

MAKO MINING CORP.

as Borrower

-and-

NEBARI NATURAL RESOURCES CREDIT FUND I, LP

as Lender

-and-

As of February 18, 2021

CREDIT AGREEMENT

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT is dated as of February 18, 2021.

BETWEEN:

MAKO MINING CORP., a corporation continued under the laws of British Columbia

(together with its successors and permitted assigns, the “**Borrower**”)

- and -

NEBARI NATURAL RESOURCES CREDIT FUND I, LP

(together with its successors and permitted assigns, the “**Lender**”)

- A. The Borrower has requested the Lender make available the Facility for the purpose of financing the ramp up of mining activities and associated working capital requirements for the Project and for the Exploration Program; and
- B. The Lender has agreed to provide the Facility to the Borrower on the terms and conditions herein set forth.

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

ARTICLE 1 INTERPRETATION

1.1 Definitions

For the purposes of this Agreement:

“**Accounting Changes**” means (a) changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Canadian Institute of Chartered Accountants (or successor thereto or any agency with similar functions); or (b) changes in the application of such accounting principles adopted by the Borrower and concurred in by the Borrower’s independent chartered accountants.

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

“**Advance**” means an advance under the Facility.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“**Agreement**” means this agreement and all Schedules attached hereto, as may be amended, restated, supplemented, replaced or otherwise modified from time to time; the expressions “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**”, “**hereby**” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section, Schedule, or other portion hereof or thereof.

“**Anti-Corruption Laws**” means all Applicable Law concerning or relating to bribery or corruption, including the *Corruption of Foreign Public Officials Act* (Canada), the United States Foreign Corrupt Practices Act of 1977, or any similar laws, rules or regulations issued, administered or enforced by any Governmental Authority having jurisdiction over the Borrower or any of its Subsidiaries.

“**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, (ii) the USA Patriot Act or (iii) any other Applicable Law of Canada, the United States of America, or any other applicable jurisdiction, concerning or related to money laundering or financing terrorism.

“**Anti-Terrorism Laws**” means 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.

“**Applicable Law**” means, in respect of any Person, property, transaction, event or course of conduct, all applicable laws, statutes, rules, by-laws and regulations, regulatory policies and all applicable official directives, orders, judgments and decrees of Governmental Authorities in each case having the force of law (except for the purposes of Section 3.14, which extends to any such policies, directives or orders whether or not having the force of law), and includes without limitation, all Applicable Law relating to mining.

“**Applicable Rate**” means the interest rate per annum applicable to the Principal Amount from time to time equal to 8.0% per annum.

“**Bridge Loan**” means the amended and restated secured promissory note dated February 18, 2021 issued by the Borrower in favour of the Lender in the principal amount of US\$500,000.

“**Borrowing Notice**” means a borrowing notice substantially in the form of Exhibit A.

“**Business**” means the business of the acquisition, exploration and development of gold mineral properties in San Albino, Nicaragua and includes operation of the Project.

“**Business Day**” means a day on which banks are generally open for business in Vancouver, British Columbia or New York, New York.

“**Cash Equivalents**” means (i) investment grade securities issued, guaranteed or insured by the government of Canada or any province or territory, or the United States of America or any state, and having terms to maturity of not more than one year, and (ii) term deposits and certificates of deposit

having maturities of not more than one year of any domestic commercial bank of recognized standing and investment grade credit rating having net capital in excess of \$500,000,000.

“**Capital Expenditures**” means the sum of, without duplication, all expenditures made by the Borrower and its Subsidiaries in any period for (i) tangible assets required to be classified as fixed assets or leasehold improvements on the consolidated balance sheet of the Borrower in accordance with GAAP or (ii) ‘exploration and evaluation’ costs, whether or not capitalized on the consolidated balance sheet of the Borrower.

“**Capitalized Lease Obligation**” means, for any Person, any payment obligation of such Person under an agreement for the lease, license or rental of, or providing such Person with the right to use, property that, in accordance with GAAP, would be treated as a balance sheet liability.

“**Change of Control**” means the occurrence of any transaction or event as a result of which (i) any Person or group of Persons acting in concert shall purchase or acquire legal or beneficial ownership, either directly or indirectly, of (x), other than with respect to the ownership of voting shares of the Borrower held by Wexford Capital LP (or an Affiliate thereof), voting shares of the Borrower which carry more than 50% of the votes attached to the voting shares of the Borrower, or (y) the right or the ability by voting power, contract or otherwise to elect or designate for election a majority of the directors of the Borrower; or (ii) any Person other than the Borrower or a wholly-owned Subsidiary of the Borrower owns shares of a Project Entity; provided that the ownership of by any Person resident in Nicaragua of shares in the capital of Nicoz Resources or Gold Belt as required by Applicable Law in Nicaragua shall not be considered a Change of Control provided that (A) the ownership of Nicoz Resources or Gold Belt by such Person is in the minimal amount required by such Applicable Law, and (B) such Person provides the Lender with a security interest over such equity in accordance with Section 5.2.

“**Closing Date**” means the date on which the Lender funds the Advance.

“**Code**” means the Internal Revenue Code of 1986 of the United States, as amended from time to time, and any successor statute.

“**Collateral**” means all property, assets and undertaking that is subject to the Security.

“**Commitment**” means the maximum amount agreed to be made available by the Lender under the Facility as specified in Schedule A, subject to the provisions of this Agreement.

“**Common Shares**” means common shares in the capital of the Borrower.

“**Compliance Certificate**” means the certificate required to be delivered pursuant to Section 6.2, substantially in the form attached as Exhibit B and signed by a senior officer of the Borrower.

“**Contaminant**” means (a) any contaminant, pollutant, deleterious substance, toxic substance, hazardous waste, hazardous material, hazardous substance, petroleum product, oil, flammable explosives, asbestos or radioactive material, (b) any substance, gas, material, chemical, sound, vibration or other forms of energy which is or may now or hereafter be defined as or included in the definition of “contaminant”, “pollutant”, “deleterious substance”, “hazardous substances”, “toxic substances”, “hazardous materials”, “hazardous wastes” or words of similar import under any Environmental Law, (c) any other chemical, material, gas or substance, the exposure or release of which is or may be now or hereafter prohibited, limited or regulated by any Environmental Law, or (d) any chemical, material, gas or substance that does or may pose a hazard to health and/or safety of Persons or the environment.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have corresponding meanings.

“**Debt**” means, at any time, with respect to any Person, without duplication, all the liabilities of that Person at that time in respect of:

- (a) obligations, including by way of overdraft, that would be considered to be indebtedness for borrowed money, and all obligations, whether or not with respect to the borrowing of money, that are evidenced by bonds, debentures, notes or other similar instruments;
- (b) the deferred purchase price of property or services, other than property or services purchased in the ordinary course of business and paid for in accordance with customary practice and not represented by a bond, debenture, note or other similar instrument;
- (c) the face amount of all bankers’ acceptances and similar instruments;
- (d) any capital stock of that Person, or of any Subsidiary of that Person, which capital stock, by its terms or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder, or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part;
- (e) all Capitalized Lease Obligations, synthetic lease obligations, obligations under Sale-Leasebacks and Purchase Money Obligations;
- (f) contingent liabilities relating to letters of credit, letters of guarantee and similar instruments;
- (g) all Hedging Obligations;
- (h) contingent liabilities relating to performance bonds and surety bonds;
- (i) reclamation obligations of the Borrower with respect to La Trinidad property as described at Schedule 4.1(u); and
- (j) contingent liabilities under any Guarantees of any part or all of an obligation of another Person of the type included in items (a) through (i) above.

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

“**Disposition**” means any sale, assignment, transfer, conveyance, lease, license, granting of an option, demolition, abandonment or other disposition (or agreement to dispose) of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb “Dispose” has a correlative meaning.

“**Documentation Completion Date**” means the date hereof.

“**Environmental Law**” means with respect to any Person or property any and all present and future international, federal, state, provincial or territorial, municipal or local and foreign laws, rules

and regulations or obligations applicable to such Person or property, including any arising under common law or civil law, and any order or decree, in each case as now or thereafter in effect, relating to the regulation or protection of human health, safety or the environment or to Releases or threatened Releases of Contaminants, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, Contaminants, chemicals or toxic or hazardous substances, wastes or recyclables.

“Environmental Permits” means all applicable permits, licenses, registrations, approvals required by Environmental Law.

“EPC Agreement” means the Engineering, Procurement and Construction Management Agreement between Mako US Corp. and Nicoz Resources (as further amended from time to time as permitted hereunder), a certified full copy of which has been provided to the Lender.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust, warrants, options, or any other equity interests in any Person.

“Event of Default” has the meaning attributed to such term in Section 8.1.

“Excluded Taxes” means, in relation to any Person, (i) those Taxes on income which are imposed or levied by any jurisdiction or any political subdivision of such jurisdiction solely as a result of such Person (a) being organized under the laws of such jurisdiction or any political subdivision of such jurisdiction, (b) having its principal office or lending office in such jurisdiction, (c) being resident in such jurisdiction, (d) carrying on business in such jurisdiction, or (e) not dealing at arm’s length (as defined for the purposes of any taxing statute in the applicable jurisdiction) with the Borrower or otherwise resulting from a present or former connection between such Person and the jurisdiction imposing such Tax (other than connections arising solely from such Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Advance or any Loan Document), (ii) Taxes attributable to the Lender’s failure to comply with Section 3.12(c) or 3.12(d), and (iii) any U.S. federal withholding taxes imposed under FATCA.

“Exploration Program” means the Borrower’s exploration plan with respect to the Project as defined in the Mine Development Associates Technical Report and Estimate of Mineral Resources for the San Albino Project, Nueva Segovia, Nicaragua dated November 25, 2020 and supplemented with the budget provided by the Borrower to the Lender during due diligence.

“Expropriation Compensation” means value paid to a Project Entity by any Governmental Authority as compensation for or in respect of any compulsory transfer or taking by condemnation, expropriation, eminent domain or exercise of a similar power by any Governmental Authority.

“Facility” has the meaning attributed to such term in Section 2.1.

“FATCA” means (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, in each case, in existence as of the date of this Agreement, or any amended or successor version that is substantively comparable and not materially more onerous to comply with.

“**Financial Assistance**” given by any Person (the “**Financial Assistance Provider**”) to or for the account or benefit of any other Person (the “**Financial Assistance Recipient**”) means any direct or indirect financial assistance of any nature, kind or description whatsoever (by means of loan, guarantee or otherwise) of or from such Financial Assistance Provider, or of or from any other Person with recourse against such Financial Assistance Provider or any of its property, to or for the account or benefit of the Financial Assistance Recipient.

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

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

“**GAAP**” means generally accepted accounting principles in Canada applied on a consistent basis (which, as of the Closing Date, consist of International Financial Reporting Standards).

“**Gold Belt**” means Gold Belt S.A., a private Nicaraguan company by number [Commercially sensitive information redacted], together with its successors and assigns.

“**Governmental Authority**” means any government, parliament, legislature, regulatory authority, agency, department, commission, board, instrumentality or rule-making entity of any government, parliament or legislature, or any court, tribunal, arbitration board or arbitrator or (without limitation to the foregoing) other law, regulation or rule making entity having or purporting to have jurisdiction in the relevant circumstances, or any Person acting or purporting to act under the authority of any of the foregoing (including, without limitation, any arbitrator).

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

“**Guarantor**” means any Person who becomes a guarantor pursuant to Section 5.2.

“**Hedge Instrument**” means, with respect to any Person, any interest rate, foreign exchange or commodity price risk management agreement or product, including interest rate, currency or commodity exchange or swap agreements, futures contracts, forward rate agreements, interest rate cap agreements and interest rate collar agreements, options and all other agreements or arrangements designed primarily to protect such Person against fluctuations in interest rates, currency exchange rates or commodity prices.

“**Hedging Obligations**” means, with respect to any Person, the Person’s payment obligations under Hedge Instruments calculated on a mark-to-market basis at the date of determination.

“**Intellectual Property**” means any trademarks, service marks, business names, designs, logos, indicia and/or other source and/or business identifiers, copyrights, unpatented inventions (whether or not patentable), patents, industrial designs, integrated circuit topographies, licenses, license agreements, URLs, Internet domain names and other similar rights (including know-how, trade secrets and other proprietary or confidential information and license agreements relating to the manufacturing and marketing of product), applications and registrations related to any of the foregoing, and computer tapes or disks, all supporting data and analysis related to exploration, Resource Statements and development studies on the Project (including – but not exclusively – drilling logs, geological models, block models, mine plans, metallurgical studies, flow diagrams, specification sheets, environmental and social studies) and source codes, object codes and other physical manifestations, embodiments or incorporations or any of the foregoing, and includes, without limitation, computer software.

“**Interest Expense**” means, for any period, the amount which would in accordance with GAAP be classified on the consolidated balance sheet of the Borrower for such period as gross interest expenses.

“**Interest Payment Date**” means the last Business Day in New York, NY of each Fiscal Quarter. Following an Event of Default, the Interest Payment Date means the last Business Day in New York, NY of each calendar month.

“**Interest Period**” means the initial period from and including the Closing Date and ending on the last calendar day of that Fiscal Quarter, and thereafter, each successive period commencing on and including the first day of the next Fiscal Quarter and ending on the last calendar day of that Fiscal Quarter. Following an Event of Default, the Interest Period means the initial period from and including the date of the Event of Default and ending on the last calendar day of that calendar month, and thereafter, each successive period commencing on and including the first day of the next calendar month and ending on the last calendar day of that calendar month.

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

“**Leased Lands**” means the lands and premises leased by any Project Entity and described in Schedule B (as updated from time to time pursuant to Section 6.2(e)).

“**Lender Prepayment Amount**” has the meaning specified in Section 3.8

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

“**Loan Documents**” means, collectively, this Agreement, the Security Documents, and all other agreements, instruments and documents from time to time (both before and after the date of this Agreement) delivered to the Lender in connection with this Agreement or the other Loan Documents.

“**Management Services Agreement**” management services agreement between Mako US Corp. and the Borrower (as further amended from time to time as permitted hereunder), a certified full copy of which has been provided to the Lender.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, affairs, operations, capital, condition (financial or otherwise) of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower, any Project Entity or any Guarantor to perform its obligations under the Loan Documents or the Material Contracts to which it is a party, or (c) the rights and remedies of the Lender under the Loan Documents; provided that normal course adverse price fluctuations in the commodity markets shall not, in and of themselves, be a Material Adverse Effect.

“**Material Contract**” means at any time any written agreement entered into by a Project Entity:

- (a) which if not complied with or if terminated other than at scheduled maturity, would materially impair the Project Entities’ ability to operate, in all material respects, the Project on the scale and in the manner set forth in the Project Business Plan; or
- (b) which has a term greater than one year and provides for aggregate consideration payable by or to the Borrower or any Subsidiary which is greater than \$2,000,000.

For greater certainty, [Commercially sensitive information redacted] are each a Material Contract.

“**Material Permit**” means at any time any Permit, if not obtained, the loss of, or termination of which, or the breach of, or non-compliance with, as at such time, would materially impair a Project Entity’s ability to (a) develop or operate the Project, in all material respects, on the scale and in the manner set forth in the Project Business Plan, or (b) conduct the Business in compliance in all material respects with Applicable Law.

“**Maturity Date**” means March 31, 2022, or if such date is not a Business Day, the next Business Day.

“**Mining Rights**” has the meaning set out in Section 4.1(q) hereof.

“**Nicoz Resources**” means Nicoz Resources, S.A., a private Nicaraguan company by number [Commercially sensitive information redacted], together with its successors and assigns.

“**Obligations**” means all indebtedness, liabilities and other obligations of the Obligors owed to the Lender under the Loan Documents, whether actual or contingent, direct or indirect, matured or not, now existing or hereafter arising.

“**Obligors**” means collectively, the Borrower and the Guarantors.

“**Obtained Mineral Permits**” has the meaning set out in Section 4.1(o).

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

“**Officer’s Certificate**” means a certificate in form satisfactory to the Lender of the applicable Person required to provide such certificate signed by the president or a vice president of such corporation or by such other of its senior officers as may be acceptable to the Lender.

“**Owned Lands**” means the freehold real property owned by Nicoz Resources from time to time and described in Schedule B (as updated from time to time pursuant to Section 6.2(e) hereof).

