

Dated

2023

K92 MINING LIMITED

(as the Seller)

and

K92 MINING INC.

(as the K92 Parent)

and

TRAFIGURA PTE LTD

(as the Lender)

US\$100,000,000

LOAN AGREEMENT

 **NORTON ROSE FULBRIGHT**

Contents

Clause	Page
1	DEFINITIONS AND INTERPRETATION 1
2	THE LOANS 16
3	PURPOSE 16
4	CONDITIONS PRECEDENT 16
5	UTILISATION AND FEES 17
6	INTEREST 18
7	REPAYMENT 21
8	DEFAULT INTEREST 22
9	ILLEGALITY AND PREPAYMENT.....23
10	COSTS AND EXPENSES 24
11	LENDER PROTECTIONS.....25
12	REPRESENTATIONS AND WARRANTIES 25
13	UNDERTAKINGS 35
14	INFORMATION UNDERTAKINGS 47
15	EVENTS OF DEFAULT 48
16	NOTICES 53
17	MISCELLANEOUS.....55
18	CHANGES TO PARTIES 61
19	GOVERNING LAW.....62
20	DISPUTE RESOLUTION AND JURISDICTION 62
	Schedule 1 CONDITIONS PRECEDENT.....63
	Schedule 2 FORM OF UTILISATION REQUEST 67
	Schedule 3 REPAYMENT DATES 69
	Schedule 4 EXPLORATION LICENSES 71

THIS LOAN AGREEMENT (this **Agreement**) is entered into on _____ 2023 between:

- (1) **K92 MINING LIMITED** (Company No 1-52231), a company incorporated under the laws of the Independent State of Papua New Guinea, with its principal office at Level 6, PwC Haus, Harbour City Precinct, Port Moresby, National Capital District, 121, Papua New Guinea (the **Seller**);
- (2) **K92 MINING INC.**, a company incorporated under the laws of British Columbia, Canada, with its principal office at Suite 488 – 1090 West Georgia Street, Vancouver, British Columbia, Canada, V6E 3V7 (the **K92 Parent**); and
- (3) **TRAFIGURA PTE LTD**, a company incorporated under the laws of Singapore, with its principal office at 10 Collyer Quay, #29-01/05, Ocean Financial Centre, Singapore 049315 (the **Lender**).

BACKGROUND

- (A) The Lender and the Seller are both engaged (amongst other things) in the sale and purchase of gold and copper concentrates. The Lender and the Seller have entered into the Commercial Contract (as defined below), whereby the Seller has agreed to sell and deliver Material (as defined below) to the Lender in such quantities and of such quality and for the price and on other terms and conditions set out in the Commercial Contract.
- (B) The Lender has agreed to make loans to the K92 Parent.
- (C) Subject to the terms of this Agreement, the Parties agree that the repayment of the loans by the K92 Parent to the Lender and all amounts owed from the K92 Parent to the Lender under this Agreement shall be by way of cash, subject to the rights of the Lender following an Event of Default (as defined below).

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Accounting Principles means:

- (a) (in the case of the Seller only) the generally accepted accounting principles and applicable accounting standards in Papua New Guinea; and
- (b) (in the case of the K92 Parent only) the generally accepted accounting principles as set out in the *CPA Canada Handbook - Accounting* for an entity that prepares its financial statements in accordance with International Financial Reporting Standards

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration

Authorisation Letter means the authorisation letter executed by the Seller in favour of authorising the Mining Resources Authority to release any information requested by [REDACTED] in relation to any tenements held by the Seller [**Redacted: Names**]

Availability Period means the period from and including the date of execution of this Agreement, to and including the Maturity Date

Available Commitment means, at any time and subject to clause 5.6 (*Cancellation of Commitment*), the applicable Commitment minus:

- (a) the amount of any outstanding Loan; and
- (b) in relation to the proposed Utilisation, the amount of any outstanding Loan that are due to be made on or before the proposed Utilisation Date

Break Costs means the amount (if any) by which:

- (a) the interest which the Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Repayment Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Repayment Period;

exceeds:

- (b) the amount which the Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Repayment Period

Business Day means a day (other than a Saturday or Sunday):

- (a) on which commercial banks are open for general business in London, Papua New Guinea, the British Virgin Islands, Vancouver and Singapore and in relation to any date for the payment or purchase of US dollars, a day (other than a Saturday or Sunday) on which banks are open for the transaction of domestic and foreign exchange business in the city of New York, USA; and

- (b) (in relation to the fixing of an interest rate) which is a US Government Securities Business Day

BVI Share Mortgage means the equitable mortgage over all of the shares of K92 BVI dated on or around the date of this Agreement and entered into by the K92 Parent as chargor in favour of the Lender as the secured party

Canadian dollars or **Cdn\$** means the lawful currency of Canada

Cap means a maximum of [REDACTED] of the issued and outstanding Common Shares on the Share Conversion Date [Redacted: Maximum percentage of issued and outstanding shares available for the purposes of conversion]

Change of Control means, in relation to the Seller or the K92 Parent, any person or group of persons acting in concert gaining direct or indirect control of the Seller or the K92 Parent, as the case may be, in each case other than as a result of the Lender's exercise in whole or in part of the Conversion Right

Commercial Contract means the purchase contract dated 1 July 2019 with reference number 303-19-45318-P for the purchase by the Lender from the Seller of the Material on the terms and conditions set out therein, as amended and restated pursuant to an amendment and restatement agreement dated on or about the date of this Agreement and as further amended from time to time

Commitment means:

- (a) subject to paragraph (b) below, at any time on or after the CP Satisfaction Date and prior to the CS Satisfaction Date, the principal amount of US\$25,000,000; and
- (b) at any time on or after the CS Satisfaction Date, the principal amount of US\$100,000,000,

in each case, to the extent not cancelled, reduced or transferred under this Agreement

Common Shares means the common shares without par value in the authorised structure of the K92 Parent as presently constituted

Conversion Date has the meaning given to it in clause 17.5(a) (*Judgment Currency*)

Conversion Price means the Market Price of the Common Shares, calculated based on the Bank of Canada's daily rate for conversion of United States into Canadian dollars on the relevant Trading Days.

For the purposes of this definition:

- (a) **Market Price** of a Common Share means the Volume Weighted Average Price of the Common Shares on the Toronto Stock Exchange for the [REDACTED] and [Redacted: Market price calculation]
- (b) **Volume Weighted Average Price** means the order book volume weighted average price of the Common Shares on the relevant Trading Day appearing on or derived from the relevant screen as may be agreed to between the K92 Parent and the Lender, or if not available on such screen, from such other source as shall be determined to be appropriate by a leading independent investment bank of international repute selected by the K92 Parent and the Lender, acting as expert, provided that for any Trading Day where such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price in respect of such Trading Day shall be the price determined as provided above on the immediately preceding Trading Day on which the same can be so determined

Conversion Right has the meaning given to it in clause 15.18 (*Acceleration*)

Conversion Right Expiry has the meaning given to it in clause 13.17(a)(ii) (*Conditions subsequent*)

Conversion Shares means such number of Common Shares issuable to the Lender at the Conversion Price on the Share Conversion Date provided that the number of Conversion Shares shall not exceed the Cap

Corporate Reorganization has the meaning given to it in clause 13.19(c) (*Adjustment of Conversion Price and Conversion Shares*)

Coverage Ratio has the meaning given to it in clause 13.14(a) (*Value of Material*)

CP Satisfaction Date has the meaning given to it in clause 4.1 (*Initial conditions precedent*)

CS Satisfaction Date has the meaning given to it in clause 13.17 (*Conditions subsequent*)

Deed of Charge (PNG law) means the Papua New Guinean law governed deed of charge over all the assets of the Seller (other than the Exploration Licenses and the Landowner Project Equity Participation Rights) dated on or around the date of this Agreement and entered into by the Seller as chargor in favour of the Lender as chargee

Default means an any event or circumstance specified in clause 15 (*Events of Default*) which would (with the giving of notice, the making of any determination under the Transaction Documents or any combination of any of the foregoing) be an Event of Default

Default Notice has the meaning given to it in clause 15.18 (*Acceleration*)

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water)

Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law

Environmental Law means any applicable law or regulation established by a Governmental Agency which relates to:

- (a) the pollution or protection of the environment;
- (b) harm to or the protection of human health; or
- (c) any emission or substance capable of causing harm to the Environment

Environmental Permits means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Seller conducted on or from the properties owned or used by the Seller in connection with the Kora project

Event of Default means any event or circumstance specified as such in clause 15 (*Events of Default*)

Exploration Licenses means the exploration licenses of the Seller now held by the Seller as more particularly set forth in Schedule 4 (*Exploration Licenses*), or after acquired by the Seller

Export License means the gold export license of the Seller dated 5 May 2016 granted by the Bank of Papua New Guinea to allow the Seller to export gold and silver overseas under the Central Banking (Foreign Exchange and Gold) Regulations Chapter 138 (PNG)

Fallback Interest Payment means the aggregate amount of interest that:

- (a) is, or is scheduled to become, payable under clauses 6.3(b), (c) or (d) (*Unavailability of Term SOFR*); and
- (b) relates to a Loan

Finance Document means this Agreement, each Utilisation Request, the Security Documents, and any other document designated as a Finance Document by the Lender and the Seller or the K92 Parent

Financial Indebtedness means any indebtedness for or in respect of:

- (a) monies borrowed and debit balances at banks or other financial institutions;
- (b) any amount raised by acceptance under any acceptance of credit or bill discounting facility (or dematerialised equivalent);
- (c) the amount of any liability in respect of any finance or capital lease (other than any liability in respect of a finance lease or capital lease which would in accordance with the Accounting Principles in force prior to the date of this Agreement have been treated as an operating lease);
- (d) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (e) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of a third party which liability would fall within one of the other paragraphs of this definition;
- (f) any amount raised by the issue of shares which are redeemable by the holder before the Maturity Date;
- (g) any amount of any liability under a loan, an advance or deferred purchase agreement if (i) the primary reason behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 calendar days after the date of supply; or
- (h) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing

Financial Year means the twelve month period ending on 31 December in each year

Force Majeure has the meaning given to it in the [Redacted: Commercially sensitive agreement]

Force Majeure Suspension has the meaning given to it in the [Redacted: Commercially sensitive agreement]

Funding Rate means any individual rate notified by the Lender to the K92 Parent pursuant to clause 6.5(a)(ii) (*Cost of funds*)

Governmental Agency means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute)

Historic Term SOFR means, in relation to any Loan, the most recent Term SOFR for a period equal in length to the Repayment Period of that Loan and which is as of a US Government Securities Business Day which is no more than three US Government Securities Business Days before the Quotation Day

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary

Indebtedness means the outstanding amount of the aggregate Loans, from time to time, plus all interest, and other amounts payable by the Seller and the K92 Parent to the Lender under the Transaction Documents

Interpolated Historic Term SOFR means, in relation to any Loan, the rate (rounded to the same number of decimal places as the Term SOFR) which results from interpolating on a linear basis between:

- (a) either:
 - (i) the most recent Term SOFR (as of a day which is not more than three US Government Securities Business Days before the Quotation Day) for the longest period (for which Term SOFR is available) which is less than the Repayment Period of that Loan; or
 - (ii) if no such Term SOFR is available for a period which is less than the Repayment Period of that Loan, the most recent Overnight SOFR for a day which is not more than five, and not less than two, US Government Securities Business Days before the Quotation Day; and
- (b) the most recent Term SOFR (as of a day which is not more than three US Government Securities Business Days before the Quotation Day) for the shortest period (for which Term SOFR is available) which exceeds the Repayment Period of that Loan

Interpolated Term SOFR means, in relation to any Loan, the rate (rounded to the same number of decimal places as Term SOFR) which results from interpolating on a linear basis between:

- (a) either:

- (i) Term SOFR (as of 5:00 pm (Singapore time)) for the longest period (for which Term SOFR is available) which is less than the Repayment Period of that Loan; or
 - (ii) if no such Term SOFR is available for a period which is less than the Repayment Period of that Loan, Overnight SOFR for the day that is two US Government Securities Business Days before the Quotation Day; and
- (b) Term SOFR (as 5:00 pm (Singapore time)) for the shortest period (for which Term SOFR is available) which exceeds the Repayment Period of that Loan

K92 BVI means K92 Holdings International Limited, a BVI business company existing under the laws of the British Virgin Islands with company number 1700252

K92 Parent means K92 Mining Inc., a company incorporated pursuant to the law of British Columbia

Landowner Project Equity Participation Rights means the rights and entitlements of landowners whomsoever and howsoever finally determined to participate as [REDACTED] minor equity participants in the Kainantu Project pursuant to the Memorandum of Understanding dated 21 August 2003 between the predecessor of the Seller and Bilimoia Landowners Association Inc as endorsed by the Minister for Mining [**Redacted: Percentage of equity**]

Loan means a loan (under this Agreement) made or to be made by the Lender to the K92 Parent or the principal amount outstanding for the time being of that loan, and **Loans** means collectively, all such loans

Margin means [REDACTED] per annum or such other lower rate to be specified by the Lender in its sole and absolute discretion [**Redacted: Percentage relating to margin**]

Market Disruption Rate means the percentage rate per annum which is the Reference Rate

Material shall mean concentrates produced by the Seller and sold by the Seller to the Lender under the Commercial Contract, subject to the quantity tolerances set out in the Commercial Contract, conforming (including as to quality) with the terms and conditions of the Commercial Contract, and Materials shall be construed accordingly

Material Adverse Effect means the occurrence of any event which has a material adverse effect on:

- (a) the ability of the K92 Parent or the Seller to satisfy its payment obligations in full under any of the Transaction Documents;
- (b) the business, operations or financial conditions of the K92 Parent, taken as a whole; or

(c) the validity or enforceability of, or the effectiveness of any Transaction Document

Material Shortfall Event has the meaning given to it in clause 13.14(c) (*Value of Material*)

Maturity Date means the date which falls forty-eight (48) Months after the first Utilisation Date

Merger means any amalgamation, arrangement, merger or similar transaction pursuant to which the Seller or, as the case may be, the K92 Parent is acquired by or amalgamated with another person

Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if a Repayment Period begins on the last Business Day of a calendar month, that Repayment Period shall end on the last Business Day in the calendar month in which that Repayment Period is to end.

