Affiliates (other than, in each case, other Obligors provided the subject transaction does not result in any Secured Asset no longer being subject to the Security) other than (x) as may be specifically permitted hereunder or (y) in the ordinary course of business at prices and on terms and conditions not less favourable to such Obligor than could be obtained on an arm's length basis from unrelated third parties.
- (j) **Business Activities.** The Borrower shall not and shall not permit any other Company to, engage in any business activity other than the development, operation, exploration and acquisition of mineral properties and any activity incidental thereto or related to the business of mining generally.
- (k) **Streaming, Metal Prepay and Royalty Arrangements.** Save and except for the royalties disclosed in Schedule S hereto in existence as of the date hereof, the Borrower shall not, and shall not suffer or permit any other Obligor or Subject Entity to, be a party to any streaming, metal prepay or royalty arrangement other than resulting from (and not in contemplation of) a Permitted Acquisition.
- (l) **Fiscal Year.** The Borrower shall not, and shall not suffer or permit any Obligor to, change its Fiscal Year end.
- (m) **Pension Plan.** The Borrower shall not, and shall not suffer or permit any Obligor to, terminate or wind up in whole or in part or withdraw from a Canadian Pension Plan if:
  - (i) there would be or would reasonably be expected to be a wind-up deficiency resulting in an obligation of an Obligor to pay or contribute in excess of \$10,000,000 in respect of such Canadian Pension Plan; or
  - (ii) such termination, wind up or withdrawal would reasonably be expected to result in a Material Adverse Effect.
- (n) **Deposit and Operating Accounts.** The Borrower shall not and shall not suffer or permit any Obligor to maintain deposit or operating accounts with any financial institution other than a Finance Party (as defined under the Senior Credit Agreement) or which is not otherwise required to, and is, subject to the Security. Notwithstanding the foregoing sentence, the Obligors may maintain deposit or

operating accounts not subject to the Security with a financial institution other than a Finance Party (as defined under the Senior Credit Agreement) provided that a Finance Party (as defined under the Senior Credit Agreement) does not provide deposit or operating account services in a relevant jurisdiction and all such accounts in such jurisdictions for all Obligor does hold in deposit more than \$25,000,000 in the aggregate at any particular time.

- (o) **Subject Entities.** The Borrower shall not suffer or permit any Subject Entity to (i) assign, whether by way of security or otherwise, any rights in any Offtake Contract to which it is a party (unless to the Lender as Security), nor (ii) grant Liens in favour of any Person (other than customary banker's liens for fees, overdrafts, other customary charges pursuant to the account operating documents and the like in the normal course of business) other than the Lender on such Subject Entities' deposit or operating accounts.
- (p) **Offtake Contracts.** Without the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed), the Borrower shall not suffer or permit any Obligor or Subject Entity to change, vary, waive or terminate (prior to its stated maturity) any off-take sales contract for minerals produced or extracted from any Material Mine unless such change variance or waiver is non-material in nature and is entered into in the ordinary course of business when no default has occurred and is continuing under the subject off-take sales contract.

### 9.3 Performance of Covenants by the Lender

The Lender may, upon notice by the Lender to the Borrower, perform any covenant of the Borrower under this agreement which the Borrower fails to perform or cause to be performed after demand for performance has been made and which the Lender is capable of performing, including any covenants the performance of which requires the payment of money, provided that the Lender shall not be obligated to perform any such covenant on behalf of the Borrower and no such performance by the Lender shall require the Lender to further perform the Borrower's covenants or as a waiver of such covenant by the Lender. Any amounts paid by the Lender shall be repaid by the Borrower to the Lender on demand.

## ARTICLE 10 CONDITIONS PRECEDENT TO OBTAINING CREDIT

### 10.1 Conditions Precedent to All Credit

Subject to Section 10.2, the obligation of the Lender to extend credit hereunder is subject to fulfilment of the following conditions precedent on the date such credit is extended:

- (a) the Borrower shall have complied with the requirements of Article 4;
- (b) no Default or Event of Default has occurred and is continuing or would arise immediately after giving effect to or as a result of such extension of credit; and

- (c) the representations and warranties of the Borrower contained in Section 8.1 shall be true and correct in all material respects (except that any representation and warranty which is already qualified as to materiality or by reference to any Material Adverse Effect shall be true and correct in all respects) on the date such credit is extended as if such representations and warranties were made on such date immediately after the relevant extension of credit except to the extent the same expressly relate to an earlier date.

## **10.2 Conditions Precedent to the Initial Closing Date**

This agreement shall become effective upon the fulfillment or waiver of the following conditions precedent (the “**Initial Closing Date**”):

- (a) the conditions precedent in Section 10.1 have been fulfilled or waived;
- (b) the Lender shall have received a fully executed copy of the Senior Credit Agreement, including, for greater certainty, an amendment removing the minimum Liquidity requirement;
- (c) no Material Adverse Change has occurred since June 30, 2020;
- (d) the Borrower shall have duly executed and delivered to the Lender this agreement in form and substance satisfactory to the Lender;
- (e) the Intercreditor Agreement or the intercreditor principles commitment letter referenced in the definition of Intercreditor Agreement shall have been executed and delivered;
- (f) the Lender shall have received, in form and substance satisfactory to the Lender:
  - (i) a Closing Certificate of the Borrower;
  - (ii) a certificate of status or good standing for the Borrower issued by the appropriate governmental body or agency of the jurisdiction in which the Borrower is incorporated;
  - (iii) an opinion of counsel to the Borrower addressed to, *inter alios*, the Lender and its counsel, relating to the status and capacity of the Borrower, the due authorization, execution and delivery and the validity and enforceability of this agreement in the jurisdiction of incorporation of the Borrower, and such other matters as the Lender may reasonably request; and
  - (iv) requisite information to identify the Borrower under the applicable “know your client” and anti-money laundering/anti-terrorism legislation and regulations, delivered sufficiently in advance for the Lender to complete such identification;
- (g) the Lender or its counsel shall have retained a financial advisor, acceptable to, and at the cost of, the Lender, for the purposes of:

- (i) reviewing the Borrower's full cost structure;
  - (ii) working together with the Senior Lenders' financial advisor on fiscal and liquidity issues affecting the Borrower; and
  - (iii) such other purposes as may be agreed to by the Lender, the Senior Lenders and the Borrower, acting reasonably;
- (h) there shall exist no pending or threatened litigation, proceedings or investigations which (x) contest the consummation of the Credit Facility or any part thereof or (y) would reasonably be expected to have a Material Adverse Effect; and
- (i) the Borrower shall have paid to the Lender all fees and expenses (including the fees and expenses of the Lender's legal counsel) required to be paid pursuant to this agreement.

### **10.3 Conditions Precedent to the Subsequent Closing Date**

The obligation of the Lender to make an advance hereunder by way of a Loan on the first Drawdown Date following the advance of the Initial Advance Amount is subject to and conditional upon the prior satisfaction of the following additional conditions precedent, which conditions precedent must be satisfied not later than 45 days from the Initial Closing Date, unless extended by the Lender in its sole discretion (the "**Subsequent Closing Date**"):

- (a) each Obligor shall have duly executed and delivered to the Lender each of the Credit Documents to which it is a party (other than this agreement) in form and substance satisfactory to the Lender;
- (b) the Lender shall have received, in form and substance satisfactory to the Lender:
  - (i) the Perfection Certificate of each Obligor;
  - (ii) a Closing Certificate of each Obligor;
  - (iii) a certificate of status or good standing for each Obligor and Subject Entity issued by the appropriate governmental body or agency of the jurisdiction in which such Obligor or Subject Entity is incorporated to the extent such is customarily issued by such party in the relevant jurisdiction;
  - (iv) updated insurance binders, certificates of insurance and statements of coverage with respect to the insurance referred to in Section 9.1(d);
  - (v) opinions of counsel to each Obligor addressed to, *inter alios*, the Lender and its counsel, relating to the status and capacity of such Obligor, the due authorization, execution and delivery and the validity and enforceability of this agreement and the other Credit Documents described in Section 10.2(d) to which such Obligor is a party in the jurisdiction where the Secured Assets of the Borrower are located and the jurisdiction of incorporation of such Obligor, and such other matters as the Lender may reasonably request; and

- (vi) requisite information to identify the Obligors under the applicable “know your client” and anti-money laundering/anti-terrorism legislation and regulations, delivered sufficiently in advance for the Lender to complete such identification;
- (c) the Lender and its counsel shall be satisfied, acting reasonably, that all necessary Approvals have been given in respect of the Credit Facility, the Security Documents (including the assignment by way of security of the offtake contracts for the Caribou Mine and the Santander Mine and the counterparty’s acknowledgment of such collateral assignment);
- (d) there shall exist no pending or threatened litigation, proceedings or investigations which (x) contest the consummation of the Credit Facility or any part thereof or (y) would reasonably be expected to have a Material Adverse Effect;
- (e) except as otherwise provided in the relevant Security Documents, all documents and instruments shall have been properly registered, recorded and filed in all places which, searches shall have been conducted in all jurisdictions which, and deliveries of all consents, approvals, acknowledgments, undertakings, directions, negotiable documents of title, landlord waivers and other documents and instruments to the Lender shall have been made which, in the opinion of the Lender’s counsel, are necessary to make effective the Security created or intended to be created by the Obligors pursuant to the Security Documents and to ensure the perfection and the intended second ranking priority (subject to Permitted Liens) of such Security;
- (f) the Lender shall have received confirmation of all current and anticipated key commercial terms related to the Offtake Contracts including the Benchmark TCs, the Monthly Spot TCs and freight rollbacks; and
- (g) the Borrower shall have paid to the Lender all fees and expenses (including the fees and expenses of the Lender’s legal counsel) required to be paid pursuant to any Credit Document.