“**Payment Agreement**” means the payment agreement between the Borrower and Nicoz Resources (as further amended from time to time as permitted hereunder), a certified full copy of which has been provided to the Lender.

“**Pension 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, the Borrower or any of its Subsidiaries, their respective employees or former employees, in each case whether written or oral, funded or unfunded, insured or self-insured, reported or unreported.

“**Permits**” means all permits, licenses, approvals, consents, registrations, certificates, privileges, exemptions and similar authorizations issued or granted by any Governmental Authority or any third party, including without limitation, Permits related to mining and environmental Permits.

“**Permitted Asset Disposition**” means (i) a sale, transfer or other Disposition of tangible property that is worn out, obsolete or no longer required in the present and future conduct of the Business, (ii) a sale, transfer or other Disposition of Project Assets, or any interest therein, that are not and have not been used and are not reasonably required for carrying out the Business, (iii) a sale, transfer or other Disposition of property (other than Core Property and technical reports and other technical information and records concerning the Project Assets) to the extent that such property Disposed of in any twelve month period does not exceed 5% of the total value of all the Project Assets at such time, or such Disposition is required by health and safety Applicable Law or rulings by any Governmental Authority, (iv) a sale, transfer or other Disposition of minerals or marketable oxide material which contains gold in whatever form or state that is mined, produced, extracted or otherwise recovered from the Project Property pursuant to the Stream Agreement or otherwise, (v) a sale, transfer or other Disposition of inventory in the ordinary course of business, and (vi) a sale, transfer or other Disposition of property by a Subsidiary that is not a Project Entity provided that, for greater certainty, such assets are not Project Assets. For the purposes of this definition, “**Core Property**” means property that is (y) Project Property and related rights such as surface rights, access rights and water rights, and (z) infrastructure and any concession, lease, license or access right held by or on behalf of any Project Entity with respect to infrastructure.

“**Permitted Liens**” means, in respect of any property of any Person, any of the following:

- (a) liens for Taxes not yet due or for which installments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by the Person and for which reasonable reserves under GAAP are maintained;
- (b) undetermined or inchoate liens, rights of distress and charges incidental to current operations which have not at such time been filed or exercised, or which relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by the Person;

- (c) reservations, limitations, provisos and conditions expressed in any original grants from applicable Governmental Authorities or other grants of real or immovable property, or interests therein, which do not materially affect the use of the affected land for the purpose for which it is used by the Person;
- (d) zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, state, municipal and other Governmental Authorities, licences, easements, rights-of-way, servitudes and rights in the nature of easements (including, without limiting the generality of the foregoing, licences, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) which do not materially impair the use of the affected land for the purpose for which it is used by the Person;
- (e) title defects, encroachments or irregularities or other matters relating to title which are of a minor nature and which in the aggregate do not materially impair the use of the affected property for the purpose for which it is used by the Person;
- (f) the right reserved to or vested in any Governmental Authority, by the terms of any lease, licence, franchise, grant or permit acquired by the Person or by any statutory provision to terminate any such lease, licence, franchise, grant or permit, or to require annual or other periodic payments as a condition to the continuance thereof;
- (g) Liens resulting from the deposit of cash or securities (i) in connection with contracts, tenders, expropriation proceedings, surety or appeal bonds and other similar Liens arising in connection with court proceedings when required by law, (ii) in connection with workmen's compensation and employment insurance obligations, (iii) in connection with the discharge of Liens and claims incidental to construction, mechanics', warehousemen's, carriers', suppliers, repairers, storage and other similar Liens, and (iv) in connection with public, statutory and other like obligations incurred in the ordinary course of business; in each case, provided the obligations secured by such Liens are not yet due and payable, or are being contested diligently and in good faith;
- (h) security given to a public utility or any municipality or Governmental Authority when required by such utility or Governmental Authority in connection with the operations of the Person in the ordinary course of its business;
- (i) applicable municipal and other governmental restrictions, including municipal by-laws and regulations, affecting the use of land or the nature of any structures which may be erected thereon, provided that the Person in compliance therewith in all material respects and such restrictions do not materially reduce the value of the assets of the Person or materially interfere with the use of such assets in the operation of the business of the Person;
- (j) Liens or any rights of distress that are reserved in or exercisable under any lease or sublease to which the Person is a lessee which secure the payment of rent or compliance with the terms of such lease or sublease, provided that such rent is not then overdue and the Person is then in compliance in all material respects with such terms and provided further that any such Liens are limited to property located at the premises subject to the applicable lease or sublease;

- (k) the Lien created by a judgment of a court of competent jurisdiction, as long as the judgment is being contested diligently and in good faith by appropriate proceedings by the Person and does not result in an Event of Default;
- (l) Liens securing Purchase Money Obligations and Capitalized Lease Obligations, provided that the aggregate amount of the Debt outstanding at any time in respect of the security interests and capital leases referred to in this paragraph (l) shall not exceed \$1,000,000 and provided that the Liens securing such obligations extend only to the property acquired or financed thereby (including the proceeds of such property);
- (m) cash collateral required by, and deposited with, financial institutions and bonding/surety companies as security for letters of credit, letters of guarantee, performance bonds and surety bonds posted by or on behalf of the Project Entities in the ordinary course of business of the Project, provided that, at any time, the aggregate amount of such cash collateral shall not exceed \$500,000;
- (n) subject to the Borrower complying with Section 5.2, Liens related to the Wexford Loan;
- (o) Liens securing the Wexford Loan Agreement, the Stream Agreement or the Royalty Agreement;
- (p) other Liens agreed to in writing by the Lender; and
- (q) 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 and refinancing and the Lien is not extended to any additional property.

“**Person**” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative or Governmental Authority.

“**Post-Closing Security**” has the meaning given to it in Section 5.1(b) of this Agreement.

“**Physical Information**” has the meaning given to it in Section 6.2(a) of this Agreement.

“**Principal Amount**” means the principal amount of the Advance outstanding from time to time; which, for greater certainty, following the Advance on the Closing Date shall be equal to \$6,340,00.00.

“**Proceeds of Realization**” means all cash and non-cash proceeds derived from any sale, disposition or other realization of the Collateral (i) after any notice by the Lender to the Borrower pursuant to Section 8.1(p) declaring all indebtedness of the Borrower hereunder to be immediately due and payable or the automatic acceleration of such indebtedness, (ii) upon any dissolution, liquidation, winding-up, reorganization, bankruptcy, insolvency or receivership of any of the Project Entities (or any other arrangement or marshalling of the Collateral that is similar thereto) or (iii) upon the enforcement of, or any action taken with respect to, any of the Loan Documents. For greater certainty, prior to the Security becoming enforceable (x) insurance proceeds derived as a result of the loss or destruction of any of any Project Assets or (y) cash or non-cash proceeds derived from any expropriation or other condemnation of any the Project Assets shall not constitute Proceeds of Realization.

“**Project**” means the gold project consisting of the lands and premises located at San Albino-Murra and associated facilities in Nueva Segovia, Nicaragua.

“**Project Assets**” means collectively the Project Property and the Project Facilities.

“**Project Business Plan**” means the plan for the development and operation of the Project as represented in the financial model – [Commercially sensitive information redacted]– provided by the Borrower to the Lender on February 5, 2021.

“**Project Entities**” means the Borrower, Nicoz Resources and Gold Belt, together with their successors and permitted assigns.

“**Project Facilities**” means all of the, mining, processing, production, maintenance, storage, tailings, roads, underground development, administration, infrastructure and related ancillary facilities, infrastructure and equipment, acquired, re-commissioned, constructed or operated by the Project Entities for the purpose of extracting and processing minerals, ore bodies and metals derived from the Project Property.

“**Project Property**” means, collectively, all present or future real property which is owned, leased, operated, occupied, controlled or used by any Project Entity in connection with the operation of the Project, including all mineral claims, mining leases and licenses, surface rights or other rights in minerals, ore bodies, metals or real property and any extension, renewal, replacement, conversion or any other form of successor or substitution title to or tenure derived from any of the foregoing, and any after-acquired or resulting right in respect of any of the foregoing, and which, as of the Closing Date, is comprised of the Leased Lands set forth in Schedule B, the Owned Lands set forth in Schedule B, and the Mining Rights, in each case, which is identified in such Schedules as comprising a part of the Project Property.

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

“[Identifying name of agreement redacted] **Agreement**” means [commercially sensitive information redacted], a certified full copy of which has been provided to the Lender.

“**Release**” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into or through the natural environment, including the movement of Contaminants through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

“**Restricted Payment**” means, (i) with respect to any Person, any payment by such Person (a) of any dividends or any other distribution on any shares of its capital, (b) on account of, or for the purpose of setting apart any property for a sinking or other analogous fund for, the purchase, redemption, retirement or other acquisition of any shares of its capital or any warrants, options or rights to acquire any such shares, (c) of any principal of, or interest or premium on, or of any amount in respect of a sinking or analogous fund or defeasance fund for, any Debt of such Person ranking in right of payment *pari passu* with or subordinate to the Obligations, or (d) any payment whether as consulting fees, management fees or otherwise to (A) any Affiliate of such Person, (B) any Person that directly or indirectly owns or controls shares in the capital of that Person carrying more than 10% of the voting rights

outstanding at such time, (C) any Affiliate of a Person described in clause (B), (D) any Person that is an officer or director of such Person or of any Affiliate of such Person or of any Person described in clause (B) or clause (C), or (E) any immediate family member of any of the foregoing, and (ii) with respect to the Project Entities, also includes any payment to any Person that is not a Project Entity.

“**Royalty Agreement**” the royalty agreement dated November 9, 2018 among Nicoz Resources, Gold Belt, Golden Reign Resources Ltd. and Sailfish Royalty Corp. (as further amended from time to time as permitted hereunder), a certified full copy of which has been provided to the Lender.

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

“**Sanctioned 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; or
- (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 designated under, listed on, or acting on behalf of a Person designated under or listed on, any list of Persons who are subject to Sanctions under Applicable Law.

“**Sanctions**” means any Applicable Law governing transactions in controlled goods or technologies or dealings with countries, entities, organizations or individuals subject to economic sanctions and similar measures.

“**Sanctions Authority**” means any of (a) the Government of the United States, (b) the United Nations, (c) the Government of Canada, (d) the European Union and/or any present or future member state thereof, (e) the United Kingdom, (f) the Republic of Nicaragua, or (f) the respective departments and agencies of any of the foregoing, including OFAC (or any other part of the US Treasury Department), the US Department of State, Global Affairs Canada and Public Safety Canada.

“**Securities Commissions**” means, collectively, the securities commissions or other securities regulatory authorities in each of the provinces of Canada and any other relevant securities regulatory authority having jurisdiction over the Borrower.

“**Securities Laws**” means, collectively, all applicable securities legislation in each of the provinces of Canada and in the United States (including the states and territories thereof) and Germany and the respective regulations made thereunder, together with applicable instruments, rules, policies, policy statements, notices, blanket rulings, decisions and orders, prescribed forms, published fee schedules, and other regulatory instruments issued or adopted by the Securities Commissions.

“**Security**” means the Liens created by the Security Documents.

“**Security Documents**” means the guarantees and security documents described in Section 5.1 and any other guarantees and security documents held from time to time by the Lender securing or intended to secure repayment of the Obligations.

“**Stream Agreement**” means the amended and restated gold purchase agreement dated as of November 9, 2018 among Nicoz Resources, Gold Belt, Golden Reign Resources Ltd., Sailfish Royalty Corp. and Marlin Gold Mining Ltd. (as further amended from time to time as permitted hereunder), a certified full copy of which has been provided to the Lender.

“**Subordinated Debt**” means unsecured Debt of the Borrower which has been subordinated and postponed to the Obligations pursuant to a subordination agreement on terms and conditions acceptable to the Lender and, in each case, which has a maturity date that is at least one hundred and eighty (180) days after the Maturity Date.

“**Subsidiary**” means, with respect to any Person, any corporation, company or other business entity of which more than fifty per cent (50%) of the outstanding Equity Interests 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. Where the term “Subsidiary” or “Subsidiaries” is used herein without further qualification, such term shall mean a Subsidiary or the Subsidiaries of the Borrower.

“**Taxes**” means all taxes (including for certainty, real property taxes), assessments, levies, imposts, stamp taxes, duties, deductions, charges and similar impositions payable, levied, collected or assessed as of the date of this Agreement or at any time in the future, and “**Tax**” shall have a corresponding meaning.

“**Technical Report**” means the Technical Report and Estimate of Mineral Resources for the San Albino Project, Nueva Segovia, Nicaragua prepared by Mine Development Associates and dated November 25, 2020 with an effective date of November 2, 2020.

“**TSX-V**” means the TSX Venture Exchange.

“**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.

“**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.

“**Wexford Loan**” means the loan made available to the Borrower pursuant to the loan agreement dated February 20, 2020 among, the Borrower, as borrower, Wexford Capital LP, as agent, and the parties thereto from time to time, as lenders, as may be amended, supplemented or otherwise modified from time to time.

“**Wexford Repayment Amount**” has the meaning specified in Section 3.8

1.2 Gender and Number

Words importing the singular include the plural and *vice versa* and words importing gender include all genders.

1.3 Interpretation Not Affected by Headings, etc.

The division of this Agreement into Articles, Sections, subsections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Monetary References

Any reference in this Agreement to “Dollars”, “dollars” or the sign “\$” shall be deemed to be a reference to lawful money of the United States of America, unless expressly provided otherwise. Any amounts to be advanced, paid, prepaid, or repaid shall be made in lawful money of the United States of America.

1.5 References

Except as otherwise specifically provided, reference in this Agreement to any contract, agreement, document or any other instrument shall be deemed to include references to the same as varied, amended, supplemented, restated or replaced from time to time and reference in this Agreement to any enactment, including without limitation, any statute, law, by-law, regulation, ordinance or order, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

1.6 Certain Phrases

In any Loan Document (i) (y) the words “including” and “includes” mean “including (or includes) without limitation” and (z) the phrase “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”, and (ii) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

1.7 Knowledge

Where any representation or warranty contained in this Agreement is expressly qualified by reference to “knowledge” of the Borrower, it shall be deemed to refer to the actual knowledge of

senior management of the Borrower and all information which ought to have been known by any of them after conducting a reasonable inquiry into the matters in question, whether or not any such inquiry was actually made.

1.8 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

1.9 This Agreement to Govern

If there is any inconsistency between the terms of this Agreement and the terms of any Security Document which cannot be resolved by complying with both Loan Documents, the provisions hereof shall prevail to the extent of the inconsistency.

1.10 Actions on Days Other Than Business Days

Except as otherwise specifically provided herein, where any payment is required to be made or any other action is required to be taken on a particular day and such day is not a Business Day and, as a result, such payment cannot be made or action cannot be taken on such day, then this Agreement shall be deemed to provide that such payment shall be made or such action shall be taken on the first Business Day after such day.

1.11 Interest Act

For the purposes of the *Interest Act* (Canada) and disclosure under such Act, whenever interest or fee to be paid under this Agreement or any Loan Document is to be calculated on the basis of a year of 365 days or 360 days or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate determined pursuant to such calculation is equivalent is the rate so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by either 365, 360 or such other period of time, as the case may be.

1.12 No Subordination

The use of the term "Permitted Liens" to describe any interests and Liens permitted hereunder shall mean that they are permitted to exist (whether in priority to or subsequent in priority to the Security, as determined by Applicable Law), and shall not be interpreted as meaning that such interests and Liens are entitled to priority over the Security.

1.13 Accounting Terms

All accounting terms not specifically defined in this Agreement shall be interpreted in accordance with GAAP. If any Accounting Changes occur and such changes result in a material change in the calculation of the financial covenants, standards or terms used in this Agreement or any other Loan Document, the Borrower and the Lender agree to enter into negotiations in order to amend such provisions of this Agreement or such Loan Document, as applicable, so as to equitably reflect such Accounting Changes with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made.

If the Borrower and the Lender agree upon the required amendments, then after appropriate amendments have been executed and the underlying Accounting Changes with respect thereto has been implemented, any reference to GAAP contained in this Agreement or in any other Loan Document shall, only to the extent of such Accounting Changes, refer to GAAP, consistently applied after giving effect to the implementation of such Accounting Changes.

