

Form 603

Corporations Act 2001
Section 671B

Notice of initial substantial holder

To: Company Name/Scheme Evolution Energy Minerals Limited (Evolution)

ACN/ARSN ACN 648 703 548

1. Details of substantial holder (1)

Name Marvel Gold Limited

ACN/ARSN (if applicable) ACN 610 319 769

The holder became a substantial holder on 21 September 2021

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Ordinary shares	50,000,000	50,000,000	30.88% (based on 161,875,000 ordinary shares on issue)

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Marvel Gold Limited	Relevant interest arising under section 608(1) of the <i>Corporations Act 2001</i> (Cth)	50,000,000 ordinary shares

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Marvel Gold Limited	Marvel Gold Limited	Marvel Gold Limited	50,000,000 ordinary shares

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-Cash	
Marvel Gold Limited	21 September 2021	N/A (non-cash consideration).	Consideration for the sale of the Chilalo Graphite Project pursuant to the Share Exchange Agreement attached as Annexure A	50,000,000 ordinary shares

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
N/A	N/A

7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Marvel Gold Limited	Level 1, 1202 Hay St West Perth WA 6005

Signature

print name Stuart McKenzie

capacity Company Secretary

sign here



date 16 November 2021

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

Annexure A

This is Annexure A of 35 pages referred to in the Form 603 (Notice of initial substantial holder) signed by me and dated 16 November 2021.

.....

Name: Stuart McKenzie

Title: Company Secretary

Share Exchange Agreement

Marvel Gold Limited (ACN 610 319 769) (**Marvel**)
Evolution Energy Minerals Limited (ACN 648 703 548) (**Evolution**)

King & Wood Mallesons
Level 30
QV1 Building
250 St Georges Terrace
Perth WA 6000
Australia
T +61 8 9269 7000
F +61 8 9269 7999
DX 210 Perth
www.kwm.com

Share Exchange Agreement

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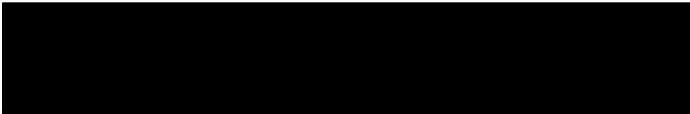
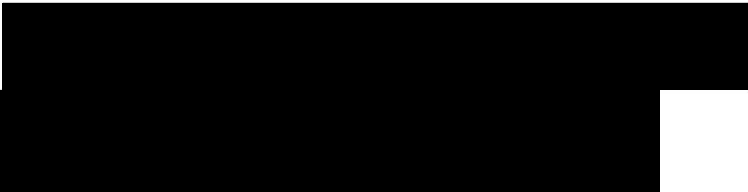
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Share Exchange Agreement

Details

Parties	Marvel and Evolution	
Marvel	Name	Marvel Gold Limited
	ACN	610 319 769
		
		
Evolution	Name	Evolution Energy Minerals Limited
	ACN	648 703 548
		
Recitals	A	Marvel holds shares in the capital of the Spin-out Entities.
	B	Marvel has agreed to sell, and Evolution has agreed to purchase, all of the shares in the Spin-out Entities held by Marvel on the terms of this document.
Governing law	Western Australia	
Date of agreement	See Signing page	

Share Exchange Agreement

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

ASIC means the Australian Securities and Investments Commission.

ASX means market operated by ASX Limited.

ASX Listing Rules means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

Business Day means a day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

Castlelake means CL V Investment Solutions LLC.

Castlelake Deed means the Deed of Consent – Loan Note Subscription Agreement dated 27 April 2021 between Marvel, Castlelake, Evolution and others.

Castlelake Loan Notes means the loan notes issued under the Loan Note Subscription Agreement dated 29 October 2018 between Marvel, Castlelake, Ngwena and others, as amended by the First Deed of Amendment and Novation – Loan Note Subscription Agreement dated 15 June 2020.

Chilalo Project means all rights and interests in the flake graphite project located in the Ruangwa District of the Lindi Region in south-eastern Tanzania, including all of the tenements identified in Schedule 1.

Claim means any allegation, debt, cause of action, Liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.

Completion means completion of the sale and purchase of the Transfer Shares in accordance with clause 6, and **Complete** has a corresponding meaning.

Completion Date means the date on which Completion occurs.

Conditions Precedent means the conditions precedent set out in clause 2.

Confidential Information means all confidential, non-public or proprietary information, in any material form, within the knowledge of one party relating to the other party or its businesses, assets or affairs.

Corporations Act means the Corporations Act 2001 (Cth).

Definitive Feasibility Study means the definitive feasibility study completed in respect of the Chilalo Project by Marvel in January 2020 and announced to ASX on 29 January 2020.

Definitive Feasibility Study Information means all information and documentation used for the purposes of preparing and finalising the Definitive Feasibility Study that is owned or controlled by a member of the Marvel Group or a member of the Evolution Group.

Details means the section of this document headed "Details".

Disclosure Letter means the letter from Marvel to Evolution delivered on or about the date of this document, which Marvel states is a "disclosure letter" for the purposes of this document and includes any document accompanying the letter.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Event of Insolvency means:

- (a) a receiver, manager, receiver and manager, trustee, administrator, controller or similar officer is appointed in respect of a person or any asset of a person;
- (b) a liquidator or provisional liquidator is appointed in respect of the corporation;
- (c) any application (not being an application withdrawn or dismissed within 14 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purposes of:
 - (i) appointing a person referred to in paragraphs (a) or (b);
 - (ii) winding up a corporation; or
 - (iii) proposing or implementing a scheme of arrangement;
 - (iv) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate;
- (d) a moratorium of any debts of a person, or an official assignment, or a composition, or an arrangement (formal or informal) with a person's creditors, or any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee, is ordered, declared, or agreed to, or is applied for and the application is not withdrawn or dismissed within 14 days;
- (e) a person becomes, or admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts; or
- (f) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person.

Evolution Group means Evolution and its Related Bodies Corporate following the Spin-out Time (including, for the avoidance of doubt, each of the Spin-out Entities).

Evolution HoldCo means Evolution Energy Holdings Pty Ltd (ACN 649 155 902).

Evolution HoldCo Share means a fully paid ordinary share in the capital of Evolution HoldCo.

Evolution Indemnified Party means each member of the Evolution Group and their respective directors, officers and employees.

Evolution Share means a fully paid ordinary share in the capital of Evolution.

Government Agency means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity, in Australia, Tanzania, United Kingdom or elsewhere.

GST means a tax payable and imposed under the GST Act and includes any amounts of interest or penalties payable in respect of that GST.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Intercompany Loans means all loans (including principal and interest and any associated fees or other associated amounts) from Marvel to an Evolution Group member (excluding the Promissory Note).