The above rules will only apply to the last Month of any period

Official Body means any nation or government, any state, provincial, territorial or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government including any applicable supranational bodies (such as the European Union or the European Central Bank)

Overnight SOFR means the secured overnight financing rate (SOFR) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published (before any correction, recalculation or republication by the administrator) by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate)

Party means a party to this Agreement

Quotation Day means in relation to any period for which an interest rate is to be determined, two US Government Securities Business Days before the first day of that period (unless market practice differs in the relevant syndicated loans market, in which case the Quotation Day will be

determined by the Lender in accordance with that market practice (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days))

Quoted Tenor means any period for which Term SOFR is customarily displayed on the relevant page or screen of an information service

Reference Rate means, in relation to any Loan:

- (a) Term SOFR as of 5:00 pm (Singapore time) and for a period equal in length to the Repayment Period of that Loan; or
- (b) as otherwise determined pursuant to clause 6.3 (*Unavailability of Term SOFR*),

and if, in either case, that rate is less than zero, the Reference Rate shall be deemed to be zero

Released Share Charge means the share security deed dated 28 February 2020 between K92 BVI as chargor and the Lender as chargee, which has been released pursuant to the deed of release dated 19 August 2022 between the K92 Parent, K92 BVI, the Seller and the Lender

Relevant Market means the market for overnight cash borrowing collateralised by US Government securities

Repayment Date means the dates identified in Schedule 3 (*Repayment Dates*) or from time to time such other replacement schedule as may be agreed by the K92 Parent and the Lender in writing

Repayment Instalment means, in relation to a Repayment Date, the amount set out in the column headed 'Repayment Instalment (USD)' for that Repayment Date in Schedule 3 (*Repayment Dates*) or from time to time in such other replacement schedule as may be agreed by the K92 Parent and the Lender in writing

Repayment Period means:

- (a) in relation to the first Repayment Period, period commencing on the first Utilisation Date up to and including the first Repayment Date; and
- (b) in relation to each subsequent Repayment Period, the period commencing on and from the Repayment Date immediately preceding such Repayment Period, up to and including the next Repayment Date

Sanctioned Country means, at any time, a country or territory which is the subject or target of any country-wide or territory-wide Sanctions broadly restricting or prohibiting dealings with such country, territory or government

Sanctioned Person means, at any time:

- (a) any person listed in any list (each such list as amended, supplemented or substituted from time to time) of specially designated nationals or designated persons or entities maintained by any Sanctions Authority;
- (b) any person who is 50% or more owned by or controlled by, any person or persons described in paragraph (a) of this definition; or
- (c) any person who is otherwise the subject of Sanctions

Sanctions means economic, financial or trade sanctions or embargoes enacted or imposed by law or regulation or other restrictive measure and administered or enforced from time to time by (a) the US government, (b) the United Nations Security Council, (c) the European Union or any of its member states' governments, (d) (following it ceasing to be a member state of the European Union) the United Kingdom, (e) the Republic of Singapore or (f) the State Secretariat for Economic Affairs of Switzerland acting through the respective governmental agencies of any of the foregoing (including through the Office of Foreign Assets Control of the U.S. Department of Treasury, the United States Department of State, the United States Department of Commerce and HM Treasury (each a **Sanctions Authority**))

Sanctions List means any person who is the subject of Sanctions (including as a result of being owned or controlled directly by such a person) and any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by:

- (a) the US government and administered by OFAC;
- (b) the United Nations Security Council;
- (c) the European Union;
- (d) a member state of the European Union;
- (e) the United Kingdom; or
- (f) the Republic of Singapore;

each such list and authority as amended, supplemented or substituted from time to time

Security means a mortgage, charge, assignment, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

Security Documents means:

- (a) the Share Charge (PNG law);

- (b) the Deed of Charge (PNG law);
- (c) the Tenement Mortgage (PNG law);
- (d) the BVI Share Mortgage; and
- (e) any other document designated as such by the Lender and the Seller

Share Charge (PNG law) means the charge over all of the shares of the Seller dated on or around the date of this Agreement and entered into by K92 BVI in favour of the Lender as chargee

Share Conversion Date means the date the Lender provides notice to the K92 Parent of the exercise of the Conversion Right

Subsidiary means, in respect of a company or corporation, any other company or corporation which is controlled, directly or indirectly by the first-mentioned company or corporation

Tax and Taxes means any tax, levy, impost, duty or other charge or withholding of a similar nature imposed by a government or governmental agency (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

Tenement has the meaning given to it in the Tenement Mortgage (PNG law)

Tenement Mortgage (PNG law) means the Papua New Guinean law governed tenement mortgage over the Seller's Tenements (other than the Exploration Licenses and the Landowner Project Equity Participation Rights) dated on or around the date of this Agreement and entered into by the Seller as mortgagor in favour of the Lender as mortgagee

Term SOFR means the term SOFR reference rate administered by CME Group Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant period published (before any correction, recalculation or republication by the administrator) by CME Group Benchmark Administration Limited (or any other person which takes over the publication of that rate)

Trading Day means each trading day on which the Toronto Stock Exchange is open for business

Transaction Documents means the Finance Documents and the Commercial Contract

Transaction Security means the Security created or evidenced or expressed to be created or evidenced under the Security Documents

Unpaid Sum means any sum due and payable but unpaid by any party (other than the Lender) under the Finance Documents

Upfront Fee means an upfront fee in an amount equal to [REDACTED] of the Loan to which such upfront fee relates, provided always that the aggregate of all Upfront Fees under this Agreement shall not exceed [REDACTED] of the Commitment on or after the CS Satisfaction Date [Redacted: Dollar amount and percentage relating to the upfront fee]

US Dollars, US\$ or USD means the lawful currency of the United States of America

US Government Securities Business Day means any day other than:

- (a) a Saturday or a Sunday; and
- (b) a day on which the Securities Industry and Financial Markets Association (or any successor organisation) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in US Government securities

Utilisation means a utilisation of the Loans, and **Utilise** shall be construed accordingly

Utilisation Date means the date on which a Utilisation is made

Utilisation Request means a notice substantially in the relevant form set out in Schedule 2 (*Form of Utilisation Request*).

1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the Seller, the Lender, the K92 Parent or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) a document in **agreed form** is a document which is previously agreed in writing between the K92 Parent and the Lender;
 - (iii) assets includes present and future properties, revenues and rights of every description and includes uncalled capital, excluding the Exploration Licenses;
 - (iv) a **certified copy** means, in relation to a document, a copy of that document bearing the endorsement "certified true copy" and which has been signed and dated by a duly authorised signatory or registered agent of the relevant company and which complies with that endorsement;
 - (v) any **Material** shall, as appropriate be construed as a reference to the whole of such Material or any one or more Materials that form part of that Material;
 - (vi) **control** in the case of the K92 Parent means:

(A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

- (1) cast more than 50 per cent of the maximum number of votes that may be cast at a general meeting of the K92 Parent;
- (2) appoint or remove all, or the majority, of the directors of the K92 Parent; and/or

(B) the holding of a beneficial interest in more than 50 per cent of the issued share capital of the K92 Parent,

and **controlled** and other similar expressions shall be construed accordingly in relation to the K92 Parent;

(vii) **control** in the case of the Seller or any other person, other than the K92 Parent, means:

(A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

- (1) cast, or control the casting of, more than 50 per cent of the maximum number of votes that may be cast at a general meeting of the Seller or such person; or
- (2) appoint or remove all, or the majority, of the directors or other equivalent officers of the Seller or such person; or
- (3) give directions with respect to the operating and financial policies of the Seller or such person with which the directors or other equivalent officers of the Seller or such person are obliged to comply; and/or

(B) the holding of a beneficial interest in more than 50 per cent of the issued share capital of the Seller or such person,

and **controlled** and other similar expressions shall be construed accordingly in relation to the Seller or any other person;

(viii) a **Finance Document**, the **Commercial Contract**, a **Transaction Document** or any other agreement or instrument is a reference to that Finance Document, the Commercial Contract, that Transaction Document or that other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and whether or

not more onerously, including but not limited to any provision for further loans and an increase in the size of the facility);

- (ix) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (x) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xii) a provision of law is a reference to that provision as amended or re-enacted;
 - (xiii) the singular includes the plural and vice versa; and
 - (xiv) a time of day is a reference to **Singapore time**, unless expressly provided otherwise.
- (b) Clause and Schedule headings are for ease of reference only and shall not affect the construction of this Agreement.
 - (c) References to clauses, paragraphs and Schedules are references to clauses, paragraphs and Schedules of this Agreement unless otherwise stated. References to this Agreement include its Schedules.
 - (d) Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - (e) Unless a contrary indication appears, a term used in any other Transaction Document or in any notice given under or in connection with any Transaction Document has the same meaning in that Transaction Document or notice as in this Agreement.
 - (f) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived in writing and an Event of Default is **continuing** if it has not been waived in writing, in each case to the satisfaction of the Lender, acting reasonably.

1.3 Third party rights

- (a) Except for the Lender's financing banks (or their security agents) to whom the rights of the Lender under this Agreement may be assigned as provided herein, and unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or enjoy the benefit of any term of this Agreement.
- (b) No consent of any person who is not a Party is required to rescind or vary this Agreement at any time.

2 THE LOANS

Subject to the terms of this Agreement, the Lender shall make the Loans to the K92 Parent in an aggregate amount equal to the Commitment.

3 PURPOSE

3.1 Purpose

The K92 Parent may only apply the Loans towards one or more of the following: (a) payment of any Upfront Fee; and (b) extension of intercompany loans to the Seller for the general corporate purposes, working capital purposes and capex purposes of the Seller in connection with the expansion of the Seller's Kora project.

3.2 Monitoring

The Lender shall be entitled (but not bound) to monitor or verify the application of the Loans and the K92 Parent shall provide such information, documents or evidence to the Lender as the Lender may reasonably request in its discretion for those purposes.

4 CONDITIONS PRECEDENT

4.1 Initial conditions precedent

The K92 Parent may not deliver a Utilisation Request unless the Lender receives, in form and substance satisfactory to it acting reasonably, all of the documents and other evidence referred to in Schedule 1 (*Conditions Precedent*), which conditions precedent are for the sole benefit of the Lender, and may be waived in writing by the Lender in whole or in part, and with or without conditions, on or before the first Utilisation Date without prejudicing the right of the Lender to require fulfilment of such conditions in whole or in part at any time thereafter. The Lender shall notify the K92 Parent as soon as practicable upon being so satisfied (the date of such notification, the **CP Satisfaction Date**).

4.2 Further conditions precedent

The Lender shall not be bound to comply with its obligations under this Agreement unless and until the following conditions are satisfied on the date of the relevant Utilisation Request and on the proposed Utilisation Date:

- (a) the representations and warranties set out in clause 12.1 (*Seller's and K92 Parent's Representations and Warranties*) are true in all material respects; and
- (b) no Default is continuing or would result from the proposed Utilisation.

5 UTILISATION AND FEES

5.1 Delivery of a Utilisation Request

The K92 Parent may request the advance of a Loan by delivery to the Lender of a duly completed Utilisation Request not later than 9:00 am on the Business Day before the proposed Utilisation Date.

5.2 Completion of a Utilisation Request

Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless the proposed Utilisation Date is a Business Day within the Availability Period.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request shall be US Dollars.
- (b) The amount specified in a Utilisation Request must be an amount which is not more than the Available Commitment and which is a minimum of [REDACTED] or, if less, the Available Commitment. **[Redacted: Minimum amount]**

5.4 Upfront Fee

On each Utilisation Date, the K92 Parent shall pay to the Lender an Upfront Fee from the proceeds of the Loan to which such Utilisation Date relates (by way of deduction from that Loan, such that the amount of that Loan paid by the Lender to the K92 Parent on the relevant Utilisation Date shall be the net amount equal to the amount set out in the Utilisation Request to which such Utilisation Date relates less the amount of the relevant Upfront Fee). Each Upfront Fee is payable independently and irrespective of any other payment or repayment obligations the Seller and/or the K92 Parent may have under the Transaction Documents to which it is a party and shall not in any event be applied to or reduce the outstanding amount of the Loans, any Repayment Instalment, or any other sums due to the Lender under the Transaction Documents.

5.5 Commitment fee

- (a) The K92 Parent shall pay to the Lender a fee computed and accruing on a daily basis, at the rate of [REDACTED] of the Available Commitment, at 5 pm (in Singapore) on each day of the Availability Period (or, if any such day shall not be a Business Day, at 5 pm (in Singapore) on the immediately preceding Business Day). **[Redacted: Interest rate]**
- (b) The accrued commitment fee is payable:
 - (i) on the last day of each successive period of three Months which ends during the Availability Period;
 - (ii) on the last day of the Availability Period; and
 - (iii) if the Commitment is reduced to zero before the last day of the Availability Period, on the day on which such reduction to zero becomes effective.
- (c) Notwithstanding clause 5.5(a) above, no commitment fee under this clause 5.5 shall be payable on the Available Commitment until the [REDACTED]
[REDACTED]
[REDACTED] **[Redacted: Conditions precedent]**

5.6 Cancellation of Commitment

To the extent the aggregate amount of the Commitment has not been utilised in full at the end of the Availability Period, the Commitment shall not be cancelled on the last day of the Availability Period but shall instead be cancelled on each Repayment Date by an amount equal to each Repayment Instalment due on such Repayment Date.

6 INTEREST

6.1 Calculation of interest

- (a) The rate of interest on each Loan for each Repayment Period is the percentage rate per annum which is the aggregate of the applicable:
 - [REDACTED] **[Redacted: Rate of interest]**
 - [REDACTED] **[Redacted: Rate of interest]**
- (b) Such interest shall be due and payable on each Repayment Date and shall be paid by the K92 Parent to the Lender in accordance with clause 7.1 (*Repayment*), clause 7.2 (*Schedule of repayment*) and/or clause 15.18 (*Acceleration*).