If the Borrower and the Lender cannot agree upon the required amendments within 30 days following the date of implementation of any Accounting Change, then all calculations of financial covenants and other standards and terms in this Agreement and the other Loan Documents shall continue to be prepared, delivered and made without regard to the underlying Accounting Change. In such case, Borrower shall, in connection with the delivery of any financial statements under this Agreement, provide a management prepared reconciliation of the financial covenants to such financial statements in light of such Accounting Changes.

1.14 Schedules, etc.

The following are the schedule(s) attached to this Agreement:

- Schedule A** – **Commitments**
- Schedule B** – **Leased Lands and Owned Lands**
- Schedule C** – **Post-Closing Covenants**
- Schedule 4.1(e)** – **Corporate Chart**
- Schedule 4.1(f)** – **Agreements to Acquire Shares**
- Schedule 4.1(k)** – **Litigation**
- Schedule 4.1(n)** – **Material Contracts**
- Schedule 4.1(o)** – **Material Permits**
- Schedule 4.1(u)** – **Reclamation Obligations**
- Schedule 4.1(aa)** – **Material Insurance Claims**
- Schedule 4.1(bb)** – **Affiliated Transactions**

The following are the exhibit(s) attached to this Agreement:

- Exhibit A** - **Compliance Certificate**
- Exhibit B** – **Borrowing Notice**

**ARTICLE 2
THE FACILITY**

2.1 Establishment of the Facility

The Lender, in reliance on each of the representations and warranties set out herein and upon and subject to the provisions of this Agreement, including without limitation the satisfaction of the conditions set out in Section 7.1 and Section 7.2 hereof, hereby agrees to make available to the Borrower

a senior secured non-revolving term credit facility (the “**Facility**”) in a total amount equal to its Commitment under the Facility in accordance with this Agreement.

2.2 Availment

- (a) Subject to the provisions of this Agreement, including without limitation the satisfaction of the conditions to advance set out in Section 7.1 and Section 7.2 hereof, the Lender agrees to make a single Advance in the aggregate amount of \$6,000,810. For greater certainty, the Lender may set-off all outstanding amounts owing by the Borrower to the Lender under the Bridge Loan as of the Closing Date against the amount of the Advance to be funded to the Borrower in accordance with the terms and conditions herewith.
- (b) The Borrower shall provide a Borrowing Notice to the Lender on the Documentation Completion Date. The Borrowing Notice shall be irrevocable by the Borrower once issued.
- (c) Prior to the issuance of the Borrowing Notice for the Advance, the Borrower shall have satisfied all conditions precedent set out in Section 7.1 of this Agreement. The Lender shall advance the Advance directly to the Borrower within 10 Business Days of receiving the Borrowing Notice, provided that prior to the funding of the Advance by the Lender on the Closing Date, the Borrower shall have satisfied all conditions precedent set out in Section 7.1 and Section 7.2 hereof (provided that, for greater certainty, the Borrower will have the opportunity to satisfy such conditions in Section 7.1 and Section 7.2 during the 10 Business Day period following the Documentation Completion Date (the “**Initial Closing Period**”). Notwithstanding the foregoing, following the expiry of the Initial Closing Period, the Borrower (as communicated by written notice to the Lender) may elect to delay the Closing Date by up to an additional 15 Business Days to allow for the satisfaction of the conditions precedent set out in Section 7.1 and Section 7.2 hereof provided that (i) the Borrower is using commercially reasonable efforts to satisfy any then outstanding conditions precedent, (ii) in the event that the Lender advances the Advance in escrow to its legal counsel, Stikeman Elliott LLP (or other agent acting on its behalf) on the last day of the Initial Closing Period, interest shall start to accrue on the entire Principal Amount of the Advance as of such date notwithstanding that the Closing Date has not yet occurred, and (iii) the Lender may, acting reasonably, require that the Borrower Breakup Fee be put in escrow as of the expiry of the Initial Closing Period if it is in the reasonable expectation of the Lender that the events contemplated in Section 2.4(a)(i) and 2.4(a)(ii) are likely to occur.
- (d) The Commitment under the Facility shall automatically reduce to zero upon the Advance being received by the Borrower.

2.3 Use of Proceeds

The Borrower shall use the proceeds of the Facility to accelerate the ramp up of mining and processing activities and associated working capital requirements for the Project, including the furtherance of the Exploration Program, and the repayment of any principal, interest and fees owing under the Bridge Loan.

2.4 Inability to Receive Advance

- (a) If (i) the Borrower does not satisfy the conditions in Section 7.1 and Section 7.2 during the Initial Closing Period (as may be extended in accordance with Section 2.2(c)) and the Lender is as a consequence not obliged to advance the Advance or (ii) the Borrower otherwise fails to consummate the transactions contemplated by this Agreement for any reason whatsoever prior to the Closing Date other than as set out in Section 2.4(b), then the Lender will retain all funds advanced by the Borrower to the Lender as at such date (the “**Prepaid Amount**”) and the Borrower will pay to the Lender, as liquidated damages and compensation for the costs of being prepared to make funds available hereunder, the amount of \$300,000 (“**Borrower Breakup Fee**”) (which amount shall be invoiced by the Lender and payable within 10 Business Days subject to any good faith dispute as to the invoiced amounts or any portion thereof) and the Lender may, in its sole discretion, terminate its Commitment and the Facility. Subject to any gross negligence or fraud on the part of the Borrower, the parties covenant and agree that the Borrower Breakup Fee will be the Lender’s sole and exclusive remedy in connection with the occurrence of (i) or (ii) above.
- (b) Following the Documentation Completion Date, (i) if the Lender fails to consummate the transactions contemplated by this Agreement other than as a consequence of any action or omission on the part of the Borrower, or (ii) the Borrower satisfies the conditions in Section 7.1 and Section 7.2 during the Initial Closing Period (as may be extended in accordance with Section 2.2(c)) and the Lender fails to provide the Advance to the Borrower, then the Lender will pay to the Borrower, as liquidated damages and compensation for the costs of negotiating and preparing this Agreement and the other Loan Documents, the amount of \$300,000 (the “**Lender Breakup Fee**”). Subject to any gross negligence or fraud on the part of the Lender, the parties covenant and agree that the Lender Breakup Fee will be the Borrower’s sole and exclusive remedy in connection with the occurrence of (i) or (ii) above.

ARTICLE 3 PAYMENT

3.1 Calculation and Payment of Interest

- (a) Subject to Section 3.10, the Borrower shall pay to the Lender interest on the Principal Amount of the Advance from time to time at a per annum rate equal to the Applicable Rate.
- (b) Interest on the Principal Amount of the Advance shall accrue at the end of the applicable Interest Period, both before and after default, demand, maturity and judgment, and shall be calculated on the basis of the actual number of days elapsed in an applicable Interest Period and on the basis of a year of 365 days.
- (c) Interest on the Principal Amount of the Advances shall be payable to the Lender in arrears on each Interest Payment Date and on the Maturity Date. The Lender shall deliver a notice to the Borrower at least 10 Business Days prior to an Interest Payment Date stipulating the amount of Interest payable on such Interest Payment Date, assuming no prepayment or repayments occur during the period from the delivery of such notice until the Interest Payment Date.

3.2 Voluntary Prepayments

At any time prior to the Maturity Date, the Borrower may prepay all or any portion of Principal Amount of the Facility (but if in part then in a minimum principal amount of \$250,000 upon 10 days prior written notice to the Lender. Any such prepayment shall not be subject to any prepayment fee, bonus or penalty.

3.3 Mandatory Repayment – Maturity

The Principal Amount of the Facility, together with all accrued and unpaid interest thereon and other amounts payable hereunder, shall be due and payable by the Borrower in full in cash on the Maturity Date.

3.4 Mandatory Prepayment - Proceeds of Insurance or Expropriation Compensation

- (a) Other than with respect to the Mexican Insurance Claim Lawsuit and the U.S. Insurance Claim Lawsuit as described in Schedule 4.1(aa), if any Project Entity receives proceeds of insurance or any Expropriation Compensation in respect of any property or assets in an amount not more than \$100,000 for any individual incident and not more than \$500,000 in the aggregate for all such incidents, such Project Entity may retain such proceeds.

If any Project Entity receives proceeds of insurance or any Expropriation Compensation in respect of any property or assets in an amount of \$100,000 or more for any individual incident or \$500,000 or more, in the aggregate for all such incidents, any such proceeds shall be applied against outstanding Obligations as provided herein. Notwithstanding the foregoing, such Project Entity may, upon notice and prior written consent of the Lender, not to be unreasonably withheld, retain such proceeds provided that such Project Entity enters into a binding commitment to replace, repair or rebuild the asset or assets to which such insurance proceeds relate within 180 days. Following such 180 day period, if there has been no binding commitment to replace, repair or rebuild such assets, such insurance proceeds shall be paid to the Lender and shall be applied against the Obligations.

- (b) Notwithstanding the foregoing, no Project Entity shall be entitled to any proceeds of insurance (other than with respect to the Mexican Insurance Claim Lawsuit and the U.S. Insurance Claim Lawsuit described in Schedule 4.1(aa)) if there exists a Default or an Event of Default.

3.5 Mandatory Prepayment – Asset Dispositions

Other than with respect to a Permitted Asset Disposition, if a Project Entity in one or more transactions Disposes of property resulting in net proceeds (i) in excess of \$500,000 for any asset or (ii) in excess of \$1,000,000 in the aggregate, then not later than two (2) Business Days after any such Disposition, an amount equal to the net proceeds of any such Dispositions shall be paid by the Borrower to the Lender as a mandatory prepayment and shall be applied against outstanding Obligations as provided herein. Notwithstanding the foregoing, such Project Entity may retain such proceeds provided that such Project Entity enters into a binding commitment to purchase replacement property within 180 days. Following such 180-day period, if there has been no binding commitment to purchase replacement property, such proceeds shall be paid to the Lender and shall be applied against the Obligations.

3.6 Mandatory Prepayment – Proceeds of Debt

If the Borrower incurs Debt other than Debt permitted by Section 6.3(g), then not later than two (2) Business Days after the incurrence of such Debt, an amount equal to the net proceeds of such Debt shall be paid by the Borrower to the Lender as a mandatory prepayment and shall be applied against outstanding Obligations as provided herein.

3.7 Mandatory Prepayment - Change of Control

Upon the occurrence of a Change of Control, the Borrower shall prepay the Principal Amount of the Facility, together with accrued and unpaid interest thereon, and all other Obligations.

3.8 Mandatory Prepayment – Wexford Payment

If the Borrower makes any prepayment (whether voluntary, mandatory or otherwise) under the Wexford Loan (such amount, the “**Wexford Repayment Amount**”), the Borrower shall make a mandatory prepayment to the Lender (such amount, the “**Lender Prepayment Amount**”) in at least the amount necessary such that to the quotient obtained by dividing the Lender Prepayment Amount by the Wexford Repayment Amount is greater to or equal to 0.418 and such prepayment shall be applied against the Obligations as provided herein. For example, and for greater clarity only, should the aggregate amount of the Wexford Repayment Amount and the Lender Prepayment Amount equal \$1,000,000, then the Lender Prepayment Amount shall be equal to or greater than \$295,000 (as $\$295,000 \div (\$1,000,000 - \$295,000) = 0.418$).

3.9 Application of Payments

Any amounts prepaid or repaid shall not be reborrowed. All amounts prepaid or repaid shall be applied to such Obligations as the Lender shall determine in its sole and unfettered discretion.

3.10 Default Interest.

The Borrower shall pay to the Lender interest on overdue amounts both before and after demand, default and judgment, and on the Principal Amount of the Advance outstanding from time to time upon the occurrence and during the continuation of an Event of Default, at a rate per annum equal to, subject to and only to the extent permitted by Applicable Law, 20.0% per annum, calculated on a calendar month basis based on the actual number of days elapsed in a 365 day year, and computed from the date the amount becomes due for so long as the amount remains overdue. Such interest shall be payable by the Borrower on the last Business Day of each calendar month.

3.11 Payments Generally

All payments made pursuant to this Agreement (in respect of principal, interest or otherwise) shall be made to the Lender by way of deposit by or on behalf of the Borrower to the account specified therefor to the Borrower from time to time no later than 3:00 p.m. (New York time) on the due date thereof. Any payments received after such time shall be considered for all purposes as having been made on the next following Business Day unless the Lender otherwise agrees in writing.

3.12 Payments - No Deduction

- (a) All payments made in respect of this Agreement (in respect of principal, interest, original interest discount or otherwise) shall be made in full without set-off or counterclaim, and

free of and without deduction or withholding for any present or future Taxes, other than Excluded Taxes, provided that if the Borrower shall be required by any Applicable Law (as determined in the good faith discretion of the Borrower) to deduct or withhold any Taxes, other than Excluded Taxes, from or in respect of any payment or sum payable to the Lender, the payment or sum payable shall be increased as may be necessary (the amount of such increase being the “**Additional Amount**”) so that after making all required deductions or withholdings, such Lender receives an amount equal to the sum it would have received if no deduction or withholding had been made and the Borrower shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law.

- (b) If the Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid Additional Amounts pursuant to this Section 3.12 or that, because of the payment of such Taxes, it has benefited from a reduction in Excluded Taxes otherwise payable by it, it shall pay to the Borrower an amount equal to such refund or reduction (but only to the extent of indemnity payments made, or Additional Amounts paid, by the Borrower under this Section 3.12 with respect to the Taxes giving rise to such refund or reduction), net of all out-of-pocket expenses of such Lender, as the case may be, and without interest (other than any net after-Tax interest paid by the relevant Governmental Authority with respect to such refund). The Borrower, upon the request of the Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Lender if such Lender is required to repay such refund or reduction to such Governmental Authority. If the Borrower determines in good faith that a reasonable basis exists for contesting any Taxes for which a payment has been made hereunder, the Lender shall use its commercially reasonable efforts to co-operate with the Borrower in challenging such Taxes at the Borrower’s cost and expense if so requested by the Borrower; provided that such Lender does not reasonably determine that such challenge could be prejudicial to it. This paragraph shall not be construed to require the Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person, to arrange its affairs in any particular manner or to claim any available refund or reduction.
- (c) The Lender shall, if entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document, deliver to the Borrower, at the time or times reasonably requested by the Borrower, such properly completed and executed documentation reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than, so long as the Lender is a U.S. Person (as determined under the Code), executed copies of IRS Form W-9, or, if the lender is not a U.S. Person, executed copied of the applicable IRS Form W-8, or, in each case, the applicable successor form) shall not be required if in the Lender’s reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

- (d) If a payment made to the Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower at the time or times prescribed by law and at such time or times reasonably requested by the Borrower such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower as may be necessary for the Borrower to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph, "FATCA" shall include any amendments made to FATCA after the Closing Date.

3.13 Illegality

If any Applicable Law coming into force after the Closing Date, or if any change in any existing Applicable Law or in the interpretation or application thereof by any court or Governmental Authority, now or hereafter makes it unlawful for the Lender to have advanced or acquired interest in the Facility or to give effect to its obligations in respect thereof, the Lender may, by written notice thereof to the Borrower, declare its obligations under this Agreement to be terminated, and the Borrower shall prepay, within the time required by such law, the Principal Amount of the Facility outstanding to the Lender together with accrued interest thereon and any other amounts owing to the Lender under this Agreement as may be applicable to the date of such payment. If any such event shall, in the opinion of the Lender, only affect part of its obligations under this Agreement, the remainder of this Agreement shall be unaffected and the obligations of the Borrower under the Loan Documents with respect to the Lender shall continue.

