

ADDENDUM 2

SECOND ADDENDUM TO THE SUBSCRIPTION OF SHARES AGREEMENT

between

K2020273872 (SOUTH AFRICA) (PTY) LTD

Registration Number: 2020/273872/07

("Subscriber" or "QGM")

and

MARULA MINING PLC

Registration number: 04228788

("Company")

and

AUO COMMERCIAL BROKERAGE LLC

Licence Number: 1059055

("Funder")



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1. DEFINITIONS

The Parties hereto record that any specific meaning assigned to words in the Subscription of Shares Agreement ("**Subscription Agreement**") to which this second addendum ("**Second Addendum**") is annexed, will carry the same meaning in this Addendum as if referred to and specifically incorporated herein.

2. INTRODUCTION

- 2.1 On **19 January 2023**, the Parties entered into the Subscription Agreement in terms of which, *inter alia*, subject to the terms thereof, QGM agreed to invest in the Company through the subscription of the Company's shares and the Company agreed to issue said shares to QGM.
- 2.2 On **28 February 2023**, the Parties entered into the first addendum to the Subscription Agreement ("**First Addendum**").
- 2.3 The Parties now wish to amend the Subscription Agreement and the First Addendum as set out below in this Second Addendum.
- 2.4 The Parties wish to record the amendments between them in writing as follows below.

3. CLAUSE 2 INTERPRETATION OF THE SUBSCRIPTION AGREEMENT

- 3.1 By the addition of clause 2.1.11.A as follows:
"disclosed" means fairly disclosed (with sufficient detail to enable the Subscriber to identify and evaluate the nature and scope of each matter disclosed to the Subscriber by the Company) (and "disclose" and "disclosure" will be construed accordingly);
- 3.2 By the addition of clause 2.1.17.A as follows:
"Funder" means AUO Commercial Brokerage LLC, licence no. 1059055, a company with limited liability duly incorporated and registered in accordance with the laws of the United Emirates situated in Dubai and/or their duly designated nominee;
- 3.3 By addition of clause 2.1.17.B as follows:
"Group Companies" means the Company and all of its Subsidiaries, collectively, and each is herein referred to individually as a "Group Company";
- 3.4 By the addition of clause 2.1.25.A as follows:
"Previous Announcement" means any announcement that the Company has released via a Regulatory News Service;
- 3.5 By deleting clause 2.1.34 in its entirety and replacing it as follows:
*"Subscription Shares" means the Ordinary Shares for which the Subscriber shall subscribe in terms of clause 6.1, comprising up to **147,800,000** Ordinary Shares in the capital of the Company to be issued*

when appropriate pursuant to Annexure 1 of the Subscription Agreement and the terms of this Second Addendum;

3.6 By deleting clause 2.1.35 in its entirety and replacing it as follows:

"Subsidiaries" with respect to the Company, collectively refers to each and every other entity in which the Company (a) beneficially owns, directly or indirectly, share capital or other equity interests representing more than fifty percent (50%) of the outstanding voting rights or other equity interests; (b) holds the rights to more than fifty percent (50%) of the economic interest of such entity, including interests held through contractual arrangements; or (c) has a relationship such that the financial statements of the entity may be consolidated into the financial statements of the Company under applicable accounting conventions and includes reference, but is not limited to, SALT, Takela, Kinusi and X-Rams Traws;

4. NOVATION OF THE AGREEMENT

4.1 The Parties hereto irrevocably and unconditionally hereby acknowledge, agree and consent to the novation by the Subscriber of its rights and obligations under the Subscription Agreement, the First Addendum and this Second Addendum to the Funder.

4.2 For the avoidance of doubt:

4.2.1 with effect from the date of this Second Addendum:

4.2.1.1 the Subscriber transfers all its rights and obligations under the Subscription Agreement, as amended, to the Funder;

4.2.1.2 the Funder will perform the Subscription Agreement, as amended, and be bound by its terms and enjoy its benefits in every way as if it were the original party to it in place of the Subscriber; and

4.2.1.3 the Company will perform the Subscription Agreement, as amended, and be bound by its terms in every way as if the Funder were the original party to it in place of the Subscriber.

4.2.2 any reference to "Subscriber" in the Subscription Agreement, the First Addendum and clauses 3, 5, 6, 7, 8, 9, 10, 11, 12 and amended Annexure 3 of this Second Addendum, shall automatically be deemed to be a reference to the Funder;

4.2.3 the Funder shall be entitled to assign its rights and obligations in terms of the Subscription Agreement, the First Addendum and this Second Addendum to an affiliated group entity without written consent of the Company; and

4.2.4 Clause 20.7 of the Subscription Agreement shall be amended such that the words "other than where the Subscriber is



assigning its rights and obligations in terms of the Subscription Agreement, the First Addendum and the Second Addendum to an affiliated group and" shall be inserted between "Parties," and "save".