- (c) Such interest will accrue from day to day on such outstanding amount and is calculated on the basis of the actual number of days elapsed based on a year of 365 days.

6.2 Notification of rates of interest

- (a) The Lender shall promptly notify the K92 Parent of the determination of a rate of interest under this Agreement.
- (b) In respect of any Fallback Interest Payment, the Lender shall promptly upon a Fallback Interest Payment being determinable notify the K92 Parent of that Fallback Interest Payment.
- (c) The Lender shall promptly notify the K92 Parent of each Funding Rate relating to a Loan.
- (d) This clause 6.2 shall not require the Lender to make any notification to any Party on a day which is not a Business Day.

6.3 Unavailability of Term SOFR

- (a) *Interpolated Term SOFR*: If Term SOFR is not available for the Repayment Period of the relevant Loan, the Reference Rate for such Repayment Period shall be Interpolated Term SOFR for a period equal in length to the Repayment Period of that Loan.
- (b) *Historic Term SOFR*: If clause 6.3(a) above applies but Interpolated Term SOFR is not available for the Repayment Period of the relevant Loan, the Reference Rate for such Repayment Period shall be Historic Term SOFR for a period equal in length to the Repayment Period of that Loan.
- (c) *Interpolated Historic Term SOFR*: If clause 6.3(b) above applies but Historic Term SOFR is not available for the Repayment Period of the relevant Loan, the Reference Rate for such Repayment Period shall be Interpolated Historic Term SOFR for a period equal in length to the Repayment Period of that Loan.
- (d) *Cost of funds*: If clause 6.3(c) above applies but the Interpolated Historic Term SOFR is not available for the Repayment Period of the relevant Loan, there shall be no Reference Rate for that Loan and clause 6.5 (*Cost of funds*) shall apply to that Loan for that Repayment Period.

6.4 Market disruption

If before 5 p.m. in Singapore on the Business Day immediately following the Quotation Day for the relevant Repayment Period the K92 Parent receives a notification from the Lender that the cost to it of funding its participation in that Loan from whatever source it may reasonably select

would be in excess of the Market Disruption Rate then clause 6.5 (*Cost of funds*) shall apply to that Loan for the relevant Repayment Period.

6.5 Cost of funds

- (a) If this clause 6.5 applies, the rate of interest on the relevant Loan for the relevant Repayment Period shall be the percentage rate per annum which is the sum of:
 - (i) the Margin; and
 - (ii) the rate notified to the K92 Parent by the Lender as soon as practicable and in any event within three Business Days of the first day of that Repayment Period (or, if earlier, on the date falling three Business Days before the date on which interest is due to be paid in respect of that Repayment Period), to be that which expresses as a percentage rate per annum the cost to the Lender of funding that Loan from whatever source it may reasonably select.
- (b) If this clause 6.5 applies and the Lender or the K92 Parent so requires, the Lender and the K92 Parent shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of the Lender and the K92 Parent, be binding on all Parties.
- (d) If this clause 6.5 applies pursuant to clause 6.4 (*Market disruption*) and:
 - (i) the Lender's Funding Rate is less than the Market Disruption Rate; or
 - (ii) the Lender does not notify a rate by the time specified in clause 6.5(a)(ii) above,the cost to the Lender of funding that Loan for that Interest Period shall be deemed, for the purposes of clause 6.5(a) above, to be the Market Disruption Rate.

6.6 Notification to K92 Parent

If clause 6.5 (*Cost of funds*) applies the Lender shall, as soon as is practicable, notify the K92 Parent.

6.7 Break Costs

The K92 Parent shall, within [REDACTED] Business Days of demand by the Lender, pay to the Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the K92 Parent on a day other than the last day of a Repayment Period for that Loan or Unpaid Sum. **[Redacted: Number of days]**

7 REPAYMENT

7.1 Repayment

- (a) The K92 Parent shall repay the aggregate Loans in instalments by repaying on each Repayment Date an amount which reduces the amount of the outstanding Loans by the relevant Repayment Instalment set out opposite that Repayment Date in Schedule 3 (*Repayment Dates*). The K92 Parent shall, together with each Repayment Instalment, pay any interest accrued in accordance with clause 6, default interest and any other amounts due and payable by the K92 Parent to the Lender under the Finance Documents on each Repayment Date.
- (b) [REDACTED]
[REDACTED]
[REDACTED] Such amount of payment obligation suspended and deferred shall be known as the Deferred Payment Amount. Interest shall accrue on the outstanding amount of the Loan in accordance with clause 6 (*Interest*). [Redacted: Deferred payment terms]
- (c) The Deferred Payment Amount including all interest accrued during the [REDACTED] shall become payable in [REDACTED] equal instalments, each such instalment due on the [REDACTED] Repayment Dates immediately following the [REDACTED]. For the avoidance of doubt, interest shall continue to accrue on the outstanding amount of the Loan (including the principal component of the Deferred Payment Amount) during the [REDACTED] provided that no default interest or any interest on interest shall accrue on the Deferred Payment Amount during the [REDACTED] [Redacted: Deferred payment terms]

7.2 Schedule of repayment

- (a) The Parties may from time to time mutually agree in writing to a revised Schedule 3 (*Repayment Dates*), and thereupon the references to the Repayment Dates and Repayment Instalments shall be deemed to refer to the Repayment Dates and Repayment Instalments in such revised Schedule 3 (*Repayment Dates*).
- (b) The K92 Parent is entitled to voluntarily prepay the Indebtedness (in part or in full) in cash without penalty at any time, and from time to time, upon [REDACTED] Business Days' notice to the Lender. To the extent the K92 Parent makes a voluntary repayment of less than the full amount of Indebtedness, the repayment will be applied against the next Repayment Instalment on the relevant Repayment Date and, insofar as the amount repaid exceeds such Repayment Instalment, such excess shall be applied against the immediately following Repayment Instalment(s). [Redacted: Number of days]

7.3 Maturity Date

Notwithstanding anything contained in this Agreement, if the Indebtedness remains outstanding on the Maturity Date, the K92 Parent shall pay to the Lender in cash all such amounts on the Maturity Date (or, if not a Business Day, on the immediately preceding Business Day).

7.4 Payment to Lender

Payments to the Lender on account of the Indebtedness shall be made on the due date for value in readily available funds in US dollars to the account as from time to time may be notified by the Lender to the K92 Parent in writing.

7.5 No set-off by K92 Parent

Other than as set out in this Agreement, all payments to be made by the K92 Parent under the Transaction Documents to which it is a party shall be calculated and be made without (and free and clear of any) deduction, withholding, set-off or counterclaim.

7.6 Business Days

Unless expressly provided to the contrary, any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

7.7 Reborrowing and Cancellation of Commitment

- (a) The K92 Parent may not re-borrow any part of the Indebtedness which is repaid or prepaid by the K92 Parent hereunder.
- (b) If the Commitment is reduced in accordance with this Agreement, the amount of such reduction may not be subsequently reinstated.
- (c) If all or part of any Loan is repaid or prepaid and is not available for redrawing, an amount of the Commitment (equal to the amount of the relevant Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

8 DEFAULT INTEREST

If the K92 Parent fails to pay (or, for the avoidance of doubt, ensure that a Repayment Instalment is made in respect of) any amount payable by it under this Agreement on its due date or on the relevant Repayment Date (other than with respect to a Deferred Payment Amount) and such default is not cured within [REDACTED] of its due date, default interest shall accrue on the overdue amount from the due date or the relevant Repayment Date up to the date of actual payment (both before and after judgment) at the rate of [REDACTED] above the interest rate provided for in clause 6 (*Interest*). Any default interest shall be immediately due and payable by the K92

Parent on demand by the Lender to the extent not paid in accordance with clause 15.18 (Acceleration). **[Redacted: Interest rate and number of days]**

9 ILLEGALITY AND PREPAYMENT

9.1 Illegality

(a) If, at any time, it is or will become unlawful in any applicable jurisdiction for the Lender to perform any of its obligations as contemplated by this Agreement or any other Transaction Document (whether such obligation becomes unlawful generally or it is unlawful to perform such obligation in the manner contemplated in the relevant Transaction Document) or to fund, issue or maintain any Loan:

(i) the Commitment of the Lender will be immediately cancelled;

(ii) the K92 Parent shall immediately repay the outstanding balance of the aggregate Loans in cash, together with any interest, default interest and any other sums due under this Agreement; and

(iii) subject to the K92 Parent's compliance with clause 9.1(a)(ii) above, any Transaction Security granted by the Seller, the K92 Parent or any affiliate of the K92 Parent to the Lender pursuant to the terms of this Agreement, if any, shall be automatically released, discharged and deregistered without any further action by the Lender and the Lender shall forthwith execute any discharge or other documentation reasonably requested by the Seller or the K92 Parent (or any affiliate of the K92 Parent) in order to fully effect such release, discharge and deregistration.

(b)

[Redacted: Illegality terms]

(c) The termination of the Transaction Documents (or any of them) shall be without prejudice to any of the obligations or liabilities incurred by and rights and remedies (including delivery and payment obligations) accruing to the Parties which may be in existence or may have arisen prior to such termination and nothing in this Agreement shall prejudice the right of any party to recover any amount outstanding at such termination.

9.2 Mandatory prepayment – Sanctions and others

If the K92 Parent or the Seller is in breach of clause 12.1(n) (*Anti-corruption law and Sanctions*) and/or clause 12.1(o) (*Anti-Bribery and Corruption and AML*), the Lender may, by not less than [REDACTED] days' notice to the K92 Parent: **[Redacted: Number of days]**

- (a) cancel the Commitment, whereupon the Commitment of the Lender will be immediately cancelled; and
- (b) declare all Loans, together with accrued interest, default interest and all other amounts accrued under the Transactions Documents, to be due and payable, whereupon all such outstanding amounts will become due and payable on the date specified by the Lender.

9.3 Prepayment in accordance with Agreement

The K92 Parent shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement including under clause 7.2(b) or with the consent of the Lender.

10 COSTS AND EXPENSES

- (a) Subject to the pre-approval of the K92 Parent, which shall not be unreasonably withheld, the K92 Parent shall pay to the Lender on demand, all reasonable out of pocket expenses and costs of the Lender (including but not limited to legal fees to the maximum aggregate amount of [REDACTED] of counsel to the Lender) in connection with:
 - (i) the negotiation, preparation, amendment, printing, execution and registration of the Transaction Documents; and
 - (ii) collating, monitoring and otherwise attending to the conditions precedent to drawdown of any Loan.

[Redacted: Maximum dollar amount of expenses]

- (b) Subject to the pre-approval of the K92 Parent, which shall not be unreasonably withheld, the K92 Parent shall pay to the Lender on demand, all reasonable out of pocket expenses and costs of the Lender (including but not limited to legal fees of counsel to the Lender) in connection with:
 - (i) the enforcement or preservation or the attempted enforcement or preservation of any of the rights and powers of the Lender under the Transaction Documents; and

- (ii) any actual or proposed amendment of or supplement to any Transaction Document, or with any request to the Lender to grant any consent or waiver in respect of any provision of any Transaction Document, whether or not it is given.

11 LENDER PROTECTIONS

11.1 Tax gross-up

- (a) In this clause, Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document.
- (b) All payments by the K92 Parent and the Seller under the Finance Documents must be made without any Tax Deduction, unless a Tax Deduction is required by law.
- (c) If a Tax Deduction is required by law to be made by any of the K92 Parent and/or the Seller, then the K92 Parent and/or as the case may be, the Seller shall be entitled to make such Tax Deduction and the amount of the payment due from the K92 Parent and/or as the case may be, the Seller shall be increased to an amount which (after making any such Tax Deduction) leaves an amount equal to the payment which would have been due if no such Tax Deduction had been required.

11.2 Limitations of Liability

Without prejudice to the K92 Parent's obligations to pay any principal, interest, fees or other amount payable under this Agreement, the K92 Parent shall not be liable to the Lender for any of the following types of costs, losses or liabilities under the Transaction Documents: special, indirect, inconsequential, pure economic losses, loss of profits, loss of revenue, loss of contracts, loss of anticipated savings, loss of business, loss of use and loss of good will.

12 REPRESENTATIONS AND WARRANTIES

12.1 Seller's and K92 Parent's Representations and Warranties – General

The Seller and the K92 Parent each severally but not jointly represent and warrant to the Lender that each of the statements set out in this clause 12.1 are true, correct in all material respects and not misleading at all times when the representations and warranties are made or deemed to have been made in accordance with clause 12.3 (*Times when representations made*).

- (a) Status

The Seller is a limited liability company, duly incorporated and validly existing under the laws of Papua New Guinea with legal person status under the laws of Papua New Guinea, the K92 Parent is a company duly incorporated and validly existing under the laws of British

Columbia, Canada, and each of the Seller and the K92 Parent is capable of suing and being sued in its own name and has the full power, authority and capacity to enter into and perform its obligations under the Transaction Documents applicable to it.

(b) Binding obligations

The obligations of the Seller and the K92 Parent under the Transaction Documents applicable to each of them, respectively, are legal, valid, binding and enforceable obligations, subject to laws generally affecting creditors' rights and equitable principles.

(c) Non-conflict with other obligations

The entry into and performance by the Seller and the K92 Parent of, and the transactions contemplated by, the Transaction Documents applicable to each of them, respectively, including the issuance of the Conversion Shares, do not and will not conflict with:

- (i) any law or regulation applicable to the Seller or the K92 Parent;
- (ii) the Seller's or the K92 Parent's constitutional documents; or
- (iii) any agreement or instrument binding upon the Seller or the K92 Parent where such breach would reasonably be expected to have a Material Adverse Effect.