3.14 Change in Circumstances

If the introduction of or any change in any Applicable Law relating to the Lender or any change in the interpretation or application thereof by any Governmental Authority or compliance by a Lender with any request or direction of any Governmental Authority:

- (a) subjects the Lender or causes the withdrawal or termination of a previously granted exemption with respect to, any Taxes or changes the basis of taxation of payments due to such Lender or increases any existing Taxes on payments of amounts owing to such Lender (other than (i) Taxes for which the Lender is indemnified under Section 3.12, (ii) Taxes described in clauses (ii) and (iii) of the definition of Excluded Taxes and (iii) Taxes of application to the overall income of the Lender);
- (b) imposes, modifies or deems applicable any reserve, liquidity, cash margin, capital, or any other regulatory or similar requirement against assets held by, or loans by, the Lender; or
- (c) imposes on the Lender any other condition or requirement with respect to this Agreement (other than Taxes of application to the overall income of the Lender);

and such occurrence has the effect of:

- (d) increasing the cost to the Lender of agreeing to make or making, maintaining or funding this Agreement or any portion thereof;

- (e) reducing the amount of the Obligations owing to the Lender;
- (f) directly or indirectly reducing the effective return to the Lender under this Agreement or on its overall capital as a result of entering into this Agreement or as a result of any of the transactions or obligations contemplated by this Agreement (other than a reduction resulting from a higher rate of income tax being imposed on such Lender's overall income); or
- (g) causing such Lender to make any payment or to forego any interest, fees or other return on or calculated by reference to any sum received or receivable by such Lender hereunder;

then, such Lender shall also advise the Borrower by way of a certificate of an officer of the Lender setting forth, with sufficient particulars (including for greater certainty, the details of calculations relevant thereto), the facts relevant to the application of this Section 3.14, and, absent manifest error in such officer's certificate, the Borrower shall promptly upon demand by the Lender pay or cause to be paid to the Lender such additional amounts as shall be sufficient to fully indemnify the Lender for such additional cost, reduction, payment, foregone interest or other return provided that the Borrower shall not be required to pay such additional amounts unless such additional amounts are being demanded by the Lender as a general practice from its borrowers similarly obligated. The Lender shall provide to the Borrower a certificate in respect of the foregoing which incorporates reasonable supporting evidence thereof and any such certificate will be *prima facie* evidence thereof except for manifest error. 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 "change in Applicable Law", regardless of the date enacted, adopted, promulgated or issued.

3.15 Payment of Costs and Expenses

The Borrower shall pay to the Lender on demand all reasonable costs and expenses of the Lender and its agents and any receiver or receiver-manager appointed by it or by a court (including, without limitation, all reasonable and documented fees, expenses and disbursements of legal counsel) in connection with this Agreement and the other Loan Documents, including, without limitation:

- (a) all reasonable expenses incurred by the Lender, including the reasonable and documented fees, charges and disbursements of counsel, in connection with the preparation, negotiation, execution, delivery of this Agreement and the other Loan Documents;
- (b) all reasonable and documented out-of-pocket fees and expenses of the Lender (and its counsel) for administration, post-closing requirements of the Loan Documents and any request for any actual or proposed amendment or modification hereof or thereof or any waiver hereunder or thereunder and all instruments supplemental or ancillary thereto;
- (c) all reasonable and documented out-of-pocket fees and expenses of the Lender (and its counsel) in connection with the registration and/or discharge of any of the Security Documents in any public record office; and
- (d) all reasonable and documented out-of-pocket fees and expenses of the Lender and its agents and any receiver or receiver-manager appointed by it or by a court (including, without limitation, all fees, expenses and disbursements of legal counsel) in connection

with the enforcement of any of the Loan Documents, any workout or any situation related to a Project Entity's failure to comply with the Loan Documents;

provided that the total amount that the Borrower shall pay for the out-of-pocket fees and expenses of the Lender (and its counsel) in connection with the initial preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the registration and/or discharge of any of the Security Documents (other than, for greater certainty, the Post-Closing Security) in any public record office until the Closing Date shall be capped at a maximum of \$150,000 (excluding taxes and documented disbursements) unless the Borrower and the Lender shall mutually agree otherwise. The total amount that the Borrower shall pay for the out-of-pocket fees and expenses of the Lender (and its counsel) in connection with the initial preparation, negotiation, execution and delivery of the Post-Closing Security and the registration and/or discharge of any of such Post-Closing Security in any public record office shall be capped at a maximum of \$11,000 (excluding taxes and documented disbursements) unless the Borrower and the Lender shall mutually agree otherwise. The Lender acknowledges it has received a \$150,000 advance payment from the Borrower for these expenses and will provide the Borrower a statement of actual costs, with accompanying invoices, within 15 Business Days of the Closing Date. Should the amount of such expenses be less than \$150,000 (after taking into account any applicable taxes and documented disbursements), Lender will refund the difference between \$150,000 and the actual amount of such expenses (after taking into account any applicable taxes and documented disbursements) to the Borrower.

3.16 Indemnities

- (a) The Borrower shall indemnify and save harmless the Lender from all claims, demands, liabilities, damages, losses, costs, charges and expenses (including the reasonable and documented fees, expenses and disbursements of legal counsel to the Lender), which may be incurred by the Lender as a consequence of or in respect of (i) default by the Borrower in the payment when due of any Obligation or any other Default or Event of Default hereunder, (ii) the entering into by the Lender of this Agreement, the other Loan Documents, and any amendment, waiver or consent relating hereto, and the performance by the Lender of its obligations under the Loan Documents (which for greater certainty will not include any grossly negligent act or willful misconduct on the part of the Lender or any changes in the value of the Facility as a result of market interest rate fluctuations and credit rate spread), (iii) the application by the Borrower of the proceeds of this Agreement, or (iv) the operation of the Business. A certificate of an officer of the Lender as to any such claim, demand, liability, damage, loss, cost, charge or expense and containing reasonable details of the calculation shall be, absent manifest error, *prima facie* evidence of the amount of such claim, demand, liability, damage, loss, cost, charge or expense.
- (b) The Borrower shall indemnify and save harmless the Lender, its Affiliates and their respective officers, directors, employees, shareholders and agents (collectively, the "**Indemnified Parties**") from all claims, demands, liabilities, damages, losses, costs, charges and expenses (including without limitation any investigatory, remedial, clean-up, compliance or preventative costs, charges and expenses) (collectively, "**Claims**") which may be asserted against or incurred by such Indemnified Party under or on account of any Contaminants, Environmental Law or Environmental Permits, including without limitation any Claims arising from:

- (i) the Release of a Contaminant, the threat of the Release of any Contaminant, or the presence of any Contaminant affecting the real property owned, leased, managed or controlled by any Project Entity, whether or not the Contaminant originates or emanates from such Project Entity's property or any other real property or personal property located thereon;
- (ii) the Release of a Contaminant owned by, or under the charge, management or control of, a Project Entity or any Person under a Project Entity's control;
- (iii) any other matter relating to the environment, Environmental Law or Environmental Permits affecting the real property owned, leased, managed or controlled by a Project Entity, or the operations and activities of a Project Entity (including the operation of the Business).

3.17 Maximum Rate of Interest

If any provision of this Agreement or of any of the other Loan Documents would obligate Obligor to make any payment of interest or other amount payable to the Lender in an amount or calculated at a rate which would be prohibited by Applicable Law or would result in a receipt by the Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)) and the *Criminal Code* (Canada) would apply to such payment and would have the result of rendering the receipt by the Lender of such payment criminal, then, notwithstanding such provisions, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Applicable Law or so result in a receipt by the Lender of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows: firstly, by reducing the amount or rate of interest required to be paid to the Lender pursuant to Section 3.1; and thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Lender which would constitute "interest" for purposes of Section 347 of the *Criminal Code* (Canada).

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Borrower

The Borrower represents and warrants to the Lender as at the Closing Date and the date of the Advance to be made hereunder and as at the last day of each Fiscal Quarter, as follows in respect of itself and each other Project Entity:

- (a) **Incorporation and Qualification.** It is duly incorporated, amalgamated, formed, merged or continued, as the case may be, and validly existing as a corporation, company or partnership, under the laws of its jurisdiction of formation and is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions in which the nature of its property or business makes such qualification necessary except where failure to be so qualified, licensed or registered could not reasonably be expected to have a Material Adverse Effect.
- (b) **Corporate Power.** It has all requisite corporate or other power and authority to (i) own and operate its property and to carry on the Business carried on by it; and (ii) enter into and perform its obligations under this Agreement and the other Loan Documents to which it is a party.

- (c) **Authorization, Execution and Binding Obligation.** The execution, delivery and performance by the Borrower of each of the Loan Documents to which it is a party has been duly authorized by all corporate and other actions required, and each such Loan Document has been duly executed and delivered by it, and constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, subject to the availability of equitable remedies and the effect of bankruptcy, insolvency and similar laws affecting the rights of creditors generally.
- (d) **Conflict with Other Instruments; Stream Agreement; Royalty Agreement.** The execution and delivery of the Loan Documents to which an Obligor is a party and the performance of its obligations thereunder and compliance with the terms, conditions and provisions thereof, did not and will not (i) conflict with or result in a breach of any of the terms, conditions or provisions of (A) its constituting documents or by-laws, (B) any Applicable Law, or (C) the Stream Agreement, the Royalty Agreement or any other contractual restriction binding on or affecting its or its property, provided that consent has not otherwise been obtained from the relevant counterparty(ies); or (ii) result in, require or permit (1) the imposition of any Lien in, on or with respect to its property now owned or hereafter acquired by it (other than pursuant to the Security Documents), or (2) any third party to terminate, or acquire any rights materially adverse to it under, any Material Contract.
- (e) **Subsidiaries.** The Borrower carries on its Business in respect of the Project solely through the Project Entities. All Subsidiaries of the Borrower at the Closing Date are set out in the corporate chart attached as Schedule 4.1(e), which also sets out all Equity Interests of the Project Entities held by each Obligor as well as the type and number of issued and outstanding Equity Interests of each Project Entity (other than the Borrower) and the Person in whose name such Equity Interests are registered. None of the Project Entities is engaged in any joint purchasing arrangement, joint venture, partnership or other joint enterprise with any other Person that could reasonably be expected to have a Material Adverse Effect.
- (f) **Consents, Approvals, etc.** 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 or (iii) to implement the transactions contemplated by the Loan Documents.
- (g) **Agreements to Acquire Shares.** Except as set out in Schedule 4.1(f), neither Nicoz or Gold Belt has any agreement, option, right or privilege (whether by law, pre-emptive or contractual) or any other right capable of becoming an agreement, option, right or privilege for the acquisition, purchase, subscription, allotment or issuance of any Equity Interests of Nicoz or Gold Belt or any securities or obligations of any kind convertible into or exchangeable or exercisable for Equity Interests of Nicoz or Gold Belt, or to require Nicoz or Gold Belt to purchase, redeem or otherwise acquire any of its issued and outstanding Equity Interests. No Person has any pre-emptive right or right of first refusal in respect of the allotment and issuance of any unissued Equity Interests of Nicoz or Gold Belt.

- (h) **Governmental Approvals.** The entering into and the performance by each Obligor of the Loan Documents to which it is a party do not require any filing, notice, consent, approval, authorization or order of any Governmental Authority, except those that have been made or obtained, as applicable.
- (i) **Compliance with Securities Laws.** The Borrower is in compliance in all material respects with the rules and regulations of the TSX-V (or such other recognized stock exchange) so long as the Borrower's Common Shares are listed thereon, and all requirements of applicable Securities Laws.
- (j) **Contingent Liabilities.** It has no contingent liabilities in excess of the liabilities that are either reflected or reserved against in the Borrower's audited financial statements and interim financial statements which would reasonably be expected to be material to the financial condition of the Borrower on a consolidated basis.
- (k) **No Cease Trade Orders.** No order ceasing or suspending trading in securities of the Borrower or prohibiting the sale of securities by the Borrower has been issued and the Borrower has not been served with or otherwise received notice of or become aware of any proceedings for this purpose having been instituted, or being pending, contemplated or threatened.
- (l) **Litigation.** Except as disclosed in Schedule 4.1(k) as at the Closing Date and as notified to the Lender from time to time pursuant to Section 6.1(l), there are no litigation, arbitration or administrative proceedings outstanding and there are no proceedings pending or, to its knowledge, threatened, against it or in respect of its property, which, if determined adversely to it could (i) expose the Project Entities to liability which could reasonably be expected to have a Material Adverse Effect; or (ii) materially impair the Project Entities' ability to operate the Project or otherwise have a Material Adverse Effect.
- (m) **No Expropriation.** At the Closing Date, there are no expropriation or similar proceedings, actual or threatened, of which the Borrower has notice, or reason to believe such notice is pending or threatened, against the Project Assets, or any material part thereof.
- (n) **Compliance with Laws.** Each Project Entity is conducting its business in compliance in all material respects with all Applicable Laws, including Environmental Laws, of each jurisdiction in which it carries on its business.
- (o) **Material Contracts.**
 - (i) All Material Contracts are disclosed in Schedule 4.1(n) (at the Closing Date and as updated from time to time pursuant to Section 6.2(e));
 - (ii) All Material Contracts are in full force and effect;
 - (iii) True and complete copies of each Material Contract in effect as at the Closing Date have been provided to the Lender and true and complete copies of any Material Contracts entered into after the Closing Date, and any material amendments entered into after the Closing Date to any Material Contract, will be

provided to the Lender contemporaneously with any schedule updates made from time to time pursuant to Section 6.2(e); and

- (iv) No Project Entity is, and to the knowledge of the Borrower, except as disclosed to the Lender, no other party thereto is, in default in any material respect under any Material Contract, nor does any dispute exist under any Material Contract except as disclosed on Schedule 4.1(k).
- (p) **Material Permits.** Schedule 4.1(o) lists all Material Permits now held or required to be obtained in connection with the Project; all Material Permits held by the Project Entities (“**Obtained Material Permits**”) are indicated as “obtained” in Schedule 4.1(o) (or, with respect to Material Permits obtained after the Closing Date, pursuant to a subsequent notice from the Borrower in accordance with Section 6.2(e)); the Obtained Material Permits constitute all Material Permits required by the Project Entities (given the current state of the Project), and all Obtained Material Permits are in good standing and the Project Entities are in compliance with all material provisions of all Obtained Material Permits. No Project Entity has received any correspondence or any notice of proceedings or other document from any Governmental Authority or other third party (i) concerning the cancellation, non-renewal or refusal of such Material Permits, or (ii) concerning amendments or other proceedings which, individually or collectively, if they gave rise to an unfavorable result, decision, order or judgment, would result in a Material Adverse Effect, and, to the best of the Borrower’s knowledge, no such proceeding referred to in clauses (i) or (ii) is threatened.
- (q) **Owned and Leased Property.** Other than the Owned Lands, the Leased Lands, the Mining Rights, immaterial exploration rights and claims and as otherwise disclosed to the Lender, no Project Entity is the owner or lessee of, or under any agreement or option to own, any real property or any interest therein, and no Project Entity has tangible assets at any location other than as previously disclosed to the Lender.
- (r) **Mining Rights.**
 - (i) Each Project Entity holds either freehold title, mining leases, mining concessions, mining claims, options or participating interests or other conventional property or proprietary interests or rights, recognized in the jurisdiction in which a particular property is located, in respect of the ore bodies, minerals and metals located in properties in which such Project Entity has an interest, including in respect of the Project, (collectively, “**Mining Rights**”), under valid, subsisting and enforceable title documents or other recognized and enforceable agreements or instruments, sufficient to permit such Project Entity to explore, mine, extract and process the minerals, ore and metals relating thereto;
 - (ii) Each Project Entity has all necessary surface rights, access rights and other necessary rights and interests relating to the Mining Rights in which such Project Entity has an interest, including in respect of the Project, with only such exceptions as do not interfere in any material respect with the use made or expected to be made by such Project Entity of the rights or interest so held;
 - (iii) Without limiting clause (ii) of this Section 4.1(q), each Project Entity has all necessary rights with respect to, and access to, water required for the Project, and all such rights are valid and in good standing;

- (iv) All of the Project Entities' Mining Rights, including in respect of the Project have previously been disclosed to the Lender (with the Mining Rights consisting of, but not limited to, the concessions in respect of the Project as disclosed in the Technical Report) and all such Mining Rights in respect of the Project are in good standing and are owned by the Project Entities free and clear of any Liens other than Permitted Liens;
 - (v) If any Mining Right in respect of the Project has an expiry date within 60 days after the Closing Date, the Borrower has filed, or has caused to be filed, with the applicable registry all necessary documents and has paid all applicable fees or taken such action as is required to maintain such Mining Rights in good standing after such expiry date; and
 - (vi) Except as previously disclosed to the Lender, the Borrower does not have reason or reasonable ground for believing that it will not be able to obtain or maintain any Mining Right or any other right necessary for exploration, development or extraction on the Project Property and for the operation of the Project, either pursuant to the applications made as of the Closing Date to the appropriate Governmental Authorities or pursuant to any other future application or agreement required for exploration, development or extraction on the Project Property and for operating the Project.
- (s) **Title to Property.** Other than the properties set out in Schedule 4.1(r) that are pending registration or subject to promises to purchase, its material property is owned or leased by it as the beneficial owner thereof with good and (in the case of Owned Lands) marketable title thereto, none of its property is subject to any Lien except for Permitted Liens, no Person has any agreement or right to acquire any of the Project Assets except as permitted hereunder, and it is not in default under any of the Permitted Liens relating to it or its property.
- (t) **Relating to Properties.** Except as previously disclosed to the Lender:
- (i) no party has any rights of first refusal, back-in rights or other rights in respect of the Project Assets;
 - (ii) there are no other outstanding agreements or options to acquire or purchase the Project Assets or any part thereof or interest therein, and no Person has any royalty, stream or other interest whatsoever in production or profits from the Project Assets or any part thereof;
 - (iii) all exploration permits, leases, licenses and mining claims, payments, rentals, taxes, assessments, renewal fees and other governmental charges, owing in respect of the Project Property or any part thereof, have been paid in full;
 - (iv) there is no adverse claim against, or challenge to, the ownership of or title to, the Project Assets, including any claims by any aboriginal or First Nations groups; and
 - (v) all exploration and development activities in respect of the Project are in compliance in all material respects with all Applicable Laws, all Material Permits and applicable Mining Rights.