IPO means an initial public offering of Evolution Shares pursuant to which Evolution applies to list on ASX, raising not less than \$22 million (before costs).

IPO Deadline means 30 November 2021 or such later date as may be agreed between Marvel and Evolution in writing.

IPO Price means the issue price of Evolution Shares offered pursuant to the IPO.

IPO Settlement Date means the date on which Evolution completes the issue of all Evolution Shares to applicants under the IPO.

Key Management Personnel means Chris Knee (chief financial officer) and Stuart McKenzie (company secretary), and **Key Manager** means either of them.

Liability means any Loss, liability, cost, expense, obligation, overhead, debt or damage (in each case whether known or unknown, actual, contingent or prospective) of any kind and however arising, including penalties, fines and interest, irrespective of when the acts, events or things giving rise to the liability occurred.

Loss means all damage, loss, cost and expense, charges, outgoings, payments, diminution in value or deficiency, including but not limited to:

- (a) legal costs (on a full indemnity basis) and other expenses of whatsoever nature or description and all amounts paid in settlement of any claim demand or cause of action;
- (b) all liabilities, fines, penalties, interest and other amounts payable to third parties; and
- (c) all liabilities on any amount of any Tax.

Marvel Group means Marvel and its Related Bodies Corporate following the Spin-out Time (excluding all members of the Evolution Group).

Marvel Indemnified Party means each member of the Marvel Group, and their respective directors, officers and employees.

Marvel Projects means all projects, assets and businesses owned, operated or conducted by any member of the Marvel Group, other than the Chilalo Project.

Ngwena means Ngwena Tanzania Limited.

Notices has the meaning given in clause 20.

Permitted Encumbrances means:

- (a) any charge or lien arising in favour of a Government Agency or statute; or
- (b) any lien or right of title retention arising in the ordinary course of business or by operation of law.

PL 11034/2017 means the cancelled prospecting licence 11034/2017, originally granted by the Tanzanian Mining Commission to Ngwena.

PL Regularisation Event means:

- (c) PL 11034/2017 being reinstated (whether having the same reference number or not); or
- (d) mineral rights being granted to Ngwena over the area that is materially the same as the area covered by PL 11034/2017 and on materially consistent terms to those that would have been enjoyed by Ngwena if PL 11034/2017 had not been cancelled.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Promissory Note means a non-interest bearing promissory note in a form acceptable to Marvel, issued by Evolution in favour of Marvel under which Evolution promises to pay:

- (a) \$1 million (or, if a PL Regularisation Event has occurred by the IPO Settlement Date, then \$2 million) not later than 5 Business Days following the IPO Settlement Date; and
- (b) if a PL Regularisation Event has not occurred by the IPO Settlement Date but does occur on or before 31 December 2021, \$1 million not later than 5 Business Days after the occurrence of the PL Regularisation Event.

Related Body Corporate has the meaning it has in the Corporations Act.

Representative of a party includes an employee, agent, officer, director, auditor, adviser, partner, associate, consultant, joint venturer, contractor or sub-contractor of that party or of a Related Body Corporate of that party.

Scrip Consideration means 49,999,999 Evolution Shares.

Services Agreements means the:

- (a) office use agreement between Evolution, Marvel and others dated on or about the date of this document; and
- (b) cost sharing agreement between Evolution, Marvel and others dated on or about the date of this document.

Spin-out Time means the first time when Evolution Shares are issued to a person other than Marvel.

Spin-out Documents means, collectively:

- (a) this document;
- (b) the Services Agreements; and
- (c) such other documents as the parties may agree in writing.

Spin-out Entities means each of:

- (a) Evolution HoldCo;
- (b) Graphex Mining UK No1 Limited; and
- (c) Ngwena.

Spin-out Group means Evolution and the Spin-out Entities.

Tax means any tax, levy, charge, excise, goods & services or value-added tax (howsoever described), impost, rates, duty, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Government Agency and includes any interest, fine, penalty, charge, fee, expenses or other statutory charges or any other such amount imposed by any fiscal Government Agency on or in respect of any of the above.

Tax Claim has the meaning given in clause 14.3(d).

Tenements means the tenements identified in Schedule 1.

Transfer Shares means all of the issued shares in the capital of Evolution HoldCo.

1.2 References to certain general terms

Unless the contrary intention appears a reference in this document to:

- (a) **(clauses, annexures and schedules)** a clause, schedule or annexure is a reference to a clause in or schedule or annexure to this document;
- (b) **(variations or replacements)** a document (including this document) includes any variation or replacement of it;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(singular includes plural)** the singular includes the plural and vice versa;
- (e) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any Government Agency;
- (f) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

- (g) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (h) **(jointly and individually)** an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (i) **(dollars)** Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia;
- (j) **(calculation of time)** a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (k) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (l) **(accounting terms)** an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (m) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (n) **(meaning not limited)** the words "include", "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (o) **(time of day)** time is a reference to Perth, Australia time; and
- (p) **(reference to any thing)** any thing (including any amount) is a reference to the whole and each part of it.

1.3 Next day

If an act under this document to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.

1.4 Next Business Day

If an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

2 Conditions Precedent

2.1 Conditions Precedent

Completion is conditional on:

- (a) **(Board approval)** the board of directors of Marvel formally and finally resolving to proceed with the IPO, taking into account all information available to them; and

- (b) **(Regulatory approvals)** all necessary regulatory approvals being obtained, including the Tanzanian Fair Competition Commission providing a "no objections" letter under the *Fair Competition Act 2003* (Tanzania) in respect of (i) the share transfers contemplated in clause 3 and (ii) the IPO.

2.2 Waiver

The Conditions Precedent are for the benefit of Marvel and may only be waived by Marvel by written notice given to Evolution.

3 Sale and purchase of Shares

3.1 Sale and purchase

Marvel agrees to sell and Evolution agrees to purchase the Transfer Shares in exchange for the Scrip Consideration and the Promissory Note and otherwise on the terms and conditions of this document.

3.2 Free from Encumbrance

The Transfer Shares must be transferred, free from any Encumbrance (other than any Permitted Encumbrances) and with all rights, including dividend rights, attached or accruing to them on the Completion Date.

3.3 Title and risk

Beneficial title to and risk in the Transfer Shares passes to Evolution on the Completion Date.

3.4 Transfer to Evolution HoldCo

Prior to Completion, for no consideration, Marvel must transfer to Evolution HoldCo:

- (a) all of the issued shares in the capital of Graphex Mining UK No 1 Limited; and
- (b) all of the issued shares in the capital of Ngwena held directly by Marvel as at the date of this document.