(d) Power and authority

- (i) Each of the Seller and the K92 Parent has the corporate power to enter into, perform and deliver, and has taken all necessary corporate action to authorise its entry into, performance and delivery of, the Transaction Documents applicable to each of them, respectively, and the transactions contemplated by those documents, including the issuance of the Conversion Shares.
- (ii) No limit on any of the Seller's or the K92 Parent's corporate powers (including borrowing powers) will be exceeded as a result of the advancing or giving of indemnities contemplated by the Transaction Documents.

(e) Validity and admissibility in evidence

- (i) Other than the approval by the Toronto Stock Exchange, all Authorisations required:
 - (A) to enable the Seller and the K92 Parent lawfully to enter into, exercise its rights and comply with its obligations under the Transaction Documents;
 - (B) to issue the Conversion Shares; and

- (C) to make the Transaction Documents admissible in evidence in any relevant jurisdictions,

have been obtained or effected or will be obtained or effected prior to its entry into such documents and are or will then be in full force and effect.

- (ii) All Authorisations necessary for the conduct of the Seller's or the K92 Parent's business have been obtained or effected and are in full force and effect, where failure to obtain that Authorisation would or is reasonably likely to have a Material Adverse Effect.

(f) Insolvency

No:

- (i) corporate action, legal proceeding or other procedure or step described in clause 15.6 (*Insolvency proceedings*); or
- (ii) creditors' process described in clause 15.7 (*Creditors' process*),

has been taken by or in respect of the Seller or the K92 Parent or, to the best of the Seller's and the K92 Parent's knowledge, threatened in relation to the Seller or the K92 Parent and none of the circumstances described in clause 15.5 (*Insolvency*) applies to the Seller or the K92 Parent. The K92 Parent is not an "insolvent person" within the meaning of the Bankruptcy and Insolvency Act (Canada), as amended from time to time.

(g) No Default

- (i) No Default is continuing nor, to the best of the Seller's and the K92 Parent's knowledge, is reasonably likely to result from the making of the Utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (ii) No other event or circumstance is outstanding which constitutes a default by the Seller or the K92 Parent under any other agreement or instrument which is binding on the Seller or the K92 Parent (or to which the Seller's or the K92 Parent's assets are subject) to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect.

(h) No proceedings pending or threatened

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which have or, if adversely determined, are reasonably likely

to have a Material Adverse Effect have been started or, to the best of the Seller's and the K92 Parent's knowledge, threatened against the Seller or the K92 Parent.

(i) Environmental laws

- (i) Each of the Seller and the K92 Parent is in compliance with clause 13.4 (*Environmental compliance*) in all material respects and to the best of the Seller's and the K92 Parent's knowledge, no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or would be reasonably likely to have a Material Adverse Effect.
- (ii) No Environmental Claim which has or would be reasonably likely to have a Material Adverse Effect has been commenced or, to the best of the Seller's and the K92 Parent's knowledge, threatened against the Seller and/or the K92 Parent.
- (iii) All consents, licences and approvals required under the Environmental Laws have been obtained and are currently in force, where failure to obtain such consent, licence or approval has or would be reasonably likely to have a Material Adverse Effect.

(j) Taxation

- (i) Neither the Seller nor the K92 Parent is overdue in the filing of any Tax returns and neither the Seller nor the K92 Parent is overdue in the payment of any amount in respect of Tax, which, in either case, has or would be reasonably likely to have a Material Adverse Effect.
- (ii) To the Seller's and the K92 Parent's knowledge, no claims or investigations, which have or would be reasonably likely to have a Material Adverse Effect, are being made or conducted against it with respect to Taxes of the Seller and/or the K92 Parent.
- (iii) The Seller is resident for Tax purposes only in Papua New Guinea.
- (iv) The K92 Parent is resident for Tax purposes only in Canada.

(k) No breach of laws

The Seller and the K92 Parent have complied in all material respects with applicable law and regulation where failure to so comply would or is reasonably likely to have a Material Adverse Effect.

(l) Good title to assets

- (i) The Seller and the K92 Parent have good, valid and marketable title to, or valid leases or licences of, and all required Authorisations to use, its respective assets necessary to carry on its business as presently conducted.
 - (ii) The Seller has the right to sell the Material to the Lender under the Commercial Contract and full title to the Material will pass to the Lender in accordance with the Commercial Contract free from any Security.
- (m) Insurance

To the best of the Seller's and the K92 Parent's knowledge, there is no:

- (i) outstanding insured loss or liability incurred by the Seller or the K92 Parent which is not expected to be covered to the full extent of that loss or liability which has or would be reasonably likely to have a Material Adverse Effect; and
 - (ii) non-disclosure, misrepresentation or breach of any term of any insurance contract to which the Seller or the K92 Parent is party which would entitle any insurer to repudiate, rescind or cancel such insurance contract or to treat such insurance contract as avoided in whole or in part or otherwise decline any valid claim under it by or on behalf the Seller or the K92 Parent, which has or would be reasonably likely to have a Material Adverse Effect.
- (n) Anti-corruption laws and Sanctions
 - (i) Each of the Seller and the K92 Parent has implemented and maintains in effect policies and procedures reasonably designed to ensure, in relation to its business activities, compliance by the Seller, the K92 Parent, each of their respective Subsidiaries and their respective directors, officers and employees with such Sanctions as are applicable to it in respect of each such business activity.
 - (ii) None of the Seller, the K92 Parent, any of their respective Subsidiaries or any of their or their respective directors or officers, or, to the knowledge of the Seller or (as the case may be) the K92 Parent, any of their respective employees is (A) a Sanctioned Person under paragraph (a) of the definition of that term or (B) 50% or more owned or controlled by, any person described in paragraph (b) of the definition of that term.
 - (iii) Each of the Seller and the K92 Parent shall comply in all respects in relation to their respective business activities with Sanctions that are applicable to it in respect of each such business activity.

- (iv) Each of the Seller and the K92 Parent shall not knowingly (having made reasonable enquiries) use (and shall ensure that none of their respective Subsidiaries shall use) any Loan for the purpose of financing or making funds available to any person or entity which is (A) a Sanctioned Person; or (B) located in a Sanctioned Country; if and to the extent such financing or provision of funds would be prohibited by Sanctions applicable to it or to the proceeds of any Loan (except where the transaction or other business has been authorized by a valid license issued by the appropriate Official Body(ies) under applicable Sanctions) or would otherwise, to the knowledge of the Seller or (as the case may be) the K92 Parent, cause the Lender in relation to the provision of funds, to be in breach of Sanctions applicable to the Lender.
 - (v) Each of the Seller and the K92 Parent shall not knowingly (having made reasonable inquiries) use any funds identified as derived directly from any activity or dealing with any person or entity which is (A) a Sanctioned Person; or (B) located in a Sanctioned Country; if and to the extent such activity or dealing with that Sanctioned Person or in such Sanctioned Country would be prohibited by Sanctions applicable to it or to the funds used (except where the transaction or other business has been authorized by a valid license issued by the appropriate Official Body(ies) under all such applicable Sanctions) or would otherwise, to the knowledge of the Seller or (as the case may be) the K92 Parent, cause the Lender to be in breach of Sanctions applicable to the Lender, for the purpose of discharging amounts owing to the Lender under this Agreement.
- (o) Anti-Bribery and Corruption and AML
- (i) Each of the Seller, the K92 Parent and each of their respective Affiliates has implemented and maintains adequate internal procedures designed to ensure that neither it, nor its directors, officers, or employees shall authorize the receiving, giving or offering of any financial or other advantage with the intention of inducing or rewarding an individual or entity to improperly perform an activity undertaken in the course of an individual's employment or connected to an entity's business activities (**Anti-Corruption Controls**).
 - (ii) In connection with the performance of this Agreement, each of the Seller, the K92 Parent and each of their respective Affiliates has not paid, received or authorized, and it will not pay, receive or authorize, any financial or other advantage or the offering thereof, to or for the benefit of any public official, civil servant, political party, political party official, candidate for office, or any other public or private individual or entity (including to the Lender, its Affiliates, officers, directors and employees), where such payment, receipt or authorization would violate the Anti-Corruption Controls.

(iii) Each of the Seller, the K92 Parent and each of their respective Subsidiaries has instituted and maintains reasonable and relevant policies and procedures designed to promote and achieve in relation to its business activities, compliance with all anti-money-laundering laws and regulations (including, without limitation, the Criminal Code (Canada), the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) and/or other similar laws and regulations in other relevant jurisdictions) which are applicable to it in respect of each such business activity.

(p) Full disclosure

All factual information provided by or on behalf of the Seller and the K92 Parent in connection with the Transaction Documents was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated and no information has been given or withheld that results in the information received being untrue or misleading in any material respect.

(q) No Security over Tenements

(i) No Security exists over all or any of the Tenements.

(ii) For the avoidance of doubt, this clause 12.1(q) does not apply to the Landowner Project Equity Participation Rights.

(r) Share Capital

As of the date hereof, the authorized share structure of the K92 Parent consists of an unlimited number of Common Shares, of which 234,322,462 are issued and outstanding. As of the date hereof, other than 7,903,850 share purchase options to acquire 7,903,850 Common Shares at prices between Cdn\$0.74 and Cdn\$8.02, 1,817,613 performance share units to acquire 1,817,613 Common Shares, and 1,631,487 restricted share units to acquire 1,631,487 Common Shares, there are no options, puts, calls, conversion privileges, warrants or other rights, entitlements, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by the K92 Parent of any securities of the K92 Parent (including Common Shares) or any securities or rights of any kind convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any securities of the K92 Parent, nor are there any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments. All outstanding Common Shares have been duly authorized and validly issued, are fully paid and non-assessable and are not subject to, nor were they issued in violation of, any pre-emptive rights.

(s) Market capitalisation

As at the date of this Agreement, the market capitalisation of the K92 Parent on the Toronto Stock Exchange is not less than Cdn\$500,000,000.

(t) Conversion Shares

Subject to Toronto Stock Exchange approval in respect thereof, the Conversion Shares to be issued to the Lender upon the exercise of the Conversion Right, will be duly authorized and, when issued, validly issued as fully paid and non-assessable shares in the capital of the K92 Parent, and will be registered in the name of the Lender and the Lender will have good title thereto free and clear of all liens other than any hold periods imposed under securities legislation. The Conversion Shares will be issued to the Lender in compliance with all applicable Canadian securities laws.

(u) Disclosure

There is no material fact or material change (as those terms are defined under applicable Canadian securities laws) affecting K92 Parent or its Subsidiaries required to have been disclosed under applicable Canadian securities laws that has not been disclosed to the public in accordance with applicable Canadian securities laws. For clarity, there currently exists no confidential filing of K92 Parent or its Subsidiaries with any securities regulators and K92 Parent has not provided any non-public material information to the Lender.

(v) Reporting Issuer Status

K92 Parent is a reporting issuer under the securities laws of the Provinces of British Columbia, Alberta and Ontario and it is in material compliance with applicable securities laws in such jurisdictions and is not listed as being in default of any requirement of the securities laws in any such province. No order ceasing or suspending trading in any securities nor prohibiting the sale of any securities of K92 Parent has been issued by any governmental authority or is outstanding against K92 Parent on and, to the knowledge of K92 Parent, no investigations or proceedings for such purposes are pending or threatened.

(w) Compliance with Toronto Stock Exchange Rules

The K92 Parent is in material compliance in with the rules and regulations of the Toronto Stock Exchange.

(x) Disclosure Controls

The K92 Parent maintains an effective system of “disclosure controls and procedures” (as defined in National Instrument 52-109 – Certification of Disclosure in Issuers’ Annual and Interim Filings (**NI 52-109**)) that are designed to provide reasonable assurance that information required to be disclosed by K92 Parent in reports that it files or submits under

securities laws is recorded, processed, summarized and reported within the time periods specified in the Securities Commissions' rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to K92 Parent's management as appropriate to allow timely decisions regarding required disclosure. K92 Parent has carried out evaluations of the effectiveness of its disclosure controls and procedures as contemplated under NI 52-109.

(y) Accounting Controls

K92 Parent maintains systems of "internal control over financial reporting" (as defined in NI 52-109) that materially comply with the requirements of NI 52-109 and have been designed by, or under the supervision of, K92 Parent's principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Since the date of the most recent balance sheet of K92 Parent publicly disclosed by the K92 Parent, K92 Parent's auditors and the audit committee of its board of directors have not been advised of: (A) any significant deficiencies in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the K92 Parent's ability to record, process, summarize and report financial information; and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in K92 Parent's internal control over financial reporting. Except as publicly disclosed by K92 Parent, to K92 Parent's knowledge after reasonable inquiry, there are no material weaknesses in K92 Parent's internal controls.

(z) No Cease Trade Orders

No order ceasing or suspending trading in securities of the K92 Parent or prohibiting the sale of securities by K92 Parent has been issued and the K92 Parent 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.

12.2 Lender's Representations and Warranties – General

The Lender represents and warrants to each of the Seller and the K92 Parent that each of the statements set out in this clause 12.2 are true, correct in all material respects and not misleading at all times when the representations and warranties are made or deemed to have been made in accordance with clause 12.3 (*Times when representations made*).

(a) Status

The Lender is a company, duly incorporated and validly existing under the laws of Singapore and has full power, authority and capacity to enter into and perform its obligations under the Transaction Documents.

(b) Binding obligations

The obligations of the Lender under the Transaction Documents are legal, valid, binding and enforceable obligations, subject to laws generally affecting creditors' rights and equitable principles.

(c) Non-conflict with other obligations

The entry into and performance by the Lender of, and the transactions contemplated by, the Transaction Documents do not and will not conflict with:

- (i) any law or regulation applicable to the Lender;
- (ii) the Lender's constitutional documents; or
- (iii) any agreement or instrument binding upon the Lender where such breach would reasonably be expected to have a material adverse effect on the Lender's ability to perform its obligations under the Transaction Documents.

(d) Power and authority

The Lender has the corporate power to enter into, perform and deliver, and has taken all necessary corporate action to authorise its entry into, performance and delivery of, the Transaction Documents and the transactions contemplated by those documents.