- (u) **With Respect to the Project Assets.** All tangible property of the Project Entities and tangible property used but not owned by the Project Entities relating to the Project, taken as a whole, is in good condition, is not obsolete, is used by the applicable Project Entity in the operation of the Business for the purposes for which it was intended and its use is not subject to any material restriction, contestation or claim.
- (v) **Environmental Matters.** Except as would not individually or in the aggregate reasonably be expected to cause material liability to any Project Entity:
 - (i) neither the Borrower nor any Project Entity, through its operations, its equipment and the properties it owns, leases or occupies, or in any other manner, is or has been in violation of or non-compliance with any Environmental Law;
 - (ii) the Borrower and each Project Entity (i) has all Environmental Permits required in order to carry out the Business (including the development and construction of the Project) as it is presently conducted; (ii) will obtain all Environmental Permits required for the operation of the Project in the normal course such that obtaining such Environmental Permits will not result in a delay in the commencement of operations of the Project; (iii) is or will be, as applicable, in compliance with the terms and conditions of the Environmental Permits described in (i) and (ii) above; and (iv) no facts or circumstances exist that would reasonably be expected to require an amendment to any such Environmental Permits;
 - (iii) there are no pending or threatened administrative, regulatory, judicial or third-party actions, suits, orders, demands, demand letters, claims, liens, notices of non-compliance or violation, investigation or proceedings relating to any Environmental Laws or Environmental Permit against a Project Entity or any other Person relating to the Project;
 - (iv) the soil and subsoil, and the surface and ground water in, on or under the real property owned, leased, managed and controlled by the Borrower or any Project Entity does not contain any Contaminants;
 - (v) none of the Borrower, any Project Entity or any Person under the control of the Borrower or any Project Entity has caused any Release except as permitted by the terms of the Material Permits; and
 - (vi) except as disclosed in Schedule 4.1(u), there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an investigation, action, suit, order, claim or proceeding by any Governmental Authority or third party against or affecting the Borrower or any Project Entity relating to the presence or Release of Contaminants or non-compliance with or violation of Environmental Laws or Environmental Permits.
- (w) **Project Business Plan and Exploration Program.** Each of the Project Business Plan and the Exploration Program is based on assumptions and projections that were fair and reasonable as and when produced, and includes a reasonable estimate of projected expenses and anticipated timing for the period covered thereby.

- (x) **Other Debt.** It has no credit facilities, borrowing arrangements with banks or other lenders or outstanding Debt other than Debt permitted by Section 6.3(g).
- (y) **No Action for Winding-Up or Bankruptcy.** There has been no voluntary or involuntary action taken either by or against the Borrower or any Project Entity for winding-up, dissolution, liquidation, bankruptcy, receivership, administration or similar or analogous events in respect of the Borrower or any Project Entity or all or any material part of its assets or revenues.
- (z) **Taxes.** It has:
 - (i) timely paid all Taxes due and payable by it other than Taxes secured by Permitted Liens described in clause (a) of that definition;
 - (ii) made adequate provision for Taxes payable by it for the current period and any previous period for which tax returns are not yet required to be filed;
 - (iii) delivered, or caused to be delivered, when due, all required Tax returns to the appropriate Governmental Authority;
 - (iv) withheld and collected all Taxes required to be withheld and collected by it and remitted such Taxes when due to the appropriate Governmental Authorities, except where any such remittance is being contested in good faith; and
 - (v) paid and discharged when due all obligations incidental to any trust imposed upon it by statute which, if unpaid beyond the applicable due date, might become a Lien upon its property (other than a Permitted Lien) and no appeal or claim is, as far as the Borrower is aware, being asserted or processed with respect to such claim or obligations.
- (aa) **Security.** The security constituted by the Security Documents constitutes a valid and perfected first ranking charge or Lien (subject to Permitted Liens) in favour of the Lender upon all of the Collateral of the applicable Obligor, free and clear of all Liens except Permitted Liens. All necessary registrations, filings or recordings of the Liens granted pursuant to the Security Documents (other than the Post-Closing Security provided that all necessary registrations, filings or recordings of Liens related thereto shall be made within the time period specified in Schedule C) or notice or renewals thereof, have been made in all relevant jurisdictions and no further action is necessary in order to establish and perfect the Liens in favour of the Lender over all of the Collateral described therein.
- (bb) **Insurance.** The Borrower:
 - (i) maintains insurance policies with reputable insurers against risks of loss or damage to the properties, assets and business of the Project Entities of such types as are customary in the case of Persons engaged in the same or similar businesses to the full insurable value of their respective properties;
 - (ii) has paid promptly all premiums and other amounts payable and has fulfilled all other material obligations with respect to the insurance policies currently in force and no misrepresentation, voluntary omission or delay can be alleged against any

Project Entity with respect to any notice or claim pursuant to such insurance policies;

- (iii) has no reason to believe that it will not be able to renew the insurance policies currently in force or to obtain similar coverage from financially sound, reputable independent insurance companies, at a cost that is not significantly higher; and
 - (iv) has no material insurance claim pending against any insurer or pursuant to any insurance policy, and no knowledge of any fact, event or circumstance that could give rise to any such claim, except as set out in Schedule 4.1(aa) (at the Closing Date and as updated from time to time pursuant to Section 6.2(e)).
- (cc) **Affiliated Transactions.** Except as set out in Schedule 4.1(bb) and transactions entered into after the Closing Date in accordance with Sections 6.3(o), no Project Entity is:
- (i) indebted or obligated, contingently or otherwise, to any director, officer or shareholder of the Borrower or any other corporation or entity with whom any director, officer or shareholder of the Borrower does not deal at arm's length, except for current liabilities or obligations in favour of any director or officer for director's fees, expenses, salaries, wages or benefits arising from services provided to the Borrower which are on arm's length fair market terms for such services; or
 - (ii) a party to any contract or agreement with any director, officer, employee, shareholder, Affiliate or any other Person not dealing at arm's length with the Borrower (within the meaning of the *Income Tax Act* (Canada)).
- (dd) **Intellectual Property:**
- (i) The Borrower previously provided the Lender with a complete and accurate list and description of all material Intellectual Property owned by or licensed to any Project Entity and the registration particulars (if any) applicable thereto which includes, but is not limited to the Intellectual Property referred to in the Technical Report;
 - (ii) each Project Entity has good and valid title to all of the material Intellectual Property, free and clear of all Liens, except Permitted Liens and except for any Intellectual Property licensed to it as previously disclosed to the Lender; and
 - (iii) to the knowledge of the Borrower, the conduct of the Business does not infringe and the use of the Intellectual Property does not infringe, and the Borrower has not received any notice, complaint, threat or claim alleging infringement of, any Intellectual Property of any other Person.
- (ee) **Forecasts.** The forecasts and budgets provided to the Lender have been prepared in good faith and disclose all materially relevant assumptions.
- (ff) **Financial Statements.** The audited consolidated financial statements and the related notes thereto of the Borrower for the year ended December 31, 2019 (as subsequently restated on November 26, 2020) and interim consolidated financial statements and the related notes thereto of the Borrower for the nine (9) months ended September 30, 2020

(and the financial statements delivered for any other period hereafter reported on pursuant to Section 6.2) comply in all material respects with the applicable requirements of the Securities Laws and present fairly, in all material respects, the consolidated financial position of the Borrower as of the dates indicated and the results of its operations and the changes in its cash flows for the periods specified, and have been prepared in conformity with GAAP, applied on a consistent basis throughout the periods covered thereby.

(gg) **With Respect to Employees.**

- (i) No labour dispute or material grievance, litigation or disagreement involving one or more employees of any Project Entity, including any officer, is pending or threatened;
 - (ii) The Project Entities have withheld and remitted as and when due all employee source deductions (including income taxes, employment insurance, Canada Pension Plan contributions, payroll taxes and worker's compensation dues); and
 - (iii) the Project Entities have satisfied all obligations under, and no Taxes, penalties, or fees are owing or exigible under or in respect of, any employee benefit, incentive, pension, retirement, stock option, stock purchase, stock appreciation, health welfare, medical, dental, disability, life insurance and similar plans, arrangements or practices relating to the current or former employees, officers or directors of the Project Entities, as applicable, maintained, sponsored or funded by the applicable Project Entity, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered and all contributions or premiums required to be paid thereunder have been made in a timely fashion and any such plan or arrangement which is a funded plan or arrangement is fully funded on an ongoing basis.
- (hh) **No Default.** No Default or Event of Default has occurred and is continuing.
- (ii) **No Material Adverse Change.** Since January 31, 2021, no event or circumstance has occurred that has had or could reasonably be expected to have a Material Adverse Effect.
- (jj) **Off Balance Sheet Transactions.** There are no off-balance sheet transactions arrangements, obligations (including contingent obligations) or other relationships of the Borrower with unconsolidated entities or other Persons that may have a material current or future effect on the financial condition, changes in financial condition, results of operations, earnings, cash flow, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses of the Borrower on a consolidated basis or that would reasonably be expected to be material to an investor.
- (kk) **Pension Plans.** Neither the Borrower nor any Project Entity has established, or is liable in respect of, any Pension Plan that is a "registered pension plan" as such term is defined in the *Income Tax Act* (Canada).
- (ll) **Solvency after Drawdown.** On a consolidated basis, after giving effect to the Advance hereunder,

- (i) after taking into account the proceeds of the sale of Marlin Gold Mining Ltd. and its Subsidiaries, the assets of the Borrower shall exceed its liabilities, including contingent liabilities;
- (ii) the capital of the Borrower shall not be unreasonably small to conduct its business; and
- (iii) the Borrower has not incurred debts, nor has it intended to incur debts, beyond its ability to pay such debts as they mature.

For the purpose of this Section 4.1(kk) the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that is probable to become an actual or matured liability.

- (mm) **Investment Company Act of 1940.** Neither the Borrower nor any Person controlling the Borrower, or any Project Entity thereof, is or is required to be registered as an "investment company" under the *Investment Company Act of 1940*.
- (nn) **Sanctions; Anti-Corruption Laws.** None of the transactions contemplated by the Loan Documents, nor the execution and delivery thereof, violates any Sanctions or applicable regulations, rules or executive orders issued or administered by any Sanctions Authority, and the Borrower and each Subsidiary is in compliance with all Sanctions. Furthermore, none of the Borrower, its Subsidiaries nor their respective directors, officers and, to the knowledge of the Borrower, any of their respective employees or agents, is a Sanctioned Person and none of the Borrower, its Subsidiaries nor any of their respective Affiliates knowingly engages in any dealings or transactions with any Sanctioned Person that would result in any violation of any Sanctions or applicable regulations, rules or executive orders issued or administered by any Sanctions Authority. No part of the proceeds of the Advance will be used directly or, to the knowledge of the Borrower, indirectly, in violation of any Sanctions or applicable regulations, rules or executive orders issued or administered by any Sanctions Authority. None of the proceeds of the Advance will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, official of any public international organization, 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.
- (oo) **Anti-Money Laundering Legislation.** The Borrower and each Project Entity has adopted and maintains adequate procedures and controls designed to ensure that it is in compliance with Anti-Money Laundering Legislation and Anti-Corruption Laws.
- (pp) **Accuracy of Information.** All information which has been provided by or on behalf of the Obligors or the Subsidiaries of the Borrower to the Lender and its representatives prior to the date hereof was and remains true and correct in all material respects as at the time provided and does not, as of such time, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make such information not misleading.

4.2 Survival of Representations and Warranties

The representations and warranties made in this Agreement shall survive the execution and delivery of this Agreement and shall continue until payment in full of the Obligations notwithstanding any investigation made at any time by or on behalf of the Lender.

ARTICLE 5 SECURITY

5.1 Security

As security for the due and punctual payment of all of the Obligations, the Borrower shall deliver or cause to be delivered to and in favour of the Lender, and in form and substance satisfactory to the Lender and its counsel:

- (a) from the Borrower, a pledge agreement in favour of the Lender governed by the laws of Canada charging and pledging all of the Equity Interests held by it in the capital of Nicoz Resources and Gold Belt;
- (b) in accordance with the timelines set out in Schedule C hereto, each of the following (collectively, the “**Post-Closing Security**”):
 - (i) from Akiba Leisman, a pledge agreement in favour of the Lender governed by the laws of Nicaragua charging and pledging all of the Equity Interest held by him in the capital of Nicoz Resources and Gold Belt;
- (c) third party legal opinions from Borrower’s counsel concerning the Borrower, each other Project Entity and Obligor and all security (provided that, for greater certainty, any such opinions related to the Post-Closing Security shall be delivered in accordance with the timelines set out in Schedule C hereto); and
- (d) all share certificates, stock powers of attorney, consents, authorizations and other documents necessary in order to make valid and effective the aforementioned agreements (provided that, for greater certainty, any such documents related to the Post-Closing Security shall be delivered in accordance with the timelines set out in Schedule C hereto).

5.2 Additional Security

Subject to the terms and conditions of the Pari Passu Agreement, in the event that the Borrower, or any of its Subsidiaries, provide additional security under the Wexford Loan other than as described in section 7.1(k), the Borrower shall, and shall cause each such Subsidiary to, deliver to the Lender, (i) with respect to Subsidiaries only, a guarantee of the Obligations owing by the Borrower in favour of the Lender, (ii) such security agreements that may be necessary to provide the Lender with the same security as has been provided to the lenders under the Wexford Loan, and (iii) third party legal opinions from the Borrower’s counsel concerning such Subsidiaries, guarantees and Security Documents (together with all corporate resolutions, certificates and other documents and registrations as may be reasonably requested by the Lender), to be delivered to the Lender all contemporaneously with the delivery of the same to the lenders under the Wexford Loan, together with all other share certificates, stock powers of attorney, consents, authorizations, discharges, subordinations and other documents necessary in order to make valid and effective the aforementioned agreements and the pledge of any

Equity Interests pursuant to such Security Documents, all of which shall be in form and substance satisfactory to the Lender, acting reasonably, the terms and conditions of the Pari Passu Agreement.

5.3 Further Assurances - Security

Subject to the terms and conditions of the Pari Passu Agreement, the Borrower shall take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the Lender such searches and such financing statements, notices of security, consents, approvals, acknowledgements, undertakings, subordinations, discharges, waivers, directions, negotiable documents of title and other agreements, documents and instruments as the Lender shall reasonably request, and register, file or record the same (or a notice or financing statement in respect thereof) in all offices where such registration, filing or recording is, in the opinion of the Lender, necessary or advisable to constitute, perfect and maintain the Security Documents referred to in Section 5.1 and 5.2 as Liens of the Borrower or the Person granting such Liens, subject only to the Permitted Liens, in all jurisdictions and registries reasonably required by the Lender, in each case within a reasonable time after the request therefor by the Lender, and in each case in form and substance satisfactory to the Lender, acting reasonably.