#### **10.4 Waiver**

The terms and conditions of Sections 10.1, 10.2 and 10.3 are inserted for the sole benefit of the Lender, and the Lender may waive them in accordance with Section 12.3, in whole or in part, with or without terms or conditions, in respect of any extension of credit, without prejudicing their right to assert the terms and conditions of Section 10.1 and in whole or in part in respect of any other extension of credit.

### **ARTICLE 11 DEFAULT AND REMEDIES**

#### **11.1 Events of Default**

Upon the occurrence of any one or more of the following events, unless expressly waived in writing in accordance with Section 12.3:

- (a) the breach by the Borrower of the provisions of Section 7.1 or 7.3 within two Banking Days after the payment is due (such two Banking Day Period to apply solely to payments prior to the Maturity Date);
- (b) the failure of the Borrower to pay any amount due under the Credit Documents (other than amounts due pursuant to Section 7.1 or 7.3) within five Banking Days after the payment is due;
- (c) except as otherwise specifically permitted hereunder, the commencement by any Obligor or Subject Entity or by any other Person of proceedings for the dissolution, liquidation, winding up or receivership of any Obligor or Subject Entity or for the suspension of operations of any Obligor or Subject Entity under any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect applicable to such Obligor or Subject Entity (provided that, if such proceedings are commenced by any Person other than an Obligor or Subject Entity or an Affiliate thereof, such proceedings shall only constitute an Event of Default if such proceedings are not being diligently defended and have not been discharged, vacated or stayed within 30 days after commencement);
- (d) if any Obligor or Subject Entity ceases or threatens to cease to carry on its business or is adjudged or declared bankrupt or insolvent or admits its inability to pay its debts generally as they become due or fails to pay its debts generally as they become due or makes an assignment for the benefit of creditors, petitions or applies to any tribunal for the appointment of a receiver, trustee, administrator, liquidator or conservator under applicable insolvency legislation for it or for any part of its property (or such a receiver or trustee is appointed for it or any part of its property), or commences (or any other Person commences) any proceedings relating to it under any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect applicable to such Obligor or Subject Entity (provided that, if such proceedings are commenced by any Person other than an Obligor or Subject Entity or an Affiliate thereof, such proceedings shall only constitute an Event of Default if such proceedings are not being diligently defended and have not been discharged, vacated or stayed within 30 days after commencement), or by any act indicates its consent to, approval of, or acquiescence in, any such proceeding for it or for any part of its property, or suffers the appointment of any receiver or trustee, sequestrator, administrator, liquidator, conservator or other custodian under applicable insolvency legislation for it or such part of its property;
- (e) if any representation or warranty made by any Obligor in any Credit Document or referred to herein or any material information furnished in writing to the Lender by any Obligor proves to have been incorrect in any respect when made or furnished which, if capable of being cured, has not been remedied within 20 Banking Days after written notice to do so has been given by the Lender to the Borrower;
- (f) if a writ, execution, attachment or similar process is issued or levied against all or any portion of the property of any Obligor in connection with any judgment against

it in an amount of at least \$5,000,000 or its Exchange Equivalent, and such writ, execution, attachment or similar process is not released, bonded, satisfied, discharged, vacated or stayed within sixty days after its entry, commencement or levy;

- (g) any breach of any provision of Section 9.1(c), (m), (n), (o), (p) or (z) or any provision of Section 9.2;
- (h) the breach or failure of due observance or performance by any Obligor or Subject Entity of any covenant or provision of any Credit Document (other than those previously referred to in this Section 11.1) or Offtake Contract and such breach or failure continues for 15 Banking Days (or 20 Banking Days with respect to the Offtake Contracts) after the earlier of (x) the Borrower becoming aware of such breach or failure or (y) the Lender giving the Borrower notice of such breach or failure;
- (i) if one or more encumbrancers, lienors or landlords take possession of any part of an Obligor's property having a fair market value of at least \$5,000,000 or its Exchange Equivalent of any Obligor or attempt to enforce their security or other remedies against such property and their claims remain unsatisfied for such period as would permit such property to be sold thereunder;
- (j) if an event of default under any agreement, indenture or instrument, under which any Obligor has outstanding Indebtedness in an amount of at least \$5,000,000 or its Exchange Equivalent or under which another Person has outstanding Indebtedness in an amount of at least \$5,000,000 or its Exchange Equivalent which is guaranteed by an Obligor, shall happen (with all applicable grace periods having expired) or if any Indebtedness of or guaranteed by any Obligor in an amount of at least \$5,000,000 or its Exchange Equivalent which is payable on demand is not paid on demand, including, for the avoidance of doubt, the occurrence of any Event of Default as defined under the Senior Credit Agreement;
- (k) the expropriation, abandonment or condemnation of a Material Mine or any material part thereof;
- (l) the cessation of production at any Material Mine (other than the Caribou Mine while on care and maintenance) for a period of 180 consecutive days;
- (m) the occurrence of a Change of Control;
- (n) any one or more of the Credit Documents or Offtake Contracts is determined by a court of competent jurisdiction not to be a legal, valid and binding obligation of any Obligor or Subject Entity which is a party thereto, enforceable by the Lender against such Obligor or Subject Entity and such Credit Document or Offtake Contract has not been replaced by a legal, valid, binding and enforceable document which is equivalent in effect to such Credit Document or Offtake Contract, assuming such Credit Document or Offtake Contract had originally been legal, valid, binding and enforceable, in form and substance acceptable to the Lender,



within 30 days of such determination, provided, however, that such grace period shall only be provided if such Obligor or Subject Entity actively co-operates with the Lender to so replace such Credit Document or Offtake Contract;

- (o) the validity, enforceability or priority of any of the Credit Documents or Offtake Contracts is contested in any manner by any Obligor or Subject Entity;
- (p) any Credit Document is terminated by any Obligor or Subject Entity prior to its stated maturity or rescinded by any Obligor or Subject Entity in violation of the terms of any Credit Document or Offtake Contract;
- (q) any Security Document does not constitute second ranking, priority security in the Secured Assets of each Obligor (subject to Permitted Liens); or
- (r) a Pension Event occurs and
  - (i) in the event of a wind up or termination of the relevant Canadian Pension Plan, there would be or would reasonably be expected to be a wind-up deficiency resulting in an obligation of an Obligor to pay or contribute in excess of \$5,000,000; or
  - (ii) it would reasonably be expected to result in a Material Adverse Effect

the Lender may, by notice to the Borrower and subject to the terms of the Intercreditor Agreement, terminate the Credit Facility (provided, however, that the Credit Facility shall automatically terminate, without notice of any kind, upon the occurrence of an event described in clause (c) or (d) above) and the Lender may, by the same or further notice to the Borrower and subject to the terms of the Intercreditor Agreement, declare all Indebtedness of the Borrower to the Lender pursuant to this agreement to be immediately due and payable whereupon all such indebtedness shall immediately become and be due and payable without further demand or other notice of any kind, all of which are expressly waived by the Borrower (provided, however, that all such indebtedness of the Borrower to the Lender shall automatically become due and payable, without notice of any kind, upon the occurrence of an event described in clause (c) or (d) above).

## **11.2 Remedies Cumulative**

The Borrower expressly agrees that the rights and remedies of the Lender under this agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by the Lender of any right or remedy for a default or breach of any term, covenant or condition in this agreement does not waive, alter, affect or prejudice any other right or remedy to which the Lender may be lawfully entitled for the same default or breach. Any waiver by the Lender in accordance with Section 12.3 of the strict observance, performance or compliance with any term, covenant or condition of this agreement is not a waiver of any subsequent default and any indulgence by the Lender with respect to any failure to strictly observe, perform or comply with any term, covenant or condition of this agreement is not a waiver of the entire term, covenant or condition or any subsequent default. No failure or delay by the Lender in exercising any right shall operate as a waiver of such right nor shall any

single or partial exercise of any power or right preclude its further exercise or the exercise of any other power or right.

### **11.3 Set-Off**

In addition to any rights now or hereafter granted under Applicable Law, and not by way of limitation of any such rights, the Lender is authorized, at any time that an Event of Default has occurred and is continuing without notice to the Borrower or to any other Person, any such notice being expressly waived by the Borrower, to set-off, appropriate and apply any and all deposits, matured or unmatured, general or special, and any other indebtedness at any time held by or owing by the Lender to or for the credit of or the account of the Borrower against and on account of the obligations and liabilities of the Borrower which are due and payable to the Lender under the Credit Documents. The Lender acknowledges and agrees that it shall not be entitled to exercise set off rights under or in respect of the Offtake Contracts to reduce the Secured Obligations or vice versa. For the avoidance of doubt, the Lender and its Affiliates shall have the right to set off any amounts (other than the Secured Obligations) under the Offtake Contracts in accordance with the terms of the Offtake Contracts.

## **ARTICLE 12 THE LENDER**

### **12.1 Consultation with Counsel**

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

### **12.2 Responsibility Disclaimed**

The Lender shall be under no liability or responsibility whatsoever as agent hereunder to the Borrower or any other Person as a consequence of any failure or delay in the performance by, or any breach by, the Lender of any of its under any of the Credit Documents.