(e) Validity and admissibility in evidence

All Authorisations required:

- (i) to enable the Lender lawfully to enter into, exercise its rights and comply with its obligations under the Transaction Documents; and
- (ii) to make the Transaction Documents admissible in evidence in any relevant jurisdictions,

have been obtained or effected or will be obtained or effected prior to its entry into such documents and are or will then be in full force and effect.

(f) Representations Relating to Conversion Right

In respect of the Conversion Right:

- (i) any Conversion Shares will be acquired by the Lender as principal for the Lender's own account and not for the benefit of any other person;
- (ii) the Lender understands that the certificates evidencing the Conversion Shares will bear the following legend:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE **[DATE THAT IS 4 MONTHS AND A DAY AFTER ISSUANCE OF THE SECURITY]**;"

- (iii) the Lender will acquire any Conversion Shares, pursuant to exemptions from the prospectus and registration requirements under its jurisdiction of residence, or, if such is not applicable, the Lender is permitted to acquire the Conversion Shares under the applicable securities laws of its jurisdiction of residence without the need to rely on any exemption and the acquisition of any Conversion Shares does not contravene any applicable securities laws of the Lender's jurisdiction of residence and does not require the K92 Parent to seek any approvals of any nature whatsoever from any Governmental Agency in its jurisdiction of residence; and
- (iv) the Lender is an accredited investor as defined under National Instrument 45-106 "Prospectus Exemptions" of the Canadian Securities Administrators by virtue of the fact that it is a person, other than an individual or investment fund, that has net assets of at least Cdn\$5,000,000 as shown on its most recently prepared financial statements.

12.3 Times when representations made

- (a) All the representations and warranties in this clause 12 (*Representations and Warranties*) other than clause 12.2(f) (*Representations Relating to Conversion Rights*) are made by the Seller, the K92 Parent or the Lender, as applicable, on the date of this Agreement and repeated on the date of each Utilisation Request, each Utilisation Date and each Repayment Date and in the case of the representation and warranty of the Lender in clause 12.2(f) (*Representations Relating to Conversion Rights*), is made on the date, if applicable, of exercise of the Conversion Right.
- (b) Each representation or warranty deemed to be made after the date of this Agreement shall, unless otherwise indicated, be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

13 UNDERTAKINGS

13.1 Duration of undertakings

The undertakings in this clause 13 remain in force from the date of this Agreement for so long as any amount is outstanding from the K92 Parent and the Seller under the Finance Documents.

13.2 Authorisations

The Seller and the K92 Parent shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect and supply to the Lender, upon request, certified copies of any Authorisation required under any law or regulation to:

- (a) enable it to perform its obligations under the Transaction Documents;
- (b) ensure the legality, validity, enforceability or admissibility in evidence of the Transaction Documents; and
- (c) carry on its business.

13.3 Compliance

- (a) Each of the Seller and the K92 Parent shall comply in all material respects with all laws and regulations to which it may be subject, if failure so to comply has or would be reasonably likely to have a Material Adverse Effect.
- (b) Each of the Seller and the K92 Parent shall comply in all material respects with each and any provision of the Transaction Documents to which it is a party.
- (c) The K92 Parent shall make all filings, notices, statements, submissions of information, applications or other documents required by the Toronto Stock Exchange in connection with the transactions contemplated in the Transaction Documents, including to obtain the final approval by the Toronto Stock Exchange of the issuance of the Conversion Shares promptly following the determination of the initial Conversion Price, other than such approval as relates to the Conversion Shares issuable pursuant to payment of accrued interest, default interest and other amounts outstanding, if applicable, for which Conversion Shares approval shall be obtained at the time of issuance of such Conversion Shares.

13.4 Environmental compliance

Each of the Seller and the K92 Parent shall:

- (a) comply with all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits (including the Export License); and

- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

in each case if failure so to do so has or would be reasonably likely to have a Material Adverse Effect.

13.5 Environmental Claims

Each of the Seller and the K92 Parent shall, promptly upon becoming aware of the same, inform the Lender in writing of:

- (a) any Environmental Claim against it which is current, pending or threatened and which has or, if substantiated, would be reasonably likely to have a Material Adverse Effect; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim which has or, if substantiated, would be reasonably likely to have a Material Adverse Effect being commenced or threatened against it.

13.6 Anti-corruption law and Sanctions

- (a) Neither the Seller nor the K92 Parent shall knowingly use, directly or indirectly, the proceeds of any Loan for any purpose that would breach the United Kingdom Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) and/or the United Nations Act (Canada) or other similar legislation in other relevant jurisdictions.
- (b) Each of the Seller and the K92 Parent shall:
 - (i) conduct its businesses in compliance with applicable anti-corruption laws and anti-money-laundering laws (including, without limitation, the Criminal Code (Canada), the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada), the United Nations Act (Canada) and/or other similar laws in other relevant jurisdictions); and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with these laws.
- (c) Each of the Seller and the K92 Parent shall:
 - (i) comply in all respects with Sanctions that are applicable to it;
 - (ii) not knowingly use (and shall ensure that none of its Affiliates shall use) the proceeds of any Loan for the purpose of financing or making funds available to any person or entity which is listed on a Sanctions List or located in a Sanctioned Country, if and

to the extent such financing or provision of funds would be prohibited by applicable Sanctions or would otherwise, to the knowledge of the Seller and/or the K92 Parent, cause the Lender to be in breach of Sanctions applicable to the Lender; and

- (iii) not knowingly use any funds identified as derived directly from any activity or dealing with any person or entity which is listed on a Sanctions List for the purpose of discharging amounts owing to the Lender under the Transaction Documents to the extent such provision of funds would cause the Lender to be in breach of Sanctions applicable to the Lender.

13.7 Taxation

The Seller and the K92 Parent shall pay and discharge all Taxes imposed upon it or its assets within the time periods allowed without incurring penalties unless and only to the extent that:

- (a) such payment is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them;
- (c) such payment can be lawfully withheld; and
- (d) the withholding of such payment does not or will not have a Material Adverse Effect.

13.8 *Pari passu* ranking

Each of the Seller and the K92 Parent shall ensure that at all times any claims of the Lender against it under the Transaction Documents applicable to it will rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

13.9 No change of business

Each of the Seller and the K92 Parent shall ensure that no change is made to the general nature of its business from that carried on by it at the date of this Agreement.

13.10 No Merger

- (a) Subject to clause 13.10(b), neither the Seller nor the K92 Parent shall enter into any Merger.
- (b) Clause 13.10(a) shall not apply to any Merger if such Merger is not reasonably likely to materially prejudice the rights of the Lender under any Transaction Document.

13.11 Negative pledge

- (a) Subject to clause 13.11(c), neither the Seller nor the K92 Parent shall create, or permit to exist, any Security over, or affecting, any of its assets, including but not limited to the Transaction Documents or Material being produced, stored, or delivered on account of the Commercial Contract (or any part thereof).
- (b) Subject to clause 13.11(c), neither the Seller nor the K92 Parent shall:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are **or may be** leased to or re-acquired by the Seller, the K92 Parent or any of their Affiliates;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms (except for the discounting of bills or notes in the ordinary course of business);
 - (iii) enter into or permit to subsist any title retention arrangement;
 - (iv) other than in connection with payments made by the Seller or the K92 Parent to certain holders of royalties, enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (v) enter into or permit to subsist any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset (each, a **Quasi-Security**).
- (c) Clauses 13.11(a) and 13.11(b) above do not apply to any Security or as the case may be, Quasi-Security listed below:
 - (i) the Transaction Security, if granted;
 - (ii) any Security or Quasi-Security disclosed to the Lender in writing as of the date of this Agreement;
 - (iii) any lien arising by operation of law and in the ordinary course of trading provided that the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
 - (iv) any Security or Quasi-Security created pursuant to any Finance Document;

- (v) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Seller in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by the Seller;
 - (vi) the obligations of the Seller in respect of the Landowner Project Equity Participation Rights; or
 - (vii) any Security or as the case may be, Quasi-Security created over the Exploration Licenses.
- (d) Without prejudice to the Seller's obligation to deliver Material under the Commercial Contract, the Seller:
- (i) shall not enter into any other supply or export contracts of concentrates; and
 - (ii) may enter into any other supply or export contracts (which do not relate to the supply or export of concentrates and do not fall within clause 13.11(d)(i)) provided that such contracts are on an arm's length basis.

13.12 Disposal

- (a) Subject to clause 13.12(b), neither the Seller nor the K92 Parent shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Clause 13.12(a) shall not apply to any sale, lease, transfer or other disposal of:
 - (i) Exploration Licenses;
 - (ii) assets which are not related to the Transaction Documents;
 - (iii) assets in the ordinary course of business;
 - (iv) assets as permitted under the Transaction Documents;
 - (v) assets for cash where the value and net consideration receivable (when aggregated with the higher of the market value and net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs) does not exceed [REDACTED] in any Financial Year of the Seller; and [Redacted: Dollar amount]

- (vi) the obligations of the Seller pursuant to the Landowner Project Equity Participation Rights.
- (c) The parties agree that for the purposes of determining the value of any particular asset, a determination by the Seller, acting reasonably, shall be binding upon the parties.

13.13 Insurances

The Seller and the K92 Parent shall take out, maintain, comply with the terms of and not invalidate, insurances (with reputable independent insurance companies or underwriters) on and in relation to its respective business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

13.14 Value of Material

- (a) The Seller undertakes that at all times, from the date of this Agreement through and including the Maturity Date or earlier repayment of the Indebtedness, the value of the Material to be delivered (but not yet delivered) under the Commercial Contract shall be equal to or greater than 150 per cent of the aggregate of the outstanding balance of the Loans (**Coverage Ratio**).
- (b) For the purposes of this clause, the value of the Material remaining to be delivered under the Commercial Contract shall be the product of (A) the quantity of the Material to be delivered under the Commercial Contract but not yet delivered and (B) the price of the Material, such price to be determined in accordance with clause 10 (*Price*) of the Commercial Contract, priced on the assumptions that: (i) the Month of scheduled shipment for all Material remaining to be delivered under the Commercial Contract is the Month in which the value of the Material is assessed; and (ii) the quotational period for pricing the Material (and each metal in such Material) is the Month of scheduled shipment, or if the relevant pricing information as required under the Commercial Contract is not available at such time, the most recently available pricing information.
- (c) If at any time the value of the Material remaining to be delivered under the Commercial Contract, falls below the Coverage Ratio set out in clause 13.14(a) (a **Material Shortfall Event**), the Lender shall notify the Seller and the Lender shall have the option to require the K92 Parent to immediately repay to the Lender that portion of the Loans required so that after such payment (taking into account the value of the Material remaining to be delivered under the Commercial Contract) the Coverage Ratio is satisfied (**Mandatory Prepayment Amount**). The K92 Parent must pay the Mandatory Prepayment Amount to the Lender within three Business Days of such notice.
- (d) The liability of the Seller and the K92 Parent to comply with its obligations under clause 13.14(a) shall apply at all times.

13.15 Further assurance

The Seller and the K92 Parent shall at its own expense promptly do all such acts or execute all such documents as the Lender may reasonably specify (and in such form as the Lender may reasonably require) to give effect to the Transaction Documents and the transactions contemplated hereby.

13.16 Ranking of Security

The Seller and the K92 Parent shall ensure that (a) all of the Security Documents are promptly registered and perfected as first-ranking security (subject to the de-registration (howsoever described) of the online notice of the Released Share Charge from the Personal Property Securities Registry in Papua New Guinea) and (b) none of the Transaction Security is subject to any prior ranking or *pari passu* ranking Security.

13.17 Conditions subsequent

(a) If the Seller executes and delivers the Security Documents as referred to in clause 4 (*Conditions precedent*), then:

(i) the Lender shall take all steps reasonably necessary to ensure the enforceability and perfection of the security interests created by the Security Documents (including registering the Security Documents where applicable) and the Seller shall cooperate and take all action reasonably requested by the Lender in connection therewith; and

(ii) upon the K92 Parent or the Seller providing evidence in form and substance satisfactory to the Lender (acting reasonably) that all of the Security Documents have been registered and perfected as first-ranking security (subject to the de-registration (howsoever described) of the online notice of the Released Share Charge from the Personal Property Securities Registry in Papua New Guinea), then:

(A) the Conversion Rights shall immediately and automatically terminate and be of no further force or effect (the **Conversion Right Expiry**); and

(B) the Transaction Security taken by the Lender under the BVI Share Mortgage shall be automatically released,

in each case, without any action being required by the Lender, the K92 Parent, K92 BVI or the Seller provided that the Lender will execute any documents reasonably requested by the K92 Parent or the Seller in order to properly and further effect same.

(b) Without prejudice to clause 13.17(a), the K92 Parent shall deliver to the Lender:

- (i) by no later than the date falling 10 Business Days after the date of this Agreement:
 - (A) a certified true copy of the updated BVI Register of Charges (as defined in the Share Charge (PNG law)) reflecting the security interests created pursuant to the Share Charge (PNG law);
 - (B) a copy of the certificate of registration of charge issued by the Registrar of Corporate Affairs evidencing the registration of the Share Charge (PNG law);
 - (C) evidence satisfactory to the Lender that the Deed of Charge (PNG law) has been registered on the Personal Property Securities Registry in Papua New Guinea. The K92 Parent shall also transcribe securely and store with Leahy Lewin Lowing Sullivan the release codes for the Deed of Charge (PNG law); and
 - (D) evidence satisfactory to the Lender that the Seller has made an application to the Registrar of Tenements and the Mining Advisory Council for Ministerial Approval of the Tenement Mortgage (PNG law); and
- (ii) as soon as reasonably possible after the date of this Agreement (and in any event by no later than the date falling 180 days after the date of this Agreement), evidence that the relevant mining tenements under the Deed of Charge (PNG law) and the Tenement Mortgage (PNG law) have been registered pursuant to section 119 of the Mining Act of Papua New Guinea.

The Lender shall notify the K92 Parent as soon as practicable upon being satisfied that it has received all of the documents and other evidence referred to in this clause 13.17(b) (the date of such notification, the **CS Satisfaction Date**).