5.4 Security Effective Notwithstanding Date of Advance

The Security shall be effective and the undertakings in this Agreement and the other Loan Documents with respect thereto shall be continuing, whether the monies hereby or thereby secured or any part thereof shall be advanced before or after or at the same time as the creation of any such Security or before or after or upon the date of execution of this Agreement. The Security shall not be affected by any payments on this Agreement or any of the other Loan Documents but shall constitute continuing security to and in favour of the Lender, for the Obligations from time to time.

5.5 No Merger

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

5.6 Release of Security

Subject to the terms and conditions of the Pari Passu Agreement, if any Collateral is Disposed of as permitted by this Agreement or is otherwise released from the Security in accordance with the Agreement, the Lender, at the request and expense of the Borrower (on satisfaction, or on being assured of concurrent satisfaction, of any condition to or obligation imposed with respect to such Disposition), shall discharge such property from the Security and deliver and re-assign to the applicable Obligor (without any representation or warranty but free and clear of any Liens created in favour of the Lender) any of such property as is then in the possession of the Lender.

ARTICLE 6 COVENANTS

6.1 Affirmative Covenants

So long as the Facility remains available hereunder or any Obligations remain outstanding, and except as otherwise consented to by the Lender, the Borrower shall and shall cause any Project Entity (as applicable) to:

- (a) **Payment of Obligations.** Duly and punctually pay the Obligations at the times and places and in the manner required by the terms of the Loan Documents.
- (b) **Existence and Qualifications.** Maintain its corporate existence; maintain proper books of account and record; maintain its qualification to carry on business in all jurisdictions where it carries on business and where the absence of such qualification would have a Material Adverse Effect; and operate its business and property in accordance with sound business practice and in substantial compliance with Applicable Law (including Environmental Law) and all Material Contracts.
- (c) **Compliance with Laws.** Conduct its business in such a manner so as to comply in all material respects with all Applicable Law (including, without limitation, Environmental Laws).
- (d) **Inspection.** At the expense of the Borrower and in each case upon reasonable prior written notice and subject to any procedures or restrictions relating to the COVID-19 pandemic as reasonably stipulated by the Borrower, permit representatives of the Lender to enter into or onto its property, to inspect any of its property and to examine its financial books, accounts and records and to discuss its financial condition with its senior officers and its auditors.
- (e) **TSX-V, Reporting Issuer Status.** Use commercially reasonable efforts to maintain the listing of the Common Shares on the TSX-V (or such other recognized stock exchange) and maintain the Borrower's status as a reporting issuer under the Securities Laws of the Provinces of British Columbia, Alberta, Manitoba and Ontario.
- (f) **Maintenance of Properties.** Maintain (i) all property material to the development and operation of the Project in good working order and condition, ordinary wear and tear excepted, (ii) all of its interests in Project Assets (other than the Mining Rights) in good standing except where failure to do so could not reasonably be expected to have a Material Adverse Effect, and (iii) all of the Mining Rights relating to the Project in good standing, provided that the foregoing obligation shall not impose on the Borrower the obligation to maintain Mining Rights that have no material geological potential in the Business or the development of which would not be economically viable.
- (g) **Insurance.** Keep insured with financially sound and reputable insurance companies all of its property, in amounts and against losses, including property damage and public liability, to the extent that such property is usually insured by businesses comparable to its business.
- (h) **Development of Project.** Diligently and continuously use its best efforts to develop and operate the Project in a good and workmanlike manner and substantially in accordance

with the plans and specifications described in the Project Business Plan, or as otherwise approved by the Lender.

- (i) **Permits and Contracts.** Obtain, as and when required, comply with and preserve and maintain and enforce its rights pursuant to, all Material Permits and Material Contracts which are required to lawfully (i) acquire, own, operate and maintain the Project and (ii) perform its obligations under the Loan Documents to which it is a party.
- (j) **Taxes.** Pay all Taxes as they become due and payable unless they are being contested in good faith by appropriate legal proceedings, arrangements have been made regarding adequate provision for their payment and any resulting Lien is a Permitted Lien pursuant to clause (a) of such definition; and perform all obligations incidental to any trust imposed upon it by statute.
- (k) **Notice of Default, Etc.** Promptly notify the Lender of the occurrence of:
 - (i) any Default or Event of Default;
 - (ii) any material default by any party under or termination or threatened termination of any Material Contract of which it becomes aware;
 - (iii) the failure to obtain, loss of or material non-compliance with the terms of any Material Permit;
 - (iv) the expropriation or initiation of proceedings for the expropriation of any material assets of the Borrower or any Project Entity; and
 - (v) any default under, or breach by the Borrower or any Project Entity of any instrument related to any material Debt or Permitted Liens.
- (l) **Notice of Material Litigation, Condemnation, etc.** Promptly notify the Lender on becoming aware of the occurrence of: (A) any litigation, dispute, arbitration, proceeding or other circumstance affecting it (i) which relates to any Material Contract, any Material Permit or any Mining Rights relating to the Project, or (ii) which could reasonably be expected to have a Material Adverse Effect, and from time to time provide the Lender with all information reasonably requested by the Lender concerning the status thereof, or (B) the commencement or the written threat of any expropriation or condemnation of any Collateral or of the institution of any proceedings related thereto.
- (m) **Notice of Environmental Matters.** The Borrower shall promptly notify the Lender upon:
 - (i) learning of any material violation of or material non-compliance with any Environmental Law or Environmental Permit;
 - (ii) learning of any material claim, complaint, notice or order under any Environmental Law which could reasonably be expected to cause material liability to the Borrower or any Project Entity;
 - (iii) learning of the existence of Contaminants located on, in, above or below the surface of any real property owned, leased, managed or controlled by the

Borrower or any Project Entity (except Contaminants being stored, used or otherwise handled in compliance with Environmental Law and the Material Permits), which could reasonably be expected to cause material liability to the Borrower or any Project Entity;

- (iv) the occurrence of any Release of Contaminants not authorized by the Material Permits that has occurred on or from such real property which could reasonably be expected to cause material liability to the Borrower or any Project Entity;
 - (v) any proposed change in the use or occupation of the property owned, leased, managed or controlled which could reasonably be expected to cause material liability to the Borrower or any Project Entity under Environmental Laws; and
 - (vi) with respect to any of the information provided in clauses (i) to (v) above, from time to time provide the Lender with all information reasonably requested by the Lender concerning the status thereof;
- (n) **Remediation.** The Borrower (i) shall develop, implement and maintain a management system designed to ensure the compliance by the Borrower and Subsidiaries and their operations with all Environmental Laws and Environmental Permits; (ii) promptly conduct and pay for all environmental remedial activities required by Environmental Law and in accordance with the Material Permits;
- (o) **Defence of Title to Project Assets.** Warrant and defend the right, title and interest of the Project Entities in and to the Project Assets against all material claims of any Person, subject only to Permitted Liens;
- (p) **Notice of Acquisition of Material Property or Subsidiary.** Promptly notify the Lender of (i) the acquisition by it of any material real property (including, without limitation, any material Mining Rights), whether owned or leased, (ii) any new locations of material tangible assets (in each case, other than inventory in transit), (iii) the acquisition by it of any material vehicles (individually or in the aggregate), or (iv) any Acquisition or Investment (other than Investments in Cash Equivalents);
- (q) **Ownership of Project.** Ensure that all assets related to the Project, including without limitation all Material Permits, Material Contracts and Mining Rights, are owned by the Project Entities directly and not by any other Subsidiaries;
- (r) **Anti-Terrorism Laws.** Promptly provide all information with respect to the Borrower, the Subsidiaries, their respective directors, authorized signing officers, direct or indirect shareholders or other persons in control of the Borrower and Subsidiaries, including supporting documentation and other evidence, as may be reasonably requested by the Lender, or any prospective assignee or participant of the Lender, in order to comply with any applicable Anti-Terrorism Laws or such other applicable “know your client” laws and requirements, whether now or hereafter existence;
- (s) **Post-Closing.** Make the deliveries and otherwise take, or cause to be taken, the actions set out on Schedule C no later than the corresponding deadline for such delivery or action set out on Schedule C. In addition to the foregoing, the Borrower hereby agrees to use best efforts to execute and deliver, or cause to be executed and delivered, the Post-Closing Security, together with the filing of all necessary registrations or other filings in

connection therewith, within the time frame specified in Schedule C; provided however that the Lender hereby agrees to accommodate (on a good faith basis) any extensions required solely as a result of delays caused by the applicable Governmental Authorities;

6.2 Reporting

The Borrower shall deliver to the Lender:

- (a) **Monthly Management Reports.** As soon as available and in any event within twenty (20) days after the end of each calendar month a report in the same format as delivered to executive management, with Physical Information (as defined below) and financial information, in each case comparing actual performance with the Project Business Plan and reasons for material variances, together with the financial data reasonably required to confirm compliance with the financial covenants set out in Section 6.4. For the purposes hereof, “**Physical Information**” shall refer to each of the following: (i) waste tones mined, (ii) ore tones mined, (iii) ore tones processed, (iv) ore gold and silver grades processed, (v) gold and silver recovery percentage to doré, and (vi) gold and silver ounces produced;
- (b) **Interim Statements.** As soon as available and in any event within forty-five (45) days after the end of each of the first, second and third Fiscal Quarters of each Fiscal Year, unaudited consolidated statements of income, retained earnings and cash flows of the Borrower for such period and for the period from the beginning of the respective Fiscal Year to the end of such period, and the related consolidated balance sheet of the Borrower, setting forth in each case in comparative form the corresponding consolidated figures for the corresponding period in the preceding Fiscal Year, accompanied by (i) an updated forecast, including cash flow projections for the remainder of the Fiscal Year, and (ii) a Compliance Certificate;
- (c) **Annual Statements.** As soon as available and in any event within ninety (90) days after the end of each Fiscal Year, audited consolidated statements of income, retained earnings and cash flows of the Borrower for such Fiscal Year and the related consolidated balance sheet of the Borrower as at the end of such Fiscal Year, setting forth in each case in comparative form the corresponding consolidated figures for the preceding Fiscal Year, and accompanied by (i) an audit report in customary form from auditors of recognized standing and (ii) a Compliance Certificate;
- (d) **Updated Project Business Plan.** As soon as available, and in any event within twenty (20) days after the beginning of each Fiscal Year of the Borrower, an updated Project Business Plan;
- (e) **Update to Scheduled Information.** Together with the interim financial statements delivered pursuant to Section 6.2(a): (i) a report on the status of, and, to the extent any such Material Permit has been obtained, copies of, any Material Permits which are listed in Schedule 4.1(o)4.1(n) as “Not yet obtained” (unless previously provided to the Lender); and (ii) any updates required to provide that the information disclosed in Schedule B and Schedule 4.1(n), Schedule 4.1(o), and Schedule 4.1(aa) remains accurate as of the date of such interim financial statements;

- (f) **Auditor's Letters.** Promptly after delivery to the Borrower or its directors, copies of all reports and opinions provided by the auditors of the Borrower to its directors or management;
- (g) **Other Information.** As soon as practicable following a request therefor from the Lender, such other financial information, financial statements, projections and reports (including with respect to annual capital, operating budgets, annual business plans, and engineering) as the Lender may reasonably request from time to time.

6.3 Negative Covenants

Except as otherwise provided in this Agreement, so long as the Facility remains available hereunder or any Obligations remain outstanding the Borrower shall not, and shall ensure that any Project Entity shall not, without the prior written consent of the Lender:

- (a) **Reorganizations.** Enter into any transaction or series of related transactions whereby all or substantially all of its property would become the property of any other Person whether by way of reorganization, consolidation, amalgamation, arrangement, winding-up, merger, transfer, sale, lease, Sale-Leaseback or otherwise, unless, concurrently with the consummation of such transaction or series of related transactions, the Facility will be repaid in full, together with all other Obligations then due and owing hereunder, in accordance with Section 3.2;
- (b) **Dispositions.** Dispose of all or any part of its property (including all or any part of its Mining Rights), except pursuant to a Permitted Asset Disposition, or engage in a Sale-Leaseback transaction;
- (c) **Capital Structure/Constituting Documents.** Enter into any transaction to change or reorganize its capital structure or amend its notice of articles, articles, memorandum, by-laws or any other organizing or constituting documents in a manner that could reasonably be expected to be adverse in any material respect to the Lender;
- (d) **Liens.** Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, other than Permitted Liens;
- (e) **Royalty Agreements.** Enter into any royalty agreement, streaming agreement or other agreement pursuant to which any Project Entity agrees to grant any interest to any Person in any future revenue or production generated by the operation of the Project other than the Stream Agreement and the Royalty Agreement, nor shall the Borrower or any Project Entity amend or agree to amend any provision of any such agreement existing on the Closing Date in any manner adverse to the interests of the Lender without the prior written consent of the Lender;
- (f) **Restricted Payments.** Make any Restricted Payment other than (i) Restricted Payments made to arm's length parties by the Project Entities in respect of *bona fide* costs and expenses of operating the Project incurred by them, (ii) salaries, bonuses and other compensation paid to officers of the Borrower or any other Project Entity and customary directors' fees and indemnifications with respect to directors of such Person, and (iii) Restricted Payments made pursuant to any Material Contract in each case, in the ordinary course of business and on arm's length fair market terms;

- (g) **Debt.** Create, incur, assume, or otherwise become directly or indirectly liable upon or in respect of, or suffer to exist, any Debt other than:
 - (i) the Obligations;
 - (ii) with the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed), Subordinated Debt;
 - (iii) Debt secured by Liens permitted pursuant to clause (l) of the definition of Permitted Liens;
 - (iv) Debt owing by a Project Entity to another Project Entity or Subsidiary;
 - (v) Debt in respect of performance and surety bonds, letters of credit and letters of guarantee in favour of a public utility or any other Governmental Authority when required by such utility or Governmental Authority in the ordinary course of business of the Project;
 - (vi) Hedging Obligations permitted pursuant to Section 6.3(h);
 - (vii) Debt owing under the Wexford Loan (provided that the principal amount thereunder may not be increased without the prior written consent of the Lender); and
 - (viii) Debt owing under the Stream Agreement or the Royalty Agreement;
- (h) **Hedging.** Enter into any Hedge Instrument or incur any Hedging Obligations other than on commercially reasonable terms and for commercially reasonable purposes in connection with the Business and not for speculative purposes;
- (i) **Financial Assistance.** Except as otherwise expressly contemplated by this Agreement, provide Financial Assistance, either directly or indirectly, to any Person except for:
 - (i) intercompany loans between the Project Entities;
 - (ii) intercompany loans and other Financial Assistance by the Borrower to the Project Entities or other Subsidiary; and
 - (iii) customary indemnities to directors or officers of the Borrower or any Subsidiary in their capacities as such;
- (j) **Investments.** Make any Investments except, so long as no Default or Event of Default has occurred or would result therefrom, (i) a Project Entity may make Investments in another Project Entity, (ii) the Borrower may make Investments in its Subsidiaries, (iii) in Cash Equivalents, (iv) Investments permitted pursuant to Section 6.3(i), or (vi) the Borrower may make Investments for consideration consisting only of Common Shares;
- (k) **Acquisitions.** Make any Acquisitions, except, so long as no Default or Event of Default has occurred or would result therefrom, the Borrower may make an Acquisition for consideration consisting only of Common Shares provided that:

- (i) in the case of an Acquisition of a Person, the Person acquired becomes a wholly-owned Subsidiary as a result of such Acquisition;
- (ii) the business of the Borrower that is the target of such Acquisition is the Business or an activity which is directly related to the Business; and
- (iii) the Borrower complies with the requirements of Sections 5.1 through 5.3, as applicable;

provided further, for certainty, the foregoing shall in no way limit or otherwise restrict the ability of a Project Entity to acquire any freehold real property, Mining Rights or Project Assets for cash consideration.