4 Consideration

4.1 Consideration

Evolution agrees that in consideration for the transfer of the Transfer Shares to Evolution under this document, Evolution will issue to Marvel on the Completion Date:

- (a) the Scrip Consideration; and
- (b) the Promissory Note.

4.2 Scrip Consideration

Evolution must ensure that:

- (a) the Evolution Shares comprising the Scrip Consideration will rank equally with all of the existing shares of Evolution; and
- (b) on issue, the Evolution Shares comprising the Scrip Consideration will be fully paid and free from any Encumbrance.

5 Definitive Feasibility Study

5.1 Transfer of rights in Definitive Feasibility Study

With effect on and from the Completion Date, Marvel must transfer and deliver to Evolution:

- (a) all of Marvel's rights, title and interest in the Definitive Feasibility Study; and
- (b) the Definitive Feasibility Study Information.

5.2 Consent

To the extent that such consents are required, Marvel shall use its reasonable endeavours (before and after Completion) to procure consents from:

- (a) all relevant counterparties to the Definitive Feasibility Study; and
- (b) those members of the Marvel Group who were involved in the preparation and finalisation of the Definitive Feasibility Study,

to enable Marvel to complete the transfers contemplated in clause 5.1(a).

6 Completion

6.1 Time and place of Completion

Completion will take place at 11.00 am on a date following the satisfaction or waiver of the Conditions Precedent nominated by Marvel, which is not more than 10 Business Days following such satisfaction or waiver, at the offices of Marvel, or any other time and place agreed between Marvel and Evolution.

6.2 Marvel's obligations

On the Completion Date, Marvel will:

- (a) **(transfers and share certificates)** give to Evolution a duly executed transfer in favour of Evolution of all the Transfer Shares, the share certificates for the Transfer Shares (if any) and any consents which Evolution reasonably requires to obtain registration of those transfers;
- (b) **(directors resolution of Evolution Holdco)** give to Evolution evidence of a resolution of directors of Evolution Holdco resolving that, subject only to the payment of any duties, the transfer of the Transfer Shares will be registered;
- (c) **(board composition)** subject to the delivery by Evolution of all such consents as may be required, give to Evolution evidence of a resolution of directors of each member of the Spin-out Entities resolving that each relevant board of directors be reconstituted in the manner directed by Evolution;

- (d) **(discharges over Transfer Shares)** if necessary, deliver to Evolution full releases and discharges in respect of all Encumbrances over the Transfer Shares and all other shares in the Spin-out Entities, in each case duly executed by the relevant holders of those Encumbrances, including all relevant forms to update any relevant statutory register other than in respect of Encumbrances in favour of Castllake which are expressly contemplated in the Castllake Deed;
- (e) **(discharges over Chilalo Project)** deliver to Evolution full releases and discharges in respect of all Encumbrances over any and all assets comprising the Chilalo Project (in each case duly executed by the relevant holders of those Encumbrances), including all relevant forms to update any relevant statutory register, but:
 - (i) only to the extent that such Encumbrance relates to an obligation, liability or matter that is unrelated to the Chilalo Project; and
 - (ii) excluding any Encumbrances granted in connection with the Castllake Loan Notes; and
- (f) **(forgiveness of Intercompany Loans)** subject to the prior assignment of the benefit of any Intercompany Loans from Marvel to a member of the Evolution Group (as may be agreed by the parties), forgive and release the Intercompany Loans and do all things reasonably requested by Evolution to evidence such forgiveness and release and ensure that no monies remain outstanding.

6.3 Evolution's obligations

On the Completion Date, Evolution will:

- (a) **(issue Scrip Consideration)** issue the Scrip Consideration to Marvel;
- (b) **(register the Scrip Consideration)** register Marvel as the holder of the Scrip Consideration issued under clause 6.3(a);
- (c) **(share certificates)** issue a share certificate in respect of the Scrip Consideration; and
- (d) **(issue the Promissory Note)** issue the Promissory Note to Marvel.

6.4 Interdependent actions at Completion

In respect of Completion the obligations of the parties under this document are interdependent (including, to avoid doubt, obligations under clauses 6.2 and 6.3) and in the event that either party fails to complete its obligations under this document, the parties must do all things necessary to undo any steps taken in satisfaction of their respective obligations at Completion so as to put the parties back in their respective positions as existed immediately prior to the Transfer Date.

7 Settlement of Promissory Note

7.1 Repayment of Promissory Note

Subject to clause 7.2 and 7.3, Evolution must pay to Marvel out of the proceeds of the IPO such amount as is required to settle and discharge the Promissory Note within 5 Business Days of the IPO Settlement Date and/or within 5

Business Days of the occurrence of the PL Regularisation Event, as the case may be.

7.2 IPO characteristics

Marvel and Evolution agree that no proceeds from the IPO will be used to make the cash payment(s) to Marvel under clause 7.1 unless:

- (a) Castlake has been paid \$9,500,000 in accordance with the Castlake Deed; or
- (b) Castlake has made a written election to receive Evolution Shares (as contemplated under the Castlake Deed) notwithstanding Castlake's entitlement to receive cash under the Castlake Deed.

7.3 Treatment of Promissory Note if IPO does not complete

If the IPO will not complete by the IPO Deadline, the Promissory Note will be forgiven by Marvel and cancelled.

8 Consultation on allocations

Evolution must consult with Marvel in a timely manner, and accommodate the reasonable suggestions and requirements of Marvel, in relation to the allocation of Evolution Shares under the IPO (including the priority offer to be made available to Marvel shareholders).

9 Obligations pending Completion

Until Completion, Marvel agrees to procure that each of the Spin-out Entities carries on the Chilalo Project (and causes the Chilalo Project to be carried on) in the ordinary course of business with a view to maintaining value in the Chilalo Project pending Completion, including by paying all costs and expenses that may be incurred in connection with the Chilalo Project or which are necessarily incurred in order to retain good title to the Chilalo Project and keep it in good standing.

10 Wrong pockets

10.1 Wrong pocket assets

Subject to clause 10.3, if within 12 months after the Spin-out Time any party becomes aware that:

- (a) an asset of the Marvel Group prior to the Spin-out Time which was customarily used solely or predominantly in, or relates solely or predominantly to, the Chilalo Project prior to the Spin-out Time that is owned by (or in the custody of) the Marvel Group from the Spin-out Time, that party will promptly notify the other in writing, and that asset will (if it is still owned by (or in the custody of) the Marvel Group at the applicable time) be transferred or given to Evolution (or its nominee) as soon as practicable for no consideration, and that asset will be treated as being part of the Chilalo Project for the purposes of this document; or
- (b) an asset of the Marvel Group prior to Spin-out Time which was not customarily used solely or predominantly in, or did not relate solely or predominantly to, the Chilalo Project prior to the Spin-out Time that

became owned by (or in the custody of) the Evolution Group from the Spin-out Time, that party will promptly notify the other in writing, and that asset will (if it is still owned by (or in the custody of) the Evolution Group at the applicable time) be transferred or given to Marvel (or its nominee) as soon as practicable for no consideration, and that asset will be treated as not being part of the Chilalo Project for the purposes of this document.