### **12.3 Waivers and Amendments**

Unless otherwise specifically provided for in any other Credit Document; any term, covenant or condition of any of the Credit Documents may only be amended with the prior consent of the Borrower and the Lender or compliance therewith may be waived (either generally or in a particular instance and either retroactively or prospectively) by the Lender and in any such event the failure to observe, perform or discharge any such covenant, condition or obligation, so amended or waived (whether such amendment is executed or such consent or waiver is given before or after such failure), shall not be construed as a breach of such covenant, condition or obligation or as a Default or Event of Default.

### **12.4 Discharge of Security**

To the extent a sale or other disposition of the Secured Assets is permitted pursuant to the provisions hereof, the Lender will execute and deliver at the request of the Borrower, at the

cost and expense of the Borrower, such releases, discharges and other instruments which are necessary for the purposes of (i) releasing and discharging the Security therein or for the purposes of recording the provisions or effect thereof in any office where the Security Documents may be registered or recorded, (ii) releasing any Guarantor from its obligations under its guarantee of the Secured Obligations if such Guarantor ceases to be Subsidiary of the Borrower (in the case of a disposition of Secured Assets consisting of the Shares of a Guarantor) or (iii) for the purpose of more fully and effectively carrying out the provisions of this Section 12.4.

#### **12.5 Application of Cash Proceeds of Realization.**

- (a) All Proceeds of Realization not in the form of cash shall be forthwith delivered to the Lender and disposed of, or realized upon, by the Lender in such manner as to produce Cash Proceeds of Realization.
- (b) Subject to the claims of the Senior Lenders and any secured creditors of the Obligors whose security ranks in priority to the Security, all Cash Proceeds of Realization shall be applied and distributed as follows:
  - (i) firstly, to the payment of all reasonable costs and expenses incurred by the Lender (including all legal fees and disbursements) in the exercise of all or any of the powers granted to it hereunder or under the Security Documents and Guarantees and in payment of all of the remuneration of any Receiver and all costs and expenses properly incurred by such Receiver (including all legal fees and disbursements) in the exercise of all or any powers granted to it under this agreement, the Guarantees and the Security Documents;
  - (ii) secondly, in payment of all amounts of money borrowed or advanced by the Lender or such Receiver pursuant to the Security Documents;
  - (iii) thirdly, to the payment of interest and fees forming part of the Secured Obligations;
  - (iv) fourthly, to the payment of the Secured Obligations of the Obligors to the Lender; and
  - (v) the balance, if any, in accordance with Applicable Law.

#### **12.6 Survival**

The provisions of Articles 6, 8, 9 and Section 13.6 and all other provisions of this agreement which are necessary to give effect to each of the provisions of such Articles shall survive the permanent repayment in full of the Credit Facility.

## **ARTICLE 13 MISCELLANEOUS**

### **13.1 Notices**

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

### **13.2 Severability**

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

### **13.3 Counterparts**

This agreement may be executed in one or more counterparts, and by means of facsimile or other electronic form, including PDF, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument.

### **13.4 Successors and Assigns**

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

### **13.5 Assignment**

- (a) Neither the Credit Documents nor the benefit thereof may be assigned by the Borrower.
- (b) The Lender may at any time, with the prior written consent of the Borrower (which consent shall not be required (i) if such sale is to an Affiliate of Lender unless such

sale results in an increased cost to the Borrower, including any liability under Sections 6.2 or 6.5 or (ii) in circumstances where an Event of Default has occurred and is continuing) sell, transfer or assign all or any part of its rights and obligations under this agreement and the other Credit Documents to one or more Eligible Assignees (“**Purchasing Lenders**”). Upon such sale, the Lender shall, to the extent of such sale, be released from its obligations under the Credit Documents and each of the Purchasing Lenders shall become a party to the Credit Documents to the extent of the interest so purchased. Any such assignment by the Lender shall not be effective unless and until the Purchasing Lender has executed an instrument substantially in the form of Schedule C hereto whereby the Purchasing Lender has agreed to be bound by the terms of the Credit Documents as a Lender and a specific address and telefacsimile number for the purpose of notices as provided in Section 13.1 and unless and until the requisite consent to such assignment have been obtained, unless and until a copy of a fully executed copy of such instrument has been delivered to the Borrower.

- (c) The Borrower authorizes the Lender to disclose to any Purchasing Lender (each, a “**Transferee**”) and any prospective Transferee or any professional advisor of any Transferee or prospective Transferee and authorizes the Lender to disclose any and all financial information in its possession concerning the Obligors which has been delivered to it by or on behalf of the Borrower pursuant to this agreement or which has been delivered to it by or on behalf of the Borrower in connection with its credit evaluation of the Obligors prior to becoming a party to this agreement, so long as any such Transferee agrees not to disclose any confidential, non-public information to any person other than its non brokerage affiliates, employees, accountants or legal counsel, unless required by law and authorizes the Lender to disclose to any Person where disclosure is required by law, regulation, legal process or regulatory authority (for certainty under any circumstance and not solely in connection with assignment of rights).

### **13.6 Disclosure**

- (a) The Lender agrees to treat confidentially all Information, except that Information may be disclosed (a) to it, its Affiliates and its Affiliates’ respective partners, directors, officers, employees, agents, advisors and representatives (where the Persons to whom disclosure is made will be informed of the confidential nature of the Information and agree to be bound by the provisions of this Section 13.6 or enter into an agreement containing provisions substantially the same as the provisions of this Section 13.6, (b) to the extent requested, and where such disclosure is required by Applicable Law, by any regulatory authority purporting to have jurisdiction over it (including any self regulatory authority), (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process, (d) to any Credit Party (as defined under the Senior Credit Agreement), (e) in connection with the exercise of any remedies under any Credit Document or any action or proceeding relating to any Credit Document or the enforcement of rights under the Credit Documents, (f) subject to an agreement containing provisions substantially the same as those of this Section, any assignee or any prospective

assignee of any of its rights or obligations under this agreement, (g) with the consent of the Borrower, or (h) to the extent Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Lender on a non-confidential basis from a source other than an Obligor. Notwithstanding the foregoing, the Borrower hereby consents and agrees that the Lender and the Credit Parties (as defined under the Senior Credit Agreement) shall be permitted to share all Information with one another.

- (b) For purposes of this Section, “**Information**” means all information received solely in connection with any Credit Document from any Obligor relating to any Obligor or any of its Subsidiaries or any of their respective businesses, other than any such information that was available to the Lender on a non-confidential basis before such receipt or, for the avoidance of doubt, was made available to the Lender, its Affiliates, and/or its, or its Affiliates’ respective partners, directors, officers, employees, agents, advisors or representatives (including the Glencore Nominees (as defined in the Investor Rights Agreement dated August 31, 2017 (the “**Investor Rights Agreement**”))) under or in connection with any other agreement with the Borrower or its Affiliates, including the Investor Rights Agreement, and is treated in accordance with the terms of such agreement. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if the Person has exercised the same degree of care to maintain the confidentiality of the Information as the Person would accord to its own confidential information.

### 13.7 **Judgment Currency**

- (a) If, for the purpose of obtaining or enforcing judgment against the Borrower in any court in any jurisdiction, it becomes necessary to convert into a particular currency (such currency being hereinafter in this Section 13.6 referred to as the “**Judgment Currency**”) an amount due in another currency (such other currency being hereinafter in this Section 13.6 referred to as the “**Indebtedness Currency**”) under this agreement, the conversion shall be made at the rate of exchange prevailing on the Banking Day immediately preceding:
- (i) the date of actual payment of the amount due, in the case of any proceeding in the courts of a jurisdiction that will give effect to such conversion being made on such date; or
  - (ii) the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the date as of which such conversion is made pursuant to this Section 13.7(a)(ii) being hereinafter in this Section 13.6 referred to as the “**Judgment Conversion Date**”).
- (b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 13.7(a)(ii), there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual payment of the amount due, the Borrower shall pay to the appropriate judgment creditor or creditors such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure

that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Indebtedness Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date.

- (c) Any amount due from the Borrower under the provisions of Section 13.7(b) shall be due to the appropriate judgment creditor or creditors as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of this agreement.
- (d) The term “rate of exchange” in this Section 13.6 means the Exchange Equivalent.

### **13.8 Illegality**

If the Lender determines, acting reasonably, that any Applicable Law has made it unlawful, or that any Official Body (other than a first nations aboriginal government or other analogous Official Body) has asserted that it is unlawful, for the Lender to hold or benefit from a Guarantee or Lien over real property, as the case may be, pursuant to any law of any applicable country, the Lender may notify the Borrower and disclaim any benefit of such Guarantee or Lien over real property, as the case may be, to the extent of such illegality.

### **13.9 Further Assurances**

The Borrower shall, and shall cause each other Obligor to, from time to time and at all times hereafter, upon every reasonable request of the Lender, make, do, execute, and deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be necessary in the opinion of the Lender, acting reasonably, for more effectually implementing and carrying out the true intent and meaning of the Credit Documents or any agreement delivered pursuant hereto or thereto and such additional security, legal opinions, consents, approvals, acknowledgements, undertakings, non-disturbance agreements, directions and negotiable documents of title in connection with the property and assets of the Obligors, in form and substance satisfactory to the Lender, as the Lender may from time to time request, to ensure (i) that all Secured Assets are subject to a Lien in favour of the Lender and (ii) the intended second ranking priority of such Liens (subject to Permitted Liens which by their nature would constitute prior ranking security).