5. CLAUSE 6.2.A – ADDITIONAL TRANCHE

5.1 The addition of the following clause 6.2.A after clause 6.2:

6.2.A.1. *"The Company has issued warrants to third parties and which, at the Signature Date hereof, have not been exercised and remain outstanding. Marula's issued unexercised share warrants as at **1 March 2023** ("**Warrants**") amounted to the equivalent of **47,800,000** ordinary shares and which comprises:*

6.2.A.1.1 **6,017,500** options to subscribe for an ordinary share at a price of 4.00p and with a maturity date of 21 July 2023;

6.2.A.1.2 **7,562,500** options to subscribe for an ordinary share at a price of 4.00p and with a maturity date of 31 December 2023;

6.2.A.1.3 **700,000** options to subscribe for an ordinary share at a price of 10.00p and with a maturity date of 31 December 2023;

6.2.A.1.4 **5,000,000** options to subscribe for an ordinary share at a price of 4.00p and with a maturity date of 30 June 2025;

6.2.A.1.5 **15,762,500** options to subscribe for an ordinary share at a price of 4.00p and with a maturity date of 31 December 2025;

6.2.A.1.6 **137,500** options to subscribe for an ordinary share at a price of 2.00p and with a maturity date of 20 July 2026;

6.2.A.1.7 **13,250,000** options to subscribe for an ordinary share at a price of 4.00p and with a maturity date of 31 December 2026.

6.2.A.2. *Thus, if the above warrants are duly exercised and the Company issues and allots such shares, then the Company's issued shares would amount to **155,094,748** ordinary shares.*

6.2.A.3 *Subject to the provisions of the Subscription Agreement, the Subscriber wishes to be able to subscribe for an additional and conditional 6th tranche, in its sole and absolute discretion, and which tranche will comprise **47,800,000** ordinary shares in the Company.*

6.2.A.4 *The Parties hereby agree as follows:*

- 6.2.A.4.1 subject to the fulfilment or waiver, as the case may be, of the Conditions Precedent, and further subject to clause 6.8 of the Subscription Agreement, the Subscriber shall be entitled to, but not obliged, in its sole and absolute discretion to subscribe for an additional 6th tranche comprising **47,800,000** ordinary shares ("**6th Tranche Shares**") in the Company's issued share capital in each case subject to and conditional on admission of such Subscription Shares to a Relevant Exchange;
- 6.2.A.4.2 the 6th Tranche Shares can be taken up in whole or in part at any time by the Subscriber up and until **31 December 2026**, but provided that if done in part it is done in quantities of not less than 500,000 shares per election;
- 6.2.A.4.3 the subscription price payable by the Subscriber in respect of the 6th Tranche Shares shall be **£0.10** per 6th Tranche Share and which, for the avoidance of doubt, amounts to a total aggregate amount for all 6th Tranche Shares of **£4,780,000.00**. In the event that, at the time of a subscription for 6th Tranche Shares, the Company owes a debt to the Subscriber for services rendered, the Company agrees (subject to applicable law and the Company's articles of association) to capitalise such debt up to £0.0625 per 6th Tranche Share;
- 6.2.A.4.4 for the avoidance of doubt and subject at all times to the provisions of clause 6.2.A.4, in so far as it may be necessary for the due and proper operation of the remaining provisions of the Subscription Agreement, the **6th Tranche Shares** are deemed to be included in the definition of "**Subscription Shares**".

5.2 The following wording in clause 6.3 shall be deleted:

"Following any subscription made in accordance with clause 6.1 or 6.2, and subject to payment by the Subscriber of the relevant portion of the Subscription Price as set out in clause 7 and the Company having obtained a Rule 9 Waiver, the Company shall, within two (2) Business Days of such payment:"

and shall be replaced with the following wording:

"6.3 Following any subscription made in accordance with clause 6.1, 6.2 or 6.2.A, and subject to payment by the Subscriber of the relevant portion of the Subscription Price as set out in clause 7 or clause 6.2.A.4.3,

as applicable, the Company having obtained a Rule 9 Waiver and, where not already obtained, shareholder approval in accordance with sections 551 and 571 of the Companies Act regarding the allotment of Subscription Shares and disapplication of pre-emption rights, the Company shall, within two (2) Business Days of such payment:"

6. CLAUSE 6B - RIGHT OF FIRST REFUSAL GRANTED TO THE SUBSCRIBER

6.1 The addition of the following clause 6B after clause 6:

6.B.1. *"Unless otherwise agreed with the Subscriber, following the allotment of all of the Subscription Shares set out in column 2 of Annexure 1 and the 6th Tranche Shares, where Subscriber holds 51% or more of the Ordinary Shares and a proposed new issue of Ordinary Shares to any person, corporation or other entity will dilute Subscriber below 51% of the Ordinary Shares:*

6.B.1.1 *the Company will take reasonable steps to offer the Subscriber a right of first refusal in respect of any such new Ordinary Shares with the exception of issuances of Ordinary Shares the Company may issue to directors and employees under option plans or other incentivisation plans;*

6.B.1.2 *such offer by the Company shall be in writing, shall be given to the Subscriber and shall set forth the interest to be sold, the purchase price to be paid, the date on which the closing is to take place (which date shall be not be less than seven days, nor more than fourteen days after the delivery of the offer), the location at which the closing is to take place, and all other material terms and conditions of the issue;*

6.B.1.3 *within 7 (seven) days after the delivery of said offer the Subscriber shall deliver to the Company a written notice either accepting or rejecting the offer, in its sole and absolute discretion. Failure to deliver said notice within said 7 (seven) days conclusively shall be deemed a rejection of the offer."*

7. WARRANTIES BY THE COMPANY

By removing clause 10.2 in its entirety and replacing clause 10.2 as follows:

"10.2 The Company hereby warrants to the Subscriber (for the benefit of the Subscriber and its successors in title), save as disclosed to the Subscriber or where the relevant fact, matter or circumstance has been announced pursuant to a Previous Announcement or is contained in the Accounts (as defined clause 2.7 of Annexure 3), in terms of the Company's Warranties set out in Annexure 3."