10.2 Notice of proposed asset adjustment

- (a) If a party believes an asset should be transferred or otherwise dealt with pursuant to clause 10.1, it must notify the other in writing (**Transfer Notice**).
- (b) The party to which such a Transfer Notice has been given has 10 Business Days to dispute any part of the Transfer Notice in writing (**Dispute Notice**). The Dispute Notice must state which assets specified in the Transfer Notice are disputed and the reasons for such dispute.
- (c) If a Dispute Notice is not provided, then the party which is provided with the Transfer Notice must comply with the Transfer Notice as soon as practicable and not unreasonably delay such compliance.

10.3 Dispute resolution

- (a) If a party delivers a Dispute Notice pursuant to clause 10.2(b) (**Disputing Party**) in respect of any or all of the assets referred to in a Transfer Notice given to it pursuant to clause 10.2(a) (**Disputed Assets**), then:
 - (i) any assets referred to in the Transfer Notice that are not Disputed Assets must be transferred to the other party (**Non-Disputing Party**) or otherwise dealt with in accordance with clause 10.1;
 - (ii) representatives from the parties must meet within 5 Business Days of the Non-Disputing Party receiving the Dispute Notice to discuss in good faith and use best endeavours (excluding paying any money or providing valuable consideration to or for the benefit of any person) to resolve the Disputed Assets; and
 - (iii) if within 5 Business Days after the parties meeting pursuant to clause 10.3(a)(ii) the parties are not able to resolve the Disputed Assets, then the dispute will be determined pursuant to clauses 10.3(b) and 10.3(c).
- (b) The Disputed Assets must be referred for determination by the parties, within 5 Business Days of the date specified in clause 10.3(a)(iii), to a person agreed upon by the parties or, failing agreement within a further 2 Business Days, to the nominee of the President for the time being of the Institute of Chartered Accountants (Western Australia Branch) (in this paragraph, the **Referee**), who is to determine each of the Disputed Assets in accordance with clause 10.3(c) (**Referee's Asset Determination**).
- (c) The procedures to be used by the Referee in determining the Referee's Asset Determination shall be as follows:
 - (i) parties will together provide to the Referee copies of this document, the Transfer Notice and the Dispute Notice. The date

upon which the Referee receives such documents is referred to in this clause as the “Referral Date”;

- (ii) within 10 Business Days after the Referral Date, each party may make a single written submission to the Referee in relation to the Disputed Assets;
- (iii) each of the parties will be permitted to deliver to the Referee a response to the submission of the other party described in clause 10.3(c)(ii) above, within 5 Business Days after receipt of the other party’s submission described in clause 10.3(c)(ii) above;
- (iv) the Referee must review the documents submitted by the parties and have the opportunity to ask specific written questions of or request specific historical documents from either party to clarify its understanding of the submissions;
- (v) copies of any submission, response or document submitted to or by the Referee by or to a party as contemplated in this clause will be provided by the Referee to the other party or parties simultaneously, or as soon as received, as the case may be;
- (vi) the Referee will deliver the Referee’s Asset Determination within 20 Business Days following the Referral Date, or such later date as the parties agree upon in writing and notify to the Referee. The Referee’s Asset Determination will be final and binding on the parties to this document;
- (vii) the fees and expenses of the Referee will be payable by the party against whom the Referee’s determination is made or as the parties agree; and
- (viii) in making his or her determination the Referee acts as an expert and not as an arbitrator.

10.4 Maintenance of assets

Upon a Transfer Notice being given, the party to which the Transfer Notice is given (the **Recipient Party**) must maintain the relevant asset (fair wear and tear excepted) until the earlier of the date of:

- (a) a Referee’s Asset Determination (if any) that either the relevant asset should remain with the Recipient Party or that the party that gave the Transfer Notice should not have access to or use of that asset; or
- (b) completion of the transfer of or provision of access to the relevant asset in accordance with the Transfer Notice or a Referee’s Asset Determination to the party that gave the Transfer Notice.

11 Board representation

11.1 Right to appoint Evolution director

Following the Spin-out Time, Marvel will have the right but not the obligation to appoint a nominee to the board of directors of Evolution (**Marvel Director**), and Evolution must procure the appointment of the Marvel Director as a director of Evolution as a casual vacancy as soon as practicable after receiving written notice from Marvel, subject to Evolution receiving a signed consent to act from the Marvel Director and his or her alternate.

11.2 Obligation to remove Marvel Director

If at any time after the first anniversary of the Spin-out Time, Marvel holds less than 10% of all issued Evolution Shares for more than 10 consecutive days on which the ASX is open for trading, Marvel will procure that the Marvel Director nominated by it tenders his or her resignation to the board of directors of Evolution.

11.3 Right to appoint replacement Marvel Director

If a Marvel Director retires or is removed from the board of directors of Evolution (other than in circumstances set out in clause 11.2), or if shareholders at a general meeting of Evolution do not approve the appointment of a Marvel Director, Marvel will have the right, but not the obligation, to appoint a replacement Marvel Director, and Evolution must procure the appointment of such replacement Marvel Director as a director of Evolution as soon as practicable after receiving notice from Marvel, subject to Evolution receiving a signed consent from the replacement Marvel Director and his or her alternate.

11.4 Initial Marvel Director

To avoid doubt, subject to the consent of the nominee, Marvel may nominate an existing director of Evolution as the Marvel Director.

12 Sharing of Key Management Personnel

- (a) Marvel agrees to make the Key Management Personnel available to Evolution to perform services exclusively for Evolution for 15 hours per week (per Key Manager), or such greater or lesser period of time as may be necessary from week to week (taking account of respective workloads at Marvel and Evolution) provided that on average over a calendar month each Key Manager is available to Evolution for approximately 15 hours per week.
- (b) Marvel will ensure that the Key Management Personnel will provide services to Evolution on the same terms as described in the respective employment agreements of the Key Management Personnel.
- (c) While performing work for Evolution, the Key Management Personnel will work under the direction of, and report to, the board of directors of Evolution. For the avoidance of doubt, the Key Management Personnel will remain employed by Marvel on and from the Completion Date.
- (d) The parties may terminate the sharing arrangement contemplated in this clause by giving 3 months' notice in writing to the other party and to the Key Management Personnel, or such shorter period as agreed between the parties.
- (e) Subject to clause 12(g), Marvel will remain financially responsible for the payment of the salary and other benefits of the Key Management Personnel, including superannuation contributions, paid leave entitlements, and any bonus or other incentive.
- (f) The Key Management Personnel will be eligible for their normal entitlements to annual leave and sick leave as specified in their respective employment contracts with Marvel. The approval and timing of annual leave is to be determined by Marvel in consultation with the Key Management Personnel and Evolution.