### **13.10 WAIVER OF JURY TRIAL**

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER

AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**13.11 Anti-Money Laundering Legislation.**

The Borrower acknowledges that, pursuant to Anti-Money Laundering Legislation, the Lender may be required to obtain, verify and record information regarding each Obligor, their respective directors, authorized signing officers, direct or indirect shareholders or other persons in Control of such Obligor, and the transactions contemplated by the Credit Documents, and disclose such information to Official Bodies. The Borrower consents to such information being obtained, verified, recorded and disclosed to Official Bodies and agrees to promptly provide to the Lender all such information, including supporting documentation and other evidence, as may be reasonably requested by Lender, [or any prospective Transferee] or in order to comply with Anti-Money Laundering Legislation.

**13.12 Entire Agreement**

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

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




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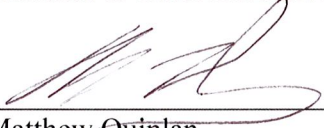
**IN WITNESS WHEREOF** the parties hereto have executed and delivered this agreement on the date first written above.

Suite 1900 – 999 West Hastings Street  
Vancouver, BC V6C 2W2  
Attention: Steven Molnar  
Chief Legal Officer  
Email: [smolnar@trevali.com](mailto:smolnar@trevali.com)

Attention: Matthew Quinlan  
Chief Financial Officer  
Email: [mquinlan@trevali.com](mailto:mquinlan@trevali.com)

**TREVALI MINING CORPORATION**

By:   
Name: Ricus Grimbeek  
Title President & Chief Executive Officer

By:   
Name: Matthew Quinlan  
Title Interim Chief Financial Officer

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100 King Street West  
Suite 6900, P.O. Box 403  
Toronto, ON M5X 1E3

to the care of:

Glencore International AG  
Baarer mattstrasse 3  
P.O. Box 1363  
Baar 6341  
Switzerland

Attention: General Counsel  
Email: [general.counsel@glencore.com](mailto:general.counsel@glencore.com)

Attention: Carlos Francisco Fernandez  
Email: [Carlos.Fernandez@glencore.com](mailto:Carlos.Fernandez@glencore.com)

**GLENCORE CANADA CORPORATION,  
as Lender**

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

Name: PETER WRIGHT

Title: DIRECTOR

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

Name:

Title:

**SCHEDULE A**  
**[INTENTIONALLY DELETED]**

**SCHEDULE B  
COMPLIANCE CERTIFICATE**

TO: GLENCORE CANADA CORPORATION, as lender

I, \_\_\_\_\_, the [senior financial officer] of Trevali Mining Corporation (the “**Borrower**”), hereby certify that, not in a personal capacity and without personal liability:

1. I am the duly appointed [senior financial officer] of the Borrower named in the facility agreement dated as of August 6, 2020 (as amended to the date hereof, the “**Facility Agreement**”) between the Borrower and Glencore Canada Corporation, as Lender and as such I am providing this Certificate for and on behalf of the Borrower pursuant to the Facility Agreement.
2. I am familiar with and have examined the provisions of the Facility Agreement including, without limitation, those of Article 8, Article 9 and Article 11 therein.
3. To the best of my knowledge, information and belief and after due inquiry, no Default has occurred and is continuing.
4. As at or for the relevant period ending \_\_\_\_\_, the amounts and financial ratios as contained in Sections 9.1(m), (n), (o) and (p) of the Facility Agreement are as follows and detailed calculations thereof are attached hereto:<sup>1</sup>

	<b>Actual Amount or Percentage</b>		<b>Required Amount or Percentage</b>
(a) Net Senior Leverage Ratio	(b) _____	(c)	[≤ 3:25:1] [≤2.75:1] [≤2.50:1]
(d) Total Net Leverage Ratio	(e) _____	(f)	[≤4.25:1] [≤3.75:1] [≤3.50:1]
(g) Interest Expense Coverage Ratio	(h) _____	(i)	≥4.00:1
(j) Tangible Net Worth	(k) _____	(l)	See worksheet

The attached calculation worksheet as at the relevant period ending \_\_\_\_\_ accurately sets out the information therein contained.

5. Attached hereto is
  - (i) supplemental disclosure in respect of the Perfection Certificates to the extent mandated pursuant to Section 9.1(b)(iii); and

---

<sup>1</sup> In addition to the calculation worksheet, the Borrower shall provide detailed calculations demonstrating its calculation of Net Senior Secured Indebtedness, Total Indebtedness, Rolling EBITDA, Rolling Interest Expense and Tangible Net Worth for the purposes hereof.

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- (ii) to the extent that the chart most recently provided is inaccurate, a chart setting out the corporate structure of the Borrower and indicating intercorporate share ownership and material mine ownership.
6. Unless the context otherwise requires, capitalized terms in the Facility Agreement which appear herein without definitions shall have the meanings ascribed thereto in the Facility Agreement.

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

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

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

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

### CALCULATION WORKSHEET

Following the definitions and calculations more fully defined in the Facility Agreement:

#### **Net Senior Secured Leverage Ratio**

Senior Secured Indebtedness	\$ _____	(A)
Unrestricted Cash	\$ _____	(B)
Rolling EBITDA	\$ _____	(C)
Net Senior Secured Leverage Ratio (Actual)	\$ _____	((A-B):C)
Net Senior Secured Leverage Ratio (Max. Permitted):	[≤ 3:25:1] [≤2.75:1] [≤2.50:1]	

*Compliance* [Yes]/[No]

#### **Total Net Leverage Ratio**

Total Indebtedness	\$ _____	(A)
Unrestricted Cash	\$ _____	(B)
Rolling EBITDA	\$ _____	(C)
Total Net Leverage Ratio (Actual)	\$ _____	((A-B):C)

Total Net Leverage Ratio (Max. Permitted): [ $\leq 4.25:1$ ] [ $\leq 3.75:1$ ] [ $\leq 3.50:1$ ]

*Compliance* [Yes]/[No]

**Interest Expense Coverage Ratio**

Rolling EBITDA \$ \_\_\_\_\_ (C)

Rolling Interest Expense \$ \_\_\_\_\_ (D)

Interest Expense Coverage Ratio (Actual) \$ \_\_\_\_\_ (C:D)

Interest Expense Coverage Ratio (Min. Permitted) 4.00:1

*Compliance* [Yes]/[No]

**Tangible Net Worth**

TNW Base \$ \_\_\_\_\_ (E)

Tangible Net Worth (Actual) \$ \_\_\_\_\_ (F)

50% of positive quarterly Net Income beginning  
with Fiscal Quarter ending on December 31, 2020 \$ \_\_\_\_\_ (G)

Tangible Net Worth (Min. Required): Sum of (E)  
plus (G)

*Compliance* [Yes]/[No]

**SCHEDULE C  
FORM OF ASSIGNMENT**

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

Reference is made to the facility agreement dated as of August 6, 2020 (as amended to the date hereof, the “**Facility Agreement**”) between Trevali Mining Corporation, and Glencore Canada Corporation, as Lender. Terms defined in the Facility Agreement are used herein as therein defined.

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

- (a) The Assignor hereby sells and assigns to the Assignee, and the Assignee hereby purchases and assumes from the Assignor, a \_\_\_\_\_% interest in and to all of the Assignor’s rights and obligations under the Facility Agreement with respect to the Credit Facility (the “**Facility**”) as of the Effective Date (as defined below) (including, without limitation, the credit extended by the Assignor under the Facility and outstanding on the Effective Date and the corresponding rights and obligations of the Assignor under all of the Credit Documents as it relates to the Facility).
- (b) The Assignor (i) represents and warrants that as of the date hereof its commitment with respect to the Facility is \$\_\_\_\_\_ (without giving effect to assignments thereof which have not yet become effective, including, but not limited to, the assignment contemplated hereby), and the aggregate outstanding amount of credit extended by it under the Facility is \$\_\_\_\_\_ (without giving effect to assignments thereof which have not yet become effective, including, but not limited to, the assignment contemplated hereby); (ii) represents and warrants that it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; (iii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any other instrument or document furnished pursuant thereto; (iv) makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Obligor or the performance or observance by the Obligors of any of their obligations under the Credit Documents or any other instrument or document furnished pursuant thereto; and (v) gives notice to the Borrower of the assignment to the Assignee hereunder.
- (c) The effective date of this Assignment (the “**Effective Date**”) shall be the later of \_\_\_\_\_ and the date on which a copy of a fully executed copy of this Assignment has been delivered to the Borrower in accordance with Section 13.5(b) of the Facility Agreement.

- 2 -

- (d) The Assignee hereby agrees to the specific commitment under the Facility of \$\_\_\_\_\_ and to the address and telefacsimile number set out after its name on the signature page hereof for the purpose of notices as provided in Section 13.1 of the Facility Agreement.
- (e) As of the Effective Date (i) the Assignee shall, in addition to any rights and obligations under the Credit Documents held by it immediately prior to the Effective Date, have the rights and obligations under the Credit Documents that have been assigned to it pursuant to this Assignment and (ii) the Assignor shall, to the extent provided in this Assignment, relinquish its rights and be released from its obligations under the Credit Documents.
- (f) The Assignor and Assignee shall make all appropriate adjustments in payments under the Credit Documents for periods prior to the Effective Date directly between themselves.