8. ANNEXURE 3 COMPANY WARRANTIES OF THE SUBSCRIPTION AGREEMENT

By deleting Annexure 3 in its entirety and replacing same with the amended Annexure 3 as is attached hereto.

9. INDIVISIBLE TRANSACTION

This Second Addendum must be read together with the Subscription Agreement and First Addendum concluded between the Parties. Both the First Addendum and Second Addendum (collectively referred to herein as the "**Addendums**") and Subscription Agreement constitute one indivisible transaction. Accordingly, should the Subscription Agreement be cancelled and/or terminated, the Addendums will likewise automatically be cancelled and/or terminated as well and be of no further force or effect. The Parties will not have any claims against each other as a result of this automatic cancellation of the Addendums other than what has been agreed in writing in respect of the cancellation of the Subscription Agreement.

10. NON-VARIATION AND ENTIRE AGREEMENT

The Addendums, as read together with the Subscription Agreement, constitutes the entire agreement between the Parties and the Parties acknowledge that all terms, conditions, representations, warranties and promises have been included in the Addendums and Subscription Agreement. Any variation to this Second Addendum, inclusive of this clause, must be in writing and signed by the Parties to this Second Addendum, failing which such variation will be deemed *pro non scripto* and of no force or effect.

11. SCOPE OF AMENDMENTS

Save as amended in terms of the foregoing, the Parties agree that all the other terms and conditions of the Subscription Agreement as read with the First Addendum remain unchanged.

12. APPLICABLE LAW AND JURISDICTION

12.1 This Second Addendum, along with the First Addendum and the Subscription Agreement, will in all respects be governed by and construed under the laws of England and Wales.

12.2 Subject to clause 16 of the Subscription Agreement, the Parties hereby consent and submit to the exclusive jurisdiction of the High Court of Justice in London in any dispute arising from or in connection with this Agreement.





Signed at [REDACTED] SANDTON on 8 FEBRUARY 2024

Subscriber: K2020273872 (PTY) LTD

Signed at SANDTON on 8 FEBRUARY 2024
[REDACTED]

Company: MARULA MINING PLC

Signed at [REDACTED] SANDTON on 8 FEBRUARY 2024

Funder: AUO COMMERCIAL BROKERAGE LLC

ANNEXURE 3 - COMPANY WARRANTIES

COMPANY WARRANTIES OF THE SUBSCRIPTION AGREEMENT

Annexure 3 is deleted in its entirety and replaced with the below amended Annexure 3.

The Warranties contained in this Annexure "3" are given by the Company on the basis set out in clause 8 of the Agreement to which this Annexure "3" is attached. To the extent that the Agreement may have been signed on a date which results in the use of any tense being inappropriate, the Warranties shall be read in the appropriate tense.

*For the purposes of this Annexure, reference to "**Company Group**" collectively refers to the Company and the Group Companies and "**Group Company**" to any one of them as the context may require and/or indicate.*

The Company warrants to the Subscriber as follows below.

1. WARRANTIES CONCERNING THE STATUS AND SHARES OF THE COMPANY

- 1.1. *The Company Group has been validly incorporated, established or registered pursuant to the laws of its country(ies) of incorporation, establishment or registration, all legal and procedural requirements and all other formalities concerning the said incorporation, establishment or registration have been duly and properly complied with, and the Company Group is in good standing.*
- 1.2. *All corporate or other documents required to be filed or registered in respect of the Company Group with the authorities in the relevant place of incorporation have been duly filed.*
- 1.3. *Other than as disclosed in writing by the Company, the Company Group and their respective directors (in their capacity as such) have complied with all legislation and obtained all necessary licenses, consents and other permissions and approvals relevant to the business of the Company Group whether in the country, territory or state in which it is incorporated, established and/or registered or elsewhere (including, but without limitation, legislation relating to companies and securities, real property, Taxation and prevention of corruption) the Company Group and its directors (in their capacity as such) have complied with all legal requirements existing as of the date hereof in relation to any transactions to which it was or is a party.*

- 1.4. No person is entitled to an order requiring the Company Group to change its corporate name.
- 1.5. Subject to the passing of the resolutions at the General Meeting, and shareholders providing directors with authority pursuant to 551 and 571 of the Companies Act (where not already obtained) the Company will be entitled to issue such number of Subscription Shares as set out under **Annexure 1** and the Company shall at all material times have sufficient authorized but unissued share capital for the Company to perform its obligations under this Agreement. The entering into of this Agreement shall constitute valid, binding and enforceable obligations of the Company.
- 1.6. The Company has disclosed all information pertaining to the warrants issued by the Company as well as any other debt and equity instruments to the Subscriber.
- 1.7. The copies of the constituent documents relating the Company Group supplied to the Subscriber and/or their professional advisors are accurate and complete in all respects to the best of the Company's knowledge and have attached to them copies of all resolutions and agreements which are required to be so attached.
- 1.8. The Company Group have complied with their respective constituent documents in all material respects, has full power, authority and legal right to own its assets and carry on its business and none of the activities, agreements, commitments or rights of such entities are ultra vires or unauthorised.
- 1.9. Other than as stated in a Previous Announcement, stated in the Company's Accounts (as defined below) or as disclosed to the Subscriber, the Company (i) is not under any obligation (whether contingent upon the exercise of any right or otherwise) to increase, reduce or otherwise howsoever to vary its authorised or issued share capital or shares, to vary any of the rights attaching to any of the shares or to create or issue any debentures; (ii) has not issued or awarded any capitalisation or bonus shares and has not resolved to do so and is under no enforceable obligation in this regard; and (c) has not issued and is under no obligation to issue any share options or any share warrants.
- 1.10. All information which has been given by or on behalf of the Company, any of the directors or officers of any Group Company and any of the respective advisers of the Group Company to any of the directors or officers of the Subscriber and/or their advisers relating to the business, activities, affairs or assets or liabilities of the Company Group was, when