- (g) The parties agree that, on and from the Completion Date, the reimbursement by Evolution for:
 - (i) payment of the salary of the Key Management Personnel; and
 - (ii) paid leave entitlements accrued by the Key Management Personnel,

will be governed by the terms of the cost sharing agreement described in paragraph (b) of the "Services Agreements" definition.

13 Representations and warranties

13.1 Mutual representations and warranties

Each party represents and warrants to the other that, on the date of this document and as at the Completion Date:

- (a) it has the power and authority to own its assets and carry on its business as it is now being conducted;
- (b) it has power to enter into this document and each document to be executed at or before Completion to which it is a party and to comply with and perform its obligations under them;
- (c) it has in full force and effect the authorisations necessary for it to enter into this document and each document to be executed at or before Completion to which it is a party, to comply with its obligations and exercise its rights under them and to allow them to be enforced; and
- (d) no order has been made for its winding-up and no distress, execution or other similar order or process has been levied or applied to it or any of the shares in its capital. No voluntary arrangement has been proposed or reached with any creditors, and no receiver, receiver and manager, provisional liquidator, liquidator or other officer of the court has been appointed in relation to any of the shares in its capital.

13.2 Marvel representations and warranties

- (a) Marvel makes the representations and warranties set out in Schedule 2 in favour of Evolution (**Marvel Representations and Warranties**) on the date of this document and at the Completion Date, subject to the matters disclosed in the Disclosure Letter.
- (b) Each of the Marvel Representations and Warranties is to be read down and qualified by any matter disclosed in the Disclosure Letter. No amount will be recoverable by Evolution in respect of any breach of a Marvel Representation and Warranty and Marvel will have no liability to Evolution under or in connection with any Marvel Representation and Warranty to the extent that disclosure is made or is deemed to have been made in the Disclosure Letter.
- (c) The maximum liability of Marvel for the Marvel Representations and Warranties will not exceed in aggregate an amount equal to \$2 million.

13.3 No reliance

- (a) Except as expressly set out in this document, all terms, conditions, warranties and statements, (whether express, implied, written, oral,

collateral, statutory or otherwise) are excluded to the maximum extent permitted by law and, to the extent they cannot be excluded, the parties disclaim all Liability in relation to them to the maximum extent permitted by law.

- (b) The parties acknowledge that no statement or representation (other than as set out in clauses 13.1 or 13.2):
- (i) has induced or influenced the parties to enter into the agreement or agree to any or all of its terms;
 - (ii) has been relied on in any way as being accurate by the parties;
 - (iii) has been warranted to the parties as being true; or

has been taken into account by the parties as being important to their decision to enter into this document or agree to any or all of their terms.

13.4 Exclusion of consequential loss

Notwithstanding any other provision in this document, the parties exclude all liability for indirect and consequential loss or damage (including for loss of profits (whether direct, indirect, anticipated or otherwise), loss of expected savings, opportunity costs, loss of business (including loss or reduction of goodwill), damage to reputation and loss or corruption of data regardless of whether any or all of these things are considered to be indirect or consequential losses or damages) in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to this document or its subject matter.

13.5 Tax

The parties acknowledge and agree that, without limiting clause 14.3(a)(ii), they will each be responsible for their own Tax and any Tax that is levied on, or payable by, them or a member of the Marvel Group (in the case of Marvel) or the Evolution Group (in the case of Evolution), including as a result of the transactions contemplated in this document.

14 Indemnities

14.1 Interpretation

It is the intention of the parties that the provisions of this document will, subject to the exceptions in this clause 14, be:

- (a) applied so as to put the Marvel Indemnified Parties in the same position that would have existed had Marvel not directly or indirectly owned or operated or had any involvement in the Chilalo Project or purchased or held the Transfer Shares, and had Evolution not been, prior to the Spin-out Time, a Related Body Corporate of any member of the Marvel Group;
- (b) applied so as to put the Evolution Indemnified Parties in the same position that would have existed had Evolution not had any involvement in the Marvel Projects, and had Evolution not been prior to Completion, a Related Body Corporate of any member of the Marvel Group; and
- (c) construed to give effect to the above intentions.

14.2 Marvel indemnity

- (a) Evolution will indemnify each Marvel Indemnified Party against any Liability (other than Liability referred to in clause 14.2(c) or any Liability that relates to the circumstances the subject of an indemnity claim under clause 14.3(a)(ii)) which such Marvel Indemnified Party incurs or sustains in relation to, or arising out of the ownership, management, oversight, conduct or control of, or otherwise in connection with, the Chilalo Project (irrespective of when such Liability is incurred or sustained or when the act, omission or other matter giving rise to the Liability occurred).
- (b) Marvel holds on trust, and has the right to enforce (on behalf, and for the benefit, of a Marvel Indemnified Party), the right under this clause of a Marvel Indemnified Party to seek and enforce an indemnity from Evolution.
- (c) The indemnity in clause 14.2(a) does not apply to any Liability incurred or sustained by a Marvel Indemnified Party that arises from, or is increased as a result of, a breach by Marvel of this document or any Spin-out Document.

14.3 Evolution indemnity

- (a) Marvel will indemnify:
 - (i) each Evolution Indemnified Party against any Liability (other than Liability referred to in clause 14.3(c)) which such Evolution Indemnified Party incurs or sustains in relation to or otherwise in connection with the Marvel Projects (irrespective of when such Liability is incurred or sustained or when the act, omission or other matter giving rise to the Liability occurred); and
 - (ii) each Evolution Indemnified Party (including Ngwena) against any Liability which such Evolution Indemnified Party (or Ngwena) suffers, sustains or incurs as a result of the application or operation of section 56 of the Tanzanian *Income Tax Act 2004*, but only where such Liability exclusively relates to the period prior to the date of this document and to a change of control of Ngwena that occurred prior to the date of this document.
- (b) Evolution holds on trust, and has the right to enforce (on behalf, and for the benefit, of an Evolution Indemnified Party), the right under this clause of an Evolution Indemnified Party to seek and enforce an indemnity from Marvel.
- (c) The indemnity in clause 14.3(a) does not apply to any Liability incurred or sustained by an Evolution Indemnified Party to the extent that the Liability arises from, or is increased as a result of:
 - (i) a breach by Evolution of this document or any Spin-out Document;
 - (ii) in respect of clause 14.3(a)(ii), the failure by an Evolution Indemnified Party after Completion, in a timely manner, to:
 - (A) lodge any return, notice, objection or other document; or