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

**[ASSIGNOR]**

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

**[ASSIGNEE]**

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

Address

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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



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

**GLENCORE CANADA CORPORATION,  
as Lender**

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

Name:

Title:

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

Name:

Title:

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

**<sup>2</sup> TREVALI MINING CORPORATION**

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

Name:

Title:

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<sup>2</sup>Only required if no Event of Default has occurred and is continuing.

**SCHEDULE D  
FORM OF DRAWDOWN NOTICE**

**TO:** Glencore Canada Corporation, as Lender  
100 King Street West  
Suite 6900, P.O. Box 403  
Toronto, ON M5X 1E3

to the care of:

Glencore International AG  
Baarermttstrasse 3  
P.O. Box 1363  
Baar 6341  
Switzerland

Attention: General Counsel  
Email: general.counsel@glencore.com

Attention: Carlos Francisco Fernandez  
Email: Carlos.Fernandez@glencore.com

**RE:** Facility agreement dated August 6, 2020 (as amended to the date hereof, the “**Facility Agreement**”) between Trevali Mining Corporation , as borrower, and Glencore Canada Corporation, as Lender

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

Relevant Offtake Contract: \_\_\_\_\_

Relevant Provisional Invoice Payment Date: \_\_\_\_\_

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

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

No Default or Event of Default has occurred and is continuing nor will arise immediately after giving effect to or as a result of the extension of credit hereby requested and the undersigned hereby confirms the truth and accuracy of the representations and warranties set forth in Article 8 of the Facility Agreement in all material respects (except that any representation and warranty which is already qualified as to materiality or by reference to any Material Adverse Effect shall be true and correct in all respects) on the date hereof except to the extent any such representation and warranty expressly relates solely to an earlier date.

- 2 -

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

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

**TREVALI MINING CORPORATION**

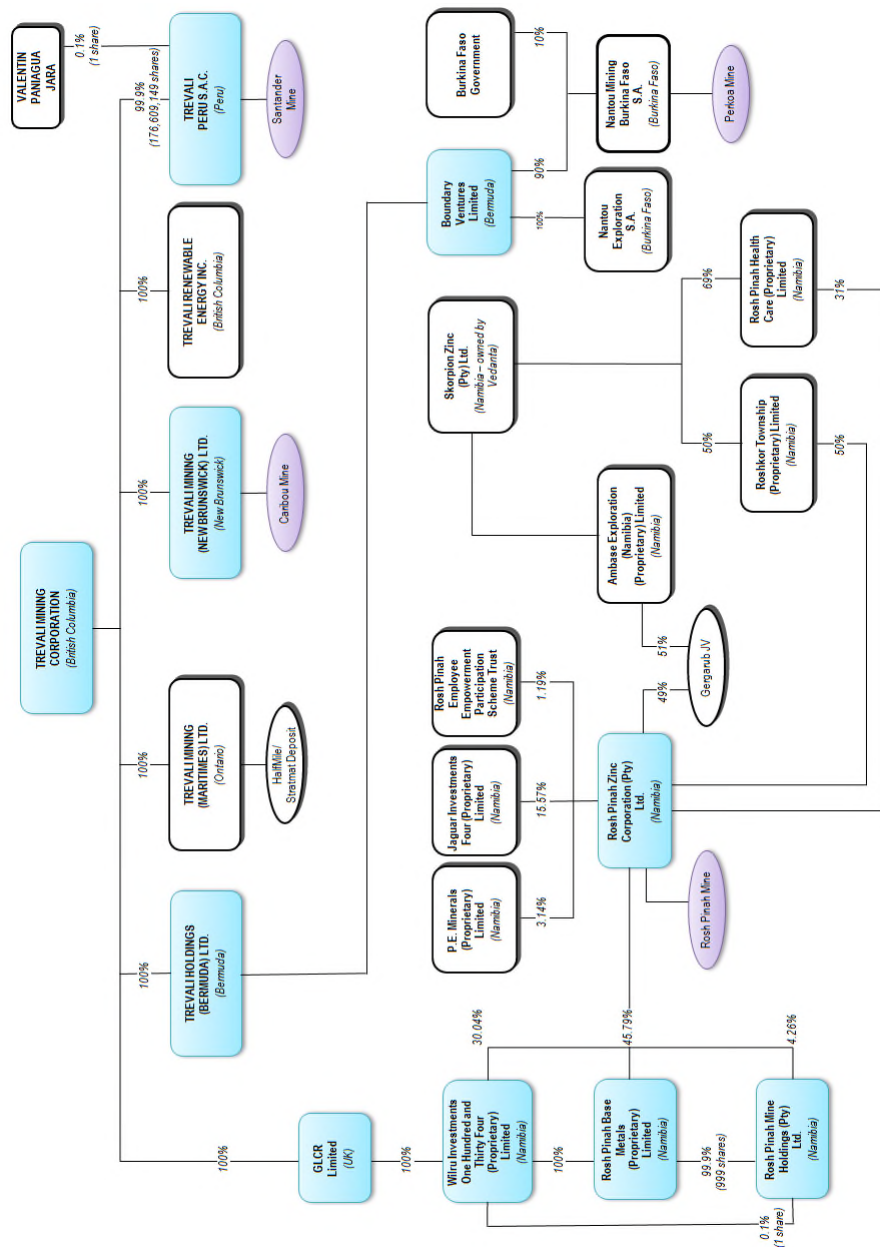
By: \_\_\_\_\_  
Name:  
Title:

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

**SCHEDULE E**  
**[INTENTIONALLY DELETED]**

**SCHEDULE F**  
**[INTENTIONALLY DELETED]**

# SCHEDULE G CORPORATE STRUCTURE



**SCHEDULE H  
APPLICABLE RATES**

<b>LIBOR Loan interest rate margin</b>	<b>Standby Fee rate</b>
5.50% per annum	1.25% per annum



**SCHEDULE I**  
**[INTENTIONALLY DELETED.]**

**SCHEDULE J**  
**GUARANTEES AND SECURITY DOCUMENTS**

**1. Guarantees**

- (a) Guarantee Agreement granted by Trevali Mining Corporation (the “**Borrower**”), in favour of the Lender, governed by the laws of the Province of Ontario.
- (b) Guarantee Agreement granted by each of Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**”), Trevali Holdings Bermuda Ltd. (“**Trevali Bermuda**”), and Trevali Peru S.A.C. (“**Trevali Peru**”), in favour of the Lender, governed by the laws of the Province of Ontario.
- (c) Guarantee Agreement granted by each of Boundary Ventures Limited (“**Boundary**”), and GLCR Limited (“**GLCR**”), in favour of the Lender, governed by the laws of the Province of Ontario.
- (d) Guarantee Agreement grant by each of Wilru Investments One Hundred and Thirty Four (Proprietary) Limited (“**Wilru**”), Rosh Pinah Base Metals (Proprietary) Limited (“**Pinah Base**”), and Rosh Pinah Mine Holdings (Proprietary) Limited (“**Pinah Holdings**”) in favour of the Lender, governed by the laws of the Province of Ontario.
- (e) Debt Guarantee and Counter-Indemnity among Guinea Fowl Investments Fifty Eight (Proprietary) Limited (“**Special SPV**”), Wilru, Pinah Holdings, Pinah Base, and GLCR in favour of the Lender, governed by the laws of Namibia.

**2. Security Documents**

- (a) General Security Agreement among the Borrower, Trevali NB and the Lender, governed by laws of the Province of Ontario.
- (b) Pledge Agreement over Trevali Peru shares, among the Borrower, Valentin Paniagua Jara (“**Valentin**”), Trevali Peru, the Lender and Servicios Conexos Notreg E.I.R.L., governed by the laws of Peru.
- (c) Share Charge among the Borrower and the Lender with respect to the securities of Trevali Bermuda, governed by the laws of Bermuda.
- (d) Share Charge among the Borrower and the Lender with respect to the securities of GLCR, governed by the laws of England & Wales.
- (e) Security Agreement over sales contracts with respect to the Caribou Mine among the Borrower and the Lender, governed by the laws of England and Wales.
- (f) Debenture / Mortgage among Trevali NB and the Lender, governed by the laws of Province of New Brunswick.

- (g) Non-Disturbance Agreement among Trevali NB, the Lender and Her Majesty the Queen in Right of the Province of New Brunswick, as represented by the Minister of Energy and Resource Development, governed by the laws of Province of New Brunswick.
- (h) Irrevocable Direction and Consent to assignment with respect to the present and future off-take and sale agreements between, *inter alia*, the Borrower and the Lender, in relation to the Caribou Mine, as governed by the laws of England & Wales.
- (i) Guarantee Trust Agreement over (i) “*Bienes Muebles*”, (ii) “*Concesiones Mineras*”, (iii) “*Concesion de Beneficio*” and (iv) “*Derechos Contractuales*” among Trevali Peru and the Lender, governed by the laws of Peru.
- (j) Pre-constitution of Pledge over Santander Concesiones S.A.C. (“**Santander SAC**”) shares among Trevali Peru, Santander SAC, the Lender, and Servicios Conexos Notreg E.I.R.L., governed by the laws of Peru.
- (k) Conditional Assignment of Rights Agreement with respect to the credit rights owned or held in the off-take agreements among Trevali Peru, the Borrower and the Lender governed by the laws of Peru.
- (l) Conditional Assignment Agreement with respect to the mining assignment agreement among, *inter alia*, Trevali Peru, Compañía Minerales Santander S.A.C., Santander SAC, and the Lender, governed by the laws of Peru.
- (m) Security Agreement over sales contracts with respect to the Santander Mine among Trevali Peru, the Borrower and the Lender, governed by the laws of England and Wales.
- (n) Irrevocable Direction and Consent to assignment with respect to the present and future off-take and sale agreements between, *inter alia*, the Borrower and the Lender, in relation to the Santander Mine, as governed by the laws of England & Wales.
- (o) Fixed and Floating Charge among Trevali Bermuda and the Lender, governed by the laws of Bermuda.
- (p) Share Charge among Trevali Bermuda and the Lender with respect to the securities of Boundary, governed by the laws of Bermuda.
- (q) Fixed and Floating Charge among Boundary and the Lender, governed by the laws of Bermuda.
- (r) Assignment Agreement for Security Purposes regarding Bank Accounts among Boundary and the Lender, governed by the laws of Switzerland.
- (s) Debenture among GLCR and the Lender, governed by the laws of England & Wales.