- (c) The K92 Parent shall:
 - (i) ensure that, at all times prior to the CS Satisfaction Date whilst the Tenement Mortgage (PNG law) remains awaiting Ministerial approval and is unregistered, caveats are lodged at the Mineral Resources Authority in relation to the relevant mining tenements under the Deed of Charge (PNG law) and the Tenement Mortgage (PNG law) pursuant to section 129 of the Mining Act of Papua New Guinea to protect the Lender's interest granted pursuant to the Tenement Mortgage (PNG law); and
 - (ii) supply to the Lender, upon request, evidence satisfactory to it acting reasonably that such caveats have been lodged.
- (d) Upon or at any time following the Conversion Right Expiry, the Lender:

- (i) shall give effect to the release of the Transaction Security granted under the BVI Share Mortgage as set out in clause 13.17(a)(ii)(B) and take such steps as are reasonably requested by the K92 Parent (at the cost of the K92 Parent) to give effect to any such release (including but not limited to entering into a deed of release relating to the BVI Share Mortgage);
 - (ii) shall return all original share certificates (if any) and return or confirm destruction of (if appropriate) documents delivered in connection with the Transaction Security under the BVI Share Mortgage; and
 - (iii) confirms and approves of the removal of the annotation in the register of members of K92 BVI relating to the BVI Share Mortgage.
- (e) The Lender shall (at the cost of the K92 Parent) take all steps reasonably necessary to ensure the de-registration (howsoever described) of the online notice of the Released Share Charge from the Personal Property Securities Registry in Papua New Guinea and the K92 Parent shall only be responsible for the filing fees of the public registry associated therewith.

13.18 Covenant to issue Common Shares

- (a) Upon exercise of the Conversion Right, the K92 Parent will within [REDACTED] Business Days issue to the Lender such number of Conversion Shares at the Conversion Price as the Lender is then entitled upon conversion of the Loans and, as soon as reasonably practicable, will deliver to the Lender a certificate for such Conversion Shares. The K92 Parent shall not be required to issue any fractional Common Shares upon exercise of the Conversion Right. If any fractional interest in a Common Share, except for the provisions of this clause 13.18, be deliverable upon exercise of the Conversion Right, such number of Conversion Shares shall be rounded down to the next whole number. **[Redacted: Number of days]**
- (b) The K92 Parent covenants with the Lender that all Conversion Shares (i) will, when issued, be duly and validly issued as fully-paid and non-assessable and not subject to, nor issued in violation of, any pre-emptive rights and (ii) will bear a legend as follows:

“Unless permitted under securities legislation, the holder of this security must not trade the security before [insert the date that is four months and a day after the distribution date].”

13.19 Adjustment of Conversion Price and Conversion Shares

Subject to the requirements of the Toronto Stock Exchange, the Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below:

- (a) If and whenever at any time prior to the Conversion Right Expiry the K92 Parent shall:

- (i) subdivide or redivide the outstanding Common Shares into a greater number of Common Shares;
- (ii) reduce, combine or consolidate the outstanding Common Shares into a smaller number of Common Shares; or
- (iii) issue Common Shares to the holders of all or substantially all of the outstanding Common Shares by way of a stock dividend (other than the issue of Common Shares to holders of Common Shares who have elected to receive dividends in the form of Common Shares in lieu of cash dividends),

the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Common Shares by way of a stock dividend, as the case may be, shall in the case of any of the events referred to in clauses 13.19(a)(i) and 13.19(a)(iii) above be decreased in proportion to the number of outstanding Common Shares resulting from such subdivision, redivision or stock dividend, or shall in the case of any of the events referred to in clause 13.19(a)(ii) above, be increased in proportion to the outstanding Common Shares resulting from such reduction, combination or consolidation. Any such issue of Common Shares by way of a stock dividend shall be deemed to have been made on the record date for the stock dividend for the purpose of calculating the number of outstanding Common Shares under this clause 13.19(a). Upon any adjustment to the Conversion Price as set out in this clause 13.19(a), the number of Common Shares to be issued upon conversion shall, in the case of any of the events referred to in clause 13.19(a)(i) or 13.19(a)(iii) above, be increased in proportion to the number of outstanding Common Shares resulting from such subdivision, redivision or stock dividend, or shall, in the case of any of the events referred to in (ii) above, be decreased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation. Any issue of Common Shares by way of a dividend shall be deemed to have been made on the record date fixed for the dividend for the purpose of calculating the number of outstanding Common Shares under this clause 13.19(a).

- (b) If and whenever at any time prior to the Conversion Right Expiry, the K92 Parent pays any dividend on the Common Shares other than a dividend referred to under clause 13.19(a) (whether in cash or other property) or issues to all or substantially all holders of the Common Shares any rights, options or warrants (other than pursuant to a stockholders rights plan) entitling them to subscribe for or purchase Common Shares at a price per share that is less than the last closing price of Common Shares before either the issuance of such rights, options or warrants or the news release announcing such issuance, the Conversion Price in effect on the effective date of such dividend or issuance shall be decreased in proportion to the aggregate fair market value of such dividend or the discount to such

market price and the number of outstanding Common Shares that would result from the exercise in full of such rights, options or warrants.

- (c) If and whenever at any time prior to the Conversion Right Expiry, there is a reclassification of the Common Shares or the K92 Parent undertakes any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other person whether by way of arrangement, reorganization, consolidation, amalgamation, merger, continuance under any other jurisdiction of incorporation or otherwise (in each case a **Corporate Reorganization**) other than in both cases as described in clause 13.19(a) or, in the case of a Corporate Reorganization, a Corporate Reorganization which does not result in a reclassification of the Common Shares, the Lender shall be entitled to receive upon conversion and shall accept, in lieu of the number of Common Shares to which it was previously entitled upon exercise of the Conversion Right, the kind and amount of shares or other securities or property which the Lender would have been entitled to receive as a result of the Corporate Reorganization if, on the effective date, the Lender had been the registered holder of the number of Common Shares to which it would have been entitled to acquire upon the exercise of the Conversion Right.
- (d) In any case in which this clause 13.19 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the K92 Parent may defer, until the occurrence of such event, issuing to the Lender after such record date and before the occurrence of such event the additional Conversion Shares issuable upon exercise of the Conversion Right by reason of the adjustment required by such event before giving effect to such adjustment.
- (e) The adjustments provided for in this clause 13.19 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this clause, provided that, notwithstanding any other provision of this clause, no adjustment of the Conversion Price shall be required unless the cumulative effect of such adjustments would require an increase or decrease of at least one per cent in the Conversion Price then in effect.
- (f) For the purpose of calculating the number of Common Shares outstanding, Common Shares owned by or for the benefit of the Lender shall not be counted.
- (g) If any question arises with respect to the adjustments provided in this clause 13.19, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the K92 Parent and acceptable to the Lender. Such chartered accountants shall be given access to all necessary records of the K92 Parent and their determination shall be binding upon the Lender and the K92 Parent.

- (h) Except as stated above in this clause 13.19, no adjustment will be made in the Conversion Price as a result of the issuance of Common Shares at less than the fair market value for such Common Shares on the date of issuance.
- (i) The K92 Parent shall not be required to issue fractional Common Shares upon the conversion. If any fractional interest in a Common Share would, except for the provisions of this clause 13.19, be deliverable upon the exercise of the Conversion Right, such number of Conversion Shares to which the Lender shall be entitled shall be rounded down to the next whole number.
- (j) For greatly certainty, an adjustment required under this clause 13.19 due to a Corporate Reorganization will not in and of itself be considered to materially prejudice the right of the Lender under any Transaction Document pursuant to clause 13.10.

14 INFORMATION UNDERTAKINGS

14.1 Duration of undertakings

The undertakings in this clause 14 remain in force from the date of this Agreement for so long as any amount is outstanding by the K92 Parent and the Seller under the Finance Documents.

14.2 Financial statements

If the shares in the capital of the K92 Parent cease to be listed on the Toronto Stock Exchange, each of the Seller and the K92 Parent shall supply to the Lender:

- (a) as soon as they are available, but in any event within 120 calendar days after the end of each Financial Year, its audited financial statements for that Financial Year; and
- (b) as soon as they are available, but in any event within 60 calendar days after the end of each quarter of each Financial Year, its management accounts for that quarter of the Financial Year.

14.3 Information: miscellaneous

Each of the Seller and the K92 Parent shall supply to the Lender:

- (a) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Seller and/or the K92 Parent and which might, if adversely determined, result in a cost to it of more than [REDACTED] (or its equivalent in any other currency) or might have a Material Adverse Effect; [Redacted: Dollar amount]

- (b) promptly upon becoming aware of them, the details of any Force Majeure or any events which might have a Material Adverse Effect;
- (c) promptly, such information as the Lender may reasonably require regarding the compliance by the Seller and/or the K92 Parent with the terms of any Transaction Document;
- (d) promptly, a notice of any transaction or event giving rise to any adjustment to the Conversion Price or number of Conversion Shares to be issued pursuant to clause 13.19, including details thereof; and
- (e) promptly, a notice of any other transaction or event resulting in any material change to the share capital of the K92 Parent.

14.4 Notification of default

Each of the Seller and the K92 Parent shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

14.5 Other reporting and access for Lender's technical team

Each of the Seller and the K92 Parent shall: (i) keep true and accurate reports relating to the Transaction Documents and the business and financial conditions of the Seller and the K92 Parent; and (ii) permit the Lender and the Lender's technical team, including but not limited to accountants or other professional advisers and contractors of the Lender, access to such reports referred to in (i) above during reasonable hours following reasonable notice, provided that the Lender must comply with all reasonable direction and requirements of the Seller or, as the case may be, the K92 Parent with respect to occupational, health and safety at the site.

14.6 Public announcement

Each of the Seller and the K92 Parent shall ensure that no public announcement of the transactions contemplated by the Transaction Documents may be made by the Seller, the K92 Parent, K92 BVI and/or any of their Affiliates without the prior written consent of the Lender, except as required by law or the rules and policies of any stock exchange.

15 EVENTS OF DEFAULT

15.1 General

Each of the events or circumstances set out in this clause 15 is an Event of Default (save for clause 15.18 (*Acceleration*)).

15.2 Non-payment

(a) Subject to clause 15.19 (*Remedy*), the K92 Parent does not pay on the due date any amount payable pursuant to this Agreement at the place at and in the currency in which it is expressed to be payable unless payment is made within three days of its original due date.

(b) Subject to clause 15.19 (*Remedy*), [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [Redacted: Non-payment terms]

15.3 Undertakings

Either of the Seller or the K92 Parent does not materially comply with any provision(s) of clause 13 (*Undertakings*) or any other provisions of the Transaction Documents to which it is a party unless the same is capable of remedy and is remedied within [REDACTED] or such longer period of time the parties may agree to, from the earlier of (i) the Lender giving notice to the Seller and (ii) the Seller or the K92 Parent becoming aware of the failure to comply. [Redacted: Number of days]

15.4 Misrepresentation

Any representation or statement made by the Seller or the K92 Parent in the Transaction Documents or any other document delivered by or on behalf of the Seller or the K92 Parent under or in connection with the Transaction Documents is or proves to have been materially incorrect or misleading in any material respect when made or deemed to be made, unless the circumstances giving rise to misrepresentation are capable of remedy and are remedied within [REDACTED] or such longer period of time the parties may agree to, from the earlier of (a) the Lender giving notice to the Seller and (b) the Seller or the K92 Parent becoming aware of the misrepresentation, or such longer period of time as the Lender shall agree. [Redacted: Number of days]

15.5 Insolvency

- (a) Subject to clause 15.19 (*Remedy*), either of the Seller or the K92 Parent is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) Subject to clause 15.19 (*Remedy*), the value of the assets of the Seller or the K92 Parent is less than its liabilities (taking into account contingent and prospective liabilities) on a consolidated basis.
- (c) A moratorium is declared in respect of any indebtedness of the Seller or the K92 Parent. If a moratorium occurs, the ending of the moratorium will remedy any Event of Default caused

by that moratorium with effect from the ending of that moratorium, provided that the rights of the Lender under the Transaction Documents are not and do not continue to be prejudiced in any material respect by the ending of such moratorium.

15.6 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (i) other than payments contested in good faith by the Seller or the K92 Parent, the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, provisional suspension, institution of any proceedings relating to bankruptcy, insolvency or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Seller or the K92 Parent;
 - (ii) the making of a filing under the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada) or the Winding-up and Restructuring Act (Canada) or any filing to effect a reorganization under applicable corporate statute;
 - (iii) a composition, compromise, assignment or arrangement with any creditor of the Seller or the K92 Parent;
 - (iv) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, provisional supervisor, trustee in bankruptcy or other similar officer in respect of the Seller, the K92 Parent or any of their assets; or
 - (v) enforcement of any Security over any assets of the Seller or the K92 Parent,
- or any analogous procedure or step is taken in any jurisdiction.
- (b) Clause 15.6(a) above shall not apply to winding-up petition which is dismissed within [REDACTED] of commencement. [Redacted: Number of days]

15.7 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Seller or the K92 Parent and is not discharged within [REDACTED]. [Redacted: Number of days]

15.8 Unlawfulness, Sanctions and invalidity

- (a) It is or becomes unlawful for the Seller or the K92 Parent to perform any of its obligations under the Transaction Documents applicable to each of them.

- (b) Any obligation of the Seller or the K92 Parent under the Transaction Documents is not or ceases to be legal, valid, binding or enforceable.
- (c) Any Transaction Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Lender) to be ineffective.

15.9 Foreign exchange controls

Subject to clause 15.19 (*Remedy*), [Redacted] imposes any foreign exchange controls which result in a Party being restricted, prevented or prohibited from making payments that are due and payable under any Transaction Document. [Redacted: State]

15.10

[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted: Provision relating to exports]

15.11

Expropriation

The authority or ability of the Seller or the K92 Parent to conduct its business is limited or materially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any Governmental Agency or other person.