- (B) take any other action which an Evolution Indemnified Party is required or permitted to take under this document or the Tanzanian *Income Tax Act 2004*; or
- (iii) the failure by Evolution to supply to Marvel, on a timely basis, information which is reasonably requested by Marvel in relation to the particular claim.
- (d) Evolution must:
 - (i) give prompt written notice to Marvel of any correspondence received by Evolution or Ngwena or any of their respective Representatives from a Government Agency in respect of Tax under section 56 the Tanzanian *Income Tax Act 2004* (**Tanzania Tax**);
 - (ii) consult in good faith with Marvel in respect of any correspondence contemplated in clause 14.3(d)(i), including as to the appropriate course of action in responding to such correspondence, and keep Marvel fully informed of all developments in respect of such correspondence and any Claim for Tanzania Tax that is asserted, threatened or could be reasonably expected to be contemplated by a Government Agency in Tanzania, taking account of the potential for the indemnity in clause 14.3(a)(ii) to be claimed; and
 - (iii) not, and must procure that each member of the Evolution Group does not, accept, settle, compromise, mediate, arbitrate or make any admission of liability in respect of a Claim arising from the correspondence under clause 14.3(d)(i) without the prior consent of Marvel (such consent not to be unreasonably withheld, delayed or conditioned), unless there are no reasonable or realistic prospects of such Claim resulting in the enforcement of the indemnity in clause 14.3(a)(ii).
- (e) Evolution must:
 - (i) give prompt written notice to Marvel of any Claim that may reasonably be expected to give rise to a claim for indemnification under clause 14.3(a)(ii) (**Tax Claim**), providing all reasonable details of such Tax Claim (including an estimate of the amount of the Liability); and
 - (ii) allow Marvel the opportunity to assume the conduct of the Tax Claim.
- (f) If Marvel elects to assume the conduct of the Tax Claim:
 - (i) Marvel must accept that the Tax Claim is a Liability of Marvel under this document for the full amount of the Tax Claim and Marvel will conduct the Tax Claim at its own expense;
 - (ii) Marvel may settle or compromise the Tax Claim;
 - (iii) Evolution must co-operate, and cause each member of the Evolution Group to co-operate, with Marvel and do all things reasonably requested by Marvel in respect of the Tax Claim; and
 - (iv) Evolution must not, and must procure that each member of the Evolution Group does not, accept, settle, compromise, mediate, arbitrate or make any admission of liability (or authorise or agree

to do, or make any representation or warranty regarding doing any of those actions) in respect of the Tax Claim, or any matter giving rise to the Tax Claim, that may lead to Liability on the part of Marvel unless specifically directed by Marvel.

- (g) If, following a payment by Marvel of an amount in connection with the indemnity in clause 14.3(a)(ii), an amount which is referable to the Liability is refunded either in cash or by credit to an Evolution Indemnified Party (including any amount or credit received following a successful objection or appeal), then Evolution must immediately:
 - (i) notify Marvel of the amount of the refund; and
 - (ii) pay an amount to Marvel equal to the lesser of:
 - (A) the refund less all reasonable third party costs and Liability incurred after Completion by an Evolution Indemnified Party in obtaining the refund, if any; and
 - (B) the amount of the payment made by Marvel with respect to the Liability.

15 Guarantees

15.1 In favour of the Evolution Group

Evolution, subject to clause 15.2:

- (a) from the Spin-out Time, indemnifies Marvel and each Marvel Group company against any Liabilities in relation to any guarantees, indemnities and other forms of financial support including letters of comfort or undertaking, given by a Marvel Group company, or by a financial institution at the request of a Marvel Group company, in favour of a third party in relation to, or arising out of the ownership, management, oversight, conduct or control of, or otherwise in connection with, the Chilalo Project; and
- (b) must use its best endeavours (including through the provision of information reasonably requested by a third party, or of guarantees, indemnities, letters of comfort or other security or financial support from Evolution Group companies or by the provision of a guarantee by a financial institution at the request of an Evolution Group company) to secure the release of Marvel and any Marvel Group company from all of its obligations in relation to the guarantees, indemnities and other forms of financial support referred to in clause 15.1(a), with effect from the Spin-out Time or as soon as reasonably practicable thereafter.

15.2 Exceptions

- (a) To the extent that an instrument of guarantee, indemnity or other form or financial support referred to in clause 15.1(a) relates to obligations of:
 - (i) an Evolution Group company or any person in relation to the Chilalo Project or under any transaction relating to the Chilalo Project; and
 - (ii) a Marvel Group company or any person in relation to the Marvel Projects or under any transaction relating to the Marvel Projects,

Evolution's obligation to:

- (iii) indemnify Marvel or any Marvel Group company under clause 15.1(b) against any Liabilities in relation to that instrument is confined to Liabilities to the extent they:
 - (A) are caused by an Evolution Group company;
 - (B) arose out of or in relation to the acts, omissions or other conduct of the Evolution Group; or
 - (C) relate to the Chilalo Project; and
- (iv) secure the release of Marvel and any Marvel Group company from all of its obligations under and in relation to that instrument under clause 15.1(b) is confined to a release of those obligations under or in relation to that instrument to the extent that they relate to:
 - (A) Evolution Group companies; or
 - (B) the Chilalo Project.

15.3 In favour of the Marvel Group

Marvel, subject to clause 15.4:

- (a) from the Spin-out Time, indemnifies Evolution and each Evolution Group company against any Liabilities in relation to any guarantees, indemnities and other forms of financial support including letters of comfort or undertaking, given by an Evolution Group company, or by a financial institution at the request of an Evolution Group company, in favour of a third party in relation to, or arising out of the ownership, management, oversight, conduct or control of, or otherwise in connection with, the Marvel Projects; and
- (b) must use its best endeavours (including through the provision of information reasonably requested by a third party, or of guarantees, indemnities, letters of comfort or other security or financial support from Marvel Group companies or by the provision of a guarantee by a financial institution at the request of a Marvel Group company) to secure the release of Marvel and any Marvel Group company from all of its obligations in relation to the guarantees, indemnities and other forms of financial support referred to in clause 15.3(a), with effect from the Spin-out Time or as soon as reasonably practicable thereafter.