- (t) Share Pledge and Cession Agreement among GLCR, Wilru, and Special SPV with respect to the securities of Wilru, governed by the laws of Namibia.
- (u) Share Pledge and Cession Agreement among Wilru, Pinah Base, and Special SPV with respect to the securities of Pinah Base, governed by the laws of Namibia.
- (v) Share Pledge and Cession Agreement among Pinah Base, Pinah Holdings and Special SPV with respect to the securities of Pinah Holdings, governed by the laws of Namibia.
- (w) Intercorporate Postponement and Subordination Agreement among the Borrower, the Companies (other than the Subject Entities), and the Lender, governed by the laws of the Province of Ontario.
- (x) Pledge Agreement over Bank Account No. ME 000-4059701 of Trevali Peru entered into by Trevali Peru, the Borrower, the Lender and Servicios Conexos Notreg E.I.R.L, governed by the laws of Peru.

**SCHEDULE K**  
**[INTENTIONALLY DELETED]**

## SCHEDULE L LITIGATION

The Caribou Mine is subject to ongoing arbitration with respect to payments pursuant to the 10% net profit interest royalty (the “**NPI Royalty Payments**”) in favour of an unrelated third party (the “**Third Party**”). Trevali Mining Corporation’s position in the arbitration is that past losses at the Caribou Mine can be used to offset any NPI Royalty Payments, and the Third Party disputes this interpretation.

## **SCHEDULE M PENSIONS**

### **Canadian Pension Plans**

Nil.

### **Non-Canadian Pension Plans**

Nantou Mining Burkina Faso SA is subject to and complies with applicable laws in Burkina Faso which require employers to make pension contributions to government-run pension funds with respect to non-expatriate employees.

**SCHEDULE N**  
**TAXES**

On August 31, 2017, (i) Merope Holdings Limited entered into a tax agreement in favour of Trevali Holdings (Bermuda) Ltd. in relation to the Perkoa Mine, and (ii) Glencore International Investments Limited entered into a tax agreement in favour of the Borrower in relation to the Rosh Pinah Mine.



**SCHEDULE O**  
**ENVIRONMENTAL COMPLIANCE**

Nil.

**SCHEDULE P**  
**[INTENTIONALLY DELETED]**

**SCHEDULE Q  
FORM OF VOLUNTARY PREPAYMENT NOTICE**

**TO:** Glencore Canada Corporation, as Lender  
100 King Street West  
Suite 6900, P.O. Box 403  
Toronto, ON M5X 1E3

to the care of:

Glencore International AG  
Baarerstattstrasse 3  
P.O. Box 1363  
Baar 6341  
Switzerland

Attention: General Counsel  
Email: general.counsel@glencore.com

Attention: Carlos Francisco Fernandez  
Email: Carlos.Fernandez@glencore.com

**RE:** Facility agreement dated as of August 6, 2020 (as amended to the date hereof, the “**Facility Agreement**”) between Trevali Mining Corporation, as Borrower, and Glencore Canada Corporation, as Lender

Pursuant to the terms of the Facility Agreement, the undersigned hereby irrevocably gives notice in accordance with Section 7.4 of the Facility Agreement that the undersigned commits to prepay the Loan under the Credit Facility [**which has an Interest Period expiring on <@>**], in the amount of \$<@>.

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

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

**TREVALI MINING CORPORATION**

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

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

**SCHEDULE R  
SECURED ASSETS**

<b>Section</b>	<b>Obligor Jurisdiction of Incorporation or Formation</b>	<b>Assets to be pledged, collaterally assigned or secured pursuant to a Security Document</b>
1	Canada (or a province thereof), the United Kingdom and Bermuda	All present and future assets (which shall include, for the avoidance of doubt, all Shares issued by Nantou Mining Burkina Faso SA. to Boundary Ventures Limited) other than the Shares of any Excluded Subsidiary.
2	Peru	All present and future mining concessions in respect of the Santander Mine and installations attendant thereto and certain intangible assets consisting of a bank account hosted by the Lender and the cash that will be deposited in such account upon foreclosure, off-take rights and corresponding receivables upon foreclosure. In addition, assets secured pursuant to the Peruvian Security Documents include all existing and future shares issued by Trevali Peru and all shares of Santander Concesiones S.A.C.
3	Namibia	All deposit and operating accounts domiciled outside Namibia and all Shares issued by Rosh Pinah Base Metals (Proprietary) Limited and Rosh Pinah Mine Holdings (Proprietary) Limited
4	Any Permitted Jurisdiction	All present and future assets other than the Excluded Assets.

Excluded Assets:

The present and future assets referenced in Section 5 of Schedule R, real and personal, of the Obligors subject to the Security (the “**Collateral**”), provided that such Collateral shall exclude (i) a pledge of the shares in the capital of any Excluded Subsidiary, (ii) any governmental licenses, permits or approvals, to the extent a security interest in any such licenses, permits or approvals would be prohibited or restricted thereby (including any legally effective prohibition or restriction), (iii) pledges and security interests prohibited by Applicable Law (excluding, for the avoidance of doubt, any legal requirement to obtain the consent of any governmental authority to a charge on mineral tenures and mining claims comprising of any Material Mine which are required for the extraction of minerals), (iv) personal property or other assets to the extent a security interest in such assets would result in tax payments by the relevant Obligor in an amount which exceeds the value of the subject Collateral as reasonably determined by the Borrower and the Lender, in writing, (v) any lease, license, joint venture agreement or other agreement (including pursuant to a purchase money security interest or similar arrangement) to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement (or purchase money arrangement) or create a right of termination in favour of any other party thereto (other than an Obligor) after giving effect to the applicable anti-assignment provisions of the PPSA or other similar applicable law, other than proceeds and receivables thereof, the restriction on assignment of which is expressly deemed unenforceable against third parties under the PPSA or other similar applicable law notwithstanding such prohibition, (vi) any leased real property constituting office space, (vii) any owned real property consisting of residential housing stock, (viii) at all times: (X) any mining property owned by an Obligor that is on care and maintenance, or (Y) in respect of a mining property that is an exploration property or has otherwise yet to achieve commercial production, such mine and all facilities and all licenses, permits etc. attendant thereto (for the avoidance of doubt, at the time that an Obligor or any Affiliate thereof publicly announces that the status of any such mining property has changed to operating or otherwise achieved commercial production, as the case may be, such mining property and related facilities shall cease to constitute Excluded Assets and security, consents, registrations, legal opinions and other documentation shall be provided to the Lender by the relevant Obligor within 90 days of such change of status, all in a manner substantially consistent with security over the Caribou Mine granted to the Lender, with such accommodations necessary and reasonable under relevant Applicable Laws).

The Collateral will also exclude those items of personal property or other assets as to which the Lender and the Borrower reasonably agree in writing that the cost of obtaining such a security interest or perfection thereof are excessive in relation to the benefit to the Lender of the security to be afforded thereby (the foregoing described in the previous two sentences are collectively referred to as the “**Excluded Assets**”).

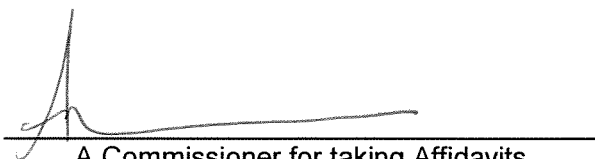
## **SCHEDULE S ROYALTIES**

1. The Caribou Mine is subject to: (i) a 2% provincial royalty on the annual net revenue generated by the mining operation; (ii) a 16% provincial net profits tax on annual net profits exceeding Cdn. \$100,000; and (iii) a 10% net profit interest royalty payable by Trevali Mining (New Brunswick) Ltd. to an unrelated third party.
2. The Santander Mine is subject: (i) a 'special mining tax' (Impuesto Especial a la Minería), which is applied on a sliding scale of 0.2% to 0.4% on the net operating income of the mining operations; and (ii) a 'mining royalty' (Regalía a la Minería), which is applied on a sliding scale of 0.1% to 0.6% on the net operating income of the mining operations.
3. A decree issued by the Ministry of the Economy and Finance of Burkina Faso imposes a royalty of 3% on revenues generated from base metals.
4. The Namibia Minerals Act levies a royalty of 3% on the net sales of zinc production.
5. Under Namibian law, mine production is subject to (i) 3% royalties on net market value payable to the Namibian State, and (ii) 3% of net market value payable to PE Minerals.

**SCHEDULE T**  
**CONSENTS AND APPROVALS**

1. Annual renewal of Exchange Control Approval granted by the Bank of Namibia in relation to the guarantees and security granted by, or in respect of, Wilru Investments One Hundred and Thirty Four (Proprietary) Limited, Rosh Pinah Base Metals (Proprietary) Limited, and Rosh Pinah Mine Holdings (Proprietary) Limited.