given, and to the knowledge of the Company, is currently true and accurate and comprehensive in all material respects, and, to the knowledge of the Company, there is no fact or matter not disclosed to the Subscriber which renders any such information untrue or misleading because of any omission or ambiguity or for any other reason.

- 1.11. The information provided to Subscriber during the due diligence process was, when provided, true, accurate and not misleading.
- 1.12. The Company and its directors have disclosed their respective legal and beneficial ownership structures (as the case may be) to the Subscriber and/or their professional advisors, and there are no agreements or understandings among any of the existing legal or beneficial owners of Company that have not been disclosed.
- 1.13. Other than as disclosed by the Company to the Subscriber in writing and save for the Subscription Agreement as amended:
 - 1.13.1. there is no agreement or commitment outstanding which calls for the allotment or issue of, or accords to any person the right to call for the allotment or issue of any, shares and/or equity interests in or debentures of any Group Company;
 - 1.13.2. there is no option, right to acquire, mortgage, charge, pledge, lien or other form of security or encumbrance on, over or affecting any of the shares or any part of the unissued share capital of any Group Companies and there is no agreement or commitment to give or create any of the foregoing and no claim has been made by any person to be entitled to any of the foregoing which has not been waived in its entirety or satisfied in full;
 - 1.13.3. there is no option, convertible security or other agreements outstanding which accord to any person the right to subscribe for, right to acquire, mortgage, charge, pledge, lien or other form of security or encumbrance on, over or affecting any Shares or over any part of the issued or unissued share capital of the Company and there is no agreement or commitment to give or create any of the foregoing and there is no claim by any person to be entitled to any of the foregoing.

2. WARRANTIES RELATING TO THE BOOKS AND RECORDS OF THE COMPANY

- 2.1. The Articles of Association of the Company, a copy of which has been provided to the Subscriber, is correct and up to date in all respects and includes all amendments thereto to date.

- 2.2. *The minute books of the Company contain all resolutions passed by the directors and shareholders thereof, save for resolutions required to give effect to the provisions of this Agreement.*
- 2.3. *The Company has properly maintained all registers required to be maintained by it in accordance with legislation.*
- 2.4. *The Company's books, accounts and records are in its possession, have been properly maintained according to law, to the best of its knowledge do not contain any material inaccuracies or discrepancies and are capable of being written up within a reasonable time so as to record, in accordance with generally accepted accounting principles, all of the transactions to which the Company was or is a party.*
- 2.5. *Other than in relation to a going concern issue, no auditor of the Company has at any time furnished the directors of the Company with a report concerning any material irregularity as contemplated in any Applicable Law in force from time to time prior to the enactment of such act.*
- 2.6. *Other than the fact that the 30 June 2022 accounts were published and filed late in breach of the Companies Act and the AQSE Exchange Rules, the statutory books of the Company Group are up to date and have been properly written up and the minute books of directors' meetings and of shareholders' meetings respectively contain accurate records of all matters required to be dealt with therein. The Company Group have not received any application or request for rectification of any of their respective registers of directors or shareholders and compliance has been made with all other legal requirements and/or all issues of shares, debentures or other securities thereof.*
- 2.7. *Each of the financial statements ("**Accounts**") for the Company Group on the date ("**Relevant Date**") they were prepared and completed:*
 - 2.7.1. *were true and accurate in all material respects;*
 - 2.7.2. *gave in all material respects a true and fair view of the state of affairs and financial positions of the Company Group at the Relevant Date and of the Company Group's results for the financial period ended on that date and no event has occurred that has resulted in the results of the Company Group in respect of the period covered by the Accounts being abnormally high or low;*
 - 2.7.3. *included all the assets of the Company Group as at the Relevant Date with an amount indicated for each asset and the rate of depreciation adopted therein is sufficient for each of the fixed*

- assets of the Company Group to be written down to nil by the end of their estimated lives;*
- 2.7.4. *were not adversely affected by any unusual, exceptional, extraordinary or non-recurring items which were not expressly disclosed as such in the Accounts;*
- 2.7.5. *were prepared in accordance with all applicable laws and with generally accepted accounting principles, standards and practices at the time they were prepared and on a consistent basis with the financial statements of the Company Group for the immediately preceding financial year;*
- 2.7.6. *correctly make or include full provision for any bad and doubtful debts and all established liabilities, make proper and adequate provision for (or contain a note in accordance with good accounting practice in respect of) all deferred, disputed or contingent liabilities (whether liquidated or unliquidated) and all capital commitments of the Company Group as at the Relevant Date and the reserves and provisions (if any) made therein for all Taxation relating to any period on or before the Relevant Date are proper and adequate;*
- 2.7.7. *the method of valuing development costs and work in progress adopted in the Accounts and the basis of depreciation adopted in respect of fixed assets are the same in each of the Accounts; and*
- 2.7.8. *contain full provision for the diminution in value of the Company Group's properties and assets.*
- 2.8. *The accounting and other books and records of the Company Group are in its possession, have been properly written up and accurately present and reflect in accordance with generally accepted accounting principles and standards all the transactions entered into by each such Group Company or to which each such Group Company has been a party and there are at the date hereof to the knowledge of the Company, no material inaccuracies or discrepancies of any kind contained or reflected in any of the said books and records, and that at the date hereof they give and reflect a true and fair view of the financial, trading and contractual position of each such Group Company and of its fixed and current and contingent assets and liabilities and debtors and creditors.*