15.12

Transaction Documents

- (a) The Seller or the K92 Parent rescinds or purports to rescind or repudiates or purports to repudiate any Transaction Document.
- (b) Except in accordance with clause 15.18 (*Acceleration*), any Transaction Document is terminated for any reason whatsoever prior to the Maturity Date or earlier repayment of the Indebtedness.

15.13

Material adverse change

Subject to clause 15.19 (*Remedy*), any event or circumstance occurs which has a Material Adverse Effect, provided however that an event resulting from any changes [Redacted]

[Redacted]
[Redacted] shall

not in and of itself be deemed to result in a Material Adverse Effect under this clause 15.13.

[Redacted: Exception to material adverse change]

15.14 Change or cessation of business

The Seller or the K92 Parent changes, or suspends, ceases or threatens to cease to carry on all or a substantial part of the business carried on by it at the date of this Agreement.

15.15 Change of Control

Subject to clause 15.19 (*Remedy*), a Change of Control occurs in relation to the Seller or K92 Parent other than a Change of Control resulting from a transaction permitted by clause 13.10(b).

15.16 Cross default

- (a) Any Financial Indebtedness of the Seller or the K92 Parent is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of the Seller or the K92 Parent is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of the Seller or the K92 Parent is cancelled or suspended by a creditor of the Seller or (as the case may be) the K92 Parent or as a result of an event of default (however described).
- (d) Any creditor of the Seller or the K92 Parent becomes entitled to declare any Financial Indebtedness of the Seller or (as the case may be) the K92 Parent due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this clause 15.16 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within clauses 15.16(a) to 15.16(d) is less than [REDACTED] (or its equivalent in any other currency or currencies).
[Redacted: Dollar amount]

15.17 Conversion Shares

At any time prior to the Conversion Right Expiry, the Common Shares:

- (a) cease to be listed on the Toronto Stock Exchange; and/or
- (b) have been suspended from trading or are subject to the imposition of a trading halt on the Toronto Stock Exchange for a period of five consecutive trading days.

15.18 Acceleration

Notwithstanding any other provision in this Agreement on and at any time after the occurrence of an Event of Default that is not cured in accordance with the terms hereof, the Lender may by notice to the K92 Parent (a **Default Notice**):

- (a) declare that all or any part of any Loans then outstanding, together with accrued interest, default interest and/or all other amounts accrued or outstanding under this Agreement be immediately due and payable in cash, at which time they shall become immediately due and payable in cash; and
- (b) at any time prior to the Conversion Right Expiry, should the Seller not pay the amounts due and owing to the Lender pursuant to clause 15.18(a) within [REDACTED] of receipt of the applicable Default Notice, within [REDACTED] following the date of the Default Notice, convert all or any part of any Loans then outstanding, together with accrued interest, default interest and/or all other amounts accrued or outstanding under this Agreement into Conversion Shares at the Conversion Price (the **Conversion Right**), provided that the K92 Parent shall not be required to issue any Conversion Shares in excess of the Cap and such amount of the Indebtedness converted shall be considered fully repaid and no longer outstanding as of the date of the Default Notice. **[Redacted: Number of days]**

Upon repayment of the Indebtedness in accordance with clauses 15.18(a) or 15.18(b) this Agreement shall be terminated.

15.19 Remedy

The event or circumstances set out in clauses 15.2 (*Non-payment*), 15.5(a) and 15.5(b) (*Insolvency*), 15.9 (*Foreign exchange controls*), 15.13 (*Material adverse change*), 15.15 (*Change of Control*) (each, a **Relevant Event**) shall not constitute an Event of Default unless and until the following has occurred: upon the occurrence of the Relevant Event, provided that the K92 Parent has provided a written explanation to the Lender [REDACTED] as to the reason why the Relevant Event has occurred, the K92 Parent or the Seller, as applicable, shall have [REDACTED] from the occurrence of the Relevant Event to resolve the situation (the **Extension Period**). If the K92 Parent or the Seller fails to remedy the default under clauses 15.2 (*Non-payment*), 15.5(a) or 15.5(b) (*Insolvency*), 15.9 (*Foreign exchange controls*), 15.13 (*Material adverse change*), 15.15 (*Change of Control*) (as the case may be) by the expiry of the Extension Period, the Lender may, by written notice to the K92 Parent, either extend the initial Extension Period by a further [REDACTED] for the K92 Parent or the Seller to remedy the default, or determine the Relevant Event as an Event of Default, in which case the Relevant Event shall be deemed an Event of Default. **[Redacted: Number of days]**

16 NOTICES

16.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter or email.

16.2 Addresses

The address, and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is that identified with its name below or any substitute address, or department or officer as one Party may notify to the other by not less than five Business Days' notice.

The Lender:

Trafigura Pte Ltd

10 Collyer Quay

#29-00 Ocean Financial Centre

Singapore 049315

Attention: [Redacted] [Redacted: Name]

Email: [Redacted] [Redacted: Email address]

The Seller:

K92 Mining Limited

Level 6, PwC Haus

Harbour City Precinct

Port Moresby, National Capital District 121

Papua New Guinea

Attention: [Redacted] [Redacted: name]

Email: [Redacted] [Redacted: Email address]

K92 Parent:

K92 Mining Inc.

Suite 488 – 1090 West Georgia Street

Vancouver, British Columbia

V6E 3V7, Canada

Attention : [Redacted] [Redacted: Name]

Email: [Redacted] [Redacted: Email address]

16.3 Delivery

Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

- (a) if by way of letter, when delivered by recognised international courier at the relevant address; or

(b) if by way of email, when actually received in readable form,

and, if a particular department or officer is specified as part of its address details provided under clause 16.2 (*Addresses*), if addressed to that department or officer (or any one or more of those officers, if more than one is specified).

17 MISCELLANEOUS

17.1 Partial invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

17.2 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender or the Seller, any right or remedy under this Agreement and/or other Transaction Documents, shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

17.3 Counterparts

This Agreement may be executed in any number of counterparts and by electronic means, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

17.4 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Seller, the K92 Parent or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation or otherwise, without limitation, then the liability of the Seller and the K92 Parent, the Security Documents and the Security created thereunder will continue or be reinstated as if the discharge, release or arrangement had not occurred.

17.5 Judgment Currency

(a) If, for purposes of obtaining or enforcing a judgment in any court, it is necessary to convert into a particular currency (the **Judgment Currency**) an amount due under this Agreement in any other currency (the **Original Currency**), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which final judgment is given

(the **Conversion Date**). For purposes of this clause 17.5 “rate of exchange” means the rate at which the party to whom the judgment is granted (the **Judgment Creditor**) is able, on the Conversion Date, to purchase the Original Currency with the Judgment Currency in accordance with normal banking procedures in Vancouver, British Columbia.

- (b) The obligations of the judgment debtor (the **Judgment Debtor**) in respect of any amount due in the Original Currency from it to the Judgment Creditor under this Agreement will, notwithstanding any judgment in the Judgement Currency, be discharged only to the extent that on the Business Day following receipt by the Judgment Creditor of any sum adjudged to be so due in the Judgment Currency, the Judgment Creditor 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 amount originally due to the Judgment Creditor in the Original Currency, the Judgment Debtor agrees, as a separate obligation and notwithstanding the judgment, to indemnify the Judgment Creditor against any loss arising as a result of such deficiency. The indemnity in favour of the Judgment Creditor constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Judgment Creditor from time to time and continues in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or under any judgment or order.

17.6 Interest Act (Canada)

For purposes of the Interest Act (Canada), whenever any interest or fee under this Agreement is calculated using a rate based on a year of 360 days or 365 days, as the case may be, the rate used pursuant to such calculation, when expressed as an annual rate, is equivalent to (a) the applicable rate based on a year of 360 days or 365 days, as the case may be, (b) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (c) divided by 360 or 365, as the case may be. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement, and the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields. Each of the Seller and the K92 Parent confirms that it understands and is able to calculate the rate of interest applicable to the Loans based on the methodology for calculating per annum rates provided for in this Agreement. Each of the Seller and the K92 Parent irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to this Agreement or any Transaction Documents, that the interest payable under this Agreement and the calculation thereof has not been adequately disclosed to the Seller or the K92 Parent as required pursuant to section 4 of the Interest Act (Canada).

17.7 Maximum Interest Rate

Notwithstanding any other provisions of this Agreement, if the amount of any interest, premium, fees or other monies or any rate of interest stipulated for, taken, reserved or extracted under the Finance Documents would otherwise contravene the provisions of section 347 of the Criminal Code (Canada), or any other successor or similar legislation, or would exceed the amounts which the Lender is legally entitled to charge and receive under any law to which such compensation is subject, then such amount or rate of interest shall be reduced to such maximum amount as would not contravene such provision; and to the extent that any excess has been charged or received, the Lender shall apply such excess against the Loans and refund any further excess amount.

17.8 Changes to reference rates

- (a) If a Published Rate Replacement Event has occurred in relation to any Published Rate, any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Reference Rate in place of that Published Rate; and
 - (ii)
 - (A) aligning any provision of any Finance Document to the use of that Replacement Reference Rate;
 - (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this Agreement);
 - (C) implementing market conventions applicable to that Replacement Reference Rate;
 - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
 - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Lender and the K92 Parent.

- (b) In this clause 17.8:

Published Rate means:

- (a) Overnight SOFR; or
- (b) Term SOFR for any Quoted Tenor

Published Rate Replacement Event means, in relation to a Published Rate:

- (a) the methodology, formula or other means of determining that Published Rate has, in the opinion of the Lender and the K92 Parent, materially changed;
- (b)
 - (i)
 - (A) the administrator of that Published Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Published Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Published Rate;
 - (ii) the administrator of that Published Rate publicly announces that it has ceased or will cease to provide that Published Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Published Rate;
 - (iii) the supervisor of the administrator of that Published Rate publicly announces that such Published Rate has been or will be permanently or indefinitely discontinued; or
 - (iv) the administrator of that Published Rate or its supervisor announces that that Published Rate may no longer be used; or
- (c) the administrator of that Published Rate (or the administrator of an interest rate which is a constituent element of that Published Rate) determines that that Published Rate should be calculated in accordance with its reduced submissions or other

contingency or fallback policies or arrangements and the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Lender and the K92 Parent) temporary;

- (d) in the opinion of the Lender and the K92 Parent, that Published Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement

Relevant Nominating Body means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board

Replacement Reference Rate means a reference rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Published Rate by:
 - (i) the administrator of that Published Rate (provided that the market or economic reality that such reference rate measures is the same as that measured by that Published Rate); or
 - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Reference Rate" will be the replacement under paragraph (ii) above;

- (b) in the opinion of the Lender and the K92 Parent, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Published Rate; or
- (c) in the opinion of the Lender and the K92 Parent, an appropriate successor to a Published Rate.

17.9 Disclosure

- (a) The Lender agrees to use all Information solely for the purposes of providing services that are the subject of the Transaction Documents and shall treat confidentially all such Information, except that Information may be disclosed:
 - (i) to it, its Affiliates and its Affiliates' respective directors, officers, employees, agents, credit insurers and reinsurers, advisors, service providers and representatives (where any person to whom the Information is to be given pursuant to this clause 17.9 is made aware in writing of its confidential nature and that some or all of such Information may be price-sensitive information except that there shall be no such

requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Information);

- (ii) to the extent requested, and where such disclosure is required by applicable law, by any Governmental Agency;
- (iii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process;
- (iv) in connection with the exercise of any remedies or enforcement of any rights under any Transaction Document;
- (v) to any agency or organization that assigns standard identification numbers to loan facilities such basic information describing the facility under this Agreement as is necessary to assign unique identifiers, if applicable, it being understood that the person to whom disclosure is made will be informed of the confidential nature of the Information and instructed to make available to the public only such Information as the person normally makes available in the course of its business of assigning identification numbers;
- (vi) subject to an agreement containing provisions substantially the same as those of this clause 17.9, to:
 - (A) any assignee of, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement; or
 - (B) and any credit insurance or reinsurance provider relating to the K92 Parent and the Seller;
- (vii) to any person:
 - (A) for refinancing purposes in relation to this Agreement;
 - (B) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Transaction Documents or which succeeds (or which may potentially succeed) it as Lender and, in each case, to any of that person's Affiliates, representatives and professional advisers; or
 - (C) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by

reference to, one or more Transaction Documents and/or one or more parties to any Transaction Document (other than the Lender) and to any of that person's Affiliates, representatives and professional advisers;

(viii) with the consent of the K92 Parent; or

(ix) to the extent such Information:

(A) becomes publicly available other than as a result of a breach of this clause 17.9; or

(B) becomes available to the Lender on a non-confidential basis.

(b) For purposes of this clause 17.9, **Information** means all information received in connection with any Transaction Document from either the K92 Parent or the Seller relating to the K92 Parent, the Seller or any of their respective Affiliates or any of their respective businesses, other than any such information that was available to the Lender on a non-confidential basis before such receipt. Any person required to maintain the confidentiality of Information as provided in this clause 17.9 shall be considered to have complied with its obligation to do so if the person has exercised the same degree of care to maintain the confidentiality of the Information as the person would accord to its own confidential information.

18 CHANGES TO PARTIES

18.1 Assignments and transfers by Lender

The Lender may assign, encumber or otherwise dispose of or transfer all or any part of its rights and/or obligations under any one or more of the Finance Documents, other than the Commercial Contract, without the consent of the Seller or the K92 Parent. If the Lender assigns, encumbers or otherwise disposes of any of its rights under any Transaction Document (each, a **Transfer**, and the rights subject to any such Transfer, the **Transferred Rights**) to a bank or to another institution, trust, fund or other person or entity engaged in the business or established for the purpose of funding or investing in financial and/or commodity assets (each a **Transferee**), the Seller and the K92 Parent shall, upon request of the Lender or any Transferee, at the Lender's cost, comply with the instructions of such Transferee in relation to the exercise of the Transferred Rights and shall perform its obligations in connection with the Transferred Rights in favour of such Transferee. The Seller and the K92 Parent shall enter into such further documentation and take such other steps as are reasonably requested by the Lender or the Transferee to give effect to any such Transfer, at the Lender's cost.