This is **Exhibit "D"** referred to in the Affidavit #1 of Katerina Doumakis made before me at Vancouver, British Columbia, on this 4<sup>th</sup> day of January, 2023.

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long, horizontal line extending to the right.

A Commissioner for taking Affidavits  
for the Province of British Columbia



**THIS FIRST AMENDING AGREEMENT TO FACILITY AGREEMENT** made as of December 2, 2020

**A M O N G:**

**TREVALI MINING CORPORATION**, a corporation existing under the laws of the Province of British Columbia (hereinafter referred to as the “**Borrower**”)

- and -

**GLENCORE CANADA CORPORATION**, a corporation existing under the laws of the Province of Ontario (hereinafter referred to as the “**Lender**”)

**WHEREAS** the parties hereto have entered into a facility agreement dated as of August 6, 2020 (the “**Facility Agreement**”);

**AND WHEREAS** pursuant to Section 7.6 of the Facility Agreement, in the event that the Lender pays subscription proceeds for common shares or other securities in the Borrower, the Lender may elect to reduce the amount of the commitments under the Credit Facility by the amount of such subscription proceeds;

**AND WHEREAS** an Affiliate of the Lender (“**GIAG**”) received an offering notice (the “**Offering Notice**”) dated November 27, 2020 (a copy of which is attached as Appendix A). The Offering Notice, among other things, sets out certain details relating to an offering (the “**Offering**”) of units (“**Units**”) being effected by the Borrower and invited GIAG to confirm that it would participate in the Offering based on existing agreements between such parties and GIAG confirmed it would so participate (the “**Glencore Participation**”);

**AND WHEREAS** in connection with the Glencore Participation the Lender subscribed for 42,608,696 Units of the Borrower for aggregate gross proceeds of US\$6,086,016.65;

**AND WHEREAS** the Lender exercised the Over-Allotment Option (as defined in the Offering Notice) and further subscribed for 6,391,304 Units of the Borrower for aggregate gross proceeds of US\$912,902.44;

**AND WHEREAS** in connection with the Glencore Participation and the Over-Allotment Option, the Lender subscribed for an aggregate total acquisition of 49,000,000 Units of the Borrower for aggregate gross proceeds of US\$6,998,919.09 (the “**Lender Subscription Proceeds**”);

**AND WHEREAS** the Lender has elected to reduce the amount of the commitments under the Credit Facility by an amount equal to the Lender Subscription Proceeds;

**AND WHEREAS** the Borrower and the Lender wish to amend the Facility Agreement to decrease the Credit Limit by the Lender Subscription Proceeds to US\$13,001,080.91;

**NOW THEREFORE** in consideration of the covenants and agreements contained in this Amending Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree to amend the Facility Agreement as follows:

**Section 1      General**

In this first amending agreement to facility agreement (this “**Amending Agreement**”) (including the recitals) unless otherwise defined herein or the context otherwise requires, all capitalized terms shall have the respective meanings specified in the Facility Agreement.

**Section 2      To be Read with Facility Agreement**

This Amending Agreement is an amendment to the Facility Agreement. Unless the context of this Amending Agreement otherwise requires, the Facility Agreement and this Amending Agreement shall be read together and shall have effect as if the provisions of the Facility Agreement and this Amending Agreement were contained in one agreement. The terms “this agreement”, “the agreement” and like references when used in the Facility Agreement means the Facility Agreement as amended, supplemented or modified from time to time.

**Section 3      Amendments to Facility Agreement**

- 1.1 The definition of “Credit Limit” in Section 1.1 of the Facility Agreement is hereby amended by deleting “\$20,000,000” and replacing such deletion with “\$13,001,080.91”.
- 1.2 The definition of “Credit Limit” in Section 1.1 of the Facility Agreement is hereby amended by deleting the definition in its entirety and replacing such deletion with:

““**Lender**” means Glencore Canada Corporation or an Affiliate thereof, and any successor thereto.”

**Section 4      Representations and Warranties**

In order to induce the Lender to enter into this Amending Agreement, the Borrower represents and warrants to the Lender as follows, which representations and warranties shall survive the execution and delivery hereof:

- (a) the representations and warranties set forth in Article 8 of the Facility Agreement continue to be true and correct in all material respects as of the date hereof with reference to facts subsisting on such date except for those representations and warranties which speak to a specific date;
- (b) all necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance of this Amending Agreement by the Borrower. The Borrower has duly executed and delivered this Amending Agreement. This Amending Agreement is a legal, valid and binding obligation of the Borrower enforceable against it by the Lender in accordance with its terms; and

- (c) no Default or Event of Default exists.

**Section 5 Confirmation of Security**

The Borrower acknowledges, confirms and agrees that, notwithstanding this Amending Agreement: (a) all Security granted by it continues in full force and effect, enforceable in accordance with its terms, and secures payment and performance by it of the Secured Obligations (all as more particularly set forth in such Security); (b) the Security and other Credit Documents to which it is a party constitutes a legal, valid and binding obligation of the Borrower enforceable against it in accordance with its terms (all as more particularly set forth in such Credit Documents); and (c) the Security to which it is a party is hereby ratified and confirmed.

**Section 6 Conditions Precedent**

This Amending Agreement shall not be effective until satisfaction or waiver of the following terms, each to the satisfaction of the Lender, acting reasonably:

- (a) this Amending Agreement shall be executed and delivered by the Borrower and the Lender;
- (b) the Lender shall have received certified copies of the resolutions authorizing the execution and delivery of the Amending Agreement and performance of the Borrower's obligations under the Amending Agreement and the transactions contemplated herein; and
- (c) the Lender shall have received all such other documents, instruments and agreements as may reasonably be required by it.

**Section 7 Expenses**

The Borrower shall pay all reasonable fees and expenses incurred by the Lender in connection with the preparation, negotiation, completion, execution, delivery and review of this Amending Agreement.

**Section 8 Credit Document**

This Amending Agreement shall constitute a Credit Document for purposes of the Facility Agreement.

**Section 9      Covenants**

The Borrower covenants and agrees that within one day following the completion of the subscription of Units of the Borrower by the Lender for an amount equal to the Lender Subscription Proceeds, the Borrower shall use the Lender Subscription Proceeds to repay the Lender the amount by which the amount of credit outstanding under the Credit Facility at such time exceeds the Credit Limit at such time.

**Section 10      Continuance of the Credit Documents and the Facility Agreement**

The Credit Documents and the Facility Agreement, as changed, altered, amended or modified by this Amending Agreement, shall be and continue in full force and effect and are hereby confirmed and the rights and obligations of all parties thereunder shall not be affected or prejudiced in any manner except as specifically provided for in this Amending Agreement.

**Section 11      Counterparts**

This Amending Agreement may be executed in counterparts. Each executed counterpart shall be deemed to be an original and all counterparts taken together shall constitute one and the same agreement. Delivery of an executed signature page to this agreement by any person by facsimile or email transmission shall be as effective as delivery of a manually executed copy of this agreement by such person.

**Section 12      Governing Law**

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


**Section 13      Severability**

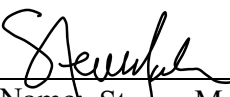
If any term or provision of this Amending Agreement or the application thereof to any party or circumstance shall be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality and enforceability of the remaining terms and provisions of this Amending Agreement shall not in any way be affected or impaired thereby, and the affected term or provision shall be modified to the minimum extent permitted by law so as most fully to achieve the intention of this Amending Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF** the parties hereto have executed this Amending Agreement as of the day and year first above written.

**TREVALI MINING CORPORATION**

By:   
Name: Brendan Creaney  
Title: Interim Chief Financial Officer

By:   
Name: Steven Molnar  
Title: Chief Legal Officer

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**GLENCORE CANADA  
CORPORATION, as Lender**

By:   
Name: **PETER WRIGHT**  
Title: **VP LEGAL**

**Appendix A**  
**Copy of Offering Notice**



November 27, 2020

**CONFIDENTIAL**

**VIA EMAIL**

c/o Glencore International AG  
Baarermattstrasse 3  
CH-6340 Baar Switzerland

Attention: Nick Popovic

**Re: Offering Notice pursuant to the Investor Rights and Governance Agreement**

Reference is made to the investor rights and governance agreement between Trevali Mining Corporation (the “**Company**”) and Glencore International AG (“**Glencore**”) dated August 31, 2017 (the “**IRGA**”). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed thereto in the IRGA.

Further to our prior discussions, and pursuant to Section 3.03(a) of the IRGA, we hereby formally notify you that the Company has entered into an underwriting agreement (the “**Underwriting Agreement**”) with RBC Dominion Securities Inc., Scotia Capital Inc., HSBC Securities (Canada) Inc., BMO Nesbitt Burns Inc., National Bank Financial Inc. and TD Securities Inc. (collectively, the “**Underwriters**”) whereby the Company has agreed to sell, and the Underwriters have agreed to purchase (subject to certain exemptions) units of the Company (the “**Units**”) with each unit being comprised of one common share (each, a “**Unit Share**”) and one half of one common share purchase warrant (each whole common share purchase warrant, a “**Warrant**”). Each Warrant shall entitle the holder thereof to acquire one Common Share (each, a “**Warrant Share**”) at an exercise price of C\$0.23 per Warrant Share for a period of 18 months following the closing of the offering of the Units (the “**Offering**”). Subject to the terms and conditions of the Underwriting Agreement, the Underwriters have agreed to purchase 162,200,000 Units, at a price of C\$0.185 per Unit (the “**Offering Price**”) for aggregate gross proceeds of C\$30,000,007.00.