- 2.9. *Other than what was disclosed during the due diligence process, the Company Group does not have any borrowings as of the date of this Agreement.*
- 2.10. *The Company Group does not have any present intention to discontinue or write down investments in any other business other than those disclosed in the Accounts nor is any such write down, in the reasonable opinion of the directors of the Company, required.*
- 2.11. *The accounting books and records of Company Group have been properly written up and present a true and fair view of all the transactions to which that Group Company has been a party and there are at the date hereof no material inaccuracies or discrepancies of any kind contained or reflected in the said books and records.*

3. WARRANTIES RELATING TO TAX

- 3.1. *All proper returns that may have become due by the Company from time to time under any law administered by the HM Revenue and Customs or an equivalent revenue authority in any foreign jurisdiction ("**Revenue Authority**") have been duly made and such returns are not and, to the best of The Company's knowledge and belief, will not be the subject of any dispute with any Revenue Authority.*
- 3.2. *All returns by the Company Group in respect of tax have been rendered on a proper basis, are correct and to the best of the Company's knowledge and belief, will not become the subject matter of any dispute with or claim by any Revenue Authority or any other competent authority.*
- 3.3. *No Revenue Authority has reopened, and to the best Company's knowledge and belief no Revenue Authority will reopen, any existing tax assessment in respect of the Company Group and, to the best of The Company's knowledge and belief, no grounds exist for the re-opening of any existing assessment.*
- 3.4. *The tax files relating to the correspondence with, and queries any Revenue Authority have been made available by the Company Group to the Subscriber and contain adequate records of all queries raised by any Revenue Authority official and the replies thereto.*
- 3.5. *The Company Group are not in material breach of any law relating to tax.*
- 3.6. *The Company Group is not engaged in or a party to any appeal the disallowance by a Revenue Authority of any objection lodged by the Company Group.*

- 3.7. *Save to the extent specifically provided in the Manage Accounts, no liability for tax on the part of the Company has been postponed, nor has any agreement been entered into between the Company and a Revenue Authority to that effect.*
- 3.8. *All liability for tax arising for all periods prior to the Signature Date, is fully provided for in the Management Accounts save to the extent disclosed in the Disclosure Schedule.*

4. WARRANTIES RELATING TO the PROJECTS

- 4.1. *Other than as disclosed by the Company to the Subscriber, all material licenses, consents and other permissions and approvals required for or in connection with the carrying on of the business now being carried on by the Company Group and the Projects have been fairly disclosed to the Subscriber and/or their professional advisors, are not subject to onerous conditions, are in full force and effect and have been duly complied with and so far as the Company is aware there is no reasonably foreseeable circumstance which might invalidate any licence, consent, permission or approval or render it liable to forfeiture or modification or affect its renewal.*
- 4.2. *The Company has provided the Subscriber with reasonable access to copies of all exploration information and data with respect to the Projects within the possession or control of the Company Group relevant to the Subscription.*
- 4.3. *The Company Group have disclosed to Subscriber all material facts of which Company and its affiliates have knowledge relating to the Projects.*
- 4.4. *To the knowledge of the Company, all work and activities carried out on the Projects by the Group Companies or by any other person appointed by the Company Group or any of its affiliates have been carried out in all material respects in compliance with all applicable laws, excluding Environmental Laws, and neither the Company, nor any other person as envisaged above, has received any notice of any material breach of any such applicable laws.*
- 4.5. *Other than those persons disclosed by the Company to the Subscriber, no persons have any material interest in the relevant prospecting and/or mining licences in respect of the Projects or any right to acquire such interest or the production or profits therefrom or any royalty in respect thereof or any right to acquire any such interest.*
- 4.6. *Other than as disclosed by the Company to the Subscriber, there are no back-in rights, earn-in rights, rights of first refusal, royalty rights or similar*

provisions which would materially affect the Company Group's interest in the Projects.