- (l) **Capital Expenditures.** Make any Capital Expenditures, except for (i) Capital Expenditures in respect of the Project or any Project Property, and (ii) Capital Expenditures (including, for greater certainty, exploration expenses, whether or not capitalized) in respect of any other mining project in an aggregate amount not exceeding \$100,000 per Fiscal Year (other than with respect to the reclamation obligations of the Borrower with respect to La Trinidad property and any Capital Expenditures related thereto);
- (m) **Amend Contracts or Permits.** Subject to Section 6.3(e), amend any provisions of or terminate or give notice of termination of any Material Contract or Material Permit, or waive or grant indulgences in respect of any default or event of default under any Material Contract or Material Permit, except where any such amendment, termination, notice, waiver or indulgence would not in any manner be materially adverse to the Project or to the interests of the Lender. Notwithstanding the foregoing, no Project Entity shall enter into or provide any amendment, termination, notice, waiver or indulgence with respect to the Stream Agreement or the Royalty Agreement that would in any manner be adverse to the Lender without the Lender's prior written consent;
- (n) **Change of Business.** None of the Borrower nor any other Project Entity shall change in any material respect the nature of its business or operations from the Business, nor engage directly or indirectly in any material business activity, or purchase or otherwise acquire any material property, in either case not related to or in furtherance of the conduct of the Business;
- (o) **Affiliate Transactions.** Directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or otherwise Dispose of any property to, or otherwise deal or enter into any agreement with, any Affiliate (other than a Subsidiary or Project Entity), except in the ordinary course of and pursuant to the reasonable requirements of the Subsidiary's or Project Entity's business and upon fair and reasonable terms that are no less favourable to the Subsidiary or Project Entity than those that could be obtained in an arm's length transaction with an unrelated third party;
- (p) **Fiscal Year.** Change its Fiscal Year;
- (q) **Wexford Loan.** Make any amendments, supplements or other modifications to the Wexford Loan without the prior written consent of the Lender, which consent is not to be unreasonably withheld.

- (r) **Stream Agreement and Royalty Agreement.** Make any amendments, supplements or other modifications to the Stream Agreement or the Royalty Agreement without the prior written consent of the Lender, which consent is not to be unreasonably withheld.
- (s) **Dividends.** In addition to the restrictions set out in Section 6.3(f), the Borrower shall not make any distributions to its shareholders without the prior written consent of the Lender, which shall not be unreasonably withheld; and
- (t) **Limitation on Encumbrances.** Enter into any contractual arrangements which by their terms restrict the Borrower from granting Liens on its property.

6.4 Financial Covenants

Except as otherwise provided in this Agreement, so long as the Facility remains available hereunder or any Obligations remain outstanding the Project Entities shall:

- (a) **Consolidated Cash Balance.** On June 30, 2021, and as at the end of each calendar month thereafter, maintain a minimum calendar month-end consolidated cash balance of \$3,000,000; and
- (b) **Working Capital.** On June 30, 2021, and as at the end of each calendar month thereafter, maintain a minimum calendar month-end consolidated working capital balance of \$0. For the purposes hereof, “working capital” shall exclude (i) scheduled interest, principal or other payments under this Agreement or the Wexford Loan, and (ii) inventory, other than inventory consisting of gold in transit.

6.5 Entitled to Perform Covenants

The Lender may 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 shall operate as a derogation of the rights and remedies of the Lender under this Agreement or as a waiver of such covenant by the Lender. Any amounts paid by the Lender as shall be repaid by the Borrower to the Lender on demand.

ARTICLE 7 CONDITIONS PRECEDENT

7.1 Conditions Precedent to Documentation Completion Date.

The obligations of the Lender to enter into this Agreement are subject to satisfaction of the following conditions precedent on the Documentation Completion Date, which conditions precedent are for the sole and exclusive benefit of the Lender and may be waived in writing by the Lender (in its sole discretion):

- (a) each of this Agreement and, other than any Post-Closing Security, the Security Documents shall have been executed and delivered by all parties thereto and shall have become effective and, with respect to the Security Documents (other than the Post-Closing Security), perfected in accordance with Applicable Law;

- (b) no Default or Event of Default shall have occurred and be continuing nor shall there be any such Default or Event of Default after giving effect to this Agreement;
- (c) the representations and warranties made in or pursuant to this Agreement shall be true and correct on the Closing Date;
- (d) the Lender shall have received the following, in form and substance satisfactory to the Lender:
 - (i) Officer's Certificates in respect of the Borrower certifying that attached thereto are true and correct copies of the following documents and that such documents are in full force and effect, unamended;
 - (A) the articles, memorandum, by-laws, constating documents or other organizational documents of the Borrower;
 - (B) the certificate of incumbency including sample signatures of officers and directors of the Borrower who have executed this Agreement or any of the Loan Documents entered into in connection therewith;
 - (C) the resolutions or other documentation evidencing that all necessary action (if any), corporate or otherwise, has been taken by the Borrower to authorize the execution, delivery and performance of this Agreement and any applicable agreements referred to herein; and
 - (ii) a certificate of status, certificate of compliance or similar certificate with respect to the jurisdiction of incorporation or formation of the Borrower and any other jurisdiction in which the Borrower conducts business;
 - (iii) opinions of counsel to the Borrower, including opinions relating to the status and capacity of the Borrower, the due authorization, execution and delivery and the validity and enforceability of the Loan Documents to which the Borrower is a party, perfection by registration of the Security granted pursuant to the Security Documents (other than the Post-Closing Security), execution, delivery and performance of the Loan Documents and the incurrence of Debt hereunder will not breach the Stream Agreement or the Royalty Agreement, and such other matters as the Lender may reasonably request.
- (e) searches, filings and registrations and other deliveries contemplated pursuant to Section 5.3 required to establish the perfection and priority of the Security in all jurisdictions and registries reasonably required by the Lender shall have been provided or made, as applicable, including registrations with respect to the Security Documents (other than the Post-Closing Security);
- (f) a consent and forbearance agreement in form and substance satisfactory to the Lender executed by Sailfish Royalty Corp. ("**Sailfish**") with respect to the Stream Agreement and the Royalty Agreement pursuant to which Sailfish shall agree to not take any foreclosure or other related actions in connection with its rights under the Stream Agreement, the Royalty Agreement and security documents delivered in connection therewith with respect to the Project until the earlier of the date on which the Obligations

hereunder are repaid in full and the date on which the Lender commences the enforcement of the Security (the “**Sailfish Consent and Forbearance Agreement**”);

- (g) a pari passu agreement in form and substance satisfactory to the Lender executed by Wexford Capital LP, as agent, pursuant to which, among other things, the Lender and Wexford Capital LP shall agree that the Collateral shall be held by the Lender and Wexford Capital LP on a pari-passu basis (the “**Pari Passu Agreement**”);
- (h) all Material Permits shall have been obtained by the Project Entities for the current operations of the Project;
- (i) the commissioning of the ore processing plant for the Project shall be proceeding according to the schedule necessary to achieve the Project Business Plan as at such date;
- (j) the Lender shall have received confirmation from an insurance consultant, reasonably selected by the Lender, that the Project Entities have insurance coverage in the amounts and of the type customary and satisfactory for a business operating in the industry of the Business;
- (k) the Lender shall have received a certified copy of the pledge agreement in favour of the agent and lenders under the Wexford Loan governed by the laws of Canada which agreement shall be in substantially the same form of the pledge agreement delivered to the Lender pursuant to Section 5.1(a) of this Agreement;
- (l) no event shall have occurred since September 20, 2020 which, individually or in the aggregate has, or could reasonably be expected to have, a Material Adverse Effect;
- (m) the Lender shall have received certified copies of each Material Contract;
- (n) the Lender shall have completed their due diligence review of the Project and title to the Mining Rights to their satisfaction;
- (o) none of the Borrower or any Project Entity shall have any Debt other than Debt permitted by this Agreement, and the Lender shall have received releases and discharges with respect to all Liens affecting the property of the Borrower or any Project Entity not permitted hereunder;
- (p) no action or proceeding shall be pending by any Person or Governmental Authority to enjoin, restrict, or prohibit the operation of the Project or which may impose any material condition on the operation of the Project, or which could reasonably be expected to have a Material Adverse Effect;
- (q) the Obligors shall have provided all documentation and other information that is required by the Lender pursuant to Anti-Money Laundering Legislation and applicable “know your client” laws and regulations;
- (r) the Borrower shall have paid all reasonably and documented fees and expenses payable to the Lender on or prior to the date of this Agreement;
- (s) the Borrower shall have delivered the Borrowing Notice with respect to the Advance in accordance with Section 2.2(b); and

- (t) such other certificates and documentation as the Lender may reasonably request.

7.2 Conditions Precedent to Advance

The obligation of the Lender to make the Advance is subject to satisfaction of the following conditions precedent, which conditions precedent are for the sole and exclusive benefit of the Lender and may be waived in writing by the Lender (in its sole discretion):

- (a) no Default or Event of Default shall have occurred and be continuing nor shall there be any such Default or Event of Default after giving effect to such Advance and the Lender shall have received an Officer's Certificate confirming the same;
- (b) the representations and warranties made in or pursuant to this Agreement shall be true and correct on the date of the Advance as if they were made on that date except for any representation and warranty which is stated to be made only as of a certain date (and then as of such date) and the Lender shall have received an Officer's Certificate confirming the same and the conditions precedents set out in 7.1 shall have been satisfied or waived by the Lender; and
- (c) the Advance shall not violate any Applicable Law.

ARTICLE 8 EVENTS OF DEFAULT AND REMEDIES

8.1 Events of Default

The occurrence of any of the following events shall constitute an Event of Default:

- (a) the Borrower fails to pay any amount of Principal or interest due hereunder by the due date thereof or any fees or other Obligations within three (3) Business Days of the due date thereof; or
- (b) there is a breach of any other covenants contained in Sections 6.1, 6.2, 6.3 or 6.4 of this Agreement, and such breach remains unremedied for a period of 30 days;
- (c) there is a breach of any other term, condition or provision of this Agreement, or any of the provisions of any other Loan Document, and such breach remains unremedied for a period of 30 days; or
- (d) any representation or warranty made by the Borrower or any Guarantor under any Loan Document is in any material respect (or in any respect, in the case of representations and warranties that are qualified by materiality, including by the occurrence of a Material Adverse Effect) incorrect or incomplete when made and, if capable of remedy, the facts or circumstances which make such representation or warranty incorrect or incomplete are not remedied within 30 days after the earlier of (i) the Borrower or any Guarantor becoming aware that such representation or warranty is incorrect or incomplete and (ii) the Lender notifying the Borrower of the same; or
- (e) any final judgment, execution, writ of seizure and sale or similar process is enforced or levied upon property of the Borrower or any Project Entity having a value of \$500,000 (or the equivalent amount in any other currency) or more and remains undischarged,

unvacated and unstayed for a period (for each action) of 30 days, provided that, during such period, such process is in good faith disputed by the Borrower or such Project Entity; or

- (f) the Borrower or any Project Entity (i) fails to make any payment when such payment is due and payable to any Person in relation to any Debt which in the aggregate principal amount then outstanding is in excess of \$500,000 and such payment is not made within any applicable cure or grace period, (ii) defaults in the observance or performance of any other agreement or condition in relation to any Debt which in the aggregate principal amount then outstanding is in excess of \$500,000 or contained in any instrument or agreement evidencing, securing or relating thereto and such default is not waived or cured within any applicable cure or grace period, or any other event shall occur or condition exist, the effect of which default, event, or other condition referred to in this Section 8.1(g)(ii), is to cause, or to permit the holder of such Debt to cause, such Debt to become due prior to its stated maturity date; or
- (g) any judgment or order for the payment of money in excess of \$500,000 (or the equivalent amount in any other currency), net of any amounts available for the satisfaction of such judgment or order pursuant to an enforceable contract of insurance, shall be rendered against the Borrower or any Project Entity and either (i) the same shall remain undischarged, unvacated, unstayed and unbonded pending appeal for a period of 10 consecutive days from the entry thereof or (ii) enforcement proceedings shall have been commenced by any creditor upon such judgment; or
- (h) the Borrower or any Project Entity (i) becomes insolvent, commits an act of bankruptcy or fails to generally pay its debts as such debts become due and payable, (ii) admits in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors, (iii) institutes or has instituted against it any proceeding seeking (A) the possession, foreclosure, seizure, retention, sale or other disposition of, or other proceedings to enforce security over, all or any substantial part of its property, (B) to adjudicate it bankrupt or insolvent, (C) any liquidation, dissolution, winding up, reorganization (in each case, other than as specifically permitted hereunder), arrangement, adjustment, protection, relief or composition of it or its debts under any Applicable Law relating to bankruptcy, insolvency or relief of debtors (including any corresponding provisions of reorganization or incorporation law) and including any plan of compromise or arrangement or other similar corporate proceeding involving or affecting its creditors, or (D) the entry of an order for relief or the appointment of a receiver, trustee, interim receiver, receiver and manager, liquidator, custodian, sequestrator or other similar official for it or for any substantial part of its property, and in the case of any such proceeding described above in (A), (B), (C) or (D) are instituted against a Project Entity by any Person, then 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 45 days after commencement, or any of the actions sought in such proceeding (including the entry of an order for relief against it or the appointment of a receiver, trustee, interim receiver, receiver and manager, liquidator, custodian, sequestrate or other similar official for it or for any substantial part of its property) shall occur, or (iv) takes any corporate action to authorize any of the foregoing actions; or

- (i) any of the Security or any other Loan Document ceases to be in full force and effect, or is invalidated by any act, regulation or governmental action or is determined to be invalid by a court or other judicial entity; or
- (j) a lienor or any other Person takes possession of any substantial part of the property of the Borrower or any Project Entity by appointment of a receiver, receiver and manager, by expropriation or otherwise; or
- (k) the occurrence of any event or circumstance that has a Material Adverse Effect; or
- (l) proceedings are commenced for the dissolution, liquidation or winding-up of the Borrower or any Project Entity, or for the suspension of the operations of the Borrower or any Project Entity, unless in the case of any such proceedings instituted against it (but not instituted by it) such proceedings are being actively and diligently contested in good faith and none of the orders sought in such proceeding are granted; or
- (m) a default occurs and is continuing under any Material Contract after giving effect to any cure period thereunder or any Material Contract is terminated other than at scheduled maturity and, in the case of any Material Contract other than the Stream Agreement, the Royalty Agreement (or any other royalty, stream or similar agreement with respect to the Project) or the Wexford Loan, the same has not been promptly replaced and the absence thereof would reasonably be expected to have a Material Adverse Effect; or
- (n) the operations of the Project are suspended voluntarily or involuntarily for a period of 30 consecutive days or more, which suspension would reasonably be expected to result in, or has resulted in, an impairment of the ability of the Borrower to perform any of its obligations under this Agreement, as determined by the Lender, acting reasonably, or the Project is abandoned by any Project Entity; or
- (o) the occurrence of a Change of Control.

8.2 Remedies Upon Default

Upon the occurrence of an Event of Default in Section 8.1(i), the Facility shall automatically terminate and the Obligations shall automatically and immediately become due and payable and upon the occurrence of and during the continuance of any other Event of Default, the Lender may, by notice given to the Borrower, terminate the Facility and declare all Obligations to be immediately due and payable and, in either case, the Lender may then:

- (a) realize upon all or any part of the Security; and
- (b) take such actions and commence such proceedings as may be permitted at law or in equity (whether or not provided for herein or in the Security Documents) at such times and in such manner as the Lender may consider expedient,

all without any additional notice, presentment, demand, protest, notice of protest, dishonour or any other action except as required by law. The rights and remedies of the Lender hereunder are cumulative and are in addition to and not in substitution for any other rights or remedies provided by Applicable Law or by any of the other Loan Documents.

8.3 Distributions

All distributions under or in respect of any of the Loan Documents to the Lender shall be held by the Lender on account of the Obligations outstanding to it without prejudice to any claim by the Lender for any deficiency after such distributions are received by the Lender and the Borrower shall remain liable for any such deficiency. All such distributions may be applied to such part of the Obligations as the Lender may see fit in its sole discretion, and the Lender may at any time change any appropriation of any such distributions or other moneys received by it and reapply the same on any other part of the Obligations as the Lender may see fit, in its sole discretion, notwithstanding any previous application.

8.4 Set-Off

Upon the occurrence and during the continuance of an Event of Default, the Lender may, without notice to the Borrower or to any other Person, combine, consolidate and merge all or any of the Obligor's liabilities to the Lender and set off any other indebtedness and liability of the Lender to any Obligor, matured or unmatured, against and on account of the Obligations when due. The Lender shall notify the Borrower of any such set off promptly after taking such set off, however, the failure to provide such notice shall not invalidate the set off by the Lender.