15.4 Exceptions

- (a) To the extent that an instrument of guarantee, indemnity or other form or financial support referred to in clause 15.3(a) relates to obligations of:
 - (i) a Marvel Group company or any person in relation to the Marvel Projects or under any transaction relating to the Marvel Projects; and
 - (ii) an Evolution Group company or any person in relation to the Chilalo Project or under any transaction relating to the Chilalo Project,

Marvel's obligation to:

- (iii) indemnify Evolution or any Evolution Group company under clause 15.3(a) against any Liabilities in relation to that instrument is confined to Liabilities to the extent they:
 - (A) are caused by a Marvel Group company;
 - (B) arose out of or in relation to the acts, omissions or other conduct of the Marvel Group; or
 - (C) relate to the Marvel Projects; and
- (iv) secure the release of Evolution and any Evolution Group company from all of its obligations under and in relation to that instrument under clause 15.3(b) is confined to a release of those obligations under or in relation to that instrument to the extent that they relate to:
 - (A) Marvel Group companies; or
 - (B) the Marvel Projects.

16 Restraint on use of name

- (a) Evolution must not, at any time after the Spin-out Time, use a logo, symbol, trademark or business name substantially identical or deceptively similar to one used and owned by Marvel.
- (b) Marvel must not, at any time after the Spin-out Time, use a logo, symbol, trademark or business name substantially identical or deceptively similar to one used and owned by Evolution.

17 Confidentiality

17.1 Evolution's Confidential Information obligation

Marvel must not, and must ensure that members of the Marvel's Group and their Representatives do not, use, or disclose to any person, any Confidential Information relating to Evolution except:

- (a) with the prior consent of Evolution (which may be withheld in its absolute discretion); or
- (b) disclosure to Representatives of Marvel, who need the information for the purposes of the transactions contemplated by or referred to in this document, or to the extent necessary for the conduct of their business; or
- (c) if required by law or rules of a stock exchange; or
- (d) if required in connection with legal proceedings relating to this document,

and in any such cases (except paragraph (c)), Marvel must use reasonable endeavours to ensure that any recipient keeps that information confidential.

17.2 Marvel's Confidential Information

Evolution must not use, or disclose to any person, any Confidential Information relating to Marvel except:

- (a) with the prior consent of Marvel (which may be withheld in its absolute discretion); or
 - (b) disclosure to Representatives of Evolution, who need the information for the purposes of the transactions contemplated by or referred to in this document, or to the extent necessary for the conduct of their business; or
 - (c) if required by law or rules of a stock exchange; or
 - (d) if required in connection with legal proceedings relating to this document,
- and in any such cases (except paragraph (c)), the discloser must use reasonable endeavours to ensure that any recipient keeps that information confidential.

18 Announcements

18.1 Public announcements

Subject to clause 18.2, no party may, before or after Completion, make or send a public announcement, communication or circular concerning the transactions referred to in this document unless it has first obtained the written consent of the other party (such consent not to be unreasonably withheld or delayed).

18.2 Public announcements required by law

Clause 18.1 does not apply to a public announcement, communication or circular required by law or a regulation of a stock exchange. Where a party is required by law or a regulation of a stock exchange to make any announcement or make any disclosure relating to matters the subject of the transactions referred to in this document, it may do so only after it has given at least seven days' notice (or such lesser period as may be required by law or a regulation of a stock exchange, but in any event prior notice) to the other party and has consulted to the fullest extent possible in the circumstances with the other party and its legal advisers.

18.3 Permitted public announcements

Clause 18.1 does not apply to a public announcement, communication or circular:

- (a) by Marvel, that Marvel reasonably believes is necessary or convenient in connection with the implementation of the transactions contemplated by or referred to in this document; or
- (b) by Evolution, that Evolution reasonably believes is necessary or convenient in connection with any capital raising or listing that it may undertake following Completion.

19 Costs and expenses

19.1 Costs and expenses

Subject to clause 19.2 and 19.3, each party agrees to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this document and other related documentation.

19.2 Duty and registration fees

Evolution agrees to pay any duty (including fines and penalties) chargeable, payable or assessed in relation to this document and the transfer of the Shares to Evolution.

19.3 Cost reimbursement

Promptly following completion of the IPO and subject to receipt of itemised invoice(s) evidencing the incurring of costs, Evolution will pay and reimburse to Marvel:

- (a) all of the costs incurred by Marvel directly in connection with the IPO, including in respect of all necessary preparations for the IPO; and
- (b) all of the cost incurred or paid by Marvel on behalf of Evolution, or in respect of goods or services that are or will be for the exclusive benefit of Evolution after completion of the IPO, including in respect of activities that are exclusively related to the Chilalo Project.

20 Notices

20.1 Form

Unless expressly stated otherwise in this document, all notices, certificates, consents, approvals, waivers and other communications in connection with this document (**Notices**) must be:

- (a) in writing;
- (b) signed by an authorised officer of the sender; and
- (c) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

20.2 Delivery

Notices must be:

- (a) sent by email to the email address set out or referred to in the Details;
- (b) left at the address set out or referred to in the Details;
- (c) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, then Notices must be to that address.

20.3 When effective

Notices take effect from the time they are received or taken to be received under clause 20.4 (whichever happens first) unless a later time is specified.

20.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 Business Days after posting if sent from one country to another); or
- (b) if sent by email;
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

20.5 Receipt outside business hours

Despite clauses 20.3 and 20.4, if Notices are received or taken to be received under clause 20.4 after 5.00pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

21 Assignment

21.1 No assignment

Subject to clause 21.2, no party may assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied, in each case without the consent of the other party, which consent must not be unreasonably withheld or delayed.

21.2 Security interests

Evolution may grant to its financiers from time to time, security interests (whether by mortgage, charge or otherwise) over Evolution's rights under this document.

22 Miscellaneous

22.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this document expressly states otherwise.

22.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

22.3 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

22.4 Conflict of interest

The parties' rights and remedies under this document may be exercised even if it involves a conflict of duty or a party has a personal interest in their exercise.

22.5 Remedies cumulative

The rights and remedies provided in this document are in addition to other rights and remedies given by law independently of this document.

22.6 Variation and waiver

A provision of this document or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

22.7 No merger

The Warranties, undertakings and indemnities in this document do not merge and are not extinguished on Completion and will survive after Completion.

22.8 Indemnities

Subject to this document the indemnities in this document are continuing obligations, independent from the other obligations of the parties under this document and continue after this document ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this document.

22.9 Further steps

Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it.

22.10 Entire agreement

This document constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

22.11 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this document or any part of it.

23 Governing law and jurisdiction

23.1 Governing law

This document is governed by the law in force in the place specified in the Details.

23.2 Jurisdiction

Each party submits to the non-exclusive jurisdiction of the courts of the place specified in the Details and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without

limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

23.3 Serving documents

Without preventing any other method of service, any document in an action may be served on a party by being delivered to or left at that party's address in the Details.

24 Counterparts

This document may consist of a number of copies, each signed by one or more parties to the agreement. If there are a number of signed copies they are treated as making up the one document and the date on which the last counterpart is executed will be the date of the agreement.