- 4.7. *As at the Signature Date hereof, there is no adverse claim or challenge in progress or, to the knowledge of the Company, pending or threatened against, or to, the title to or ownership of the Projects.*

5. WARRANTIES RELATING TO CONTRACTS AND COMMITMENTS

- 5.1. *The Company Group are not a party to or has any actual or contingent liability in respect of:*
- 5.1.1. *except in the ordinary course of business, any contracts which are unusual or of a long-term nature (i.e. more than one year) or involving or which may involve obligations on it of a nature or magnitude calling for special mention or which cannot be fulfilled or performed profitably, or on time, or without undue or unusual expenditure of money or effort;*
 - 5.1.2. *any agreement entered into otherwise than by way of bargain, at arm's length and in the ordinary course of business;*
 - 5.1.3. *any arrangements (contractual or otherwise) which shall or may be terminated or prejudicially affected as a result of the issue of the Subscription Shares or of compliance with any other provision of this Agreement;*
 - 5.1.4. *any mortgages, debentures, charges, rights of security or third-party rights of any kind whatsoever over any of the assets of the Company, the Group Companies and the Projects;*
 - 5.1.5. *except for certain shareholder loan agreements, any loan agreement, overdraft facility, guarantee, indemnity or letter of credit or leasing, hiring, hire purchase, credit sale or conditional sale agreement;*
 - 5.1.6. *any agreement to factor its debts or otherwise engage in financing of a type which would not require to be shown or reflected in the accounts;*
 - 5.1.7. *any contract or commitment involving, or likely to involve, obligations or expenditure of an unusual or exceptional nature or magnitude;*
 - 5.1.8. *any agreement which materially restricts its freedom to carry on any business in any part of the world in such manner as it thinks fit or its ability to disclose or use the information in its possession;*

- 5.1.9. *any agreement which cannot be terminated by it without payment of compensation by less than 90 days' notice, or which imposes any obligation to be performed by it more than 180 days from the date of the agreement;*
- 5.1.10. *any agreement to which any of the Company's directors or any of their respective associates is a party and which is required to be assigned to or vested in a Group Company to enable that Group Company to carry on its business or enjoy the rights to the same extent as carried on or enjoyed prior to the date of this Agreement (apart from the directors' service contracts); and*
- 5.1.11. *powers of attorney or other authorities (express or implied) which are still outstanding or effective to or in favour of any person, other than an existing director or employee of a Group Company, to enter into any contract or commitment or to do anything on its behalf.*
- 5.2. *The Company is not aware of the invalidity, or of any grounds for determination, rescission, avoidance or repudiation, of any agreement to which Company and the Group Companies are a party.*
- 5.3. *In relation to all agreements to which the Company Group are a party ("**Business Agreement**"), to the knowledge of the Company:*
 - 5.3.1. *each Business Agreement is valid, binding and legally enforceable against the parties thereto in accordance with its terms;*
 - 5.3.2. *no party to any Business Agreement is in breach of any of the terms thereof which may have a material adverse effect on the financial condition of the relevant Group Company;*
 - 5.3.3. *all regulatory or third-party approvals which are required in connection with each Business Agreement have been properly obtained; and*
 - 5.3.4. *neither the Company, its directors or the Group Companies are aware of the invalidity, or of any grounds for determination, recession, avoidance or repudiation, of any Business Agreement.*

6. WARRANTIES RELATING TO LITIGATION

- 6.1. *Other than as disclosed to the Subscriber, the Company Group are not a party to any litigation, arbitration, mediation, prosecutions, disputes, investigations or to any other legal or contractual proceedings (together, "**Proceedings**") that may result, in the aggregate, in any*

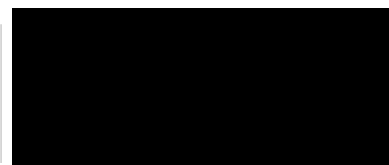
material adverse change in the financial condition of the Company Group or the Projects, and, to the knowledge of the Company, there are no facts or circumstances subsisting which might give rise to any Proceedings and there are no unfulfilled or unsatisfied judgments or court orders against the Company Group.

- 6.2. *Other than as disclosed to the Subscriber, there are no current disputes between the Company Group and any of its respective customers, suppliers, employees or officers in relation to goods or services purchased or supplied, plant or machinery, duties or work or any loss, damage or injury resulting therefrom, which may result in any material impact on the financial condition or business of the Company Group.*
- 6.3. *The Company Group has not committed, nor is liable for, any criminal, illegal, unlawful or unauthorised act or breach of any material obligation or duty, whether imposed by or pursuant to legislation, contract or otherwise (including acts of fraud), and no claim remains outstanding against any the Company Group.*
- 6.4. *The Company Group has not received notification from any governmental authority or other regulatory body that any disciplinary investigation or inquiry for misconduct or irregularity is being or has been conducted by any governmental authority or other regulatory body in respect of the affairs of the Company Group.*

7. WARRANTIES RELATING TO EMPLOYEES

- 7.1. *All relevant and material contracts of service to which the Company Group are a party have been disclosed to the Subscriber and/or their professional advisors and can be terminated by the relevant Group Company (save as provided by legislation) by not more than three months' notice.*
- 7.2. *No company in the Company Group is party to:*
 - 7.2.1. *any loan to, or guarantee in respect of the obligations of, any past or present employee, officer or director of any Group Company;*
 - 7.2.2. *any collective bargaining or procedural or other agreement with any trade union or similar association;*
 - 7.2.3. *any agreement, arrangement or scheme (whether or not legally enforceable) for profit sharing or for the payment to employees of bonuses or incentive payments or the like, other than agreements providing for the payment of a bonus or incentive payment at the discretion of the Company; or*