ARTICLE 9 GENERAL

9.1 Reliance and Non-Merger

All covenants, agreements, representations and warranties of the Borrower or any of its Subsidiaries made herein or in any other Loan Document or in any certificate or other document signed by any of its directors or officers and delivered by or on behalf of the Borrower or any of its Subsidiaries pursuant hereto or thereto are material, shall be deemed to have been relied upon by the Lender notwithstanding any investigation heretofore or hereafter made by the Lender or counsel to or any employee or other representative of the Lender and shall survive the execution and delivery of this Agreement and the other Loan Documents until all obligations owed to the Lender under this Agreement and the other Loan Documents shall have been satisfied and performed.

9.2 Amendment and Waiver

No amendment or waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower or any other Obligor from any provision hereof or thereof is effective unless it is in writing and signed by the Lender, and the relevant counterparty to such document.

Each amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

9.3 Notices

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

address shall also be governed by this Section. Notices and other communications shall be addressed as follows:

- (a) if to the Borrower:

Mako Mining Corp.
595 Burrard Street, Suite 2833
Vancouver, BC, Canada
V7X 1J1

Attention: Maria Milagros Paredes, CFO
Email: [Email address redacted]

With a copy (which shall not constitute notice) to:

Attention: Akiba Leisman, CEO
Email: [Email address redacted]

- (b) if to the Lender:

Nebari Natural Resources Credit Fund I, LP
130 Fifth Avenue, 5th Floor
New York, NY
USA 10011

Attention: Andre Krol
Email: [Email address redacted]

With a copy (which shall not constitute notice) to :

Stikeman Elliott LLP
5300 Commerce Court West, 199 Bay Street
Toronto, Ontario
Canada M5L 1B9

Attention: Courtney Wilson
Email: [Email address redacted]

9.4 Time

Time is of the essence of this Agreement and the other Loan Documents.

9.5 Press Releases and Public Announcements

The Borrower agrees that it will not issue any press release or make any other kind of public announcement, or consent to the issuance of any press release or the making of any other kind of public announcement, regarding this Agreement and the terms contained herein unless the text of any such release or announcement, and the time and manner in which such release or announcement is made,

has been approved by the Lender, except to the extent required by Applicable Law (in which case the Borrower shall make all commercially reasonable efforts to provide advance notice of such release or announcement to the Lender and consult with the Lender as to the content thereof).

9.6 Further Assurances

Whether before or after the happening of an Event of Default, the Borrower shall at its own expense do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, things, agreements, documents and instruments in connection with this Agreement and the other Loan Documents as the Lender may reasonably request from time to time for the purpose of giving effect to the terms of this Agreement and the other Loan Documents including, without limitation, for the purpose of facilitating the enforcement of the Security, all promptly upon the request of the Lender.

9.7 Assignment

- (a) This Agreement and the other Loan Documents shall enure to the benefit of and be binding upon the parties hereto and thereto, their respective successors and any permitted assignee of some or all of the parties' rights or obligations under this Agreement and the other Loan Documents as permitted under this Section.
- (b) The Borrower shall not assign all or any part of its rights, benefits or obligations under this Agreement or any of the other Loan Documents without the prior written consent of the Lender.
- (c) The Lender may sell, assign or issue participation interests in all or any part of its interest in the Facility to, subject to Applicable Law, its Affiliates, any commercial bank, the Borrower or any of the Borrower's Affiliates or any other financial institution or investor (each a "**Participant**") provided that the Lender's rights and obligations under the Loan Documents shall remain unchanged, and the Lender shall act on behalf of its Participants in all dealings with the Borrower in respect of the Facility. The Borrower agrees that a Participant shall be entitled to the benefits of Sections 3.12 and 3.14 to the extent of its participation to the same extent as if it were the Lender; provided that, no such Participant shall be entitled to receive any amount under Sections 3.12 and 3.14 in respect of its participation greater than the amount, if any, the Lender would have been entitled to receive under Sections 3.12 and 3.14 in respect of its interest in the Facility subject to such participation, if the Lender had not granted such participation pursuant hereto. To the extent permitted by Applicable Law, each Participant shall also be entitled to the benefits of Section 8.4 to the extent of its participation as though it were the Lender.
- (d) Any assignment made hereunder shall become effective when the Borrower has been notified thereof by the Lender has received (i) an acknowledgement from the assignee Lender to be bound by this Agreement and the other Loan Documents and (ii) any documents required by local counsel and requested by the Lender to ensure the assignee Lender receives the benefit of the Security. Any such assignee shall be treated as a party to this Agreement for all purposes of this Agreement and the other Loan Documents and shall be entitled to the full benefit hereof and thereof and shall be subject to the obligations of the Lender to the same extent as if it were an original party, in each case, in respect of the rights assigned to it and obligations assumed by it and the assignor Lender shall be released and discharged accordingly.

- (e) In connection with any assignment pursuant to this Section 9.7, the Borrower agrees to enter into such documents as may reasonably be required by the Lender to evidence such assignment.
- (f) A Lender may at any time pledge or grant a security interest in all or a portion of its rights under the Loan Documents to secure obligations of such Lender to a commercial bank or other financial institution that is providing financing to the Lender provided that no such pledge or security shall release such Lender from any of its obligations hereunder.

9.8 Judgment Currency.

- (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due to the Lender in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures, the Lender could purchase the Original Currency with the Other Currency on the Business Day preceding the day on which final judgment is given or, if permitted by Applicable Law, on the day on which the judgment is paid or satisfied.
- (b) The obligations of the Borrower in respect of any sum due in the Original Currency from it to the Lender under any of the Loan Documents shall, notwithstanding any judgment in any Other Currency, be discharged only to the extent that on the Business Day following receipt by the Lender of any sum adjudged to be so due in the Other Currency, the Lender may, in accordance with normal banking procedures, purchase the Original Currency with such Other Currency. If the amount of the Original Currency so purchased is less than the sum originally due to the Lender in the Original Currency, the Borrower agrees, as a separate obligation and notwithstanding the judgment, to indemnify the Lender against any loss, and, if the amount of the Original Currency so purchased exceeds the sum originally due to the Lender in the Original Currency, the Lender shall remit such excess to the Borrower.

9.9 Confidentiality

- (a) The Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to it, its Affiliates and its and its Affiliates’ respective partners, directors, officers, employees, managers, administrators, trustees, agents, auditors, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority) or any rating agency in connection with any financing the Lender may obtain, (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 9.9 to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement, (ii) any actual or prospective party (or its partners, directors, officers, employees, managers, administrators, trustees, agents, advisors or

other representatives) to any swap, derivative, credit-linked note or similar transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (iii) any financing source, investor or prospective investor of a Lender, or the advisors of the Persons referred to in (i), (ii) and (iii), (g) with the consent of the Borrower or (h) to the extent such 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.

- (b) For purposes of this Section, “**Information**” means all information received in connection with this Agreement from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Lender on a non-confidential basis prior to such receipt. Any Person required to maintain the confidentiality of Information as provided in this Section 9.9 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. In addition, the Lender may disclose to any agency or organization that assigns standard identification numbers to loan facilities such basic information describing the facilities provided hereunder as is necessary to assign unique identifiers (and, if requested, supply a copy of this Agreement), it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to make available to the public only such Information as such person normally makes available in the course of its business of assigning identification numbers.

9.10 Entire Agreement

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

9.11 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

9.12 Attornment

The parties hereto irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia for all matters arising out of or in connection with this Agreement and the other Loan Documents.

9.13 Counterparts

This Agreement may be signed in counterparts and each such counterpart shall constitute an original document and all of such counterparts, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by telecopier or by other electronic communication shall be effective as delivery of a manually executed counterpart of this Agreement.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement with effect as of the date stated on the first page of this Agreement.

MAKO MINING CORP.

By: ***“Akiba Leisman”***

Name: Akiba Leisman
Title: Chief Executive Officer

By: ***“Maria Milagros Paredes”***

Name: Maria Milagros Paredes
Title: Chief Financial Officer

**NEBARI NATURAL RESOURCES
CREDIT FUND I, LP, by its general partner,
NEBARI PARTNERS GP, LLC
as Lender**

By: ***“John Clark Gillam”***

Name: John Clark Gillam
Title: Co- Manager

By: ***“Daniel Freuman”***

Name: Daniel Freuman
Title: Co- Manager

EXHIBIT A
FORM OF BORROWING NOTICE

[Commercially sensitive information redacted]

EXHIBIT B
FORM OF COMPLIANCE CERTIFICATE

TO: Nebari Natural Resources Credit Fund I, LP

The undersigned, Mako Mining Corp. (the “**Borrower**”), refers to the credit agreement dated February [●], 2021 (as amended, supplemented or restated from time to time, the “**Credit Agreement**”, the terms defined therein being used herein as therein defined) between the Borrower, and Nebari Natural Resources Credit Fund I, LP, as the Lender.

I, the undersigned [identify office] of the Borrower, certify, without personal liability, to the Lender that:

1. No Default or Event of Default has occurred and is continuing except _____ **[specify nature and period of existence of any Default or Event of Default and any action which the Borrower has taken or proposes to take with respect thereto].**
2. The representations and warranties contained in Section 4.1 of the Credit Agreement and in any other Loan Document are true and correct on the date hereof as if they were made on this date except any representation and warranty which is stated to be made only as of a certain date (and then as of such date).
3. The Borrower is in compliance with the covenants contained in Article 6 of the Credit Agreement.
4. The financial statements delivered pursuant to [6.2(b)/6.2(c)] of the Credit Agreement comply in all material respects with the applicable requirements of the Securities Laws and present fairly, in all material respects, the consolidated financial position of the Borrower as at the date of such financial statements and the results of its operations and the changes in its cash flows for the periods specified, and have been prepared in conformity with GAAP, applied on a consistent basis throughout the period covered thereby.
5. Each Annex listed below and attached hereto sets out all changes (if any) required to ensure that the information disclosed in the corresponding Schedule of the Credit Agreement is correct and complete on and as at the date hereof:

<u>Annex</u>	<u>Credit Agreement Schedule</u>
A	C – Owned Lands
B	4.1(n) – Material Contracts (including amendments thereto)
C	4.1(o) – Material Permits
F	4.1(bb) – Material Insurance Claims

Copies of all Material Contracts and amendments thereto disclosed on Annex B are attached hereto to the extent not previously provided to the Lender.

Dated the ● day of ●, 20●.

Name:

Title:

Schedule A
Commitment

Lender	Commitment
Nebari Natural Resources Credit Fund I, LP	\$6,000,810

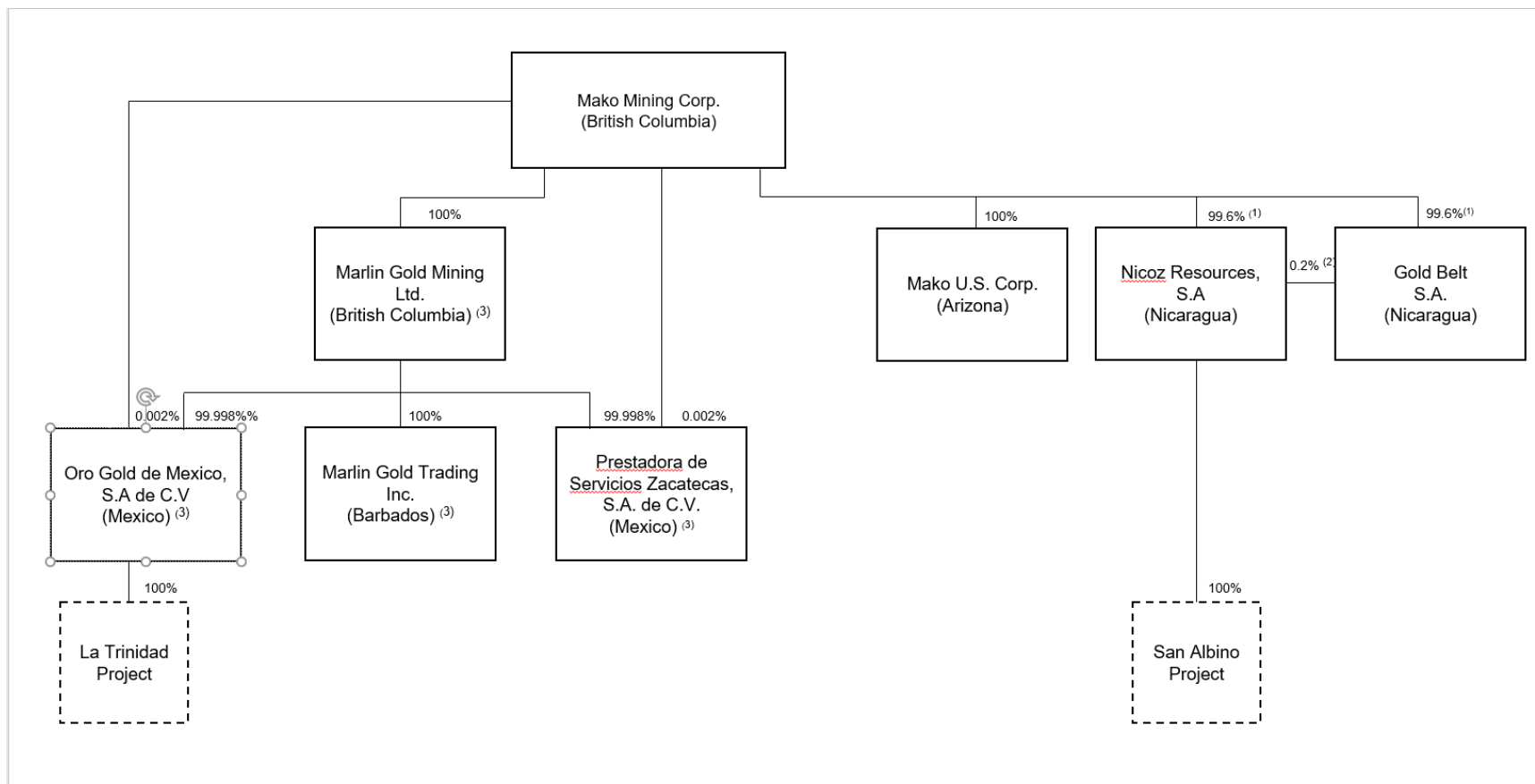
Schedule B
Leased Lands and Owned Lands

[Commercially sensitive information redacted]

Schedule C
Post-Closing Covenants

[Commercially sensitive information redacted]

Schedule 4.1(e)
Corporate Chart



Notes:

- (1) Akiba Leisman owns one common share (0.2%) of each of Nicoz Resources, S.A. (“Nicoz”) and Gold Belt S.A. (“Gold Belt”).
- (2) Each of Gold Belt and Nicoz owns one common shares (0.2%) in the capital of the other.
- (3) To be sold or dissolved by March 31, 2021 in accordance with the Share Purchase Agreement dated January 29, 2021 between the Borrower and GR Silver Mining Ltd.

Equity Interests in Nicoz Resources, S.A

<u>Holder</u>	<u>Class of securities</u>	<u>Number of securities</u>	<u>% of issued securities</u>	<u>Certificate Number</u>
Mako Mining Corp.	Shares	498	99.6%	14
Gold Belt S.A.	Shares	1	0.2%	17
Akiba Leisman	Shares	1	0.2%	16

Equity Interests in Gold Belt S.A.

<u>Holder</u>	<u>Class of securities</u>	<u>Number of securities</u>	<u>% of issued securities</u>	<u>Certificate Number</u>
Mako Mining Corp.	Shares	498	99.6%	5, 7 and 8
Nicoz Resources, S.A	Shares	1	0.2%	4
Akiba Leisman	Shares	1	0.2%	6

Schedule 4.1(f)
Agreements to Acquire Shares

Nil.

Schedule 4.1(k)
Litigation

[Commercially sensitive information redacted]

Schedule 4.1(n)
Material Contracts

[Commercially sensitive information redacted]

Schedule 4.1(o)
Material Permits

[Commercially sensitive information redacted]

Schedule 4.1(r)
Properties Pending Registration

[Commercially sensitive information redacted]

Schedule 4.1(u)
Reclamation Obligations

[Commercially sensitive information redacted]

Schedule 4.1(aa)
Material Insurance Claims

[Commercially sensitive information redacted]

Schedule 4.1(bb)
Affiliated Transactions

1. Wexford Loan Agreement
2. Stream Agreement
3. Royalty Agreement