The Company has granted the Underwriters an option (the “**Over-Allotment Option**”) to purchase up to 24,330,000 additional Units (the “**Additional Units**”) at a price of \$0.185 per Additional Unit to cover over-allotments, if any, and for market stabilization purposes. The Over-Allotment Option may be exercised by the Underwriters to acquire: (i) Additional Units at the Offering Price; (ii) additional Unit Shares (the “**Additional Shares**”) at a price of \$0.175 per Additional Share; (iii) additional Warrants (the “**Additional Warrants**”) at a price of \$0.02 per Additional Warrant; or (iv) any combination of Additional Shares and/or Additional Warrants (together, the “**Additional Securities**”), so long as the aggregate number of Additional Shares and Additional Warrants which may be issued under the Over-Allotment Option does not exceed 24,330,000 Additional Shares and 12,165,000 Additional Warrants. If the Over-Allotment Option is exercised in full for Additional Units, the Company will issue 186,530,000 common shares in the capital of the Company and 93,265,000 warrants to purchase a common share in the capital of the Company.

**TREVALI MINING CORPORATION**

1900 - 999 West Hastings Street, Vancouver, British Columbia, V6C 2W2, Canada  
Phone +1 (778) 655-5885 Fax +1 (604) 608-9863 Email [info@trevali.com](mailto:info@trevali.com) [www.trevali.com](http://www.trevali.com)



The Company will pay the Underwriters a cash commission of 5.75% of the aggregate gross proceeds of the Offering, including proceeds realized from the sale of any Additional Units, Additional Shares and/or Additional Warrants pursuant to the exercise of the Over-Allotment Option, but excluding proceeds raised from any participation in the Offering by Glencore pursuant to the IRGA.

The Offering is being made in Canada pursuant to a prospectus supplement dated November 25, 2020 to the Company's short form base shelf prospectus dated November 19, 2020, filed with the securities regulatory authorities in each of the provinces and territories of Canada on November 25, 2020. The Offering is expected to close on or about December 2, 2020 (the "**Proposed Closing Date**").

The current total amount of Outstanding Equity Securities of the Company is 831,577,761. We understand that Glencore would like to exercise its right to maintain its Glencore Percentage under the Offering by participating in the Offering by purchasing 42,608,696 Units (if the Over-Allotment Option is not exercised) or 49,000,000 Units (if the Over-Allotment Option is exercised in full). Pursuant to the IRGA, please provide written confirmation to the Company confirming the foregoing as soon as possible.

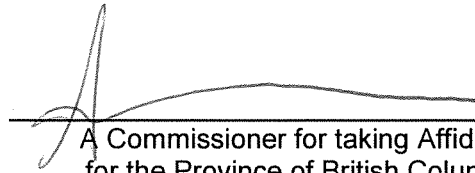
Yours very truly,



Ricus Grimbeek  
President & Chief Executive Officer  
Trevalli Mining Corporation

cc: Steven McKoen, Blake, Cassels & Graydon LLP  
cc: Roger Taplin, McCarthy Tétrault LLP

This is **Exhibit "E"** referred to in the Affidavit #1 of Katerina Doumakis made before me at Vancouver, British Columbia, on this 4<sup>th</sup> day of January, 2023.



A Commissioner for taking Affidavits  
for the Province of British Columbia

**THIS SECOND AMENDING AGREEMENT TO FACILITY AGREEMENT** made as of December 29, 2020

**A M O N G:**

**TREVALI MINING CORPORATION**, a corporation existing under the laws of the Province of British Columbia (hereinafter referred to as the “**Borrower**”)

- and -

**GLENCORE CANADA CORPORATION**, a corporation existing under the laws of the Province of Ontario (hereinafter referred to as the “**Lender**”)

**WHEREAS** the parties hereto have entered into a facility agreement dated as of August 6, 2020, as amended by a first amending agreement dated as of December 2, 2020 (the “**Facility Agreement**”);

**AND WHEREAS** the Lender and the Borrower wish to amend certain provisions of the Facility Agreement as hereinafter set forth;

**NOW THEREFORE** in consideration of the covenants and agreements contained in this Amending Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree to amend the Facility Agreement as follows:

**Section 1      General**

In this second amending agreement to facility agreement (this “**Amending Agreement**”) (including the recitals) unless otherwise defined herein or the context otherwise requires, all capitalized terms shall have the respective meanings specified in the Facility Agreement.

**Section 2      To be Read with Facility Agreement**

This Amending Agreement is an amendment to the Facility Agreement. Unless the context of this Amending Agreement otherwise requires, the Facility Agreement and this Amending Agreement shall be read together and shall have effect as if the provisions of the Facility Agreement and this Amending Agreement were contained in one agreement. The terms “this agreement”, “the agreement” and like references when used in the Facility Agreement means the Facility Agreement as amended, supplemented or modified from time to time.

**Section 3      Amendments to Facility Agreement**

1.1 The definition of “Permitted Indebtedness” in Section 1.1 of the Facility Agreement is hereby amended as follows:

- (a) by deleting the text in paragraph (i) thereof and replacing such deletion with “[Intentionally Deleted]”; and
  - (b) by deleting “\$10,000,000” in paragraph (l) thereof and replacing such deletion with “\$25,000,000”.
- 1.2 The definition of “Permitted Liens” in Section 1.1 of the Facility Agreement is hereby amended by deleting paragraph (bb) in its entirety and replacing such deletion with:
- “(bb) Liens securing Indebtedness under clause (j) of the definition of Permitted Indebtedness, provided that any such Lien is limited strictly to the corresponding receivables financed under that Factoring Facility.”
- 1.3 The definitions of “VAT Facility” and “VAT Receivable” in Section 1.1 of the Facility Agreement are hereby deleted in their entirety.
- 1.4 Section 9.2(n) of the Facility Agreement is hereby amended by deleting the text “and all such accounts in such jurisdictions for all Obligor does hold in deposit more than \$25,000,000” and replacing it with “and all such accounts in such jurisdictions for all Obligor does *not* hold in deposit more than \$25,000,000”.

#### **Section 4      Representations and Warranties**

In order to induce the Lender to enter into this Amending Agreement, the Borrower represents and warrants to the Lender as follows, which representations and warranties shall survive the execution and delivery hereof:

- (a) the representations and warranties set forth in Article 8 of the Facility Agreement continue to be true and correct in all material respects as of the date hereof with reference to facts subsisting on such date except for those representations and warranties which speak to a specific date;
- (b) all necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance of this Amending Agreement by the Borrower. The Borrower has duly executed and delivered this Amending Agreement. This Amending Agreement is a legal, valid and binding obligation of the Borrower enforceable against it by the Lender in accordance with its terms; and
- (c) no Default or Event of Default exists.

#### **Section 5      Confirmation of Security**

The Borrower acknowledges, confirms and agrees that, notwithstanding this Amending Agreement: (a) all Security granted by it continues in full force and effect, enforceable in accordance with its terms, and secures payment and performance by it of the Secured Obligations (all as more particularly set forth in such Security); (b) the Security and other Credit Documents to which it is a party constitutes a legal, valid and binding obligation of the Borrower enforceable against it in

accordance with its terms (all as more particularly set forth in such Credit Documents); and (c) the Security to which it is a party is hereby ratified and confirmed.

**Section 6     Expenses**

The Borrower shall pay all reasonable fees and expenses incurred by the Lender in connection with the preparation, negotiation, completion, execution, delivery and review of this Amending Agreement.

**Section 7     Credit Document**

This Amending Agreement shall constitute a Credit Document for purposes of the Facility Agreement.

**Section 8     Continuance of the Credit Documents and the Facility Agreement**

The Credit Documents and the Facility Agreement, as changed, altered, amended or modified by this Amending Agreement, shall be and continue in full force and effect and are hereby confirmed and the rights and obligations of all parties thereunder shall not be affected or prejudiced in any manner except as specifically provided for in this Amending Agreement.

**Section 9     Counterparts**

This Amending Agreement may be executed in counterparts. Each executed counterpart shall be deemed to be an original and all counterparts taken together shall constitute one and the same agreement. Delivery of an executed signature page to this agreement by any person by facsimile or email transmission shall be as effective as delivery of a manually executed copy of this agreement by such person.

**Section 10    Governing Law**

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

**Section 11    Severability**


If any term or provision of this Amending Agreement or the application thereof to any party or circumstance shall be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality and enforceability of the remaining terms and provisions of this Amending Agreement shall not in any way be affected or impaired thereby, and the affected term or provision shall be modified to the minimum extent permitted by law so as most fully to achieve the intention of this Amending Agreement.

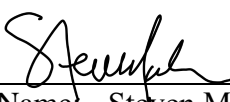
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**IN WITNESS WHEREOF** the parties hereto have executed this Amending Agreement as of the day and year first above written.

**TREVALI MINING CORPORATION**

By:   
\_\_\_\_\_  
Name: Brendan Creaney  
Title: Chief Financial Officer

By:   
\_\_\_\_\_  
Name: Steven Molnar  
Title: Chief Legal Officer

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**GLENCORE CANADA  
CORPORATION, as Lender**

By:   
Name: **PETER WRIGHT**  
Title: **VP LEGAL**