- 7.2.4. any obligations (save as required under any applicable legislation) or ex-gratia arrangements to pay pensions, gratuities, retirement annuities, benefits, periodical sums or any compensation (for any reason whatsoever including unfair or wrongful dismissal) to any past or present employee or any other person.
- 7.3. All schemes or plans for the provisions of benefits to employees of the Company Group comply in all respects with all applicable legislation, all necessary consents and approvals in relation to such schemes and plans have been properly obtained and remain in full force and effect, the Company Group has complied fully with its obligations in respect of such scheme or plans and such schemes or plans have sufficient funds to meet all actual or contingent claims.
- 7.4. The Company Group is not under any material obligation (whether actual or contingent) to any former employee, whether for breach of any contract of service, for compensation for wrongful dismissal or for unfair dismissal or for payment of any salaries, wages, pensions, gratuities, bonuses or otherwise and no tax, levy, contribution or payment in respect of any former employee whether to any governmental authority, pension funds, scheme or trust or otherwise shall be outstanding or disputed.
- 7.5. No director or employee of the Company Group are in material breach of any contract he or she has with that Group Company and no director of any Group Company is involved or has invested in any business which competes with any Group Company.
- 7.6. To the knowledge of the Company, there are no existing, threatened or pending industrial or trade disputes involving the Company Group and any of its employees; there are no agreements or arrangements (whether oral, in writing or existing by reason of custom and practice) between the Company Group and any trade union or other employees' representatives concerning or affecting that Group Company's employees; and there are no trade unions or other employees' representatives whom the Company Group recognises to any extent for collective bargaining purposes.
- 7.7. The Company Group has not given notice of any redundancies or layoffs or started consultations with any independent trade union or employees' representatives regarding redundancies, layoffs or dismissals within the period of one year prior to the date hereof. No circumstances have arisen under which any Group Company is likely to be required to pay damages for wrongful dismissal, make any statutory



severance, redundancy or long service payment, make or pay any compensation for unreasonable dismissal, make any other payment under any employment protection legislation or reinstate or re-engage any former employee. No circumstances have arisen under which any Group Company is likely to be required to pay damages or compensation, suffer any penalty, be required to take corrective action or be subject to any form of discipline under any other laws conferring protection against discrimination, harassment, victimisation or vilification by reason of age, gender, family circumstances, race, religion or disability. There are no current, pending or threatened claims of any type against it by any existing or former employees.

- 7.8. *No director or senior management member of the Company Group have given notice terminating his contract of employment or is under notice of dismissal and/or, so far as the Company is aware, no director or senior management member of the Company Group is intending to give notice terminating his contract of employment.*

8. WARRANTIES RELATING TO INSOLVENCY

- 8.1. *No order has been made or petition presented or resolution passed for the winding up of the Company Group, nor has any distress, execution or other process been levied against any the Company Group or action been taken to repossess goods in the possession of the Company Group.*
- 8.2. *No steps have been taken for the appointment of an administrator or receiver, or similar or equivalent official or person in the relevant jurisdiction, of any part of the Company Group's property.*
- 8.3. *No floating charge created by the Company Group has crystallized and there are no circumstances likely to cause a floating charge to crystallize.*
- 8.4. *The Company Group are not a party to any transaction which could be avoided in a winding up.*
- 8.5. *The Company Group have not made or proposed any arrangement or composition with its creditors or any class of its creditors.*

9. WARRANTIES RELATING TO INSURANCE

- 9.1. *The Company Group have effected all insurances required by law to be effected by them.*
- 9.2. *Brief particulars of the insurance policies effected by any Group Company have been disclosed to the Subscriber and/or their professional advisors. All premiums due in respect of such policies of insurance have been paid in full and all the other conditions of the said*

policies have been performed and observed. The insurance under those insurance policies are sufficient to cover the risk anticipated for the business conducted by the relevant Group Company.

- 9.3. *No claim is outstanding either by the insurer or the insured under any of the said policies and no claim against any Group Company by any third party is outstanding in respect of any risk covered by any of the policies or by any policy previously held by any Group Company.*
- 9.4. *All material assets of all the Company and/or the Group Companies of an insurable nature are insured in amounts to the full replacement value thereof against such risks as are in accordance with good commercial practice normally insured against. Each Group Company is adequately covered against accident, third party, public liability, product liability, and other risks normally covered by insurance and nothing has been done or omitted to be done by or on behalf of such Group Company which would make any policy of insurance void or voidable or enable the insurers to avoid the same and there is no claim outstanding under any such policy and there are no reasonably foreseeable circumstances likely to give rise to such a claim or result in an increased rate of premium.*
- 9.5. *All information furnished in obtaining or renewing the insurance policies of each Group Company was correct and accurate to the knowledge of the Company when given and any change in that information required to be given was correctly given. No Group Company is in default under any of these policies and the copies of the policies supplied to the Subscriber and/or their professional advisors are true and complete.*
- 9.6. *The Company and/or the Group Companies have not suffered any uninsured losses or waived any rights of material or substantial value or allowed any insurances to lapse.*
- 9.7.

10. WARRANTIES RELATING TO RELATED PARTY TRANSACTIONS

- 10.1. *There is no outstanding contract or arrangement to which the Company Group are a party and in which any director, shareholder, supervisor or officer of the Company Group are or have been interested, whether directly or indirectly through any Associates or otherwise, other than arm's length service contracts; no Group Company is a party to, or have any of its profits or financial position at any time been adversely affected by, any contract or arrangement which is not of an entirely arm's length nature; save as aforesaid and this Agreement, there are no agreements or understandings (whether legally enforceable or not) between a*

Group Company and any person who is a shareholder or beneficial owner of any interest in the relevant Group Company, any other company controlled by any such person relating to the management of the Group Company's business, the appointment or the removal of its directors, the ownership or transfer of ownership, the letting of any of its assets,, the provision of finance, goods, services or other facilities to or by the Group Company or otherwise relating to the Group Company or its affairs.