EXECUTED as an agreement

Schedule 1 – Tenements

Tenement Number	Tenement Name	Expiry Date	Status	Parties	Area (km ²)
ML 569/2017	Chilalo ML	14-Feb-27	Granted – 4 th Year	Ngwena Tanzania Limited (100%)	9.81
PL 9929/2014	Chikwale	07-Jul-21	Granted - Pending renewal	Ngwena Tanzania Limited (100%)	24.02
PL 9946/2014	Machangaja	07-Jul-21	Granted - Pending renewal	Ngwena Tanzania Limited (100%)	48.50
PL 11050/2017	Chilalo West	12-Mar-24	Granted – Pending renewal	Ngwena Tanzania Limited (100%)	48.82
					131.15

Schedule 2 – Marvel Representations and Warranties

- (a) **Spin-out Entities Capital Structure:**
- (i) Evolution HoldCo has issued capital consisting of one fully paid ordinary share;
 - (ii) Graphex Mining UK No. 1 Limited has issued capital consisting of one fully paid ordinary share; and
 - (iii) Ngwena has issued capital consisting of 968,186 fully paid ordinary shares.
- (b) **Fully paid:** The Transfer Shares consist of shares which are fully paid and no money is owing in respect of the Transfer Shares.
- (c) **No legal impediment:** the execution, delivery and performance of the obligations under this document by the Spin-out Entities complies with (as applicable):
- (i) each law, regulation, authorisation, ruling, judgement, order or decree of any government agency;
 - (ii) the constitution or other constituent documents of the Spin-out Entities; and
 - (iii) any security interest or document which is binding on the Spin-out Entities in relation to the Transfer Shares;
- (d) **No Event of Insolvency:** No Event of Insolvency has occurred in relation to the Spin-out Entities nor is there any act which has occurred or any omission made which may result in an Event of Insolvency occurring in relation to the Spin-out Entities.
- (e) **Authorisations:** The Spin-out Entities have taken all necessary action to authorise the execution, delivery and performance of this document in accordance with its terms.
- (f) **No right to subscribe:** No person has any right or option to subscribe for or otherwise to acquire any further shares in the Spin-out Entities.
- (g) **No options:** There are no outstanding options, contracts, calls, first refusals, commitments, rights or demands of any kind relating to the issued or unissued capital of the Spin-out Entities.
- (h) **No other issues:** The Spin-out Entities are not under any obligation to issue any shares to any person or persons, or otherwise to alter the structure of any part of their unissued share capital.
- (i) **No litigation:** The Spin-out Entities are not involved in any litigation, arbitration or administrative proceeding relating to claims or amounts relating to the Spin-out Entities nor is any such litigation, arbitration or administrative proceeding pending or threatened, other than litigation, including pending or threatened previously disclosed to Evolution.
- (j) **Investigations:** The Spin-out Entities and its directors are not the subject of any investigation by any regulatory body of any country nor is any such investigation pending or threatened.

- (k) **Tax Investigations:** The Spin-out Entities are not the subject of any investigation or audit by the tax office of any country or state nor is any such investigation or audit pending or threatened.
- (l) **Compliance with laws:** The Spin-out Entities are not in material breach of any provision of any relevant laws.
- (m) **Consistency:** The terms of this document are not inconsistent with and do not contravene the provisions of any other agreements or documents or contract to which the Spin-out Entities are a party.
- (n) **Contracts:** Every material contract, instrument or other commitment to which the Spin-out Entities are a party is valid and binding according to its terms and no party to any such commitment or contract is in material default under the terms of that commitment or contract.
- (o) **Trial Balances:** Having regard to the purposes for which they have been prepared, and the fact that they are unaudited, the trial balance for each of the Spin-out Entities provided to Evolution prior to the date of this document show, with reasonable accuracy, the financial position, assets and liabilities of the Spin-Out Entities as at 30 June 2021 (**Trial Balances**) and have been prepared with a reasonable level of care and attention.
- (p) **Liabilities:** So far as Marvel is aware, the Spin-out Entities do not have any liabilities other than as set out in the Trial Balances.
- (q) **Tenements:** unless as otherwise disclosed in writing to Evolution:
 - (i) Ngwena is the legal and beneficial owner of the Tenements;
 - (ii) no person except Ngwena has any rights of any nature in respect of the Tenements;
 - (iii) the Tenements are free from all mortgages, charges, liens and other encumbrances of whatsoever nature;
 - (iv) the Tenements have been applied for in accordance with the relevant mining legislation;
 - (v) the Tenements are in all respects valid, effective and in good standing in accordance with all applicable laws;
 - (vi) there is no litigation or proceeding of any nature concerning the Tenements which may defeat, impair, detrimentally affect or reduce the right, title and interest of Ngwena in the Tenements;
 - (vii) all rents and rates payable in respect of the Tenements have been paid and any expenditure conditions imposed by the relevant government and statutory authorities have been met;
 - (viii) Ngwena has not received notice of any act or omission which may render any of the Tenements subject to cancellation, revocation or forfeiture, which may cause any term or condition to be amended or otherwise varied, which may restrict the enjoyment of rights conferred by any of the Tenements or which may prejudice the renewal of any of the Tenements, and it is not aware of any such act or omission;
 - (ix) there are no agreements or dealings in respect of the Tenements;
 - (x) there are no environmental liabilities relating to or affecting the Tenements nor are there any circumstances relating to the Tenements

which may reasonably be expected to give rise to future environmental liabilities;

- (xi) the Spin-out Entities (directly or indirectly) legally and beneficially own all of the material assets that comprise the Chilalo Project and that are required to enable the effective conduct of the Chilalo Project after Completion as they have been carried on at the date of this document;
- (xii) there is not in existence any current compensation agreement with the owner or occupier of any land which is subject to the Tenements nor any royalty arrangement of whatever nature in respect of the Tenements; and
- (xiii) all information provided to Evolution in respect of the Tenements is complete and accurate in all material respects.

Share Exchange Agreement

Signing page

DATED: 17 SEPTEMBER, 2021

EXECUTED by MARVEL GOLD LIMITED in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

[Redacted signature]

Signature of director

[Redacted name]

Name of director (block letters)

[Redacted signature]

Signature of ~~director~~/ company secretary*
*delete whichever is not applicable

[Redacted name]

Name of director

EXECUTED by EVOLUTION ENERGY MINERALS LIMITED in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

[Redacted signature]

Signature of director

[Redacted name]

Name of director (block letters)

[Redacted signature]

Signature of ~~director~~/ company secretary*
*delete whichever is not applicable

[Redacted name]

Name of director/~~company secretary~~* (block letters)
*delete whichever is not applicable