18.2 Assignments and transfers by Seller or K92 Parent

Other than as permitted under the Transaction Documents, neither the Seller nor the K92 Parent shall assign any of its rights or transfer any of its rights or obligations under the Transaction Documents without the consent of the Lender.

18.3 Seller performance of obligation to deliver Landowner Project Equity Participation Rights

The Lender acknowledges the Seller's obligation to transfer an equity participation in the Kainantu Gold Project to landowners comprised in the Landowner Project Equity Participation Rights and agrees that the Seller may transfer the [REDACTED] interest in the Tenements during the term of the Loan and the Lender further agrees to release a [REDACTED] undivided interest in the Tenements from the Security to enable the Seller to give effect to its obligations. The Seller and the Lender agree to execute such further or other documentation reasonably or conveniently required to give effect to such a transaction. [Redacted: Percentage of interest]

19 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

20 DISPUTE RESOLUTION AND JURISDICTION

20.1 Dispute resolution and jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement, or its subject matter or formation (including non-contractual disputes or claims).

20.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each of the Seller and the K92 Parent:

- (a) irrevocably appoints Gowling WLG (UK) LLP, 2 Snow Hill, Birmingham England B4 6WR, United Kingdom as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Seller and/or the K92 Parent of the process will not invalidate the proceedings concerned.

Each of the Seller and the K92 Parent expressly agrees and consents to the provisions of this clause 20.2. This Agreement has been executed and delivered by the Parties on the date stated at the beginning of this Agreement.

[Schedules and execution page follow]

Schedule 1

CONDITIONS PRECEDENT

1 Corporate authorities

- (a) A certified copy of the constitutional documents of the Seller, the K92 Parent and K92 BVI including K92 BVI's certificate of incorporation, certificate of incorporation on change of name and memorandum and articles of association.
- (b) A recent registered agent's certificate of K92 BVI issued by its registered agent attaching or provided with such certificate, copies of its most up-to-date register of directors, register of members and register of charges.
- (c) A certificate of good standing issued by the Registrar of Corporate Affairs in the British Virgin Islands in respect of K92 BVI.
- (d) The publicly filed register of directors of K92 BVI.
- (e) A certificate of Good Standing issued by the Registrar of Companies of the Independent State of Papua New Guinea.
- (f) A certified copy or copies of a resolution of the general meeting and/or board of directors (and/or any other relevant governing body including a committee or sub-committee of the board of directors) of the Seller, the K92 Parent and K92 BVI in the agreed form:
 - (i) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is party; and
 - (ii) authorising a specified person or persons to execute the Transaction Documents to which it is a party and to sign and despatch all notices, certificates and other documents (including any Utilisation Request) in connection with the Transaction Documents on its behalf.
- (g) A certified specimen of the signature of each person authorised by the resolutions referred to in paragraph 1(f) above in relation to the Transaction Documents and related documents.
- (h) A certified copy of the share register of the Seller.

2 Transaction Documents

- (a) The following, in each case duly executed by all parties thereto, in the English language:
 - (i) this Agreement;

- (ii) the Commercial Contract;
 - (iii) the Share Charge (PNG law);
 - (iv) the Deed of Charge (PNG law);
 - (v) the Tenement Mortgage (PNG law); and
 - (vi) the BVI Share Mortgage.
- (b) Evidence satisfactory to the Lender that caveats have been lodged at the Mineral Resources Authority in relation to the relevant mining tenements under the Deed of Charge (PNG law) and the Tenement Mortgage (PNG law) pursuant to section 129 of the Mining Act of Papua New Guinea.
- (c) With respect to each of the Share Charge (PNG law) and the Deed of Charge (PNG law), evidence:
- (i) of registration under the Personal Properties Securities Registry of Papua New Guinea by the Seller in favour of the Lender; and
 - (ii) that an online notice has been lodged on the Personal Properties Securities Registry of Papua New Guinea.
- (d) In relation to the Authorisation Letter:
- (i) the duly executed Authorisation Letter; and
 - (ii) the results of the searches undertaken pursuant to the Authorisation Letter (which shall be provided by no later than the later of (A) 15 Business Days after the date of the Authorisation Letter and (B) such other date as specified by the Lender).
- (e) With respect to the Share Charge (PNG law), each of the documents and other evidence required pursuant to clause 5(b) (*Undertakings*) of the Share Charge (PNG law).
- (f) With respect to the BVI Share Mortgage, each of the documents and other evidence required pursuant to clauses 6.1(a) (*Deposit of documents*), 6.1(d) (*Deposit of documents*) and 6.2 (*Register of Members*) of the BVI Share Mortgage.
- (g) The updated register of members reflecting the release of the charge over the shares of K92 BVI pursuant to the share pledge agreement dated 9 June 2016 between K92 Mining Inc. and CRH Funding II Pte. Ltd.

3 Other documents and evidence

- (a) A certified true copy of a certificate setting out the current composition of the shareholders and the board of directors of the Seller.
- (b) Conditional approval of the Toronto Stock Exchange of the issuance of the Conversion Shares other than such approval as it relates to the Conversion Shares issuable pursuant to payment of accrued interest, default interest and other amounts outstanding, if applicable, for which Conversion Shares approval shall be obtained at the time of issuance of such Conversion Shares.
- (c) A certificate of good standing in respect of the K92 Parent issued by the British Columbia Registrar of Companies.
- (d) A certificate of an officer or director of the K92 Parent, the Seller and K92 BVI as to certain corporate and other matters related to this Agreement.
- (e) A process agent appointment letter by each of the Seller and the K92 Parent appointing Gowling WLG (UK) LLP as agent to accept service of process for the Seller and the K92 Parent in England.
- (f) A process agent appointment letter by K92 BVI appointing O'Briens Lawyers as agent to accept service of process for itself in Papua New Guinea.
- (g) Evidence that the Lender has carried out and is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations as at the date of this Agreement.
- (h) All documents and due diligence completed to the satisfaction of the Lender including commercial, technical and legal due diligences, in form and substance satisfactory to the Lender in its absolute discretion.
- (i) Approval of the amendment and restatement under the Commercial Contract by the Controller pursuant to the *Central Banking (Foreign Exchange & Gold) Regulation (PNG)* and the conditions attaching to the Seller's existing Export Approval (as defined in the Commercial Contract).

4 Legal opinions

- (a) A first trade and prospectus exemption legal opinion from counsel to the K92 Parent with respect to this Agreement and the Conversion Shares.
- (b) A legal opinion as to English law from [REDACTED] addressed to the Lender, substantially in the form distributed to the Lender prior to signing this Agreement.
[Redacted: Name of firm]

- (c) A legal opinion as to Canadian law from [REDACTED] addressed to the Lender, substantially in the form distributed to the Lender prior to signing this Agreement. **[Redacted: Name of firm]**
- (d) A legal opinion as to Papua New Guinea law from [REDACTED] addressed to the Lender, substantially in the form distributed to the Lender prior to signing this Agreement. **[Redacted: Name of firm]**
- (e) A legal opinion as to British Virgin Islands law from [REDACTED] addressed to the Lender, substantially in the form distributed to the Lender prior to signing this Agreement. **[Redacted: Name of firm]**

Schedule 2

FORM OF UTILISATION REQUEST

From: K92 MINING INC.

To: TRAFIGURA PTE LTD

Dated: [●]

Dear Sirs

Loan Agreement dated [●] (the **Agreement**)

- 1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to utilise the Loan on the following terms:
 - (a) Proposed Utilisation Date: [●]
 - (b) Amount: US\$[●].
- 3 We confirm that each condition specified in clause 4 (*Conditions precedent*) and Schedule 1 (*Conditions Precedent*) of the Agreement is satisfied (or has been waived in writing by the Lender) on the date of this Utilisation Request, including amongst other things that:
 - (a) on the proposed Utilisation Date, no Default is continuing or would result from the proposed Utilisation;
 - (b) the representations and warranties contained in clause 12.1 (*Seller's and K92 Parent's Representations and Warranties*) of the Agreement are true in all material respects on the date of this Utilisation Request, and will remain true on the proposed Utilisation Date; and
 - (c) no event or circumstance has occurred which has or is reasonably likely to materially adversely affect:
 - (i) the ability of the Seller and/or the K92 Parent to perform its obligations under any of the Transaction Documents; or
 - (ii) the business, operations or financial conditions of the Seller and/or the K92 Parent taken as a whole.
- 4 The proceeds of this Loan should be credited to:

Correspondent Bank name: [●]
Swift code: [●]
For credit to: [●]
BSB: [●]
Account number: [●]
Swift code: [●]
Reference: [●]

5 This Utilisation Request is irrevocable.

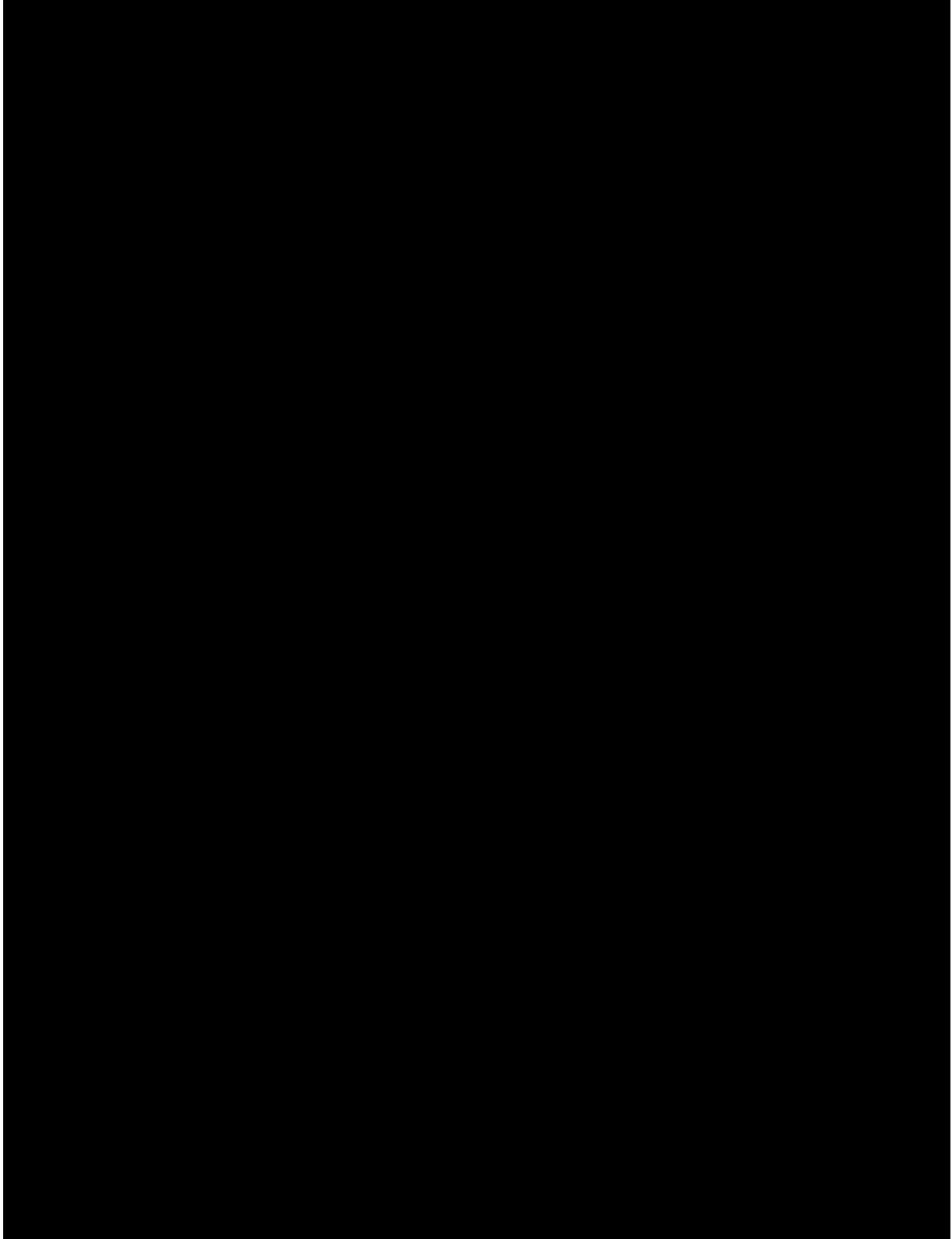
Yours faithfully

[●]

Authorised Signatory

Schedule 3
REPAYMENT DATES

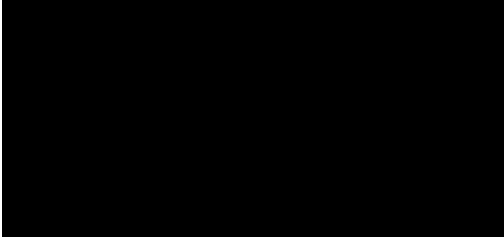
[Redacted: Repayment schedule]





Schedule 4
EXPLORATION LICENSES

[Redacted: Exploration licenses]



EXECUTION PAGE

Executed as an agreement

The Seller

Signed by **K92 MINING LIMITED**

██████████ (signed) [Redacted: Name]

Signature of authorized signatory

██████████ [Redacted: Name]

Name of authorized signatory (print)

██████████ (signed) [Redacted: Name]

Signature of authorized signatory

██████████ [Redacted: Name]

Name of authorized signatory (print)

K92 Parent

Signed by **K92 MINING INC.**

██████████ (Signed) [Redacted: Name]

Signature of authorized signatory

██████████ [Redacted: Name]

Name of authorized signatory (print)

██████████ (signed) [Redacted: Name]

Signature of authorized signatory

██████████ [Redacted: Name]

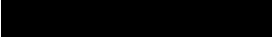
Name of authorized signatory (print)

The Lender

Signed by **TRAFIGURA PTE LTD** by:

 (signed) **[Redacted: Name]**

Signature of authorised signatory

 **[Redacted: Name]**

Name of authorised signatory (print)