- 10.2. *Unless otherwise disclosed by the Company to the Subscriber in writing or publicly known, none of the directors, shareholders, supervisors or officers of the Company Group is at the date hereof either individually, collectively or with any other person or persons engaged in any other business or concerned or interested in any other business of a similar nature to, or competitive with, those carried on by the Company Group.*

11. WARRANTIES RELATING TO TRANSACTIONS AFTER RELEVANT DATE

- 11.1. *Since the Relevant Date, each Group Company has carried on its business in the ordinary course so as to maintain the same as a going concern and has not:*
- 11.1.1. *issued, repaid or agreed to issue or repay any equity interest, share or loan capital;*
 - 11.1.2. *declared, made or paid any dividends or made any other distribution out of profits, reserves or capital and no loans or loan capital has been repaid in whole or in part;*
 - 11.1.3. *engaged in, or entered into, any business activities or transactions which are either outside its ordinary course of day-to-day trading operations or which have not been entered into for full value, on normal commercial terms and on an arms length basis;*
 - 11.1.4. *depleted its assets by any unlawful act on the part of any person;*
 - 11.1.5. *undertaken or authorized any capital commitments with an aggregate value in excess of US\$500,000;*
 - 11.1.6. *committed any breach which would entitle any third party (with or without the giving of notice) to call for the repayment of indebtedness prior to its normal maturity date;*
 - 11.1.7. *increased, or agreed to increase, the remuneration (including bonuses) payable to any director or employee except for their normal salary increment;*

- 11.1.8. *realized any book debts for less than their face amount, and no indication has been received that any debt now owing to any of the members of the Group is bad or doubtful;*
 - 11.1.9. *been affected by any abnormal factor in any material respect;*
 - 11.1.10. *defaulted in any of its contractual obligations;*
 - 11.1.11. *suffered any material adverse change in its turnover or financial or trading position; or*
 - 11.1.12. *save for any obligations and/or liabilities owing to the Subscriber under this Agreement, incurred any indebtedness or other form of liability, whether actual, contingent or otherwise, in excess of US\$500,000.*
- 11.2. *Since the Relevant Date, there has been no material adverse change and no material adverse development in the business, properties, operations, financial condition, results of operations or prospects of the Company Group taken as a whole.*

12. WARRANTIES RELATING TO CONFIDENTIAL INFORMATION

- 12.1. *“Confidential Information” for the purposes of this clause means all proprietary information, know-how, lists and details of customers or suppliers, trade secrets, technical processes or other confidential information belonging to the Company Group or to any third party.*
- 12.2. *No Group Company uses any processes or is engaged in any activities which involve the misuse of any Confidential Information belonging to any third party.*
- 12.3. *All agreements and/or arrangements under which Confidential Information belonging to any third party is made available to the Group have been disclosed to the Subscriber and no Group Company is in breach of any such agreement or arrangement or is aware of the existence of any circumstances under which its right to use such Confidential Information may be terminated.*
- 12.4. *No Group Company is aware of any actual or alleged misuse by any person of any of its Confidential Information. The Group has not disclosed to any person any of its Confidential Information except where such disclosure was properly made in the normal course of the Group Company’s business and was made subject to an agreement under which the recipient is obliged to maintain the confidentiality of such Confidential Information and is restrained from further disclosing it or using it other than for the purposes for which it was disclosed by the Group Company.*

13. WARRANTIES RELATING TO INFORMATION TECHNOLOGY

- 13.1. *Each Group Company is the owner of the information technology used in the conduct of the business of the Group and such information technology is in good working order and has been properly maintained in accordance with good industry practice.*
- 13.2. *No Group Company has experienced any material disruption in or to its business or operation as a result of any failure (whether arising from any bug, virus, defect or otherwise), lack of capacity or other sub-standard performance of any information technology and to the knowledge of the Company no circumstance exists which is likely or expected to give rise to any such disruption.*
- 13.3. *None of the Group Companies have any of its records, systems, controls, data or information recorded, stored, maintained, operated or otherwise wholly or partly dependent on or held by any means (including any electronic, mechanical or photographic process whether computerised or not) which (including all means of access thereto and therefrom) are not under the exclusive ownership and direct control of the relevant Group Company.*
- 13.4. *Each Group Company has security procedures in place to prevent unauthorised access, amendment or damage to the Group Company's data or the data of third parties held, recorded, stored, maintained or operated by the Group Company or on behalf of the Group Company by any third party, and no unauthorised access, amendment or damage to such data has taken place since the incorporation of the Group Company.*

14. WARRANTIES RELATING TO MISCELLANEOUS

- 14.1. *The Company Group has not:*
 - 14.1.1. *breached any statutory provision, order, bylaw or regulation binding upon it, any provision of its memoranda of association or articles of association (as relevant), its constitutional documents, any trust deed, agreement or licence to which it is a party or any covenant, mortgage, charge or debenture given by it;*
 - 14.1.2. *to the knowledge of the Company, entered into any transaction which is still executory and which is or may be unenforceable by reason of the transaction being voidable at the instance of any other party or ultra vires, void or illegal; or*

14.1.3. *omitted to do anything required or permitted to be done by it necessary for the protection of its respective title to or for the enforcement or the preservation of any order or priority of any properties or rights owned by it.*